



Isle of Man
Government

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Representation of the People (Amendment) Bill 2014 and Representation of the People Regulations 2014

Public consultation document

Cabinet Office

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Public Consultation Document

Representation of the People (Amendment) Bill 2014 and Representation of the People Regulations 2014

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Representation of the People (Amendment) Bill 2014 and Representation of the People Regulations 2014

1.0 Introduction

- 1.1 A robust and transparent electoral process is one of the key elements in supporting a nation's international reputation. Furthermore a democratically elected stable Government acts as a contributory factor to attract inward investment.
- 1.2 Electoral reform is an important driver in ensuring the Isle of Man's international reputation continues to thrive.
- 1.3 It is nearly twenty years since a substantial review of the electoral process has taken place. The Representation of the People Act 1995 and the associated Rules and Regulations do not include important electoral developments such as the requirement for declarations of candidates' expenditure and the registration of political parties. The legislation also includes provisions which are now obsolete.
- 1.4 Unusually, this consultation document is seeking views on the draft Representation of the People (Amendment) Bill 2014 and the draft Representation of the People Regulations 2014 as a package. This approach has been taken to provide the opportunity for comment on all primary and secondary legislation relating to the electoral process. Provisions on the registration of electors, which fall under the Registration of Electors Act 2006, are outside the scope of this consultation exercise.
- 1.5 The consultation will be held for an extended period of eight weeks, to allow adequate time for responses, whilst also ensuring the new Bill can be in place in time for the 2016 election. The closing date for the receipt of comments is **5pm on Friday 27 June 2014**.

2.0 Background

2.1 Post-Election Review

- 2.1.1 Review of election legislation is an ongoing process. After every General Election the Cabinet Office holds a meeting with returning officers, who are responsible for conducting the election in accordance with the Election Rules, in order to ascertain their concerns and to take forward any legislative changes deemed necessary.
- 2.1.2 During the 2011 General Election process an ongoing register was kept by the Chief Secretary's Office to identify any issues reported. The draft Bill and Regulations on which views are being sought are a result of these exercises.

2.2 2010 Independent Panel Review

- 2.2.1 In 2010, as result of the events in connection with the by-election held for the House of Keys constituency for Douglas East in May 2010, the Chief Minister announced that the issue of candidate funding for those standing for public election would be referred for consideration by the Governance Committee.
- 2.2.2 The Governance Committee agreed that an Independent Review of the Representation of the People Act 1995 and Election Rules should be undertaken by an Independent Review Panel. The review predominantly focused on funding, expenditure, and donation issues, and produced a number of recommendations in these areas.
- 2.2.3 A short public consultation was held in January 2011 on the Panel's recommendations which supported the drafting of a new piece of primary legislation the Representation of the People (Amendment) Bill 2011.

2.3 Representation of the People (Amendment Bill) 2011

- 2.3.1 The 2011 Bill principally focused on transparency of donations received by a candidate and limitations of expenses incurred.
- 2.3.2 The Bill was presented to the House of Keys in April 2011 but did not complete its passage before the 2011 General Election and therefore lapsed.
- 2.3.3 The draft Representation of People (Amendment) Bill 2014 contains provisions which had been included in the Representation of the People (Amendment) Bill 2011, and additional recommendations from the Panel which were not included in the 2011 Bill.

2.4 Wider Electoral Reform

- 2.4.1 The Representation of the People Act 1995 and the subordinate legislation made under it has become increasingly complex to follow. This view is supported by the Law Commission who have identified similar issues in the United Kingdom. They have undertaken an independent review and are currently formulating proposals for UK electoral reform, supported by the UK Cabinet Office. These proposals are due to go out to consultation in late 2014, and the Law Commission aim to publish a final report and Bill in early 2017.
- 2.4.2 Whilst significant modernisation and improvement has been included in this legislation package, it does not address fully the changes required to provide a

complete overhaul of existing provisions. The Council of Ministers has directed that a root and branch review of Manx election legislation should take place in 2016/17. Following the conclusions of that review, there are likely to be further wide ranging changes which the Isle of Man will need to consider.

It is important to note that this consultation does not extend to the registration of electors which is covered by the Registration of Electors Act 2006. However this would form part of any root and branch review as outlined above.

2.5 Aims and Intention of the Bill

2.5.1 The intention of this amendment Bill is to ensure key reforms and modernisation of the existing legislation is undertaken in the time available before the 2016 General Election. Although further reform will need to be considered in the future the changes are an important step towards improving transparency and governance of the Island's election process.

2.5.2 The main aims of the Isle of Man's legislation package, on which views are being sought, are to:

- ensure the electoral process is easily understood by returning officers and those who assist in the running of elections, prospective candidates and the electorate; and
- to update the legislation to introduce the key recommendations from the Independent Panel's Review. These provisions relate to the registration of political parties and the declaration of candidates' expenses.

3.0 Consultation Process

3.1 Comments

The Council of Ministers would be grateful to receive any comments on the draft Representation of the People (Amendment) Bill 2014 which can be found at Appendix 1. For reference a copy of the existing legislation – the [Representation of the People Act 1995](#) - is attached at Appendix 2.

In addition the Council of Ministers would welcome comments on the draft Representation of the People Regulations 2014 which can be found at Appendix 3.

There are questions on key areas of reform or amendment posed throughout this consultation document where specific feedback is sought. The Council of Ministers would be grateful for responses to reference these questions where appropriate.

3.2 Submissions

An accompanying electronic feedback form, allowing both general comments and comments specific to the questions posed in this consultation document has been prepared and can be found at <http://tinyurl.com/ohle7dc>. This feedback form can be completed, saved and returned to carlos.phillips@cso.gov.im. There is a 'submit' function on the form to assist this process.

If you do not wish to complete the form, respondents can send their comments by email to the same email address, carlos.phillips@cso.gov.im.

Or comments can be submitted in writing to:

Mr Carlos Phillips
Crown and External Relations
Cabinet Office
Government Office
Bucks Road
Douglas
Isle of Man
IM1 3PN

3.3 Closing date

The closing date for the receipt of comments is **5pm on Friday 27 June 2014**.

3.4 Additional copies of this document and further information

For hard copies of this document, please telephone (01624) 685314. Copies can be collected from the Cabinet Office at the above address.

An electronic version of this document and the accompanying feedback form can be found by following the links on the Government's current consultation page, available at: <http://tinyurl.com/ohle7dc>

If you have any queries about this consultation, please telephone (01624) 685314 or email carlos.phillips@cso.gov.im.

3.5 **Important points to remember**

Unless specifically requested otherwise, any responses received may be published either in part or in their entirety. Please mark your response clearly if you wish your response and name to be kept confidential. Confidential responses will be included in any statistical summary and numbers of comments received.

When submitting your views please indicate if you are responding on behalf of an organisation.

To ensure that the process is transparent in line with the Government's Code of Conduct on Consultation responses can only be accepted if you provide your name with your response.

The purpose of consultation is not to be a referendum but an information, views and evidence gathering exercise from which to take an informed decision. In any consultation exercise the responses received do not guarantee changes will be made to what has been proposed.

4.0 Information on the Representation of the People Bill 2014

- 4.1 The draft Bill, which can be found at Appendix 1 to this document, should be read in conjunction with the Representation of the People Act 1995, which can be found at Appendix 2.
- 4.2 Full details on the individual clauses contained in the draft Bill can be found in section 5. However, the main additions or amendments contained in the draft Bill are outlined below.

4.2.1 Additional provisions for offences which disqualify a person from standing for election

The current legislation defines specific offences connected with elections e.g. corrupt practices, voting offences, etc. The offences are set out in Part 4 of the Act and those found guilty are liable to fines and/or a custodial sentence and are disqualified from standing for the Keys or being a member of a local authority for specified periods. These are currently the only conditions relating to offences under which a candidate is barred from standing for election.

Council of Ministers and the Governance Committee considered that it would be in the public interest to prevent persons having been convicted of offences concerning fraud, dishonesty and/or corruption from standing as candidates if the conviction was not spent under the Rehabilitation of Offenders Act 2001.

The draft Bill therefore includes additional provisions which disqualify a person from standing which are:

- i) Anyone who has been convicted of a relevant offence and the conviction is not spent for the purposes of the Rehabilitation of Offenders Act 2001. A relevant offence is an offence (wherever committed) involving corruption, bribery or dishonesty under this Act.
- ii) Anyone guilty of election offences under the provisions of the Bill, or under the legislation of another country or territory equivalent to the Bill.
- iii) Undischarged bankrupts.
- iv) Convicted prisoners serving a prison sentence.

These provisions are in line with existing provisions contained in Human Rights and Data Protection legislation.

Q1: Do you support the inclusion of additional provisions that will disqualify a person from standing for election? If no, please explain why.

4.2.2 New provisions for the registration of political parties

Currently there are no legislative provisions in respect of registering political parties on the Island. The Independent Review Panel report found that the issue of political party funding could be addressed if more information was available to the public and recommended that political parties intending to support or nominate candidates should be registered.

The draft Bill includes new provisions to require political parties to be registered these include:

- i) Conditions of registration;

- ii) How to apply to be registered;
- iii) Consideration of applications;
- iv) Registration of political parties by the Chief Registrar;
- v) Changes to registration;
- vi) Auditing and filing of accounts;
- vii) Removal from the register; and
- viii) Appeals

Q2: Do you support the introduction of requirements for political parties to be registered? If no, please explain why.

Q3: Do you think the provisions detailing the registration process are fair and proportionate? If no, please explain why.

4.2.3 Requirements for candidates to declare donations received

Currently there is no provision for restrictions on candidates in relation to sources of election funding. The Independent Review Panel report found that there was a lack of transparency in the current system and that the electorate had a right to know if a candidate is receiving funding for their campaign. They recommended that candidates should publically declare donations.

The draft Bill includes new provisions that require candidates to declare donations received and states that a candidate must not keep an anonymous donation.

Q4: Do you support the introduction of requirements for candidates to declare donations? If no, please state why.

4.2.4 Limits on election spending

Currently there are no restrictions placed on the amounts a candidate can spend during an election.

The draft Bill includes new provisions which set a maximum amount on the money a candidate can spend in the 12 months prior to an election. Expenses must be declared to the Chief Registrar, who has the authority to investigate any complaints.

The maximum amount is specified as £2,000 plus 50p for each registered elector but can be amended by regulations.

Q5: Do you support the introduction of restrictions on election expenses? If no, please state why.

Q6: Do you think the maximum amount set out is fair and reasonable? If no, please state why.

4.2.5 New offences in relation to offences in connection with political parties and offences in connection with funding

As the draft Bill introduces new provisions for the registration of political parties and funding new offences are required to allow effective enforcement.

Q6: Do you think the proposed new offences are fair and proportionate? If no, please state why.

4.2.6 **A change in terminology from “absent voting” to “advance voting”**

Advance voting is open to all voters, on application to the returning officer. This allows people who will be absent from the Island or those people who cannot attend or choose not to attend a polling station on polling day to cast their vote in advance.

The terminology has been changed from “absent voting” to “advance voting” to provide clarity. There was a general misunderstanding that the term “absent voting” meant that the voter had to be absent from the Island in order to vote in this way. That was not the case: absent voting referred to being absent from the polling station.

Voters who choose to vote in advance and who are in the Island will be invited to visit the certifying officer to cast their vote or, if housebound, the certifying officer will pay a home visit.

Voters who choose to vote in advance and are in the UK or Channel Islands need to have their declaration of identity certified by a person with reasonable standing in the community and return their voting documents to the returning officer by post.

Q7: Does the change in terminology from “absent voting” to “advance voting” provide greater clarity?

4.2.7 **Changes to “proxy” voting**

Proxy voting is a system whereby a voter may, on application to the registration officer, authorise another person to vote on their behalf.

Proxy voting can be open to abuse. The prevention of election fraud is a key objective but it is also essential that no voter is disenfranchised. There could be circumstances for example a person serving in the Armed Forces abroad and therefore it would not be possible for them to qualify for an advance vote.

The draft Bill sets out clear requirements for allowing a person to exercise a proxy vote on behalf of a voter which are restricted so that only those persons who cannot vote either in person or by the advance voting system will qualify.

Q8: Do you agree with restricting proxy voting so that only those persons who cannot vote in person or by advance voting would qualify? If no, please state why.

4.2.8 **Greater use of electronic communication to give effect to public notices and to allow candidates to have their manifestos displayed on the Government’s election website**

The current legislation does not take into account advances in technology that have come about since the Act was drafted.

Flexibility, for example in the means of communicating with the electorate, is important to enable Government and candidates to reach the widest audience.

The draft Bill therefore contains new provisions including the arrangements for providing election manifestos online, and the display of public notices.

Q9: Do you agree with the included provisions in relation to electronic communications? If no, please state why.

4.2.9 A new provision to allow accredited election observers to attend specified election proceedings

There are no provisions to allow observers to attend election proceedings under the current Act. Only named people, other than voters, can be admitted to the polling station so official observers cannot attend.

The Government has been approached in previous years by representatives from other jurisdictions who wish to learn from our electoral process and there haven't been clear procedures in place to allow such requests to be accepted.

The draft Bill includes provisions to allow representatives of named bodies to apply to the Governor to be an accredited observer at an election. The Bill also details conditions for attendance and conduct of any observers at elections.

Q10: Do you support including provisions to allow accredited election observers to attend certain election proceedings? If no, please state why.

Q11: Do you agree with the requirements that must be met by any election observer? If no, please state why.

4.3 Additional provision to be added to the Bill

4.3.1 In addition to the above a new provision will also be added to this Bill to specify, where a property is divided by two or more boundary lines, for the purposes of elections to the House of Keys it will fall within the constituency where the majority of the dwelling house lies.

4.3.2 The determination as to where the majority of the property lies would rest with the Rates and valuation office of the Treasury.

4.4 Minor and Consequential Amendments

The Bill also includes a number of minor and consequential amendments in particular to make the provisions of the Act gender neutral. These are detailed in section 5.

5.0 Explanation of the clauses of the Bill

Clauses 1, 2 and 3 contain the title of the Bill, provide that the Bill will be brought into force by an Appointed Day Order or Orders and makes reference to the Representation of the People Act 1995 being amended by the provisions in this Act.

Clause 4 inserts Schedule 1 to amend the Representation of the People Act 1995 so as to make it gender neutral.

Clause 5 substitutes sections 1 and 2 of the Act. Section 1 provides for new qualifications for a person to stand as a candidate for the Keys. Section 2 substitutes the provisions for the term of the Keys and the date of election.

Clause 6 inserts Part 1A, which provides for new sections 10A to 10M, all of which relate to the registration of political parties.

Section 10A requires a political party to be registered before it can support or nominate any candidate for election to the Keys.

Section 10B details the conditions for registration.

Section 10C provides for restrictions on the name and emblem used by registered political parties.

Section 10D stipulates the requirements to be met for the registration of a political party.

Section 10E details the process for the consideration of an application to be registered as a political party.

Section 10F requires the Chief Registrar to maintain a register of political parties and the particulars to be entered in the register.

Section 10G stipulates the process for an application to change the name or emblem of a registered political party.

Section 10H identifies the changes to be notified of the particulars of a registered political party.

Section 10I requires accounts to be filed and audited.

Section 10J details the conditions under which a registered political party can be removed from the register.

Section 10K allows for the inspection of the register of political parties.

Section 10L includes provisions for appeals against the refusal of an application to be registered as a political party.

Section 10M provides for definitions in the interpretation of Part 1A.

Clause 7 makes amendments in the Act to change references from "election rules" to "regulations".

Clause 8 clarifies when a returning officer has to take the oath of office.

Clause 9 makes it a requirement for a returning officer to appoint a deputy for all or any purposes of the election.

Clause 10 removes the requirement for claims for fees and expenses to be submitted in duplicate.

Clause 11 inserts new sections 20A to 20F, all of which are concerned with candidates' donations and expenses.

Section 20A details the requirements to be met if candidates receive a donation.

Section 20B includes provisions for the disposal of anonymous donations.

Section 20C specifies the maximum amount of candidate's election expenses.

Section 20D details the requirements to be met in respect of declarations.

Section 20E includes requirements to be met for the verification of expenses incurred.

Section 20F specifies a requirement for a person who incurs or pays a candidate's election expenses to provide information and documents to a candidate.

Clause 12 substitutes section 22 which deals with the making of regulations which may specify proceedings at an election.

Clause 13 amends section 23 of the Act to take account of the change from "rules" to regulations".

Clause 14 clarifies the entitlement to vote at an election.

Clauses 15 substitutes section 25 to provide for the change in terminology from "absent voting" to "advance voting". This change in terminology has been introduced to clarify that any elector may choose to vote in advance of the election. This has always been the case but the term "absent voting" has been suggestive that a person must be off Island to exercise an absent vote whereas anybody who is absent from the poll, by circumstance or by choice, has always been able to exercise an absent vote, now to be known as an advance, vote.

Clause 16 amends references in section 26 from "absent voting" to "advance voting". The position is also clarified that an application for an advance vote can only be made from within the British Islands.

Clause 17 amends section 27 so that an elector may only make an application for a person to vote as a proxy on their behalf if they are unable to vote in person or as an advance voter.

Clause 18 substitutes sections 30 and 31. The requirement to give public notice is to be effected by publication in one newspaper circulating within the Island and, on an appropriate website, and may be effected by placard in the polling district to which the notice refers. These changes have been introduced due to the different methods of accessing election information which include local newspapers, the Government website, local radio and TV and social media. There is also a new provision for

candidates to be able to forward their manifesto to the Chief Secretary who will arrange for the manifesto to be displayed on the Government website. The conditions under which payment will be made for the postage costs for the distribution of manifestos are stipulated to be by the most economic means possible.

Clause 19 inserts new sections 31A to 31C which allow for accredited election observers to attend specified election proceedings and the requirements to be met by election observers.

Clause 20 amends section 32 to include offences in connection with political parties.

Clause 21 amends section 37 to make it a requirement for a person who issues an election publication to discourage or prevent a person from being elected to display the name and address of the printer and publisher on the publication. The definition of distribution of election publications is widened to include distribution by electronic means. The places where election publications cannot be displayed is expanded upon.

Clause 22 substitutes section 40 to specify which public premises cannot be used for election purposes.

Clause 23 is an obsolete provision relating to bands of music and is repealed.

Clause 24 amends section 43 on voting offences to reflect the change in terminology from "absent voter" to "advance voter".

Clause 25 inserts new sections 44A and 44B to include new offences in relation to offences in connection with political parties and offences in connection with funding.

Clause 26 amends sections 55 and 75 to omit the definition of "candidate" which is now defined in section 77.

Clause 27 amends section 77 to include new definitions in respect of political parties and candidates' election donations and expenses. The definition of "working day" is amended.

Clause 28 amends section 80 to provide that Regulations may amend any reference to any period of time relating to donations and expenses.

Clause 29 amends Schedule 3 to clarify the meaning of "petition".

Clause 30 inserts a new Schedule on the meaning of "donation" and "election expense".

Clause 31 provides for consequential amendments to the Local Elections Act 1986 and the Payment of Members Expenses Act 1989.

Schedule 1 details the amendments to the Act to provide for gender neutrality.

Schedule 2 inserts Schedule 3A into the Act which details the meaning of "donation" and "election expenses" under the legislation.

6.0 Information on the Representation of the People Regulations 2014

- 6.1 The existing Election Rules will be repealed and replaced with the Representation of the People Regulations 2014. The existing Election Regulations will be repealed and will appear as a Schedule to the new Representation of the People Regulations 2014. This approach has been adopted for simplification purposes so that all secondary legislation, which provides for operational aspects of electoral matters, can now be found in one document.
- 6.2 It should be noted that the Representation of the People Regulations 2014 cannot be made until such time as the Representation of the People (Amendment) Bill 2014 has received Royal Assent.
- 6.3 The new Regulations provide the detail as to operational procedures for an election. Further detail in respect of the Regulations is provided in section 7 below and the full Regulations can be found at Appendix 3.
- 6.4 Although the majority of changes to the Regulations are minor and are concerned with consequential changes to reflect the amendments to the primary legislation and, operating practices and procedures, a few new provisions have been introduced. These are identified below:

6.4.1 Place and time for early delivery of nomination papers (Regulation 11)

This new provision allows nomination papers to be delivered to the returning officer, at a time and place agreed with the returning officer, any time in the week before nomination day.

The purpose of this new provision is to provide greater convenience for returning officers and candidates alike.

Q12: Do you support the introduction of the ability to deliver nomination papers to the returning officer during the week before nomination day? If no, please state why.

6.4.2 Distribution of election manifestos (Regulation 23)

A change to Isle of Man Post Office operating procedures, whereby size in addition to weight determines the cost of postage, has required a change to current Regulations. The amended Regulation provides for the minimum charge for a standard letter (under whatever conditions may be specified by the Isle of Man Post Office as to the size and weight which qualifies for the minimum charge) to be payable.

This Regulation provides the detail relating to the substituted provisions in section 31 of the Act. To take account of changing methods of communication, the payment for the distribution of election manifestos will be limited to one per household. Candidates may supply an electronic copy of their manifesto to be displayed on the election website.

Candidates will not be required to expend any outlay for postage costs of the distribution of one manifesto as detailed above. The cost of postage will be paid directly to the Isle of Man Post Office out of money provided by Tynwald and administered through the Cabinet Office.

Q13: Do you support the changes relating to the distribution of manifestos? If no, please state why.

6.4.3 Purchase of copies of marked registers, etc (Regulation 56)

Election documents are retained, for a period of one year after each election, by the Clerk of the Rolls. They are then destroyed.

Except for ballot papers and counterfoils, election documents are open to public inspection at such time and subject to such conditions as the Clerk of the Rolls may decide.

The vote of any elector must be kept secret but the fact that any person voted or not is a matter of public record (with some restrictions) once the election is over.

The public may make notes when inspecting election documents but copies of the documents are not available.

A new provision has been inserted into the Regulations to allow for the purchase of marked copies of the electoral register and marked copies of the list of advance voters. Only those persons and bodies who qualify to receive a copy of the register of electors will be able to purchase a copy of the marked lists and the lists may only be used for research purposes, for electoral purposes or for any purposes that would entitle the recipient to receive a copy of the full register of electors.

This will mean successful and non successful candidates will have the ability to purchase marked copies of the register. This will enable them to have a record of who voted and who did not and to take that information into account for any future campaigns.

Q14: Do you agree that marked copies of the registers should be available for purchase? If no, please state why.

7.0 Explanation of the Regulations

- 7.1 Any instances where there have been no, or very minor, changes to the operational content of current provisions, whether included in existing Rules or Regulations, have been identified. The language used in the revised Regulations may have been modernised from that which appeared in the original version but the policy and legal intent has not changed.
- 7.2 In addition to the above questions we would welcome any comments on the draft Regulations. In your response we would be grateful if you could identify which Regulation your comments relate to.

Regulations	
Part 1 - Introductory	
Regulation 1 gives the Regulations their title.	
Regulation 2 provides for a commencement date for the Regulations to come into operation.	
Regulation 3 sets out the interpretation of terms within the Regulations.	
Regulation 4 requires an oath to be taken by returning officers and	

deputy returning officers. The form of the oath for returning officers is as set out in Part 1 of Schedule 1 and the form of the oath for deputy returning officers is set out in Part 2 of Schedule 1. A copy of the returning officer's oath must be annexed to the writ of election and the certificate of the oath of the deputy returning officer must be attached to his or her form of appointment.	
Regulation 5 requires proceedings at an election to be conducted in accordance with the election timetable.	
Part 2 – Stages Common to Contested and Uncontested Elections	
Regulation 6 requires the writ to be hand delivered to the returning officer no later than the day after its date of issue. This is a change to the current provision to provide for a further day for the delivery of the writ.	
Regulation 7 requires the Chief Secretary to publish notices of election in a newspaper published and circulating within the Island and by display on an appropriate website. The notices may be displayed in the constituency to which the notices refer. This is a change to the current practice, whereby there is a requirement to display notices in the constituency, to take account of modern methods of communication. There is new provision for there to be 2 notices of election – one which contains information for candidates as to the nomination process and one which contains information for voters on advance and proxy voting.	
Regulation 8 specifies the requirements for nomination of candidates. New provisions require candidates to supply their telephone and email addresses (if any) and to identify whether they are representing a political party. There is also a requirement for candidates to produce their passport to the returning officer as proof that they meet the nationality/immigration status requirement of section 1(1) of the Act and to sign a declaration that they meet all the other requirements for qualification for membership of the Keys.	
Regulation 9 specifies the requirements in relation to the subscription of the nomination paper. Nomination papers will be available from the Chief Secretary and from the Government website; they will no longer be available from returning officers or police stations.	
Regulation 10 requires the person named as candidate on the nomination paper to provide their written consent, attested by a witness, if they are not personally delivering their nomination paper to the returning officer.	No change
Regulation 11 provides for nomination papers to be submitted to the returning officer's place of work, at a time agreed with the returning officer, in the week before nomination day.	
Regulation 12 specifies that the deadline for the delivery of nomination papers is 1.00pm on nomination day. There is a half hour	No change

period after the close of nominations for objections to be lodged.	
Regulation 13 allows a person standing nominated as a candidate, the proposer or seconder of such a person and one other person selected by such a person to attend the proceedings at the close of nominations and for the period of objections.	No change
Regulation 14 details the returning officer's powers in determining the validity of nomination papers and the actions to be taken by the returning officer if a nomination paper is determined to be invalid.	No change
Regulation 15 specifies the requirements which apply to the withdrawal of candidates.	No change
	No change
Regulation 16 specifies the method of election which is dependent upon whether or not there are more candidates whose nominations have been declared valid then there are vacancies to be filled.	No change
Part 3 – Contested Elections	
Division 1 – General Provisions	
Regulation 17 requires a poll to be taken by ballot.	No change
Regulation 18 specifies requirements in respect of ballot papers. Although there is no material change to the requirements in respect of ballot papers, this Regulation clarifies that there should be a 3cm border so that the candidate's name is not marked by the press.	No change
Regulation 19 requires every ballot paper to be marked with an official mark.	No change
Regulation 20 specifies that any person who has voted at an election may not be required, in any legal proceedings to question the election or return, to state for whom he or she has voted.	No change
Regulation 21 provides for the use of schools and public rooms as polling stations. The regulation has been amended to remove court houses from the list of public rooms which can be used as polling stations.	
Division 2 – Action to be taken before the Poll	
Regulation 22 requires the returning officer to give public notice of poll as soon as practicable after the expiry of the period for objections to nominations.	No change
Regulation 23 amends the criteria for which payment of postage of election manifestos will be made. This is to take account of Isle of Man Post Office operational requirements.	
Regulation 24 specifies actions to be taken by the returning officer on the death of a candidate.	No change
Regulation 25 provides that the requirements and procedures relating to advance voting are set out in Schedule 2.	
Regulation 26 provides that the requirements and procedures relating to proxy voting are set out in Schedule 3.	
Regulation 27 relates to the requirement for the returning officer to provide polling stations. This regulation has been amended so that there is a requirement for only one polling station to be provided for each polling district.	
Regulation 28 specifies the requirements in relation to the	

<p>appointment of presiding officers and clerks.</p> <p>This regulation has been amended to add a chief counting officer to the list of officials to be appointed by a returning officer. It also clarifies the role of the presiding officer.</p>	
<p>Regulation 29 provides for the issue of official poll cards.</p> <p>This regulation has been amended to reflect the transfer of the electoral registration unit to the Cabinet Office.</p>	
<p>Regulation 30 requires the returning officer to provide each polling station with the necessary equipment for the conduct of the election and for guidance to be provided to assist voters with the voting process.</p> <p>This regulation has been amended so that there is no requirement to display the guidance for voters outside the polling station.</p>	
<p>Regulation 31 specifies the requirements for the appointment by a candidate of polling and counting agents</p>	No change
<p>Regulation 32 requires any person admitted to a polling station or counting station in an official capacity to take an oath of secrecy.</p> <p>This regulation has been amended to require accredited observers to take an oath of secrecy.</p>	
Division 3 – The Poll	
<p>Regulation 33 requires the presiding officer to regulate the numbers of voters to be admitted to a polling station at the same time and identifies which other persons, besides voters, can be admitted to a polling station.</p> <p>This regulation has been amended to provide for accredited observers to be admitted to a polling station.</p>	
<p>Regulation 34 stipulates that a presiding officer must keep order at the polling station.</p>	
<p>Regulation 35 identifies the obligations of the presiding officer as regards the sealing of ballot boxes before the opening of the poll.</p>	No change
<p>Regulation 36 specifies the questions a presiding officer may put to voters.</p>	No change
<p>Regulation 37 provides for a candidate or candidate's agent to be able to declare to the presiding officer that they have reasonable cause to believe an offence of personation has been committed by an applicant applying for a ballot paper and, in such case, the presiding officer may order a constable to arrest the applicant.</p>	No change
<p>Regulation 38 identifies the voting procedure</p>	No change
<p>Regulation 39 provides for situations whereby the presiding officer may mark the ballot paper for a voter. The provision to allow the presiding officer to mark the ballot paper for a voter who objects on religious grounds to mark the ballot paper with a cross has been removed. Provided there is no doubt as to who the elector has voted for, another symbol, such as a tick, would not make the vote invalid.</p>	
<p>Regulation 40 specifies the conditions which apply in respect of tendered ballot papers. Such ballot papers are given to persons who apply for a ballot paper after another person has voted either as the</p>	No change

elector or the elector's proxy.	
Regulation 41 allows for a voter to obtain another ballot paper if they inadvertently spoil the ballot paper which has been issued to them.	No change
Regulation 42 specifies actions to be taken in the event of the proceedings of the poll being adjourned in case of riot.	No change
Regulation 43 identifies the procedure to be followed at the close of poll. The list of documents to be given by the presiding officer to the returning officer has been updated to reflect the documents which the presiding officer will have in his or her possession and which need to be handed to the returning officer.	
Regulation 44 specifies who may attend the count. There is now provision for accredited observers to attend. Although the specific provisions relating to media representatives have been removed, media representatives may still attend either as accredited observers or with the permission of the returning officer.	
Regulation 45 provides for the procedure to be followed at the count. The provision for a refreshment break during the count has been removed. The original provision had been imported from the equivalent UK provisions and is not relevant in an Isle of Man context. In the UK it is not unusual for a count to last many hours through the night, in which case it would be perfectly reasonable for counting staff to have a break during the count.	
Regulation 46 allows for a candidate, or a candidate's agent if the candidate is not present, to request a re-count.	No change
Regulation 47 specifies the conditions and procedure relating to rejected votes.	No change
Regulation 48 provides for the returning officer's decision on the validity of a ballot paper to be final, subject to review on an election petition.	No change
Regulation 49 specifies the procedures which apply if there is an equality of votes.	No change
Part 4 – Final proceedings in contested and uncontested elections	
Regulation 50 provides for the procedure for the declaration of the result.	No change
Regulation 51 specifies the procedure for the return of the writ. A new provision has been inserted so that elected candidates will be supplied, on the night of the election or in the case of an uncontested election on close of nominations, with a photocopy or handwritten copy of the certificate of election endorsed on the writ which confirms their election.	
Part 5 – Disposal of documents	
Regulation 52 requires the returning officer to seal up the ballot papers on completion of counting.	No change
Regulation 53 requires the returning officer to deliver election documents to the Clerk of the Rolls. The list of documents has been updated to reflect the documents which the returning officer will have in his or her possession and which need to be delivered to the Clerk of the Rolls.	
Regulation 54 provides for orders to be made for the production or inspection of election documents.	No change
Regulation 55 specifies the conditions applying to the retention and inspection of election documents.	No change

Regulation 56 is a new provision which allows, under specified provisions, for the purchase of copies of the marked register of electors or list of advance voters by those persons who are entitled to receive a copy of the full register of electors.	
Schedule 1 – Oaths of Office	
Oaths of office for the returning officer, deputy returning officer and other officers and clerks	No change
Schedule 2 – Advance Voting	
Part 1 – Applications	
Paragraph 1 sets out the general requirements for applications for an advance vote. A new provision has been included to allow a person appointed as a proxy voter to apply for an advance vote.	
Paragraph 2 specifies the closing dates for applications from inside and outside the Isle of Man.	No change
Paragraph 3 sets out the procedure which must be followed by the returning officer as regards the grant or refusal of applications.	No change
Paragraph 4 requires the returning officer to keep a list of advance voter applications which have been granted.	No change
Part 2 – Issue and Receipt of Advance Voter Ballot Papers	
Division 1 - Issue	No change
Paragraph 5 requires the form of declaration of identity to incorporate a certificate as to the execution of the declaration and the marking of the ballot paper.	
Paragraph 6 lists who may be present at the issue and opening of advance ballot papers.	No change
Paragraph 7 specifies that candidates may appoint agents to be present at the opening of advance ballot papers	No change
Paragraph 8 requires those persons present at the issue or receipt of advance voter ballot papers to sign a declaration of secrecy and for section 47 of the Act (declaration of secrecy) to be read to those persons. The requirement for a declaration of secrecy to be signed is an additional requirement.	
Paragraph 9 specifies the latest time for the issue of advance voter ballot papers inside and outside the Isle of Man.	No change
Paragraph 10 specifies the procedure to be adopted by the returning officer for the issue of advance voter ballot papers. The references to the procedure when ballot papers for more than one election are issued have been removed as this situation would not arise.	
Paragraph 11 sets out the conditions under which a returning officer must refuse to issue an advance voter ballot paper.	No change
Paragraph 12 requires specified envelopes to be issued with the ballot paper.	No change
Paragraph 13 specifies that the returning officer must seal up the counterfoils of advance ballot papers which have been issued and seal up the marked copy of the advance voters' list.	No change
Paragraph 14 requires the returning officer to arrange for the delivery of advance voter ballot papers and maintain a record in respect of incoming and outgoing communications for advance voter ballot papers	No change
Paragraph 15 lists the procedure to be followed as regards spoilt	No change

ballot papers or declarations of identity.	
Paragraph 16 lists the procedure to be followed as regards lost advance voter ballot papers.	No change
Paragraph 17 identifies those persons who may act as certifying persons. There have been two amendments to these provisions:- (i) in respect of where the advance voter ballot paper is marked in the Isle of Man, advocates, as a stand alone category, have been removed from the list of certifying persons. Advocates may be appointed as certifying persons by the Governor, after consultation with the returning officer, and therefore there is no necessity for them to be included as a separate category; and (ii) in respect of where the advance voter ballot paper is marked outside the Isle of Man, the lengthy list of persons who may act as a certifying officer has been removed and replaced with " a person of reasonable standing in the community."	
Paragraph 18 requires certifying persons to make a declaration of secrecy. This provision has been amended to require the certifying person to sign the declaration of secrecy and for it to be witnessed by the returning officer.	
Paragraph 19 sets out the advance voting procedure.	No change
Division 2 - Receipt	
Paragraph 20 specifies requirements which apply to the receipt of advance voter ballot papers.	No change
Paragraph 21 sets out the procedure in relation to declarations of identity.	No change
Paragraph 22 sets out the procedure for the opening of ballot paper envelopes.	No change
Paragraph 23 requires the returning officer to keep lists of rejected advance voter ballot papers.	No change
Paragraph 24 identifies the procedure to be undertaken for the checking of lists under paragraph 23.	No change
Paragraph 25 requires the returning officer to seal the packets of documents relating to advance voter ballot paper documentation.	No change
Paragraph 26 specifies a procedure to be followed in the event of an abandoned poll.	No change
Schedule 3 – Proxy Votes	
Paragraph 1 specifies the requirements for the appointment of a proxy.	No change
Paragraph 2 sets out the procedure to be undertaken by the registration officer in the determination of applications.	No change
Paragraph 3 specifies the conditions which apply for the revocation of the appointment of a proxy.	No change
Paragraph 4 requires the registration officer to issue a list of proxies to the returning officer. In order to allow further time for the preparation of the list of proxies the time frame by which the registration officer must issue the list to the returning officer has been amended from 3 clear days before the day fixed for the poll to 2 clear days before the day fixed for the poll.	
Paragraph 5 sets out the procedure for voting by proxy.	No change

List of direct consultees

Tynwald Members

Clerk of Tynwald

Attorney General

Local Authorities

Chief Officers of Government Departments, Boards and Offices

Chamber of Commerce

Isle of Man Trade Union Council

Isle of Man Law Society

Liberal Vannin Party

Manx Labour Party

Mec Vannin

Returning Officers

Code of Practice Consultation Criteria

1. Consult widely throughout the process, allowing a minimum of 6 weeks for a minimum of one written consultation at least once during the development of the legislation or policy.
 2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
 3. Ensure your consultation is clear, concise and widely accessible.
 4. Give feedback regarding the responses received and how the consultation process influenced the policy.
 5. Monitor your Department's effectiveness at consultation.
 6. Ensure your consultation follows best practice, including carrying out an Impact Assessment if appropriate.
-

**REPRESENTATION OF THE PEOPLE (AMENDMENT)
BILL 2014**

Explanatory Memorandum

1. This Bill is promoted by Mr Robertshaw MHK on behalf of the Council of Ministers.
2. Clauses 1 and 2 deal with the title of the Act resulting from the Bill, and empower the Council of Ministers to bring the other provisions of the resulting Act into operation by means of one or more appointed day orders. An appointed day order may include consequential, incidental, supplemental, transitional and transitory provisions. References below to sections are to sections (existing or new) of the Representation of the People Act 1995 (“the 1995 Act”)
3. Clause 3 introduces the amendments to the 1995 Act.
4. Clause 4 and its associated Schedule (Schedule 1 to the Bill) make amendments to the 1995 Act to make its provisions gender-neutral.
5. Clause 5 substitutes new provisions for sections 1 and 2. The new section 1 extends the range of circumstances in which a person is disqualified for election to the Keys to include the person’s —
 - a. not being registered as an elector for an electoral area in the Island (the new section 1(1)(e));
 - b. having been convicted of an offence involving dishonesty or fraud anywhere in the world or of an electoral offence under the Act or a corresponding enactment elsewhere (spent offences being disregarded for this purpose) (the new section 1(1)(f));
 - c. incapacity to serve as a member of the Keys by virtue of section 66 (which concerns findings of illegal or corrupt practice by an election court) (the new section 1(1)(g));
 - d. currently serving a custodial sentence (the new section 1(1)(h)); and
 - e. being an undischarged bankrupt (the new section 1(1)(i)).
6. The new section 2 provides not only for the dissolution of the Keys but also specifies the day on which the general election of the Keys is to take place.
7. Clause 6 includes a new Part 1A (inserting sections 10A to 10M) specifying process for the registration of political parties and imposing connected requirements.
8. Clause 7 makes adjustments to the 1995 Act to replace references to “election rules” with references to “regulations”. Although the clause provides for the

repeal of Schedule 2 to the 1995 Act which contains the existing rules, they will be transitionally preserved by the appointed day order commencing this provision until new regulations can be made.

9. Clause 8 amends section 16 to clarify the time at which a returning officer has to take the oath of office.
10. Clause 9 requires a returning officer to appoint one or more deputy returning officers. If one is appointed that officer must be empowered to discharge all of the functions of the returning officer in that officer's absence or unavailability. If more than one is appointed the deputies may be empowered to perform different functions, but the returning officer must secure that, in relation to every function of the returning officer, there is at least one deputy capable of discharging it.
11. Clause 10 makes a minor amendment to section 20, removing the requirement to submit duplicate copies of claims for fees and expenses.
12. Clause 11 inserts 6 new sections (20A to 20F) which regulate the treatment of candidates' expenses and campaign donations.
13. Clause 12 substitutes a new section 22. This brings together material previously found in section 22 of, and Schedule 2 to, the 1995 Act, governing the conduct of elections. As indicated above (see paragraph 7), the procedure for elections will in future be governed by regulations, rather than rules set out in that Schedule.
14. Clause 13 makes a consequential change to the wording in section 23 reflecting the change made to section 22.
15. Clause 14 amends section 24 to put beyond doubt the methods of participating in an election as an elector.
16. Clause 15 substitutes a new section 25 setting out the manner in which an elector may exercise the right to vote at an election (in advance, in person at a polling station or by proxy).
17. Clause 16 amends section 26 to reflect the change from "absent voting" to "advance voting".
18. Clause 17 imposes restrictions on the right to request a proxy vote and imposes an obligation on the returning officer to satisfy himself or herself that the voter will be unable to vote in person at the election.
19. Clause 18 substitutes new sections for the existing sections 30 and 31 in order to modernise the processes for publicising an election and disseminating election manifestos to include publication on websites.
20. Clause 19 inserts three new sections (31A to 31C) dealing with election observers and their conduct.
21. Clause 20 amends section 32 to add to the list of illegal practices the delivery of a false declaration under section 20D in respect of election expenses.
22. Clause 21 amends section 37 so as to prohibit—

- a. negative as well as positive publicity on behalf of an election candidate unless it gives the name and address of the publisher; and
 - b. to prohibit the display of publicity material on premises occupied by a Department or Statutory Board (except domestic premises sublet to a person other than a Department or a Statutory Board).
23. Clause 22 substitutes a modernised version of section 40 dealing with the prohibition on the use of premises, on or from which alcohol is sold, for electoral purposes.
24. Clause 23 repeals section 41 which prohibits payments on account of musical bands with a view to promoting or procuring the election of a candidate.
25. Clause 24 consequentially amends section 43 (voting offences) to reflect the new possibilities for voting under the Act in consequence of the introduction of advance voting and the abolition of absent votes.
26. Clause 25 inserts two new sections, 44A and 44B. The former creates offences on the part of a candidate who stands at an election for an unregistered political party or knowingly or recklessly makes a false declaration in connection with the registration of political party. The latter creates offences in connection with the requirements in the new sections 20A to 20F dealing with funding of elections.
27. Clauses 26 and 27 make consequential adjustments to various interpretation provisions in the 1995 Act.
28. Clause 28 amends section 80 to reflect the changes in nomenclature for subordinate legislation under the Act.
29. Clause 29 amends the definition of “prescribed” for the purposes of Schedule 3 to the Act.
30. Clause 30 inserts a new Schedule 3A (the text of which is set out in Schedule 2 to the Bill) which defines “donation” and related concepts for the purposes of sections 20A to 20F.
31. Clause 31 contains consequential amendments to other legislation.
32. An impact assessment has been prepared in connection with the Bill: it is anticipated that the Bill will be cost-neutral in respect of Government’s income and expenditure.
33. 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.



REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL 2014

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REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL 2014

A **BILL** to amend further the Representation of the People Act 1995.

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 Representation of the People (Amendment) Act 2014.

2 Commencement

- (1) This Act (apart from this section and section 1) comes into operation on such day or days as the Council of Ministers may by order appoint and different days may be appointed for different purposes of this Act.
- (2) An order under subsection (1) may make such consequential, incidental saving, transitional and transitory provisions as the Council of Ministers considers necessary or expedient.

3 Amendment of Representation of the People Act 1995

The Representation of the People Act 1995 (referred to below as "**the Act**") is amended in accordance with this Act.

4 Gender neutrality

Schedule 1 has effect for amending the Act so as to make it gender neutral.

5 Sections 1 and 2 substituted

For sections 1 and 2 substitute –

11 Qualifications for membership of the Keys

- (1) A person may stand as a candidate for, and be elected a member of, the Keys for a constituency if at the time of nomination as a candidate the person –
- (a) has reached the age of majority;
 - (b) is either a British citizen or has the right to remain in the Island;
 - (c) is not the holder of an office of profit under the government of any country or territory outside the Island;
 - (d) is ordinarily resident in the Island and has been so resident for a period of, or for periods amounting in the aggregate to, 5 years or more;
 - (e) is registered on the register of electors for any electoral area in the Island;
 - (f) if he or she has been convicted of a relevant offence the conviction is spent for the purposes of the *Rehabilitation of Offenders Act 2001*;
 - (g) is not incapable of being elected to and sitting in the Keys by virtue of section 66 (incapacities on report or conviction of corrupt or illegal practice);
 - (h) is not serving a custodial sentence following conviction for any offence;
 - (i) is not an undischarged bankrupt; and
 - (j) is not subject to any incapacity by virtue of this or any other Act.
- (2) For the purpose of subsection (1)(b) a person has the right to remain in the Island if the person –
- (a) has indefinite leave to remain in the Island, within the meaning of the Immigration Act 1971 (of Parliament), as it has effect in the Island (the “1971 Act”); or
 - (b) does not under the 1971 Act require leave to enter or remain in the Island, by virtue of section 7(1) of the Immigration Act 1988 (of Parliament), as it has effect in the Island;
- and, in either case, the person is not liable to deportation under section 3(5) or (6) of the 1971 Act.
- (3) For the purposes of subsection (1)(f) a relevant offence is an offence (wherever committed) involving corruption, bribery or dishonesty or an offence (of any kind) under this Act or under the legislation of another country or territory equivalent to this Act.

2 Term of the Keys and date of election

- (1) A general election must be held on the fourth Thursday in September of every fifth year starting with 2016.
- (2) The Keys is dissolved (unless sooner dissolved under section 3) 6 weeks before the general election. **22**.

6 Part 1A inserted

After Part 1 insert –

22 PART 1A

REGISTRATION OF POLITICAL PARTIES

10A Requirements for political parties to be registered

A political party must not support or nominate any candidate for election to the Keys unless it is registered under this Part.

10B Conditions of registration

- (1) The party must have a name that does not exceed 6 words.
- (2) The name of the party, and any abbreviation of the name and any emblem of the party, must not be –
 - (a) offensive, obscene or otherwise inappropriate; or
 - (b) either identical to, or of sufficient similarity that it may be confused with, the name, abbreviation or emblem of any other organisation.
- (3) The party must have 3 officeholders, being the leader, treasurer and secretary.
- (4) A person may hold 2 of the offices described in subsection (3), but not all 3.
- (5) A person cannot hold any office described in subsection (3) unless he or she is registered in a register of electors in accordance with the *Registration of Electors Act 2006*.
- (6) The party must have an address in the Island to which communications intended for the party may be sent.
- (7) The party must have a written constitution, one of the expressed objectives of which must be the endorsement of candidates for election to the Keys.
- (8) The party must keep accounts.

- (9) The party must have an accounting period that does not exceed 12 months.
- (10) Regulations may amend, or make provision in addition to, subsections (1) and (2) regarding the restrictions on the name of a political party.

10C Restriction on name and emblem used by registered political party

- (1) A registered political party must not use or otherwise hold itself out as known by any name, or abbreviation of its name, other than the name or abbreviation (if any) that is registered for it.
- (2) A registered political party must not use or otherwise hold itself out as associated with any emblem other than the emblem (if any) that is registered for it.

10D Application for registration of political party

- (1) An application for registration of a political party must be made to the Chief Registrar, in accordance with this section.
- (2) An application must contain —
 - (a) the name of the party and the abbreviation (if any) of that name;
 - (b) the emblem (if any) of the party;
 - (c) the address in the Island for the purposes of section 10B(6); and
 - (d) the full names of the leader, treasurer and secretary of the party.
- (3) An application must be accompanied by —
 - (a) a copy of the party's constitution;
 - (b) a copy of the party's most recent accounts; and
 - (c) such fee, if any, as may be published by the Treasury as payable for the application.
- (4) The application must be signed by no fewer than 20 persons.
- (5) A person may sign an application only if he or she is registered in a register of electors in accordance with the *Registration of Electors Act 2006*.
- (6) Regulations may amend subsection (4) so as to vary the number of persons who must sign the application.

10E Consideration of application for registration of political party

- (1) The Chief Registrar must deliver to the Attorney General a copy of an application for registration of a political party.
- (2) The Attorney General must inform the Chief Registrar whether, in the Attorney General's opinion –
 - (a) the party complies with section 10B and
 - (b) the application complies with section 10D.
- (3) If, in the opinion of the Attorney General –
 - (a) both those sections are complied with, the Chief Registrar must register the political party;
 - (b) at least one of those sections is not complied with, the Chief Registrar must refuse the registration.

10F Registration of political party

- (1) The Chief Registrar must maintain a register of political parties.
- (2) Where a political party is to be registered the Chief Registrar must enter the following particulars in the register –
 - (a) the name of the party and the abbreviation (if any) of that name;
 - (b) the emblem (if any) of the party;
 - (c) the address in the Island for the party for the purposes of section 10B(6);
 - (d) the full names of the leader, treasurer and secretary of the party.
- (3) The Chief Registrar must keep, for each registered political party, a copy of its constitution submitted under section 10D(3)(a) or 10H(2)(c), and a copy of its accounts submitted under section 10D(3)(b) or 10I.

10G Application for change of name or emblem of registered political party

- (1) A registered political party may, on payment of such fee as may be published by the Treasury, apply to the Chief Registrar for the name and any abbreviation of the name registered for it to be altered or substituted.
- (2) A registered political party may, on payment of such fee as may be published by the Treasury, apply to register an emblem or to substitute the emblem registered for it.
- (3) An application under this section must be –

- (a) signed by 2 persons who are registered officeholders of the party; and
 - (b) accompanied by evidence that the decision to make the alteration, substitution or addition was made in accordance with the party's constitution.
- (4) The Chief Registrar must refuse to order the alteration of or addition to the register if, in the opinion of the Attorney General –
- (a) the name, abbreviation or emblem does not comply with section 10B(1) and (2); or
 - (b) the application does not comply with subsection (3) of this section.
- (5) If the Chief Registrar orders the alteration of or any addition to the register under this section, the Chief Registrar must enter the particulars of the change in the register.

10H Changes in particulars of registered party

- (1) The Chief Registrar must be notified, in writing, of –
- (a) a change in the constitution of a registered political party;
 - (b) a change in the person holding the office of leader, treasurer or secretary of a registered political party; and
 - (c) a change in the address, in the Island, of a registered political party.
- (2) A notice required by subsection (1) must be –
- (a) delivered to the Chief Registrar within the period of 10 working days following the change;
 - (b) signed by 2 persons who are registered officeholders of the party; and
 - (c) accompanied by evidence that the decision to make the change was made in accordance with the party's constitution and, in the case of notice of a change in the constitution of a registered political party, by a copy of the constitution as changed.
- (3) If, by reason of death or incapacity of one or more registered officeholders or other cause, it is not possible to comply with subsection (2)(b) when notice is given of a change described in subsection (1)(b), the Chief Registrar may –
- (a) accept an alternative means of verification of the notice; or
 - (b) refer the matter to the Attorney General, in order for the Attorney General to advise on the matter.

- (4) The Chief Registrar must enter in the register the particulars of any change notified in accordance with this section, unless it appears to him or her that the change has the effect that the party no longer complies with section 10B.
- (5) If it appears to the Chief Registrar that the change notified has the effect that the party no longer complies with section 10B, the Chief Registrar must refer the matter to the Attorney General.
- (6) Regulations may amend the period mentioned in subsection (2)(a).

10I Accounts to be audited and filed

Section 5 of the *Charities Registration Act 1989* (along with any regulation-making powers necessary for that section and the penalty provided for in section 14(2) of that Act) applies for the purposes of this Part as if for “charity” there were substituted “political party”.

10J Removal from the register

- (1) The Chief Registrar must remove a registered political party from the register –
 - (a) upon an application –
 - (i) signed by 2 persons who are registered officeholders of the party; and
 - (ii) accompanied by evidence that the decision to apply for the removal of the party from the register was made in accordance with its constitution;
 - (b) if the Attorney General is satisfied –
 - (i) that the party no longer complies with section 10B;
 - (ii) that the party has not complied with sections 10C, 10H or 10I; or
 - (c) if the Chief Registrar is satisfied that the party has not, for a period of 10 years, endorsed, in accordance with this Act, a person as a candidate for election to the Keys.
- (2) The period mentioned in subsection (1)(c) begins on the later of –
 - (a) the date the party is registered; and
 - (b) the date of the last nomination meeting at which the party endorsed a candidate for election to the Keys.
- (3) Not less than 2 months before removing a political party from the register, the Chief Registrar, except where he or she is satisfied that it has ceased to exist, must notify the party of his or her intention to do so, stating the grounds for so doing.

- (4) Regulations may amend the period mentioned in subsection (1)(c).

10K Inspection of register of political parties

- (1) A person may inspect the register at the General Registry during its normal working hours.
- (2) A person may, on payment of such fee as the Treasury may publish, obtain from the Chief Registrar a copy of any document kept by the Chief Registrar under section 10D(3).

10L Appeals

- (1) A signatory to an application to the Chief Registrar under section 10D or 10G may appeal to the High Court against the refusal of the application.
- (2) A registered political party may appeal to the High Court against its removal from the register under section 10J.
- (3) Where an appeal under subsection (2) is made within the period of 2 months beginning with the date on which notification of the intended removal from the register is given under section 10J(3), the Chief Registrar must not remove the registration until the appeal is determined or abandoned.
- (4) On an appeal under this section the High Court, if it is satisfied that the registration should have been made or amended, or should not be removed, as the case may be, must declare accordingly and give any necessary directions to the Chief Registrar.

10M Interpretation of Part 1A

In this Part –

“**officeholder**” means, in relation to a party, one of the officeholders mentioned in section 10B(3);

“**register**” means the register maintained under section 10F;

“**registered**” means for the time being entered in the register. **22**.

7 References to election rules

- (1) Schedule 2 (election rules) is repealed.
- (2) In the following provisions for “the election rules” substitute **23** regulations **24** –
- (a) section 13(3);
- (b) section 46(4);

- (c) section 52(b);
- (d) Schedule 3 paragraph 6(5)(a).

8 Returning officer to take oath of office

In section 16(1) for “proceeding to an election” substitute **63** the issue of a writ of election **62**.

9 Deputy returning officers

For section 18(1) substitute –

- 63**(1) A returning officer must, by writing under that officer’s hand, and in the form specified by the Chief Secretary –
 - (a) appoint a fit and proper person as deputy returning officer for all of the purposes of the election;
 - (b) appoint two or more fit and proper persons as deputy returning officers.
- (1A) If the returning officer appoints more than one deputy returning officer, he or she –
 - (a) may authorise any of the deputies to perform any or all or all of the returning officer’s functions, but
 - (b) must secure that every function of the returning officer is capable of being exercised, in the returning officer’s absence or unavailability, by at least one of the deputies. **62**.

10 Payment of official expenses

In section 20(5) delete “in duplicate”.

11 Sections 20A to 20F inserted

(1) After section 20 insert –

63 20A Donations received

- (1) A candidate must, no later than 5 working days before the day the poll is held, deliver to the Chief Registrar a written declaration of the donations of, or having a value of more than, the minimum amount that the candidate has received during the year prior to the date of the election, (or, if appropriate, a declaration that no such donations have been received), specifying –
 - (a) in the case of donors who are known, the donor’s name, the amount or value of the donation, and whether the donation is of –
 - (i) money;

- (ii) a loan of money;
 - (iii) goods or the use of goods; or
 - (iv) services; and
- (b) in the case of donors who are anonymous, the sum of their donations received, and a statement to the effect that section 20B has been complied with.
- (2) Except where the donor is anonymous, donations made by each person, including any connected person, must be aggregated for the purposes of determining whether they are of, or have a value of more, than the minimum amount.
- (3) In this section –
 “connected person” has the same meaning as in section 119C of the *Income Tax Act 1970*;
 “minimum amount” means £50.
- (4) Regulations may amend this section so as to vary the minimum amount.

20B Disposal of anonymous donations

- (1) A candidate must not keep an anonymous donation.
- (2) A candidate who receives an anonymous donation must, within 10 working days of receiving it, send it to the Chief Financial Officer who must make arrangements for its distribution to the nominated charitable trust for distribution as the trustees think fit.
- (3) In this section “nominated charitable trust” means the Manx Lottery Trust, an independent charitable trust established by a trust deed dated 21st May 2008.
- (4) Regulations may amend the definition of “nominated charitable trust”.

20C Election expenses

- (1) A candidate’s election expenses over the 12 months prior to the election or the period since the last election held in the constituency in which the candidate is standing, whichever is the shorter, must not exceed the maximum amount.
- (2) If the Chief Registrar receives, within 3 months of an election, a complaint alleging that a candidate’s election expenses have exceeded the maximum amount, the Chief Registrar must notify that candidate as soon as reasonably practicable.
- (3) The notification must require the candidate to deliver to the Chief Registrar within 15 working days a written declaration of his or

her election expenses, itemising the amounts expended (whether direct or notional) and the goods and services to which those amounts relate.

- (4) For the purposes of this section the “maximum amount” is the total of £2,000 plus 50 pence for each person registered as an elector on the relevant register for the constituency in which the candidate is standing for election.

For this purpose the following rules apply in respect of notional expenses —

- (a) treat goods and services provided to a candidate or a connected person as having the value which would have been the cash equivalent for the purposes of income tax (computed in accordance with section 2H of the *Income Tax Act 1970*) if the candidate were an employee of the person providing the goods and services; but
- (b) disregard —
- (i) any goods and services which are disregarded for the purposes of section 2G of the *Income Tax Act 1970* by virtue of an order under subsection (4) of that section; and
- (ii) the value of any goods or services provided to a candidate by a Department, Statutory Board or other public body in pursuance of a statutory obligation.

- (5) In this section —

“connected person” has the same meaning as it has for the purposes of the Income Tax Acts by virtue of section 119C of the *Income Tax Act 1970*; and

“relevant register” means the register most recently prepared prior to 6 weeks before the date of the election.

- (6) Regulations may amend this section so as to vary the maximum amount.
- (7) In relation to the period of 12 months beginning with the commencement of this section subsection (1) has effect as if for “the 12 months prior to the election” there were substituted “the period since the commencement of this section”.

20D Requirements in respect of declarations

- (1) The declarations required by sections 20A(1) and 20C(3) must —
- (a) be made using a form supplied by the Chief Registrar;

- (b) include a statement that, to the best of the candidate's knowledge, information and belief, the information contained in it is true, complete and correct; and
 - (c) be signed by the candidate.
- (2) If, having made a declaration, a candidate becomes aware of any variation in or addition to the information required to be declared, the candidate must, as soon as possible and, in any event, no later than 10 working days after becoming so aware, deliver to the Chief Registrar a further written declaration of the variation or addition.
- (3) A declaration delivered under subsection (2) must comply with subsection (1)(b) and (c).
- (4) The Chief Registrar must record the details of every declaration delivered under this section in a register that is available for inspection by the general public free of charge, at the General Registry, during its normal working hours.

20E Verification of expenses

- (1) Where the Chief Registrar has received a complaint under section 20C(2), the Chief Registrar may require the candidate who is the subject of the complaint to produce invoices, receipts and other proof of the candidate's election expenses.
- (2) A requirement under subsection (1) must be in writing.
- (3) A candidate must comply with a requirement under subsection (1) within 15 working days of its being made.

20F Requirement to provide information and documents to candidate

A person who incurs or pays a candidate's election expenses must, as soon as is practicable, provide the candidate with such information and documents as the candidate requires to comply with sections 20D and 20E. **22**.

12 Section 22 substituted

For section 22 substitute –

22 Proceedings

- (1) The proceedings at an election shall be conducted in accordance with regulations made under this Act.
- (2) At an election a person must not vote otherwise than in accordance with the regulations.

- (3) Regulations may provide for the procedures to be followed at elections including in particular the following –
- (a) a timetable for the proceedings at an election, including provisions as to the computation of time;
 - (b) the delivery of writs of election to and by returning officers;
 - (c) the publication of notices of election and their content;
 - (d) a mechanism for the nomination of candidates, the publication of nominations, the delivery of nomination papers, the contents of nomination papers to be specified, the conditions of their validity and the criteria for objection to nominations;
 - (e) a mechanism for the withdrawal of candidates, publication of withdrawal and procedure in the event of a death of a candidate;
 - (f) the method of electing candidates, including notice of poll, the issuing of poll cards in a form to be specified, provision of polling stations and the necessary equipment and means for secret voting, the sealing of ballot boxes, the content, form and appearance of ballot papers to be as prescribed or specified, procedure on spoilt ballot papers, verification of identity of voters and procedure on challenge of voters, the manner of voting, including by those needing assistance, the display of guidance notes for voters to be specified and the procedure on close of poll;
 - (g) the responsibilities of returning officers, including regulation of numbers of persons in, and their conduct at, polling stations and the appointment of presiding officers and other officers to assist with elections, their oaths of office, their duties and responsibilities including provision as to delegation to or by them, and for those persons and deputy returning officers to be paid by returning officers;
 - (h) the prohibition on disclosure of how a person has voted and for a declaration of secrecy in a form specified as prescribed and to be made by such persons and in such manner as may be prescribed;
 - (i) the appointment by candidates of polling and counting agents subject to conditions of or in accordance with the regulations and a procedure for the challenge of voters;
 - (j) the procedure on counting and re-counting of votes, including presence at the count and the declaration of result and the procedure for the return of elected candidates;

- (k) the procedure for the disposal of documents, orders for their production, their retention, inspection by the public and the means of purchasing prescribed documents for a specified fee. **22**.

13 Effect of non-compliance with regulations

In section 23 –

- (a) in the marginal note for “rules” substitute **23** regulations **22**;
- (b) for “election rules” substitute **23** regulations **22**.

14 Entitlement to vote at an election

After section 24(1) insert –

- 24**(1A) A person entitled to vote may do so only in person or by proxy in accordance with this Act. **22**.

15 Section 25 substituted

For section 25 substitute –

25 Place and manner of voting

A person entitled to vote at an election –

- (a) may do so in person at the polling station allotted under regulations (unless he or she is an advance voter or a person appointed as the person’s proxy has already voted on his or her behalf);
- (b) may do so in advance if the conditions set out in section 26 are met; or
- (c) may do so by proxy if he or she has applied under section 27 (unless he or she has already voted in person). **22**.

16 Advance voting

In section 26 –

- (a) for subsection (1) substitute –

26(1) A person who is or will be entitled to vote at an election may apply to the returning officer of the appropriate constituency to vote in advance of the election in accordance with this section (whether in his or her own capacity or as a proxy on behalf of an elector who meets the requirements of section 27(1)). **22**;

- (b) in subsection (3) for “An application to be treated as an absent voter” substitute **26**The application **22** and in paragraph (a) for “Island or elsewhere” substitute **26**British Islands **22**;

- (c) in subsection (4) for “absent” substitute **63** advance **62**;
- (d) accordingly, in the marginal note for “Absent” substitute **63** Advance **62**.

17 Proxy votes

In section 27 –

- (a) for subsection (1) substitute –
 - 63**(1) An elector entitled to vote at an election who is unable to vote in person or as an advance voter may apply to the registration officer for the appointment of a person named in the application as a proxy to vote for the elector at that election. **62**;
- (b) for subsection (4) substitute –
 - 63**(4) The registration officer may grant an application under subsection (1) only if satisfied, on information provided by the elector, that the elector is unable to vote as there described, and may request the elector to provide such further evidence as the registration officer considers necessary to determine the matter. **62**.

18 Sections 30 and 31 substituted

For sections 30 and 31 substitute –

63 30 Public notices

Wherever public notice is required by this Act to be given, and no mode or place of publication is expressly provided for, publication –

- (a) must be effected –
 - (i) by insertion in a newspaper published and circulating within the Island; and
 - (ii) by display on an appropriate website in an appropriate manner;
- (b) may be effected by placard posted up in some public and conspicuous situation in the constituency to which the notice refers.

31 Distribution of election manifestos

- (1) Every candidate may forward an electronic version of his or her manifesto to the Chief Secretary who must arrange for it to be displayed on an appropriate website within 3 working days and for the duration of the election campaign.
- (2) Every candidate is entitled to have his or her manifesto delivered by Isle of Man Post Office to each household containing one or

more persons on the electoral register for the constituency in which the candidate is standing for election and the cost of such delivery subject to regulations must be paid out of money provided by Tynwald.

- (3) Regulations may make further provision regarding the distribution of manifestos. **22**.

19 Section 31A to 31C inserted

After section 31 insert —

31A Election observers

- (1) An application may be made to the Governor for any representative of a named body to be an accredited observer at any of the following proceedings relating to an election —
- (a) proceedings at the poll;
 - (b) proceedings at the counting of votes.
- (2) An accredited observer must not be under the age of 16.
- (3) If the Governor grants the application, the accredited observer may attend the proceedings in question.
- (4) An application under subsection (1) must be made in the manner specified in the code of practice issued under section 31C.
- (5) The Governor may at any time revoke the grant of an application under subsection (1).
- (6) If the Governor —
- (a) refuses an application under subsection (1); or
 - (b) revokes the grant of any such application,
- the Governor must give the decision in writing and must at the same time give reasons in writing for the refusal or revocation.
- (7) This section is subject to any other provision of, or made under, this Act regulating attendance at the proceedings in question.

31B Attendance and conduct of observers

- (1) A relevant officer may limit the number of accredited observers who may be present at any proceedings at the same time.
- (2) If an accredited observer misconducts himself or herself while attending the proceedings, the relevant officer may cancel the person's entitlement.

- (3) Subsection (2) does not affect any power a relevant officer has by virtue of any enactment or rule of law to remove a person from any place.
- (4) In this section “relevant officer” means—
 - (a) in the case of proceedings at a polling station, the presiding officer;
 - (b) in the case of any other proceedings at an election, the returning officer; and
 - (c) such other person as a person mentioned in paragraph (a) or (b) authorises for the purposes of the proceedings mentioned in that paragraph.

31C Code of practice on attendance of observers at elections etc.

- (1) The Governor must prepare a code of practice on the attendance of accredited observers at elections.
- (2) The code must in particular —
 - (a) specify the manner in which applications under section 31A are to be made;
 - (b) specify the criteria to be taken into account by the Governor in determining such applications;
 - (c) give guidance to relevant officers as to the exercise of the power conferred by section 31B(1);
 - (d) give guidance to such officers as to the exercise of the power conferred by section 31B(2) as it relates to accredited observers;
 - (e) give guidance to such officers as to the exercise of any power under any enactment to control the number of persons present at any proceedings relating to an election or referendum as it relates to accredited observers; and
 - (f) give guidance to accredited observers on the exercise of the rights conferred by sections 31A and 31B.
- (3) The code may make different provision for different purposes.
- (4) The Governor must publish the Code in such manner as the Governor may determine.
- (5) A relevant officer must have regard to the code in exercising any function conferred by section 31B.
- (6) The Governor may at any time revise the code and subsections (4) and (5) apply in relation to a revision of the code as they apply in relation to the code.

- (7) In this section “relevant officer” has the same meaning as it has in section 31B. **22**.

20 Corrupt and illegal practices

After section 32(2)(e) insert —

- 22**(ea) a candidate who contravenes section 44B(3)(b); **22**.

21 Election publications

In section 37 —

- (a) in subsection (1)(a) after “procuring” insert **22**, or discouraging or preventing, **22**;
- (b) at the end of subsection (2) insert —
- 22**; or
- (c) on any —
- (i) building or within the curtilage of a building (other than domestic accommodation or building that is sublet to any person other than a Department or Statutory Board) that is owned or occupied by; or
- (ii) property belonging to, any Department or Statutory Board. **22**;
- (c) in subsection (4) delete “other than a candidate”;
- (d) for subsection (6) substitute —
- 22**(6) In this section —
- “distribute” includes distribute by electronic means;
- “print” includes any process for multiplying copies of a document, other than copying it by hand;
- “publish”, for clarity, includes publishing by electronic means. **22**.

22 Section 40 substituted

For section 40 substitute —

2240 Premises where alcohol sold or supplied not to be used for election purposes

- (1) Any person who —
- (a) hires or uses any premises to which this section applies for any purposes in connection with an election; or
- (b) lets any premises to which this section applies knowing that it was intended to use it for any such purposes,

is guilty of an illegal hiring.

- (2) This section applies to any premises (or any part of any premises) –
- (a) that are licensed for the sale of any liquor for consumption on or off the premises or on which refreshment of any kind (whether food or drink) is normally sold for consumption on the premises; or
 - (b) where any liquor is supplied to members of a club, society or association, other than a permanent political club, other than any part of premises used as office accommodation or for public meetings or arbitrations that have a separate entrance and no direct communication with any part of the premises on which any liquor or refreshment is sold or supplied as mentioned above.
- (3) In this section “liquor” has the same meaning as in the *Licensing Act 1995*. **22**.

23 Section 41 repealed

Section 41 (bands of music) is repealed.

24 Voting offences

- (1) Section 43 is amended as follows.
- (2) In subsection (1) –
- (a) in paragraph (a) for “whether as an elector or by proxy, and whether in person or by post” substitute **23** in any capacity or by any means provided for by this Act **22**;
 - (b) in paragraph (b) for “an absent voter’s ballot for himself or for some other person” substitute **23** the person or another person to vote in advance of the election **22**;
 - (c) delete paragraph (e).
- (3) In subsection (2)(b) for “absent voter” substitute **23** advance voter **22**.

25 Sections 44A and 44B inserted


After section 44 insert –

23 44A Offences in connection with political parties

- (1) A candidate who accepts support or allows himself or herself to be nominated by a political party that is not registered under this Part is guilty of an offence and liable –
- (a) on conviction on information to a fine; and

- (b) on summary conviction to a fine not exceeding £5,000.
- (2) A person who, knowingly or recklessly, makes any application or delivers any notice to the Chief Registrar under Part 1A (registration of political parties), that is false in a material particular, is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.

44B Offences in connection with funding

- (1) A candidate who fails, without reasonable excuse, to comply with section 20B(2) (sending of anonymous donation to Chief Financial Officer) is guilty of an offence and liable –
 - (a) on conviction on information to a fine;
 - (b) on summary conviction to a fine not exceeding £5,000.
- (2) A candidate whose election expenses exceed, without reasonable excuse, the maximum amount permitted by section 20C(1) (election expenses) is guilty of an offence and liable –
 - (a) on conviction on information to a fine;
 - (b) on summary conviction to a fine not exceeding £5,000.
- (3) A candidate who –
 - (a) fails, without reasonable excuse, to deliver a declaration, or further declaration, in accordance with section 20D (requirements in respect of declarations); or
 - (b) delivers a declaration, or a further declaration, under section 20D, knowing or believing it to be false in a material particular,
 is guilty of an offence and liable –
 - (i) on conviction on information to a fine;
 - (ii) on summary conviction to a fine not exceeding £5,000.
- (4) A person who fails, without reasonable excuse, to comply with –
 - (a) section 20E(2) (candidate to comply with request to provide details of expenses incurred); or
 - (b) section 20F (person to provide details to candidate as to expenses incurred),
 is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000. .

26 Interpretation: sections 55 and 75 amended

- (1) In sections 55 and 75 omit the definition of “candidate”.
- (2) In section 75 omit the definition of “prescribed”.

27 Interpretation: section 77 amended

In section 77 –

- (a) renumber the existing text as subsection (1);
- (b) before the definition of “election” insert –

“**anonymous**” in relation to a donor or donation, means that the recipient is unable, despite taking all reasonable steps, to ascertain the identity of the donor making the donation;

“**accredited observer**” means a person permitted to attend election proceedings as an observer in accordance with section 31A;

“**advance voter**” means a person allowed to vote in advance under section 26;

“**donation**” shall be construed in accordance with Part 1 of Schedule 4;”;

- (c) after the definition of “election” insert –

“**election expenses**” shall be construed in accordance with Part 2 of Schedule 4;”

- (d) delete the definition of “election rules”;

- (e) after the definition of “member” insert –

“**political party**” means an organisation, howsoever called, one of whose fundamental purposes is to participate in the public affairs of the Island by the support, nomination or other endorsement of a candidate at an election of the Keys;”;

- (f) in the definition of “**prescribed**” for “**Part 5**” substitute “**Schedule 3**”;

- (g) after the definition of “**voter**” add –

“**working day**” means any day other than Christmas Day, Good Friday, a Saturday, a Sunday or a day prescribed as a bank holiday under section 1 of the *Bank Holidays Act 1989*.”;

- (h) after subsection (1) (as renumbered above) insert –

(2) For the purposes of this Act a person becomes a candidate for an election on the day the person –

- (a) declares himself or herself to be such a candidate; or
- (b) is declared, with the person’s consent, to be such a candidate by another person.

(3) However, if the declaration occurs more than 12 months before the date of an election, the person becomes a candidate on the day that is 12 months before election day.”

28 Regulations

In section 80 –

- (a) in subsection (1) for “Part 5” substitute **“Schedule 3”**;
- (b) after subsection (1) insert –

“(1A) Regulations may amend this Act so as to vary any reference to any period of time mentioned in sections 20A to 20E.”

29 Schedule 3 amended: definitions

In paragraph 1 of Schedule 3 after the definition of “petition” insert –

“prescribed” means prescribed by rules of court;

30 Schedule 3A inserted

After Schedule 3 insert the Schedule set out in Schedule 2 to this Act.

31 Consequential amendments

(1) In the *Local Elections Act 1986* –

- (a) in section 1(2) for “Election Rules contained in Schedule 2 to” substitute **“regulations made under”**;
- (b) in Schedule 1 –
 - (i) in the entry for section 23 for “rules” substitute **“regulations”**;
 - (ii) in the entry for section 25 before “Omit” insert **“in paragraph (a) omit the words ‘or a person appointed as the person’s proxy has already voted on his or her behalf’”**;
 - (iii) in the entry for section 26 for “Absent voters” substitute **“Advance voters”**;
 - (iv) in the entry for section 40 for “Premises not to be used as committee rooms” substitute **“Premises where alcohol sold or supplied not to be used for election purposes”**;
 - (v) delete the entry for section 41;
 - (vi) in the entry for section 43 omit “in paragraph (a), omit ‘whether as an elector or by proxy,’”;
 - (vii) in the entry for section 55 omit the text in column 3;
 - (viii) in the entry for section 77 for the text in column 3 substitute –

“omit the definitions of ‘anonymous’, ‘accredited observer’ ‘donation’, ‘election expenses’ and ‘political party’ in subsection (1) and omit subsections (2) and (3);”

insert in the correct alphabetical order the following definitions –

“the Department” means the Department of Infrastructure;

“candidate” means a person elected or having been nominated or having declared himself or herself to be a candidate for election, to the office to be filled at the election;

“election” means a local election (within the meaning of the *Local Elections Act 1986*);

“regulations” means rules under section 1 of the *Local Elections Act 1986* **22**.

- (2) In section 6A(3) of the *Payment of Members Expenses Act 1989* for “the election rules in Schedule 2 to” substitute **22** regulations made under **22**

SCHEDULE 1

[Section 4]

GENDER NEUTRALITY

1 Section 3 amended

In section 3 for the for the opening words of subsection (1) and the words in paragraph (a) preceding sub-paragraph (i) substitute –

- “(1) Whenever the Governor thinks it expedient the Governor may –
- (a) by precept under the Governor’s hand –

2 Section 5 amended

In section 5 for “his notice otherwise than by reason of his own resignation” substitute “the Speaker’s notice otherwise than by reason of the Speaker’s own resignation”.

3 Section 6 amended

In section 6 –

- (a) in subsection (1) –
- (i) for “his seat” substitute “the member’s seat”;
- (ii) in paragraphs (a) and (b) after “he” insert “or she”;
- (iii) in paragraph (a) after “his” insert “or her”;
- (b) in subsection (2) –
- (i) after “he” insert “or she”;
- (ii) in paragraph (a) after himself insert “or herself” and after “his” insert “or her”;
- (c) in subsection (3) for “he” substitute “the member”;
- (d) in subsection (4) –
- (i) after “his” in both places insert “or her”;
- (ii) after “he” wherever occurring insert “or she”;
- (e) in subsection (5)(b) after “his” insert “or her”;
- (f) in subsection (6) for “his” substitute “the member’s”;
- (g) in subsection (7)(b) and subsection (8) delete “his”;
- (h) in subsections (9) and (10) after “his” wherever occurring insert “or her”.

4 Sections 7 and 8 amended

In sections 7 and 8 for “he” wherever occurring substitute “the member”.

5 Section 9 amended

In section 9(2)(b) and (c) after “his” wherever occurring insert **or her**.

6 Section 13 amended

In section 13 –

- (a) in subsection (1) for “his” substitute **the Governor’s**;
- (b) for subsection (5) substitute –

(5) The Governor may declare a returning officer’s office to be vacant (and consequently the returning officer treated as having retired) if –

- (a) the returning officer has given the Governor notice of his or her intention to retire; or
- (b) the Governor thinks it is expedient that the returning officer should retire.

7 Section 14 amended

In section 14(2) after “he” insert **or she**.

8 Section 15 amended

In section 15 –

- (a) in paragraph (a) after “he” insert **or she**;
- (b) in paragraph (b) after “his” insert **or her**.

9 Section 16 amended

In section 16(2) –

- (a) after “his” insert **or her**;
- (b) for “he fails to do so he” substitute **the returning officer fails to do so he or she**.

10 Section 17 amended

In section 17(2) –

- (a) in paragraphs (a) and (c) after “him” insert **or her**;
- (b) in paragraph (a) after “he” insert **or she**;
- (c) in paragraph (d) after “his” insert **or her**.

11 Section 18 amended

In section 18 (3) after “him” insert **or her**.

12 Section 19 amended

In section 19(2) after “he” insert **“or she”** and after “his” insert **“or her”**.

13 Section 23 amended

In section 23 after “his” insert **“or her”**.

14 Section 24 amended

In section 24(2) and (3)(b) after “he” insert **“or she”**.

15 Section 32 amended

In section 32 –

- (a) in subsection (2)(f) after “he” in both places insert **“or she”**;
- (b) in subsection (4) for “his election” substitute **“his or her election”**;
- (c) in subsections (4) and (5) for “of his” substitute **“of the candidate’s”**.

16 Section 33 amended

In section 33(1) and (2) after “he” insert **“or she”**.

17 Section 34 amended

In section 34 –

- (a) in subsections (1), (5) and (6) for “he directly or indirectly, by himself, or by any other person on his behalf” substitute **“he or she directly or indirectly, by himself or herself, or by any other person on his or her behalf”**;
- (b) in subsection (1) for “he procures” substitute **“he or she procures”**;
- (c) in subsection (3) after “he” insert **“or she”**;
- (d) in subsection (5) after “himself” insert **“or herself”**.

18 Section 35 amended

In section 35 –

- (a) in subsection (1) for “he corruptly, by himself” substitute **“he or she corruptly, by himself or herself”**;
- (b) in subsection (3) after “his” insert **“or her”**.

19 Section 36 amended

In section 36 –

- (a) in subsection (1) after “if” insert “the person”;
- (b) in subsection (1)(a) and (b) and (2)(a) and (b) delete the first reference to “he”;
- (c) in subsection (1)(a) and (b) after “himself” insert “or herself”;
- (d) in subsection (1) after “his” insert “or her”;
- (e) in subsection (2) after “contrivance” insert “, the person”.

20 Section 38 amended

In section 38(2), wherever occurring after “he” insert “or she” and after “his” insert “or her”.

21 Section 43 amended

In section 43 –

- (a) in subsection (1)(a), (b), (c), (j) and subsection (2) after “he” insert “or she”;
- (b) in subsection (1)(c) after “him” insert “or her”;
- (c) in subsection (1)(g) after “his” insert “or her”;
- (b) in subsection (1)(l), in both places after “himself” insert “or herself”.

22 Section 45 amended

In section 45 –

- (a) in subsections (1), (2) and (3)(c) after “his” insert “or her”;
- (b) in subsection (1) after “he” insert “or she”.

23 Section 46 amended

In subsection (1)(d) and (2)(a) after “he” insert “or she”.

24 Section 47 amended

In section 47 –

- (a) in subsection (4)(a) and (d) after “his” insert “or her”;
- (b) in subsection (4)(d) and (5), wherever occurring after “he” insert “or she”.

25 Section 48 amended

In section 48 after “his” insert “or her” and after “he” insert “or she”.

26 Section 49 amended

In section 49 after “he” insert **“or she”**.

27 Section 50 amended

In section 50(1) after “himself” insert **“or herself”** and after “him” in both places insert **“or her”**.

28 Section 52 amended

In section 52 after “he” insert **“or she”**.

29 Section 53 amended

In section 53 –

- (a) in subsection (1) for “his vote at an election, he” substitute **“his or her vote at an election, he or she”**;
- (b) in subsection (2) after “his” insert **“or her”**.

30 Section 57 amended

In section 57 –

- (a) in subsection (1)(a) and (b) after “he” insert **“or she”**;
- (b) in subsection (2) wherever occurring after “his” insert **“or her”**.

31 Section 58 amended

In section 58(1) after “his” in both places insert **“or her”**.

32 Section 59 amended

In section 59 –

- (a) in subsections (1) and (2) after “he” insert **“or she”**;
- (b) in subsection (2) for “him in his” substitute **“him or her in his or her”**;
- (c) in subsection (3)(a) after “him” insert **“or her”**.

33 Section 60 amended

In section 60(1) –

- (a) in paragraph (a) for “his election, if he has been elected” substitute **“the election of the person (if any)”**;
- (b) in paragraph (b) for “he” substitute **“the person”**.

34 Section 61 amended

In section 61 –

- (a) for “he” in both places substitute **“the candidate”**;
- (b) delete “his”.

35 Section 62 amended

In section 62 –

- (a) in subsection (1) for “himself or by any person on his behalf” substitute **“himself or herself or by any person on the candidate’s behalf”**;
- (b) in subsections (2) and (3) for “his” substitute **“the person’s”**.

36 Section 65 amended

In section 65 –

- (a) in subsection (1) –
 - (i) delete “to him” when first occurring and “by him”;
 - (ii) for “to him” where second occurring substitute **“to the Attorney General”**;
 - (iii) for “he” in both places substitute **“the Attorney General”**;
- (b) in subsection (2) after “him” insert **“or her”**;
- (c) in subsections (2)(a) and (b) and (4)(b) for “he” substitute **“the person prosecuted”**;
- (d) in subsection (4) for “upon his” substitute **“on”**;
- (e) in subsections (6), (7)(a) and (b), 8(b) in both places and (9)(a) for “him” substitute **“the accused”**;
- (f) in subsections (7)(a) and (9) for “he” substitute **“the accused”**;
- (g) in subsection (8)(a) for “his” substitute **“the accused’s”**.

37 Section 66 amended

In section 66 –

- (a) in subsection (1) wherever occurring and in subsection (2) after “his” insert **“or her”**;
- (b) in subsections (2), (4) and (5) after “he” insert **“or she”**.

38 Section 67 amended

In section 67 –

- (a) in subsections (1) and (2) after “he” insert **“or she”**;

- (b) in subsection (4) after “him” insert **“or her”**.

39 Section 71 amended

In section 71 –

- (a) in subsection (1) for “he” and “him” substitute **“the Attorney General”**;
- (b) in subsection (2) for “by himself” substitute **“either personally”**.

40 Section 74 amended

In section 74(1) –

- (a) for “him” in both places substitute **“the person”**;
- (b) after “himself” insert **“or herself”**;
- (c) in paragraph (a) for “his” substitute **“the person’s”**.

41 Schedule 3 amended

- (1) Schedule 3 is amended as follows.
- (2) In paragraph 2(1)(c) after “himself” insert **“or herself”**.
- (3) In paragraph 3(2) for “his” substitute **“the member’s”**.
- (4) In paragraph 4(1) for “him” substitute **“the petitioner”**.
- (5) In paragraph 6(4) after “he” insert **“or she”**.
- (6) In paragraph 7 –
- (a) in sub-paragraph (1) delete “him”;
- (b) in sub-paragraph (2) for the first “him” substitute **“the Attorney General”** and after the second “him” insert **“or her”**;
- (c) in sub-paragraph (3)(a) after “he” insert **“or she”**;
- (d) in sub-paragraph (5) for “him” substitute **“the person”** and after “he” insert **“or she”**.
- (7) In paragraph 9 –
- (a) in sub-paragraph (1)(b) after “his” insert **“or her”**;
- (b) In sub-paragraph (2) –
- (i) in head (a) for “him” substitute **“the person”**;
- (ii) for head (b) substitute –
- “(b) if the person appears in pursuance of the notice, give the person an opportunity of being heard in person and of calling evidence in his or her defence to show why he or she should not be so reported.”**
- (c) in sub-paragraph (3) for “his” substitute **“the Attorney General’s”**.

- (8) In paragraph 11 –
- (a) in sub-paragraph (3) for “his” substitute **“he or she”**;
 - (b) in sub-paragraph (4) for “his” in both places substitute **“the Attorney General’s”**.
- (9) In paragraph 13 –
- (a) in sub-paragraph (1) for “him” substitute **“the person”**;
 - (b) in sub-paragraph (2) after “his” insert **“or her”**;
 - (c) in sub-paragraph (3) for “he proceeds with his petition” substitute **“he or she proceeds with his or her petition”**.
- (10) In paragraph 15(1)(b) after “he” insert **“or she”**.
- (11) In paragraph 16(3) after “him” insert **“or her”**.
- (12) In paragraph 17 –
- (a) for sub-paragraph (1) substitute –

“(1) If before the trial of a petition the Keys resolve that the seat of a respondent is vacant or that respondent (not being a returning officer) –

 - (a) dies;
 - (b) becomes a member of the Council; or
 - (c) gives the prescribed notice that he or she does not intend to oppose the petition,

the prescribed notice of those events must be given in the constituency to which the petition relates.

(1A) Within the prescribed time after the notice is given any person who might be a petitioner in respect of the election may apply to the court to be admitted as a respondent to oppose the petition, and must so admitted save that no more than 3 persons may be admitted in total. **”**;
 - (b) in sub-paragraph (2) after “he” in both places insert **“or she”**.
- (13) In paragraph 18(2) after “his” insert **“or her”** and after “him” in both places insert **“or her”**.
- (14) In paragraph 19(1)(b) after “his” insert **“or her”**.

SCHEDULE 2

[Section 24]

SCHEDULE 3A INSERTED**☒ SCHEDULE 3A**

[Section 77]

PART 1 – MEANING OF “DONATION”**1 Money**

- (1) A gift of money is a donation if –
 - (a) it is made at any time before the poll (including before the nomination meeting), and the giver signifies, either expressly or by implication, that the money is intended for use to pay the candidate’s election expenses; or
 - (b) it is made after the nomination meeting and before the poll, and is either made anonymously or the giver does not signify the intended use of the money.
- (2) A loan of money is a donation if –
 - (a) the loan is made either at no cost to the candidate or on terms by which the cost to the candidate is below the commercial rate for the loan; and
 - (b) the loan is made –
 - (i) at any time before the poll, and the lender signifies, either expressly or by implication, that the loan is intended for use to pay the candidate’s election expenses; or
 - (ii) after the nomination meeting and before the poll, and is either made anonymously or the lender does not signify the intended use of the loan.
- (3) A gift or loan of money is made at the time when the money is given to the candidate or, if earlier, the time when the giver or lender informs the candidate of his or her intention to make the gift or loan.

2 Goods and services

- (1) A gift or loan of goods, the supply of goods for use or the supply of services is a donation if –
 - (a) the gift or loan is made free of charge or at a discount to the open market value of or rate for the goods or services; and
 - (b) the gift or loan is made –

- (i) at any time before the poll, and the giver or lender signifies, either expressly or by implication, that the goods or services are intended for use by the candidate, for the purposes described in paragraph 1(1)(b) of Part 2; or
 - (ii) after the nomination meeting and before the poll, and is either made anonymously or the giver or lender does not signify the intended use of the goods or services.
- (2) A gift, loan of goods or supply of goods or services, is made at the time when the goods or services are supplied.

3 Value attributable to donation of loans, goods or services

- (1) The value of a donation that is a loan of money is the amount equal to the difference between the cost, to the candidate, of the loan if it had been made on commercial terms and the actual cost to the candidate.
- (2) The value of a donation of goods is the amount equal to the difference between the open market value of the goods and actual cost to the candidate.
- (3) The value of a donation of the use of goods is the amount equal to the difference between the open market rate for the provision of the goods and the actual cost to the candidate.
- (4) The value of a donation of the supply of services is the amount equal to the difference between the open market rate for their supply and the actual cost to the candidate.

4 Exception for services of an individual provided without charge

- (1) The provision by an individual of his or her own services which he or she provides voluntarily, in his or her own time and without charge, is not a donation.
- (2) The exception in sub-paragraph (1) does not extend to any goods used by or supplied by the individual in the course of the provision of the individual's own services.

5 Exception for newspapers and broadcasts

- (1) Subject to sub-paragraph (2), the publication of any matter relating to the public election –
 - (a) in a newspaper or periodical (including a web-based edition of the newspaper or periodical);
 - (b) in a programme broadcast by a television or radio service provider (including such a programme as it may be accessed on, or downloaded from, a website); or

- (c) on a website as part of the news service of a television or radio service provider or news agency,
is not a donation.
- (2) The exception in sub-paragraph (1) does not apply to an advertisement.

PART 2

MEANING OF “ELECTION EXPENSES”

1 Candidate’s election expenses

- (1) Expenses are a candidate’s election expenses if they are incurred, at any time before the poll –
 - (a) by the candidate or with the candidate’s express or implied consent; and
 - (b) for the supply or use of goods or the provision of services used –
 - (i) to promote or procure the candidate’s election at the election; or
 - (ii) to prejudice the electoral prospects of another candidate in the same election.
- (2) If a candidate is endorsed by any other person, the candidate is taken, for the purposes of sub-paragraph (1)(a), to have consented to the person’s incurring expenses on his or her behalf.

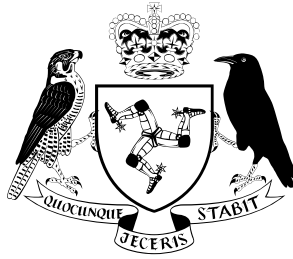
2 Direct or notional expenses

- (1) A candidate’s election expenses may be direct expenses or notional expenses.
- (2) A direct expense is the amount of any liability incurred for the supply or use of goods or the provision of services used as described in paragraph 1(1)(b).
- (3) A notional expense is incurred when goods or services supplied either free of charge or at a discount are used as described in paragraph 1(1)(b).
- (4) A notional expense is also a donation and, accordingly –
 - (a) the value of a notional expense is determined in accordance with paragraph 3 of Part 1; and
 - (b) there shall be disregarded any notional expense that, by virtue of paragraph 4 or 5 of Part 1, is not a donation.

3 Shared expenses

If election expenses are incurred by, or with the express or implied consent of, 2 or more candidates, it shall be presumed, unless the contrary is proved by them,

that the expenses relate to goods and services which are of equal benefit to them and, accordingly, that those expenses are to be apportioned equally between them. **22**.



Isle of Man

Ellan Vannin

AT 13 of 1995

**REPRESENTATION OF THE PEOPLE ACT
1995**



Isle of Man

Ellan Vannin

REPRESENTATION OF THE PEOPLE ACT 1995

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**Isle of Man***Ellan Vannin*

REPRESENTATION OF THE PEOPLE ACT 1995

<i>Received Royal Assent:</i>	<i>18 October 1995</i>
<i>Passed:</i>	<i>19 October 1995</i>
<i>Commenced:</i>	<i>1 January 1996</i>

AN ACT to re-enact with amendments the Representation of the People Acts 1951 to 1990; and for connected purposes.

PART 1 – THE HOUSE OF KEYS

Qualifications for membership of the Keys

1 Qualifications for membership of the Keys

[1976/2/2; 1979/22/1/14; 1983/10/1/8; 1985/8/Sch 3; 1989/4/1/1]

- (1) Any person may stand as a candidate for and be elected a member of the Keys for a constituency if at the time he is nominated as a candidate —
 - (a) he is of full age; and
 - (b) he either is a British citizen or has the right to remain in the Island; and
 - (c) he is not the holder of an office of profit under the government of any country or territory outside the Island; and
 - (d) he is ordinarily resident in the Island and has been so resident for a period of, or for periods amounting in the aggregate to, 5 years or more; and
 - (e) he is not subject to any incapacity by virtue of this or any other Act.
- (2) For the purpose of subsection (1)(b) a person has the right to remain in the Island if —
 - (a) he has indefinite leave to remain in the Island, within the meaning of the *Immigration Act 1971* (an Act of Parliament), as it has effect in the Island; or

- (b) he does not under the said Act of 1971 require leave to enter or remain in the Island, by virtue of section 7(1) of the *Immigration Act 1988* (an Act of Parliament), as it has effect in the Island;

and, in either case, he is not liable to deportation under section 3(5) or (6) of the said Act of 1971.

Term of the Keys

2 Term of the Keys

[1981/16/1/3]

The Keys, subject as hereinafter provided and unless sooner dissolved under section 3, shall be dissolved on 18 August 2011 and thereafter on the Thursday during the fifth succeeding month of August (computed from the day on which the last general election of the Keys has been held) following the third Tuesday in that month.¹

3 Summoning, prorogation and dissolution of the Keys

- (1) The Governor may, whenever he thinks it expedient —
- (a) by precept under his hand —
 - (i) summon the Keys when not in session, or when the Keys stand adjourned or prorogued though adjourned or prorogued to a more distant date or for a longer period; or
 - (ii) prorogue the Keys; or
 - (b) by proclamation dissolve the Keys and issue fresh writs for a general election of members to serve therein.
- (2) No proclamation under subsection (1)(b) shall be necessary on the dissolution of the Keys by virtue of section 2.
- (3) Unless it is impracticable to do so, the Governor shall seek the advice of the Chief Minister before exercising any of the powers conferred by this section.

4 Extension of term of Keys in emergency

- (1) During any period of national emergency the Governor may by order —
- (a) extend the term of the Keys or the term of office of any member of the Council elected by the Keys, by a period of one year from the date when otherwise the term of the Keys would expire, or the member cease to hold office; and
 - (b) declare that the register of electors in force at the time of the making of such order shall remain in force for a period of one year.²

- (2) On any such order being made, the provisions of this and any other enactment relating to members of the Keys, or to elected members of the Council, shall be construed as if they were modified in such a manner as to give effect to this section, and the order, or a subsequent order under subsection (1), may make such provision as is necessary to effect such modification.
- (3) Where an order under subsection (1) has been made, a further such order may not be made with respect to a subsequent year unless —
 - (a) a general election of the Keys intervenes, or
 - (b) the making of the order is previously approved by Tynwald.
- (4) If any question arises as to any matter under this section, or the operation of this section, the question shall stand referred to the Deemsters, who shall determine it summarily after hearing any parties they consider ought to be heard.
- (5) In this section ‘national emergency’ means any period which, in the opinion of the Governor, constitutes a state of national emergency due to a state of war, or apprehended or threatened war, or international disturbance.

Vacancies in the Keys

5 Report of casual vacancies

The Speaker shall, within 7 days of any casual vacancy in the Keys coming to his notice otherwise than by reason of his own resignation under section 6(10), report the vacancy in writing to the Governor, stating the name of the constituency by which the new member is to be returned.³

6 Vacancy in seat

[1974/34/11; 1971/12/1; 1986/10/2/3; 1989/4/1/1]

- (1) If any sitting member of the Keys is punished with custody (whether or not suspended) for any offence triable on information, his seat shall be vacant —
 - (a) if he appeals, or applies for leave to appeal, against his conviction or sentence, on the determination or withdrawal of the appeal or, if leave to appeal is refused, on the refusal of such leave;
 - (b) if he does not so appeal or apply, on the expiration of the period within which the appeal or application must be made.
- (2) The Keys may by resolution declare the seat of a member of the Keys to be vacant where he —
 - (a) has been certified by the Clerk of the Rolls to the Speaker to be incapable by reason of mental disorder of taking care of himself or of managing his own affairs; or

- (b) fails to attend at least three-quarters of the total number of sittings of the Keys and Tynwald within any period of 12 months.
- (3) For the purpose of subsection (2)(b) a member of the Keys shall not be treated as failing to attend any sitting of the Keys or of Tynwald in respect of which he is granted leave of absence by the Speaker or the Keys, or by the President of Tynwald, as the case may be.
- (4) If the holder of any office of profit under the Government of the Island is elected as a member of the Keys, his seat shall become vacant unless within 7 days from the date of his election to the Keys, he gives such notice or takes such other step as is necessary to vacate that office on the earliest practicable day thereafter; and if he subsequently withdraws that notice or revokes that step, he shall be treated for the purpose of subsection (6) as having accepted that office.
- (5) If any sitting member of the Keys is adjudicated bankrupt, the High Court shall certify the fact to the Speaker; and if within 6 months of the date of the order of adjudication —
- (a) the adjudication is not annulled, and
- (b) the member does not obtain his discharge, with a certificate under section 16(2)(b) of the Bankruptcy Code 1892 (bankruptcy caused by misfortune without misconduct),
- the High Court shall on the expiry of that period certify the fact to the Speaker, and the seat of the member shall thereupon be vacant.
- (6) If any sitting member of the Keys —
- (a) accepts an office of profit under the Government of the Island or the government of any country or territory outside the Island, or
- (b) becomes a member of the Council or of a local authority,
- his seat shall thereupon be vacant.
- (7) For the purpose of subsection (6) —
- (a) a person shall not be treated as accepting an office of profit by reason only —
- (i) of accepting any payment under the *Payment of Members' Expenses Act 1989*, or
- (ii) during a national emergency, of enlisting in or being appointed to a commission in any of Her Majesty's forces;
- (b) a person becomes a member of a local authority on his making a declaration of acceptance of office as such pursuant to section 10 of the *Local Elections Act 1986*.
- (8) A member of the Keys who accepts an office of profit shall be eligible for re-election to any constituency on his vacating such office.
- (9) A sitting member of the Keys other than the Speaker may resign his seat on giving to the Speaker one month's previous notice in writing of his

intention so to do, and at the expiry of such notice his seat shall thereupon become vacant.⁴

- (10) The Speaker may resign his seat on giving to the Governor one month's previous notice in writing of his intention so to do, and at the expiry of such notice his seat shall thereupon become vacant.⁵

7 Penalty for sitting or voting when seat vacant

If the seat of a member of the Keys has become vacant and he sits or votes as a member of the Keys during the vacancy of the seat, he is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000 in respect of each occasion upon which he so sits or votes.

Further provisions as to the Keys

8 Members to take oaths

No member of the Keys shall be permitted to sit and to vote in the Keys until he has taken and subscribed the oaths required by law.

9 Election of Speaker

- (1) The members of the Keys shall —
- (a) on their first assembling after every general election, and
 - (b) on the vacation of the office of Speaker under subsection (2)(a), (b) or (c),

forthwith proceed to elect one of their number to be Speaker.

- (1A) The members of the Keys shall appoint an acting Speaker to preside over an election under subsection (1).⁶

- (1B) The office of acting Speaker terminates automatically upon the election of the Speaker under subsection (1).⁷

- (2) The office of Speaker shall be vacated —
- (a) on the death of the Speaker;
 - (b) on his resignation by notice in writing to the members of the Keys of his office, or by his seat becoming vacant under section 6;⁸
 - (c) on his removal by a vote of the Keys;
 - (d) by the dissolution of the Keys.

9A Election of Deputy Speaker

- (1) The members of the Keys shall —
- (a) on their first assembling following the election of the Speaker under section 9(1); and

- (b) on the vacation of the office of Deputy Speaker under subsection (2)(a), (b) or (c),
forthwith proceed to elect one of their number to be Deputy Speaker.
- (2) The office of Deputy Speaker shall be vacated —
- (a) on the death of the Deputy Speaker;
 - (b) on his or her resignation by notice in writing to the members of the Keys of his or her office, or by his or her seat becoming vacant under section 6;
 - (c) on his or her removal by a vote of the Keys;
 - (d) by the dissolution of the Keys.
- (3) The Deputy Speaker shall deputise in the absence of the Speaker and assume the powers of the Speaker when the Speaker is absent from the Island or is not present at any sitting of the Keys.⁹

9B Disqualifications

- (1) Neither the Speaker nor an acting Speaker nor the Deputy Speaker is eligible for nomination or appointment as Chief Minister or as a Minister.
- (2) The Speaker is not eligible for nomination or appointment as a member of a Department or Statutory Board.
- (3) An acting Speaker and the Deputy Speaker are each eligible for nomination and appointment as a member of a Department or Statutory Board.
- (4) If the Chief Minister or a Minister is elected or appointed to be Speaker, acting Speaker or Deputy Speaker, he or she shall go out of office as Chief Minister or Minister, as the case may be.
- (5) If a member of a Department or Statutory Board is elected to be Speaker, he or she shall go out of office as member of that Department or Statutory Board, as the case may be.
- (6) No nomination, appointment or election (before the date on which the *Presiding Officers Act 2008* comes into operation) of a person to an office specified in this section shall be invalid by reason only that the person was nominated, appointed or elected when disqualified from such nomination, appointment or election under the provisions of any enactment as they had effect at the time of the nomination, appointment or election.
- (7) To avoid doubt, the definition of ‘the Speaker’ in section 3 of the *Interpretation Act 1976* does not apply to the interpretation of this section.¹⁰

10 Saving for privileges of the Keys

- (1) Nothing in this Act affects the inherent powers heretofore exercised by the Keys as a legislative body.
- (2) The Keys, and the members of the Keys, shall have, exercise and perform the same power, authority and duties, and be subject to the like obligations (except where expressly otherwise provided by this Act), and be entitled to and enjoy the same rights and privileges, in as full and ample manner as the Keys and the members of the Keys heretofore had, exercised and performed, and was or were entitled to and enjoyed.

PART 2 – ORGANISATION OF ELECTIONS

Constituencies etc.

11 Constituencies

[1985/8/1, 5; GC69/86]

- (1) For the purposes of an election, the Island shall be divided into the 15 constituencies specified in the following table, and each constituency shall return and be represented by the number of members specified in relation thereto in column 2 of that table —

Ramsey	2
Ayre	1
Michael	1
Peel	1
Glenfaba	1
Garff	1
Middle	1
Onchan	3
Douglas North	2
Douglas South	2
Douglas East	2
Douglas West	2
Castletown	1
Malew and Santon	1
Rushen	3
- (2) The areas of those constituencies shall be the areas specified in Schedule 1.
- (3) The Treasury shall prepare a map of the Island upon which shall be delineated the boundaries of each constituency, and shall cause the map to be deposited in the General Registry.
- (4) The Chief Registrar shall make the map prepared under subsection (3), or a copy of it, available for inspection by any person at the General

Registry at all reasonable times, and shall supply a copy thereof to any person on payment of such reasonable charge as the Treasury may determine.

- (5) If Tynwald so resolves, the Governor in Council shall appoint a committee of such persons as he thinks appropriate, to review the number and boundaries of the said constituencies and to report thereon to Tynwald.

12 Polling districts

[1985/8/12; GC192/86]

- (1) Unless an order under subsection (2) is in force in relation to a constituency, the whole constituency shall constitute a single polling district.
- (2) The Treasury, after consulting each local authority whose district includes the whole or any part of the constituency, may by order divide any constituency into 2 or more polling districts specified in the order.
- (3) An order under subsection (2) shall not have effect unless it is approved by Tynwald.

Returning officers

13 Appointment of returning officers

- (1) The Governor shall by writing under his hand appoint a returning officer in respect of each constituency.
- (2) A returning officer may be appointed for more than one constituency.
- (3) It is the duty of a returning officer to do everything at an election which is necessary for effectually conducting the election in accordance with the election rules.
- (4) Subject to subsection (5), the appointment of a returning officer shall be for such term (not exceeding 5 years) as is specified in the instrument by which it is made.
- (5) A returning officer shall retire on the Governor declaring his office to be vacant —
 - (a) if he has given to the Governor notice of his desire to do so; or
 - (b) if it appears to the Governor expedient that he should do so.

14 Disqualification as returning officer etc

- (1) The following persons are disqualified for being appointed a returning officer or to any other office concerned with the conduct of an election —

- (a) any minister of religion who follows no secular occupation other than that of a teacher;
 - (b) any coroner;
 - (c) any constable or other person having the powers and privileges of a constable;
 - (d) any officer of an institution (within the meaning of the *Custody Act 1995*);
 - (e) the Chief Registrar, and any member of the staff of the General Registry;
 - (f) any member of the Council or the Keys;
 - (g) any person who has served as a member of the Keys in the session immediately preceding the election, or in the current session in the case of a by-election.
- (2) If any such person is appointed to act and acts as returning officer, or in any other office concerned with the conduct of an election, he is guilty of an offence and liable on summary conviction to a fine not exceeding £500.

15 Returning officer may be elected and may vote

Nothing in this Act prevents any returning officer —

- (a) from being elected a member of the Keys for any constituency, other than that for which he acts as returning officer; or
- (b) from exercising his vote at any election.

16 Returning officer to take oath of office

- (1) A returning officer, before proceeding to any election, shall take and subscribe before a justice of the peace or commissioner for oaths an oath in the prescribed form.
- (2) The returning officer shall annex to the return of the writ of election a certificate of his oath so sworn, signed by the person administering it; and if he fails to do so he is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

17 Powers of returning officer for maintenance of peace

- (1) A returning officer shall maintain order at an election, and for that purpose shall, from the time of the issue of the writ for the election until the day next after the final closing of the election, be invested with all the powers of a justice of the peace for the arrest, detention or admission to bail, trial and conviction of any person who offends against any of the provisions of this Act.
- (2) A returning officer may —

- (a) require the assistance of any constable or other person to aid him in the maintenance of the peace, and may swear in as many special constables as he thinks necessary for that purpose;
- (b) arrest, or cause to be arrested by verbal order, any person disturbing the peace at an election;
- (c) cause a person so arrested to be detained by any constable, or to be detained in custody under an order signed by him, until any time not later than the final closing of the election, but without prejudice to any further penalties to which that person may be liable;
- (d) demand and receive from any person at an election any offensive weapon with which that person is armed, or has in his hands or personal possession.

18 Deputy returning officers

- (1) A returning officer may, by writing under his hand, appoint a fit and proper person to be his deputy for all or any of the purposes of the election.
- (2) No person may be appointed deputy returning officer who would not be eligible for appointment as a returning officer.
- (3) On the appointment of a deputy returning officer, the returning officer shall forthwith administer to him an oath in the prescribed form, and shall annex the certificate of the oath, signed by the returning officer, to the appointment of the deputy returning officer.

19 Powers and duties of deputy returning officers

- (1) Anything required or authorised to be done by, to or before the returning officer in relation to the election may, so far as the deputy is authorised to act, be done by, to or before the deputy returning officer.
- (2) If necessary to prevent the interruption of the proceedings at any election arising from the death, illness or absence of the returning officer, the deputy returning officer shall forthwith assume the functions of the returning officer and shall act in all respects as though he had been appointed returning officer under this Act, unless and until his authority is superseded by the returning officer.

Financial provisions

20 Payment of official expenses

- (1) The Treasury shall pay out of money provided by Tynwald the fees and expenses of the returning officers for the performance of their duties under this Act at the rates fixed by order under subsection (2).

- (2) The Treasury shall by order fix the rates of fees and expenses payable under subsection (1), and in making such an order the Treasury shall have regard to the increase in the cost of living since the making of the last order under this subsection.
- (3) An order under subsection (2) shall not have effect unless it is approved by Tynwald.
- (4) The Treasury may, with the approval of Tynwald, pay out of money provided by Tynwald any expenses of returning officers and other officials appointed under this Act which are not provided for by an order under subsection (2).
- (5) The accounts for all fees and expenses under the Act shall be furnished in duplicate to the Treasury, with all necessary particulars and vouchers, within 3 months of the final closing of the election.

PART 3 – HOLDING OF ELECTIONS

Writs of election

21 Writs of election

An election of a member or members to represent a constituency shall take place under and by authority of a writ issued by the Governor.

Conduct of elections

22 Election rules

[1976/2/3]

- (1) The proceedings at an election shall be conducted in accordance with the election rules in Schedule 2.
- (2) At an election no person shall vote otherwise than in accordance with the election rules.
- (3) The Governor in Council may by order amend, vary or repeal any of the election rules; but an order under this subsection shall not have effect unless it is approved by Tynwald.

23 Effect of non-compliance with rules

No election shall be declared invalid by reason of any act or omission by the returning officer, or any other person, in breach of his official duty in connection with the election, or otherwise in breach of the election rules, if it appears to the High Court –

- (a) that the election was so conducted as to be substantially in accordance with the law as to elections, and
- (b) that the act or omission did not affect its result.

Voting at election

24 Entitlement to vote at election

[1982/16/2/2]

- (1) Subject to subsections (2) and (3), every person registered as an elector for a constituency and entitled to vote shall be entitled to demand and receive a ballot paper and to vote in that constituency.
- (2) A person shall not be entitled to demand or receive a ballot paper or to vote if it appears from the register of electors that he is under the age of 16 years on the date of the poll.¹¹
- (3) Nothing in subsection (1) —
 - (a) entitles any person to vote who is prohibited from voting by any enactment or rule of law, or
 - (b) relieves any such person from any penalty to which he may be liable for voting.

25 Place and manner of voting

[1976/2/1]

Where a person is entitled to vote at an election —

- (a) he may do so in person at the polling station allotted to him under the election rules, unless he is entitled to vote by post under paragraph (b);
- (b) he may do so by post, if his application under section 26 to be treated as an absent voter has been allowed; or
- (c) he may do so by proxy, if he has applied under section 27 to vote by proxy, unless he applies at the polling station allotted to him under the election rules for a ballot paper for the purpose of voting in person before a ballot paper has been issued for him to vote by proxy.

26 Absent voting

- (1) A person who is or will be entitled to vote at voting an election may apply to the returning officer of the constituency in which that person seeks to exercise his or her vote to be treated as an absent voter.
- (2) An application under subsection (1) shall be allowed if the returning officer —

- (a) is satisfied that the applicant is or will be entitled to vote at the election; and
 - (b) has no reason to doubt the identity of the applicant.
- (3) An application to be treated as an absent voter shall include —
- (a) an address in the Island or elsewhere to which a ballot paper is to be sent for the purpose of the election;
 - (b) such other particulars as are prescribed; and
 - (c) such evidence of identity as is required.
- (4) Regulations may make provision with respect to any matters incidental to this Act so far as it relates to absent voters.¹²

27 Proxy votes

[P1983/50/8]

- (1) A person who is or will be entitled to vote at an election (an ‘elector’) may apply to the registration officer for the appointment of a person named in the application as a proxy to vote for him at that election.¹³
- (2) A person may not be appointed proxy to vote on behalf of an elector in any constituency if that person —
- (a) has not attained the age of 16 years, or¹⁴
 - (b) is subject to any incapacity to vote at an election.
- (3) A person may not be appointed proxy to vote on behalf of more than 2 electors in any constituency unless that person is the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild of each of those electors.¹⁵
- (4) An application under subsection (1) shall be allowed by the registration officer if he is satisfied, by such evidence as may be prescribed —
- (a) that the elector is likely to be absent from the Island on the date of the poll in any election within the period specified in the application, and
 - (b) that the person to be appointed proxy —
 - (i) is not disqualified under subsection (2) or (3), and
 - (ii) is capable of and willing to be appointed.
- (5) Not more than one person may be appointed as proxy to vote for any elector at an election.
- (6) An appointment of a person as a proxy to vote for an elector at an election shall be revoked —
- (a) by notice by the elector to the registration officer;
 - (b) on the appointment of another person as a proxy to vote for the elector.

- (7) Regulations may make provision with respect to any matters incidental to this Act so far as it relates to proxy votes.

28 Employers to grant facilities for voting

- (1) Reasonable facilities to vote shall be granted by employers to registered electors who would otherwise be unable to record their votes.
- (2) Any employer refusing to grant such facilities is guilty of an offence and liable on summary conviction to a fine not exceeding £200.

Supplemental provisions as to elections

29 Effect of registers

The register of electors shall, for the purposes of this Part, be conclusive on the following questions —

- (a) whether or not a person registered in it was at the time of the making of the list resident at the address shown;
- (b) whether or not any address is in any constituency or any particular part of a constituency.

30 Public notices

[1976/2/5]

- (1) Wherever public notice is required by this Act to be given, and no mode or place of publication is expressly provided for, publication shall be effected —
- (a) by insertion in one or more newspapers published and circulating within the Island; and
- (b) by placard posted up in some public and conspicuous situation in each polling district to which the notice refers.
- (2) The notices inserted in newspapers shall be so inserted at least once in each of 2 successive weeks, and every placard shall remain posted for a period of not less than 5 days, next after the day on or before which it is by this Act required to be published.
- (3) If any placard so posted is destroyed, mutilated, effaced or removed before the expiration of the required period, it shall be replaced as soon as knowledge of it comes to the notice of the person responsible for publishing it.

31 Postage of election addresses to be paid by Treasury

- (1) Subject to regulations under subsection (3), a person who has been nominated as a candidate at an election and gone to the poll shall be entitled to be paid, after the date of the election, by the Treasury out of

money provided by Tynwald the amount (not exceeding the postage rate for the time being in force) expended by him in the postage of a copy of one postal communication relating to the election not exceeding 50 grammes in weight to each elector on the register of electors of the constituency for which he is a candidate.

- (2) Where 2 or more candidates issue any such postal communication jointly, they shall be deemed to be one candidate for the purpose of this section.
- (3) Regulations may make provision for —
 - (a) the making of claims for the payment of sums under subsection (1);
 - (b) the verification of such claims;
 - (c) the payment to a candidate before the date of the election of sums on account of sums expended or to be expended by him as mentioned in subsection (1); and
 - (d) the recovery by the Treasury of sums so paid on account, where a claim is not duly made in accordance with regulations under paragraph (a), or where an overpayment has been made.

PART 4 – OFFENCES ETC. IN CONNECTION WITH ELECTIONS

Corrupt and illegal practices

32 Corrupt and illegal practices

- (1) Each of the following persons is guilty of a corrupt practice —
 - (a) a person who commits, or aids, abets, counsels or procures the commission of, personation;
 - (b) a person who is guilty of bribery;
 - (c) a person who is guilty of treating;
 - (d) a person who is guilty of undue influence.
- (2) Each of the following persons is guilty of an illegal practice —
 - (a) a person who knowingly makes a false statement concerning a candidate in a nomination paper,
 - (b) a candidate concerning whom, and with whose knowledge and consent, a false statement is made in a nomination paper;
 - (c) a candidate who contravenes section 37;
 - (d) a person who contravenes section 38(1);
 - (e) a person who contravenes section 43(1);

- (f) a person who, or any director of any body corporate which, before or during an election, for the purpose of affecting the return of any candidate at the election, makes or publishes any false statement of fact in relation to the personal character or conduct of the candidate, unless he shows that he had reasonable grounds for believing, and did believe, the statement to be true;
 - (g) a person who before or during an election knowingly publishes a false statement of the withdrawal of a candidate at the election for the purpose of promoting or procuring the election of another candidate;
 - (h) a candidate who is personally guilty of an illegal payment or hiring;
 - (i) a candidate with whose knowledge and consent an illegal payment or hiring is committed.
- (3) The court before whom a person is convicted of an offence referred to in subsection (2)(d) or (e) may, if it thinks it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of section 67.
- (4) A candidate is not liable, nor shall his election be avoided, for an illegal practice under subsection (2)(e) or (g) committed by any agent of his.
- (5) A candidate is not liable, nor shall the election be avoided, for any illegal practice under subsection (2)(f) committed by any agent of his, unless —
- (a) it is shown that the candidate authorised or consented to the committing of the illegal practice by the agent or paid for the circulation of the false statement in question; or
 - (b) a court hearing an election petition finds and reports that the election of the candidate was procured or materially assisted in consequence of the making or publishing of the false statement.

Corrupt practices

33 Personation

- (1) A person commits personation at an election if he votes as some other person, whether that other person is living or dead or is a fictitious person.
- (2) For the purposes of this section, a person shall be treated as having voted if he —
- (a) has applied for a ballot paper for the purpose of voting, or
 - (b) has marked, whether validly or not, and returned a ballot paper issued for the purpose of voting by an absent voter.

34 Bribery

- (1) A person is guilty of bribery if he directly or indirectly, by himself, or by any other person on his behalf —
 - (a) gives any money or procures any office to or for any voter, or to or for any other person on behalf of any voter, or to or for any other person, in order to induce any voter to vote or refrain from voting; or
 - (b) corruptly does any such act on account of any voter having voted or refrained from voting; or
 - (c) makes any such gift or procurement to or for any person in order to induce that person to procure, or endeavour to procure, the return of any person at an election or the vote of any voter;
or if upon or in consequence of any such gift or procurement he procures or engages, promises or endeavours to procure the return of any person at an election or the vote of any voter.
- (2) For the purposes of subsection (1) —
 - (a) references to giving money include references to giving, lending, agreeing to give or lend, offering, promising, or promising to procure or endeavour to procure any money or valuable consideration; and
 - (b) references to procuring any office include references to giving, procuring, agreeing to give or procure, offering, promising, or promising to procure or to endeavour to procure any office, place or employment.
- (3) A person is guilty of bribery if he —
 - (a) advances or pays or causes to be paid any money to or to the use of any other person with the intent that that money or any part thereof shall be expended in bribery at any election, or
 - (b) knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election.
- (4) Subsections (1) to (3) do not apply to any money paid or agreed to be paid for or on account of any legal expenses incurred in good faith at or concerning an election.
- (5) A voter is guilty of bribery if before or during an election he directly or indirectly, by himself or by any other person on his behalf, receives, agrees, or contracts for any money, gift, loan or valuable consideration, office, place or employment for himself or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting.
- (6) A person is guilty of bribery if after an election he directly or indirectly, by himself or by any other person on his behalf, receives any money or

valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting.

- (7) In this section 'voter' includes any person who has or claims to have a right to vote.

35 Treating

- (1) A person is guilty of treating if he corruptly, by himself or by any other person, whether before, during or after an election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing any food, drink, entertainment or provision to or for any person —
- (a) for the purpose of corruptly influencing that person or any other person to vote or refrain from voting; or
 - (b) on account of that person or any other person having voted or refrained from voting, or being about to vote or refrain from voting.
- (2) Every elector who corruptly accepts or takes any such food, drink, entertainment or provision is also guilty of treating.
- (3) Nothing in this section prevents the provision by a candidate of reasonable refreshment for workers, whether paid or not, engaged in an election on his behalf.

36 Undue influence

- (1) A person is guilty of undue influence if —
- (a) he, directly or indirectly, by himself or by any other person on his behalf, makes use of, or threatens to make use of any force, violence or restraint, or
 - (b) he inflicts or threatens to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm or loss upon or against any person,
- in order to induce or compel that person to vote or refrain from voting or on account of that person having voted or refrained from voting.
- (2) A person is guilty of undue influence if, by abduction, duress or any fraudulent device or contrivance —
- (a) he impedes or prevents the free exercise of the franchise of an elector, or
 - (b) he compels, induces or prevails upon an elector either to vote or to refrain from voting.

*Illegal practices***37 Election publications**

- (1) A person shall not —
 - (a) print or publish, or cause to be printed or published, any bill, placard or poster having reference to an election, or any printed document distributed for the purpose of promoting or procuring the election of a candidate; or
 - (b) post or cause to be posted any such bill, placard or poster; or
 - (c) distribute or cause to be distributed any printed document for the said purpose,unless the bill, placard, poster or document bears upon its face the name and address of the printer and publisher.
- (2) A person shall not post or cause to be posted any such bill, placard or poster —
 - (a) within any polling station, or any building of which a polling station forms part, or
 - (b) within the curtilage of such a building.
- (3) Subsection (2) does not apply to a bill, placard or poster exhibited on a motor vehicle which is engaged in delivering a voter to or collecting a voter from the polling station.
- (4) Any person other than a candidate who acts in contravention of this section is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.
- (5) Section 11 of the *Newspapers Act 1846* (books etc. to bear printer's name and address) shall not apply to any bill, placard or poster to which this section applies.
- (6) For the purposes of this section 'printing' includes any process for multiplying copies of a document, other than copying it by hand, and 'printer' shall be construed accordingly.

38 Imitation poll cards

- (1) No person shall, for the purpose of promoting or of procuring the election of any candidate at an election, issue any poll card or document so closely resembling an official poll card as to be calculated to deceive.
- (2) Where an act or omission of an association or body of persons, corporate or unincorporate, contravenes subsection (1), any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or was purporting to act in any such capacity, shall be treated as having contravened that subsection unless he proves —

- (a) that the contravention took place without his consent or connivance, and
- (b) that he exercised all such diligence to prevent the contravention as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

39 Corrupt withdrawal from candidature

Any person who corruptly induces or procures any other person to withdraw from being a candidate at an election, in consideration of any payment or promise of payment, and any person withdrawing in pursuance of the inducement or procurement, is guilty of an illegal payment.

40 Premises not to be used as committee rooms

- (1) Any person who —
 - (a) hires or uses any room to which this section applies for a committee room for the purpose of promoting or procuring the election of a candidate, or
 - (b) lets any room to which this section applies, knowing that it was intended to use it as a committee room,is guilty of an illegal hiring.
- (2) This section applies to any room on premises —
 - (a) which are licensed for the sale of any liquor for consumption on or off the premises; or
 - (b) in respect of which any club, other than a permanent political club, is registered for the supply of liquor,being a room in which liquor is, or is commonly, supplied.
- (3) In this section 'liquor' has the same meaning as in the *Licensing Act 1995*.

41 Bands of music

- (1) No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at an election, be made on account of bands of music.
- (2) Where any payment or contract for payment is made in contravention of this section, whether before, during or after an election —
 - (a) the person making the payment, and
 - (b) any person party to the contract or receiving the payment, if he knew that it was made contrary to law,is guilty of an illegal payment.

42 Providing money for illegal purposes

Where a person knowingly provides money —

- (a) for any payment which is contrary to the provisions of this Act, or
- (b) for replacing any money expended in any such payment,

then, except where the payment has been previously allowed in pursuance of section 65 to be an exception, that person is guilty of an illegal payment.

43 Voting offences

(1) No person shall —

- (a) vote at an election, whether as an elector or by proxy, and whether in person or by post, knowing that he is subject to a legal incapacity to vote; or
- (b) apply for an absent voter's ballot for himself or for some other person, knowing that he or that other person is subject to a legal incapacity to vote; or
- (c) apply for the appointment of a proxy to vote for him at any election knowing that he or the person to be appointed is subject to a legal incapacity to vote at the election;
- (d) vote more than once (otherwise than as a proxy) in the same constituency at any election; or
- (e) vote in person at any election for which he has applied for and received an absent voter's ballot paper; or
- (f) vote as proxy for some other person at an election, knowing that that person is subject to a legal incapacity to vote;
- (g) vote in person at an election, knowing that a person appointed to vote as his proxy at the election has already voted as his proxy at the election;
- (h) vote more than once as proxy for the same elector at the election;
- (i) vote as proxy for an elector at the election, knowing that the elector has already voted in person at the election;
- (j) vote at the election as proxy for more than 2 persons of whom he is not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild;¹⁶
- (k) knowingly induce or procure some other person to do an act which is, or but for that other person's want of knowledge would be, an offence by that other person under this section; or
- (l) knowingly make any false statement or representation for the purpose of obtaining an absent voter's ballot paper for himself or for some other person, or of securing the appointment of himself or some other person as a proxy.

- (2) For the purposes of this section a person shall be treated as having voted if he —
- (a) has applied for a ballot paper for the purpose of voting, or
 - (b) has marked, whether validly or not, and returned a ballot paper issued for the purpose of voting by an absent voter.

Criminal offences

44 Offences of corrupt practices etc

- (1) A person who is guilty of a corrupt practice is guilty of an offence and liable —
- (a) on conviction on information —
 - (i) in the case of personation or of aiding, abetting, counselling or procuring the commission of personation, to custody for a term not exceeding 2 years or to a fine, or to both;
 - (ii) in any other case, to custody for a term not exceeding one year or to a fine, or to both;
 - (b) on summary conviction (including conviction under section 65 by the High Court) to custody for a term not exceeding 6 months or to a fine not exceeding £5,000, or to both.
- (2) A person guilty of an illegal practice (other than an illegal payment or hiring) is guilty of an offence and liable on summary conviction (including conviction under section 65 by the High Court) to a fine not exceeding £5,000.
- (3) A person guilty of an illegal payment or hiring is guilty of an offence and liable on summary conviction to a fine not exceeding £500.

45 Breach of official duty

- (1) If —
- (a) any person to whom this section applies, or
 - (b) any person who is for the time being under a duty to discharge as deputy or otherwise any of the functions of a person to whom this section applies,
- is without reasonable cause guilty of any act or omission in breach of his official duty, he is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.
- (2) No action for damages or any penalty lies against a person to whom this section applies for breach of his official duty.
- (3) This section applies to —

- (a) a returning officer,
- (b) a presiding officer,
- (c) a clerk or assistant employed by a returning officer or presiding officer in connection with his official duties;

and 'official duty' shall for the purposes of this section be construed accordingly, but does not include duties imposed otherwise than by the law relating to elections.

46 Offences in respect of nomination papers etc

- (1) Any person who —
 - (a) forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to the returning officer any nomination paper knowing the same to be forged; or
 - (b) forges or counterfeits or fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper; or
 - (c) without due authority supplies any ballot paper to any person; or
 - (d) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorised by law to put in; or
 - (e) fraudulently takes out of the polling place any ballot paper; or
 - (f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purpose of the election,is guilty of an offence.
- (2) A person guilty of an offence under subsection (1) is liable —
 - (a) if he is a returning officer or an officer or clerk in attendance at a polling station, on conviction on information to custody for a term not exceeding 2 years; and
 - (b) in any other case, on summary conviction to custody for a term not exceeding 6 months.
- (3) In any information or complaint relating to an offence in relation to the nomination papers, ballot boxes, ballot papers and marking instruments at an election, the property in such papers, boxes and instruments, and in any counterfoils, may be stated to be in the returning officer at the election.
- (4) Every person who intentionally acts in contravention of the directions or orders for the guidance of voters in the election rules is guilty of an offence and liable on summary conviction to a fine not exceeding £200.

47 Requirement of secrecy

- (1) Every person to whom this subsection applies shall maintain and aid in maintaining the secrecy of voting and shall not, except for some purpose authorised by law, communicate to any person before the poll is closed any information as to —
 - (a) the name of any elector or proxy for an elector who has or has not applied for a ballot paper or voted at a polling station;
 - (b) the number on the register of electors of any elector who, or whose proxy, has or has not applied for a ballot paper or voted at a polling station; or
 - (c) the official mark.
- (2) Subsection (1) applies to —
 - (a) a returning officer;
 - (b) a presiding officer or clerk attending at a polling station;
 - (c) every candidate or agent so attending.
- (3) Every person attending at the counting of votes shall maintain and aid in maintaining the secrecy of the voting and shall not —
 - (a) ascertain at the counting of the votes the number on the back of any ballot paper;
 - (b) communicate any information obtained at the counting of the votes as to the candidates for whom any vote is given in any particular ballot paper.
- (4) No person shall —
 - (a) interfere with a voter when recording his vote;
 - (b) otherwise obtain, or attempt to obtain, in a polling station information as to the candidate for whom a voter in that station is about to vote, or has voted;
 - (c) communicate at any time to any person any information obtained in a polling station as to the candidate for whom a voter in that station is about to vote or has voted, or as to the number on the back of the ballot paper given to a voter at that station;
 - (d) directly or indirectly induce a voter to display his ballot paper after he has marked it so as to make known to any person the name of the candidate for whom he has or has not voted.
- (5) If any person acts in contravention of this section, he is guilty of an offence and liable on summary conviction to custody for a term not exceeding 6 months.

48 Refusal to obey lawful commands of returning officer

Any person who intentionally refuses to obey or comply with any lawful order or direction given by a returning officer in the execution of his duty under this Act is guilty of an offence and liable on summary conviction to custody for a term not exceeding 3 months, or to a fine not exceeding £2,500, or to both, in addition to any other penalty to which he may be subject.

49 Defacing of notices

If any person without lawful authority destroys, mutilates, defaces or removes any notice published by the Chief Secretary or a returning officer in connection with their respective duties under this Act, he is guilty of an offence and liable on summary conviction to a fine not exceeding £200.

50 Display of lists showing how persons will vote

- (1) A candidate at an election shall not, either by himself or by any agent employed by him or any person authorised by him to assist in the election, display in any public place any list of electors showing how or in what manner any such electors will, or it is assumed will, vote in the election.
- (2) Any candidate exhibiting a list in contravention of this section is guilty of an offence and liable on summary conviction to a fine not exceeding £500.

51 Issue etc of certain election documents

- (1) No person shall, for the purpose of promoting or of procuring the election of any candidate or candidates at an election, publish, display or issue any document setting out the names of all or any of the candidate or candidates at such election.
- (2) Subsection (1) does not apply to a document containing only the names of the particular candidate or candidates whose election such person is seeking to promote or procure, and the manner in which the vote or votes may be recorded in favour of such particular candidate or candidates.
- (3) Any person who contravenes this section is guilty of an offence and liable on summary conviction to a fine not exceeding £500.

52 Officials not to act for candidates

If —

- (a) any returning officer at an election,
- (b) any officer or clerk appointed under the election rules, or
- (c) any partner or clerk of a person mentioned in paragraph (a) or (b),

acts as an agent of a candidate in the conduct or management of the election, he is guilty of an offence and liable on summary conviction to a fine not exceeding £2,500.

53 Canvassing by police officers

- (1) If any constable by word, message, writing or in any other manner endeavours to persuade any person to give, or dissuade any person from giving, his vote at an election, he is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.
- (2) Nothing in this section subjects a constable to any penalty for anything done in the discharge of his duty as such.

Supplemental

54 Rights of creditors

Any provision of this Part prohibiting payments and contracts for payments, shall not affect the right of any creditor, who, when the contract was made or the expense was incurred, was ignorant of that contract or expense being in contravention of this Act.

55 Interpretation of Part 4

In this Part —

“**candidate**” means a person who is elected to serve in the Keys at an election, or a person who is nominated as a candidate at an election, or who is declared by himself or by others to be a candidate, on or after the day of the issue of the writ for the election, or after the dissolution or vacancy in consequence of which the writ was issued;

“**payment**” includes any pecuniary or other reward;

“**pecuniary reward**” and, save in sections 34 and 35, “**money**” include any office, place or employment, and any valuable security or other equivalent for money, and any valuable consideration; and expressions referring to money shall be construed accordingly.

PART 5 – LEGAL PROCEEDINGS

Questioning of an election

56 Election petition

- (1) No election and no return to the Keys under this Act shall be questioned except by a petition presented in accordance with this Part (an ‘election petition’) complaining of –
 - (a) an undue election,
 - (b) an undue return, or
 - (c) no return.
- (2) On an election petition complaining of no return the High Court may either –
 - (a) make such order as it thinks expedient for compelling a return to be made, or
 - (b) allow the petition to be heard.
- (3) Schedule 3 shall have effect with respect to election petitions.

57 Report as to candidate guilty of corrupt or illegal practices

- (1) For the purposes of sections 58 and 66 –
 - (a) if it is reported that a corrupt practice (other than treating or undue influence) was committed with the knowledge and consent of a candidate, he shall be treated as having been reported personally guilty of that corrupt practice, and
 - (b) if it is reported that an illegal practice was committed with the knowledge and consent of a candidate, he shall be treated as having been reported personally guilty of that illegal practice.
- (2) If a candidate is reported guilty by his agents of treating, undue influence or any illegal practice, and the court further reports under paragraph 8 of Schedule 3 that the candidate has proved to the court –
 - (a) that no corrupt or illegal practice was committed in the election by the candidate or with his knowledge or consent and the offences mentioned in the said report were committed without the sanction or connivance of the candidate; and
 - (b) that the candidate and his agents took all reasonable means for preventing the commission of corrupt and illegal practices at the election; and
 - (c) that the offences mentioned in the report were of a trivial, unimportant and limited character; and

- (d) that in all other respects the election was free from any corrupt or illegal practice on the part of the candidate and of his agents,
- then the candidate shall not be treated for the purposes of sections 58 and 66 as having been reported guilty by his agents of the offences mentioned in the report.

Consequences of finding of corrupt or illegal practice

58 Avoidance of election if candidate reported guilty

- (1) If a candidate who has been elected is reported by the High Court personally guilty or guilty by his agents of any corrupt or illegal practice his election shall be void.
- (2) This section is subject to section 32(4) and (5) and section 57(2).

59 Disciplinary action on report etc of corrupt practice

[1980/1/1/189]

- (1) Where a justice of the peace is reported by the High Court to have been guilty of any corrupt practice in reference to an election, whether he has obtained a certificate of indemnity or not, the High Court shall report the case to the Governor with such evidence as may have been given of the corrupt practice.
- (2) Where an advocate, or any person who belongs to any profession the admission to which is regulated by law, is reported by the High Court to have been guilty of any corrupt practice in reference to an election, whether he has obtained a certificate of indemnity or not, the Attorney General shall also cause that advocate or as the case may be, that person to be dealt with as if the corrupt practice were misconduct by him in his profession.
- (3) If it appears to the High Court that a person holding a licence under the *Licensing Act 1995* has knowingly suffered any bribery or treating in reference to any election to take place upon the licensed premises —
- (a) the High Court shall, after affording him such rights as are conferred on those about to be reported under paragraph 9(2) of Schedule 3, report the fact; and
- (b) whether that person has obtained a certificate of indemnity or not —
- (i) the Attorney General shall bring the report before the Licensing Court, and
- (ii) the report shall be taken into consideration by the Licensing Court in determining whether to renew the licence and may be a ground, if the Licensing Court thinks fit, for refusing the renewal.

- (4) If a person holding a licence under the *Licensing Act 1995* is convicted of bribery or treating committed on the licensed premises, the conviction shall be taken into consideration by the Licensing Court in determining whether to renew the licence and may be a ground, if the Licensing Court think fit, for refusing the renewal.

Avoidance of elections etc.: further provisions

60 Avoidance of election for general corruption

- (1) Where on an election petition it is shown that corrupt or illegal practices or illegal payments or hirings committed in reference to the election for the purpose of promoting or procuring the election of any person at it have so extensively prevailed that they may be reasonably supposed to have affected the result —
- (a) his election, if he has been elected, shall be void, and
 - (b) he shall be incapable of being elected to fill the vacancy or any of the vacancies for which the election was held.
- (2) An election shall not be liable to be avoided otherwise than under this section by reason of general corruption, bribery, treating or intimidation.

61 Avoidance of election for employing corrupt agent

If at an election a candidate personally engages as a canvasser or agent for the conduct or management of the election any person whom he knows or has reasonable grounds for supposing to be subject to an incapacity to vote at the election by reason of his having been convicted or reported guilty of any corrupt practice or illegal practice, he shall be incapable of being elected to fill the vacancy or any of the vacancies for which the election is held.

62 Votes to be struck off for corrupt or illegal practices

- (1) Where, on an election petition claiming the seat for any person, a candidate is proved to have been guilty by himself or by any person on his behalf, of bribery, treating or undue influence in respect of any person who voted at the election, there shall, on a scrutiny, be struck off from the number of votes appearing to have been given to the candidate one vote for every person who voted at the election and is proved to have been so bribed, treated or unduly influenced.
- (2) If any person who is guilty of a corrupt or illegal practice or of an illegal payment or hiring at an election votes at the election, his vote shall be void.
- (3) If any person, who is subject to an incapacity to vote at an election under any provision of this Act, votes at that election, his vote shall be void.

63 Relief for innocent act

- (1) An application for relief under this section may be made to the High Court.
- (2) If it is shown to the High Court by such evidence as the court thinks sufficient —
 - (a) that any act or omission of any person would, apart from this section, by reason of being in contravention of this Act be an illegal practice, payment or hiring; and
 - (b) that the act or omission arose from inadvertence or from accidental miscalculation or from such other reasonable cause of like nature, and in any case did not arise from any want of good faith; and
 - (c) that such notice of the application as the court thinks appropriate has been given in the constituency for which the election was held;

and under the circumstances the court thinks it just that either that or any other person should not be subject to any of the consequences under this Act of the act or omission, the High Court may make an order allowing the act or omission to be an exception from the provisions of this Act making it an illegal practice, payment or hiring; and thereupon no person shall be subject to any of the consequences under this Act of the said act or omission.

Prosecutions for corrupt practices etc.

64 Prosecution for corrupt practices etc

- (1) A person shall not be prosecuted summarily for a corrupt practice where there may be occasion to exercise the powers conferred by section 67(1) and (2).
- (2) A person charged with personation shall not be convicted by a court of summary jurisdiction or, save under section 65, committed for trial, except on the evidence of not less than 2 credible witnesses.
- (3) On a prosecution for an illegal practice it shall be sufficient to allege that the person charged was guilty of an illegal practice.
- (4) On a prosecution for an illegal payment or an illegal hiring it shall be sufficient to allege that the person charged was guilty of an illegal payment or an illegal hiring, as the case may be.
- (5) Any person charged with a corrupt practice may, if the circumstances warrant such finding, be found guilty of an illegal practice (which offence shall for that purpose be an offence triable on information).

- (6) Any person charged with an illegal practice may be found guilty of that offence even though the act constituting the offence amounted to a corrupt practice.
- (7) Any person charged with an illegal payment or hiring may be found guilty of that offence even though the act constituting the offence amounted to a corrupt or illegal practice.

65 Prosecution of offences disclosed on election petition

- (1) The Attorney General shall obey any directions given to him by the High Court with respect to the prosecution by him of offenders, and if it appears to him that any person who has not received a certificate of indemnity has been guilty of a corrupt or illegal practice, he shall, without any such direction, prosecute that person for that offence before the High Court, or if he thinks it expedient in the interests of justice, before any other competent court.
- (2) Where a person prosecuted before the High Court appears before the court, the court shall proceed to try him summarily, unless —
 - (a) the court thinks it expedient in the interests of justice that he should be tried before some other court; and
 - (b) in the case of an allegation of a corrupt practice, he elects to be tried by a jury.
- (3) The Summary Jurisdiction Act 1989, so far as applicable, shall apply to the prosecution of an offence summarily before the High Court, in like manner as if it were an offence punishable only on summary conviction; and accordingly —
 - (a) the attendance of any person may be enforced,
 - (b) the case shall be heard and determined,
 - (c) any summary conviction by the High Court shall be carried into effect and enforced,
 - (d) the costs of the proceedings shall be paid, and
 - (e) the record of the proceedings shall be dealt with under that Act,in like manner as if the High Court were a court of summary jurisdiction, except that no appeal shall lie against a conviction by the High Court.
- (4) Where —
 - (a) the person prosecuted does not appear before the High Court; or
 - (b) the High Court thinks it expedient in the interests of justice that he should be tried before some other court; or
 - (c) the person prosecuted elects under subsection (2) to be tried by a jury,

and the High Court is of opinion that the evidence is sufficient to put that person upon his trial for the offence, the High Court shall order that person to be prosecuted for the offence either on information or before a court of summary jurisdiction specified in the order, as the case may require, and thereupon shall proceed as directed by subsection (6), (7) or (8).

- (5) Except where the accused has elected to be tried by a jury, a corrupt practice shall not for the purposes of subsections (6) to (9) be treated as an offence triable on information, if the High Court thinks that it should be prosecuted summarily.
- (6) If the accused is present before the High Court and the offence is an offence triable on information, the provisions of the *Summary Jurisdiction Act 1989* relating to charges before justices against persons for such offences, shall apply, so far as applicable, and the High Court shall commit him for trial.
- (7) If the accused is present before the High Court and the offence is not an offence triable on information, the High Court shall —
 - (a) order him to be brought before the court of summary jurisdiction before whom he is to be prosecuted, or
 - (b) remand him on bail to appear before that court.
- (8) If the accused is not present before the High Court, the High Court shall as circumstances require issue —
 - (a) a summons for his attendance before a court of summary jurisdiction, or
 - (b) a warrant to apprehend him and bring him before such a court.
- (9) The court of summary jurisdiction before whom he attends or is brought shall —
 - (a) if the offence is an offence triable on information, on proof only of the summons or warrant and the identity of the accused, commit him for trial; and
 - (b) if the offence is not an offence triable on information, proceed to hear the case.

Incapacities

66 Incapacities on report or conviction of corrupt or illegal practice

- (1) A candidate who is reported by the High Court guilty of a corrupt or illegal practice is incapable, from the date of the report, of being elected to and sitting in the Keys or of being a member of a local authority in the Island —
 - (a) if reported personally guilty of a corrupt practice, for 10 years;

- (b) if reported guilty by his agents of a corrupt practice, for 7 years;
- (c) if reported personally guilty of an illegal practice, for 7 years;
- (d) if reported guilty by his agents of an illegal practice, during the term of the Keys for which the election was held;¹⁷

and if at the date of the report he is a member of a local authority, then his seat shall be vacated as from that date.¹⁸

- (2) Any person reported by the High Court personally guilty of a corrupt practice is for 5 years from the date of the report incapable —

- (a) (except in the case of a candidate) of being elected to and sitting in the Keys or of being a member of a local authority in the Island;¹⁹
- (b) of being registered as an elector or voting at any election for the Keys or a local authority; or²⁰
- (c) of holding any public or judicial office,

and if at the date of the report he is a member of the Keys or a local authority or holds such an office, then his seat or office shall be vacated as from that date.²¹

- (3) Any person reported by the High Court personally guilty of an illegal practice is for 5 years from the date of the report incapable of being registered as an elector or voting at any election for the Keys or a local authority held for or within —

- (a) the constituency in respect of which the offence was committed, or
- (b) any constituency wholly or partly within the area of that constituency as constituted for the purposes of the election.²²

- (4) A person convicted of a corrupt practice is subject to the incapacities imposed by this section as if at the date of the conviction he had been reported personally guilty of that corrupt practice.

- (5) A person convicted of an illegal practice is subject to the incapacities imposed by this section as if at the date of the conviction he had been reported personally guilty of that illegal practice.

- (6) This section is subject to section 32(4) and (5), section 57(2) and section 67.

67 Mitigation and remission of incapacities

- (1) Where any person is subject to any incapacity by virtue of the report of the High Court, and he or some other person in respect of whose acts the incapacity was imposed is on a prosecution acquitted of any of the matters in respect of which the incapacity was imposed, the High Court may order that the incapacity shall thenceforth cease so far as it is imposed in respect of those matters.

- (2) Where any person who is subject to any such incapacity is on a prosecution convicted of any such matters, no further incapacity shall be taken to be imposed by reason of the conviction, and the High Court shall have the like power (if any) to mitigate or remit for the future the incapacity so far as it is imposed by section 66 in respect of the matters of which he is convicted, as if the incapacity had been imposed by reason of the conviction.
- (3) The High Court exercising any of the powers conferred by subsections (1) and (2) shall make an order declaring how far, if at all, the incapacities imposed by virtue of the relevant report remain unaffected by the exercise of that power, and the order shall be conclusive for all purposes.
- (4) Where a person convicted of a corrupt or illegal practice is subsequently reported to have been guilty of it by the High Court, no further incapacity shall be imposed on him under section 66 by reason of the report.
- (5) Where any person is subject to any incapacity by virtue of a conviction or of the report of the High Court, and any witness who gave evidence against that person upon the proceeding for the conviction or report is convicted of perjury in respect of that evidence, the incapacitated person may apply to the High Court, and the court, if satisfied that the conviction or report so far as respects that person was based upon perjury, may order that the incapacity shall thenceforth cease.

General provisions as to prosecutions

68 Time limit for prosecutions

- (1) Proceedings against a person in respect of any offence to which this section applies shall not be commenced more than one year after the offence was committed.
- (2) For the purpose of this section —
 - (a) where the service or execution of a summons, warrant or other process is prevented by the absconding, concealment or other act of the alleged offender, the issue of the process shall be treated as the commencement of proceedings;
 - (b) in any other case the service of the summons, warrant or other process shall be treated as the commencement of the proceedings.
- (3) This section applies to —
 - (a) any corrupt or illegal practice;
 - (b) any illegal payment or hiring; and
 - (c) any offence under section 37, 38 or 52.

69 Offences by corporations

Where —

- (a) any corrupt or illegal practice, or
- (b) any illegal payment or hiring, or
- (c) any offence under section 37,

is committed by any association or body of persons, corporate or unincorporate, the members of the association or body who have taken part in the commission of the offence shall be liable to any fine or punishment imposed for that offence by this Act.

70 Evidence by certificate of holding of elections

On any prosecution for a corrupt or illegal practice or for any illegal payment or hiring, the certificate of the returning officer at an election that the election mentioned in the certificate was duly held and that the person named in the certificate was a candidate at the election shall be sufficient evidence of the facts stated in it.

71 Functions of Attorney General

- (1) Where information is given to the Attorney General that any corrupt or illegal practice has occurred in reference to any election, he shall make such inquiries and institute such prosecutions as the circumstances of the case appear to him to require.
- (2) The Attorney General shall, by himself or by a representative, attend the trial of every election petition.
- (3) The court may order any party to the petition to pay all or part of the costs of the Attorney General in connection with the petition.

Supplemental

72 Injunction restraining false statement

A person making or publishing any such false statement of fact as is mentioned in section 32(2)(f) may be restrained by injunction by the High Court from any repetition of that false statement, or of a false statement of similar character, in relation to the candidate, and for the purpose of granting an interim injunction, prima facie proof of the falsity of the statement shall be sufficient.

73 Rules of court

Section 25 of the *High Court Act 1991* (power to make rules of court) applies to proceedings in the High Court under this Act.

74 Service of notices

- (1) Any summons, notice or document required to be served on any person with reference to any proceeding respecting an election for the purpose of causing him to appear before the High Court, or otherwise, or of giving him an opportunity of making a statement, or showing cause, or being heard by himself before any court for any purpose of this Part, may be served —
- (a) by delivering it to that person, or by leaving it at, or sending it by post by a registered letter or the recorded delivery service to, his last known place of abode in the constituency; or
 - (b) if the proceeding is before any court, in such other manner as the court may direct.
- (2) In proving service by post under this section, it shall be sufficient to prove that the letter was prepaid, properly addressed, and sent by registered post or the recorded delivery service.

75 Interpretation of Part 5

In this Part —

“**candidate**” has the same meaning as in Part 4;

“**costs**” include charges and expenses;

“**judicial office**” includes the office of justice of the peace;

“**payment**” includes any pecuniary or other reward;

“**pecuniary reward**” and “**money**” include any office, place or employment, and any valuable security or, other equivalent for money, and any valuable consideration; and expressions referring to money shall be construed accordingly;

“**prescribed**” means prescribed by rules of court;

“**public office**” means any office under the Crown or under any Department, Statutory Board or local authority.

PART 6 – MISCELLANEOUS AND SUPPLEMENTAL

76 [Repealed]²³

Supplemental

77 Interpretation: general

In this Act —

“**the Board of Education**” [Repealed]²⁴

- “**election**” means an election of a member or members of the Keys;
- “**election petition**” means a petition presented in pursuance of Schedule 3;
- “**election rules**” means the election rules in Schedule 2;
- “**elector**”, in relation to an election, means any person whose name is for the time being on the register to be used at that election;
- “**legal incapacity**” includes (in addition to any incapacity by virtue of any subsisting provision of the common law) any disqualification imposed by this Act or any other enactment;
- “**member**” means a member of the Keys;
- “**prescribed**”, except in Part 5, means prescribed by regulations;
- “**registration officer**” has the same meaning as in the *Registration of Electors Act 2006*;²⁵
- “**regulations**” means regulations made by the Governor in Council;
- “**returning officer**” means a returning officer appointed under section 13 and, where a deputy returning officer appointed under section 18 is acting for the returning officer in accordance with his authority, includes a deputy returning officer;
- “**voter**” means a person voting at an election, and includes a person voting as an absent voter or as a proxy, and ‘vote’ shall be construed accordingly.

78 [Repealed]²⁶

79 Local elections

For Schedule 1 to the *Local Elections Act 1986* there are substituted the provisions set out in Schedule 5.

80 Regulations

- (1) The Governor in Council may make regulations prescribing anything which by this Act (except Part 5) may be prescribed.
- (2) Regulations under this Act shall not have effect unless they are approved by Tynwald.

81 Transitional provisions, amendments, repeals and revocations

- (1) The transitional provisions set out in Schedule 6 shall have effect.
- (2) The enactments specified in Schedule 7 are amended in accordance with that Schedule.
- (3) The enactments specified in Schedule 8 are repealed or, as the case may be, revoked, to the extent specified in column 3 of that Schedule.

82 Short title and commencement

- (1) This Act may be cited as the Representation of the *People Act 1995*.
- (2) This Act shall come into operation on the 1st January 1996.

SCHEDULE 1

AREAS OF CONSTITUENCIES

Section 11²⁷

<i>Name</i>	<i>Area</i>
Ramsey	The town district of Ramsey and the area specified in article 2 of the Ramsey (Boundary Extension) Order 1992.
Ayre	The parish districts of Andreas, Bride and Lezayre, except the area specified in article 2 of the Ramsey (Boundary Extension) Order 1992.
Michael	The village district of Michael and the parish districts of Michael, Ballaugh and Jurby.
Peel	The town district of Peel.
Glenfaba	The parish districts of Patrick and German.
Garff	The village district of Laxey and the parish districts of Maughold and Lonan.
Middle	The parish districts of Braddan and Marown.
Onchan	The village district of Onchan and the parish district of Onchan.
Douglas North	That part of the borough of Douglas comprising the polling districts of Glencrutchery and St. Ninian's.
Douglas South	That part of the borough of Douglas comprising the polling districts of St. George's (except the part within the constituency of Douglas East), Quay and Pulrose.
Douglas East	That part of the borough of Douglas comprising the polling districts of Tynwald, Crescent, Strand, Windsor and Derby, that part of the polling district of St. George's lying to the north-east of a line along the middle of Upper Church Street and that part of the polling district of Murrays lying to the east of a line along the middle of Woodbourne Road.
Douglas West	That part of the borough of Douglas comprising the polling districts of Garden City, Murrays (except the part within the constituency of Douglas East), Albany, Ballabrooie and Eastfield.
Castletown	The town district of Castletown.
Malew and Santon	The parish districts of Malew and Santon.
Rushen	The village districts of Port Erin and Port St. Mary and the parish districts of Rushen and Arbory.

SCHEDULE 2
ELECTION RULES

Section 22 [1985/8/3/2]

PART 1 – PROVISIONS AS TO TIME

1. Time-table.
2. Computation of time.

**PART 2 – STAGES COMMON TO CONTESTED AND
UNCONTESTED ELECTIONS**

3. Issue of writ.
4. Particulars to be given by returning officer.
5. Notice of election.
6. Nomination of candidates.
7. Subscription of nomination paper.
8. Consent to nomination.
9. Place for delivery of nomination papers.
10. Attendance by returning officer.
11. Right to attend nomination.
12. Decisions as to validity of nomination papers.
13. Withdrawal of candidates.
14. Publication of nominations and withdrawals.
15. Method of election.

PART 3 – CONTESTED ELECTIONS

General provisions

16. Poll to be taken by ballot.

17. The ballot papers.
18. The official mark.
19. Prohibition of disclosure of votes.
20. Use of schools and public rooms.

Action to be taken before the poll

21. Notice of poll.
22. Death of candidate.
23. Absent voters' ballot papers.
24. Provision of polling stations.
25. Appointment of presiding officers and clerks.
26. Issue of official poll cards.
27. Equipment of polling stations.
28. Appointment of polling and counting agents.
29. Declaration of secrecy.

The poll

30. Admission to polling station.
31. Keeping of order in station.
32. Sealing of ballot boxes.
33. Questions to be put to voters.
34. Challenge of voter.
35. Voting procedure.
36. Votes marked by presiding officer.
37. Tendered ballot papers.
38. Spoilt ballot papers.
39. Adjournment of poll in case of riot.
40. Procedure on close of poll.

Counting of votes

41. Attendance at count.
42. The count.
43. Re-count.
44. Rejected ballot papers.
45. Decisions on ballot papers.
46. Equality of votes.

PART 4 – FINAL PROCEEDINGS IN CONTESTED AND UNCONTESTED ELECTIONS

47. Declaration of result.
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PART 1 – PROVISIONS AS TO TIME

1 Time-table

The proceedings at an election shall be conducted in accordance with the following Table: —

	TABLE
(1) Issue of writ	(a) In the case of a bye-election, within 2 months of receiving the report of a casual vacancy; except that the Governor shall not issue the writ where it appears to him that the Keys will be dissolved within 4 months from the date on which he would otherwise have issued the writ.
	(b) Immediately on the dissolution of the Keys.
	(c) Where the returning officer has made a special return of a writ to the effect that the number of candidates elected is less than there are vacancies to be filled up or that no candidate has been elected, within one month of the receipt of the special return.
(2) Publication of notice of election	Not later than the 7th day after the receipt of the writ by the returning officer.
(3) Delivery of nomination papers	Between 10.00 am and 1.00 pm on a day to be fixed by the returning officer, not earlier than the 7th day and not later than the 12th day after the receipt of the writ by the returning officer. ²⁸
(4) Delivery of notices of withdrawal of candidature	Immediately on receipt of the nomination papers or as soon thereafter as any objections are disposed of.
(5) The making of objections to nominations	Within the time for the delivery of nomination papers and one hour thereafter.
(6) Publication of nominations	On the expiry of the time for the delivery of nomination papers.
(7) Polling	Between 8.00 a.m. and 8.00 p.m. on a day, to be fixed by the Governor, not earlier than the 28th day and not later than the 42nd day after the receipt of the writ by the returning officer
(8) Return of the writ	Within 24 hours after completion of the count.

2 Computation of time

(1) In this rule 'excluded day' means a Sunday, Christmas Day, Good Friday, a bank holiday or a day appointed for public thanksgiving or mourning.

(2) Where by these rules anything is required or allowed to be done on or before an excluded day, then (subject to paragraph (3)) it may be done on or before the next succeeding day which is not an excluded day.

(3) Where by these rules —

(a) anything is required or allowed to be done not later than a certain number of days before a specified event or day (however the requirement or allowance is expressed), and

(b) apart from this paragraph the last day for doing it would be an excluded day,

it shall be done on or before the next preceding day which is not an excluded day.

(4) This rule is without prejudice to paragraph (a) (day of event not to be counted in reckoning from that day) or paragraph (c) (excluded days not to be counted in period not exceeding 6 days) of section 36 of the Interpretation Act 1976.

PART 2 – STAGES COMMON TO CONTESTED AND UNCONTESTED ELECTIONS

3 Issue of writ

(1) Each writ of election shall be directed to the returning officer and conveyed to him by hand.

(2) On receipt of the writ the returning officer shall forthwith endorse on it the date on which he has received it.

4 Particulars to be given by returning officer

The returning officer shall within 24 hours of receiving the writ furnish to the Chief Secretary the following particulars of the election —

(a) the place and times at which nomination papers may be obtained;

(b) the place and times at which nomination papers are to be delivered;

(c) the date of the poll in the event of a contest;

(d) the date by which (except in such circumstances as may be prescribed) —

(i) applications to be treated as an absent voter, and

(ii) other applications and notices about absent voting or proxy voting,

must reach the returning officer in order that they may be effective for the election.²⁹

5 Notice of election

(1) The Chief Secretary shall publish the notice of election in the prescribed form, which shall contain —

- (a) the particulars supplied to him by the returning officer under rule 4;
- (b) a warning as to corrupt practices; and
- (c) advice to candidates on obtaining a copy of this Act and a copy of the register of electors.

(2) The notice of election shall be a composite notice for —

- (a) all the constituencies, in the case of a general election;
- (b) all the constituencies to which the writs relate, where writs for more than one bye-election are issued on the same day.

(3) The notice of election shall be published —

- (a) by insertion in one or more newspapers published and circulating in the Island, and
- (b) by posting in one or more conspicuous places in the constituency.

6 Nomination of candidates

(1) Each candidate shall be nominated by a separate nomination paper delivered by the candidate himself, or his proposer or seconder, to the returning officer at the place fixed for the purpose.

(2) The nomination paper shall be as near as may be in the prescribed form and shall state —

- (a) the full names, place of residence and description of the candidate (his surname being placed first in the list of his names);
- (b) whether the candidate complies with section 1(1)(b) of the Act;³⁰
 - (c) whether he is an undischarged bankrupt (in the Island or elsewhere); and
- (d) whether he has at any time been convicted (in the Island or elsewhere) of an offence on conviction of which a person is liable to custody, and if so, particulars of the conviction.

(3) The description shall not refer to the candidate's political activities, and need not refer to his rank, profession or calling so long as, with the other particulars of the candidate, it is sufficient to identify him.

(4) If the description is unduly long, the returning officer, after consultation (if possible) with the candidate or his proposer or seconder, may shorten it or substitute another.

7 Subscription of nomination paper

(1) The nomination paper shall be subscribed by 2 electors as proposer and seconder, and by not less than 20 other electors as assenting to the nomination, but so that only 20 of those electors shall be treated for the purposes of paragraph (7) as having subscribed the nomination paper.

(2) The nomination paper shall give the electoral number of each person subscribing it.

(3) The returning officer shall supply any elector with a form of nomination paper at the place and during the time for the delivery of nomination papers; but it shall not be necessary for a nomination to be on a form supplied by the returning officer.

(4) The returning officer shall also cause forms of nomination papers to be supplied to each police station within the constituency during the period between the day on which notice of the election was given up to and including the last day for the delivery of nomination papers.

(5) The police officer in charge of each such police station shall supply any elector with a form of nomination paper at such station within such period and during such time as the station is open.

(6) The form of nomination paper shall include or be accompanied by the prescribed instruction as to the completion and signing of such nomination paper.

(7) The same elector may subscribe as many nomination papers as there are vacancies to be filled, but no more, and his signature shall be inoperative on any nomination paper subscribed in excess of that number and duly delivered.

(8) In this rule —

‘elector’ means a person who is registered as an elector in the constituency in the register to be used at the election;³¹

‘electoral number’ means a person’s number in that register.³²

8 Consent to nomination

Where a nomination paper is not delivered by the person named as candidate himself, he shall not be validly nominated unless his consent in writing thereto, attested by one witness, is delivered at the place and within the time appointed for the delivery of nomination papers.

9 Place for delivery of nomination papers

Nomination papers shall be delivered to the returning officer for a constituency by the candidate himself or by his proposer or seconder at such convenient place in the constituency as is specified in the notice of election under rule 4.

10 Attendance by returning officer

(1) The returning officer shall attend at the place for delivery of nomination papers during the time for delivery of them and half an hour thereafter.³³

(2) Where the proceedings for or in connection with nomination are interrupted or obstructed by riot or open violence, they shall be abandoned for that day, and shall be continued on the next day as if that day were the day for the delivery of nomination papers (subject to the further application of this paragraph if the proceedings are further interrupted or obstructed on that day).

(3) If such proceedings are abandoned under paragraph (2) —

- (a) nothing may be done after they are continued if the time for doing it had passed at the time they were abandoned; and
- (b) nothing done before they were abandoned shall be invalidated by reason thereof.

11 Right to attend nomination

(1) Except for the purpose of delivering a nomination paper or assisting the returning officer, no person shall be entitled to attend the proceedings during the time for delivery of nomination papers or making objections thereto, unless he is —

- (a) a person standing nominated as a candidate, or
- (b) the proposer or seconder of such a person, or
- (c) one other person selected by such a person.

(2) Where a person stands nominated by more than one nomination paper, only the persons subscribing, as proposer or seconder, such one of those papers as he may select or, if none is selected, such one of those papers as is first delivered, shall be entitled to attend as his proposer and seconder.

(3) The right to attend conferred by this rule includes the right to inspect, and to object to the validity of, any nomination paper.

12 Decisions as to validity of nomination papers

(1) Where a nomination paper and, where so required, the candidate's consent to nomination are delivered in accordance with these rules, the candidate shall stand nominated unless and until —

- (a) the returning officer decides that the nomination paper is invalid, or
- (b) proof is given to the satisfaction of the returning officer of the candidate's death, or
- (c) the candidate withdraws in accordance with rule 13.

(2) The returning officer may hold a nomination paper invalid at any time before the expiry of the period specified in rule 10(1).

(3) A nomination paper may not be held invalid except on one of the following grounds —

- (a) that the particulars of the candidate or the persons subscribing the paper are not as required by law; and
- (b) that the paper is not subscribed as so required.

(4) The returning officer shall give his decision on any objection to a nomination paper as soon as practicable after it is made.

(5) Where he decides that a nomination paper is invalid, he shall —

- (a) endorse and sign on the paper his decision and the reasons for it; and
- (b) as soon as practicable, notify the candidate in writing of his decision and the reasons for it.

(6) The decision of the returning officer that a nomination paper is valid shall be final and shall not be questioned in any proceeding whatsoever.

(7) Subject to paragraph (6), nothing in this rule prevents the validity of a nomination being questioned on an election petition.

13 Withdrawal of candidates

(1) A candidate may, during the time specified in rule 10(1), but not afterwards, withdraw from his candidature by giving a notice in writing to that effect to the returning officer.

(2) A notice under this rule shall be —

- (a) signed by the candidate or, if he is outside the Island, by his proposer;
- (b) if delivered by any person other than the candidate, attested by one witness; and
- (c) if signed by the proposer, accompanied by a signed declaration by the proposer as to the candidate's absence from the Island.

14 Publication of nominations and withdrawals

(1) If the returning officer, on a nomination paper being delivered to him, is satisfied that it is a valid nomination, he shall forthwith publish notice of the name of the person nominated as candidate and of the names of his proposer and seconder.

(2) Where —

- (a) a nomination is withdrawn in accordance with rule 13, or
 - (b) a nomination is objected to after the time for delivery of nomination papers but before the expiry of the time specified in rule 10(1), and the objection is upheld,
- the returning officer shall add to the notice of nominations a statement that the nomination has been withdrawn or is invalid, as the case may be.

(3) A notice of nominations shall be published by posting it in a conspicuous position outside the place for the delivery of nominations.

15 Method of election

(1) If at the expiry of the time specified in rule 10(1) more candidates stand nominated than there are vacancies to be filled, a poll shall be taken in accordance with Part 3 of these rules.

(2) If at that time no more candidates stand nominated than there are vacancies to be filled, those candidates shall forthwith be declared to be elected in accordance with Part 4 of these rules.

PART 3 – CONTESTED ELECTIONS*General provisions***16 Poll to be taken by ballot**

The votes at the poll shall be given by ballot, the votes given to each candidate shall be counted and the result shall be determined in accordance with the following provisions of this Part.

17 The ballot papers

(1) The ballot of every voter shall consist of a ballot paper, and the persons standing nominated and no others shall be entitled to have their names inserted in the ballot paper.

(2) Every ballot paper shall be in the prescribed form and shall be printed in accordance with the prescribed directions, and –

- (a) shall contain the names and other particulars of the candidates nominated as shown in their respective nomination papers;
- (b) shall be capable of being folded up;
- (c) shall have a number printed on the back;
- (d) shall have attached a counterfoil with the same number printed on the face.

(3) The list of candidates in the ballot paper shall be arranged alphabetically in the order of their surnames and, if there are 2 or more candidates of the same surname, in the order of their other names.

18 The official mark

(1) Every ballot paper shall be marked with an official mark in the prescribed manner so as to preclude false ballot papers being included in the count.

(2) The official mark shall be kept secret and an interval of not less than 7 years shall intervene between the use of the same official mark at elections for the same constituency.

19 Prohibition of disclosure of votes

No person who has voted at the election shall, in any legal proceedings to question the election or return, be required to state for whom he voted.

20 Use of schools and public rooms

(1) Subject to subsection (2), the returning officer may use, free of charge, for the purpose of taking the poll –

- (a) a room or rooms in any school –
 - (i) maintained by the Department of Education and Children, or³⁴
 - (ii) in respect of which grants are made out of moneys provided by Tynwald to the person or body of persons responsible for the management of the school;
- (b) a room the expense of maintaining which is payable out of any rate;
- (c) any court house.

(2) A room mentioned in paragraph (1)(a) shall only be used where, in the opinion of the returning officer, there is no adequate alternative accommodation within, or within half a mile beyond the limits of, the polling district for which the room is to be used.

(3) The returning officer shall make good any damage done to, and defray any expense incurred by the persons having control over, any room or court house mentioned in paragraph (1) by reason of its being used for the purpose of taking the poll.

(4) The use of a room in an unoccupied house for that purpose shall not render a person liable to be rated or to pay any rate for the house.

Action to be taken before the poll

21 Notice of poll

The returning officer shall, as soon as practicable after the expiration of the time specified in rule 10(1), give public notice of the poll in the prescribed form.

22 Death of candidate

(1) If after publication of the notice of the poll and before the result of the election is declared proof is given to the satisfaction of the returning officer of the death of one of the persons shown as standing nominated, the returning officer shall countermand notice of the poll, and all proceedings with reference to the election shall be commenced afresh in all respects as if the writ had been received on the day on which proof was given to the returning officer of the death.

(2) No fresh nomination shall be necessary in the case of a person whose name has been published as standing nominated.

23 Absent voters' ballot papers

The returning officer shall, in accordance with regulations, issue to those entitled to vote as an absent voter a ballot paper and a declaration of identity in the prescribed form, together with such envelopes for their return (whether free of charge or otherwise) as may be prescribed.³⁵

24 Provision of polling stations

- (1) The returning officer shall —
 - (a) provide one or more polling stations for each polling district; and
 - (b) if 2 or more polling stations are provided for a polling district, allot the electors to the polling stations in such manner as he thinks most convenient.
- (2) 2 or more polling stations may be provided in the same room.
- (3) Any polling station may be at any distance, not exceeding half a mile, beyond the limits of the polling district which it is intended to serve.
- (4) The returning officer shall provide each polling station with such number of compartments as may be necessary in which the voters can mark their votes screened from observation, so that at least one compartment is provided for every 300 electors allotted to the polling station.

25 Appointment of presiding officers and clerks

- (1) The returning officer shall appoint, in writing and in the prescribed form, and pay the following officers and clerks —
 - (a) not more than two presiding officers to attend at each polling station, and³⁶
 - (b) such poll clerks and counting clerks as may be necessary for the purposes of the election,but shall not appoint any person who has been employed by or on behalf of a candidate in or about the election.

(1A) Where two presiding officers are appointed to attend at the same polling station, the returning officer shall make such arrangements as he thinks convenient to ensure that only one of those presiding officers is on duty at the polling station at any one time.³⁷

(2) On appointing any such officer or clerk the returning officer shall forthwith administer, and is authorised to administer, to him an oath in the prescribed form, and the certificate of the oath shall be attached to his appointment.

(3) The returning officer may, if he thinks fit, preside at a polling station, and in that case the provisions of these rules relating to a presiding officer shall apply to him with any necessary modifications.

(4) A presiding officer may do, by any clerk appointed to assist him, any act (including the asking of questions) which he is required or authorised by these rules to do at a polling station, except order —

- (a) the arrest of any person, or
- (b) the exclusion or removal of any person from the polling station.

26 Issue of official poll cards

- (1) The Treasury shall as soon as practicable send an official poll card to —
 - (a) each elector, except an elector whose application under section 26 to be treated as an absent voter has been allowed, and
 - (b) each person appointed as proxy to vote for an elector.
- (2) An elector's official poll card shall be sent or delivered to his qualifying address.
- (3) The official poll card shall be in the prescribed form and shall set out —
 - (a) the name of the constituency;
 - (b) the elector's name, qualifying address and number on the register of electors;
 - (c) the date and hours of the poll and the situation of the elector's polling station.
- (4) Rule 7(8) applies for the interpretation of this rule.

27 Equipment of polling stations

- (1) The returning officer shall provide each presiding officer with such number of ballot boxes and ballot papers as in the opinion of the returning officer may be necessary.
- (2) Every ballot box shall be so constructed that the ballot papers can be put in it, but cannot be withdrawn from it without it being unlocked.
- (3) The returning officer shall provide each polling station with —
 - (a) materials to enable voters to mark the ballot papers;
 - (b) subject to any regulations prescribing the form of ballot papers, instruments for stamping the official mark on them;
 - (c) copies of the register of electors, or such part of it as contains the names of the electors allotted to the station, but with the names ruled out of those electors whose applications to be treated as absent voters have been allowed;
 - (d) a copy of the list of electors in respect of whom appointments of proxies have been made and not revoked, or such part thereof as contains the names of electors allotted to the station.
- (4) A notice in the prescribed form, giving directions for the guidance of the voters in voting, shall be printed in conspicuous characters and exhibited outside every polling station and in every compartment of every polling station.

28 Appointment of polling and counting agents

- (1) Each candidate may, before the date of the poll, appoint —

- (a) not more than 2 polling agents to attend at each polling station in the constituency for the purpose of detecting personation, and
 - (b) such number of counting agents to attend at the counting of the votes as the candidate may wish, not exceeding such number as the returning officer may determine (but so that the limit shall be the same for each candidate).
- (2) Notice in writing of such appointments, stating the names and addresses of the persons appointed, shall be given by the candidate to the returning officer before the date of the poll.
- (3) If an agent dies, or becomes incapable of acting, the candidate may appoint another agent in his place, and shall forthwith give to the returning officer notice in writing of the name and address of the agent appointed.
- (4) In the following provisions of these rules references to polling and counting agents shall be taken as references to agents whose appointments have been duly made and notified and, where the number of agents is limited, who are within the permitted number.
- (5) Any notice required to be given to a counting agent by the returning officer may be delivered at or sent by post to the address stated in the notice of appointment.
- (6) A candidate may himself do any act or thing which any polling or counting agent of his, if appointed, would have been authorised to do, or may assist his agent in doing any such act or thing.
- (7) Where by these rules any act or thing is required or authorised to be done in the presence of the polling or counting agents, the non-attendance of any agents or agent at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

29 Declaration of secrecy

- (1) Before the opening of the poll a declaration of secrecy in the prescribed form shall be made by —
- (a) the returning officer;
 - (b) every officer or clerk authorised to attend at a polling station or the counting of the votes;
 - (c) every candidate attending at a polling station or at the counting of the votes;
 - (d) every candidate's spouse or civil partner attending at the counting of the votes;³⁸
 - (e) every polling agent and counting agent;
 - (f) every person permitted by the returning officer to attend at the counting of the votes, though not entitled to do so.

(2) Notwithstanding anything in paragraph (1), the following persons attending at the counting of the votes —

- (a) any candidate;
- (b) any candidate's spouse or civil partner attending by virtue of the rule authorising candidates' spouses or civil partners to attend as such;³⁹
- (c) any person permitted by the returning officer to attend, though not entitled to do so;

need not make the declaration before the opening of the poll, but shall make it before he or she is permitted to attend the counting, and a polling or counting agent appointed after the opening of the poll shall make the declaration before acting as such agent.

(3) The returning officer shall make the declaration in the presence of a justice of the peace or commissioner for oaths, and any other person shall make the declaration in the presence either of a justice of the peace or of the returning officer, and section 47 (requirement of secrecy) shall be read to the declarant by the person taking the declaration.⁴⁰

The poll

30 Admission to polling station

The presiding officer shall regulate the number of voters to be admitted to the polling station at the same time, and shall exclude all other persons except —

- (a) the candidates;
- (b) the polling agents appointed to attend at the polling station or the counting of the votes;
- (c) the poll clerks;
- (d) the constables on duty; and
- (e) the companions of blind voters.

31 Keeping of order in station

(1) It is the duty of the presiding officer to keep order at his polling station.

(2) If a person misconducts himself in a polling station, or fails to obey the lawful orders of the presiding officer, he may immediately, by order of the presiding officer, be removed from the polling station by a constable in or near that station or by any other person authorised in writing by the returning officer to remove him, and the person so removed shall not without the permission of the presiding officer again enter the polling station during the day.

(3) Any person so removed may, if charged with the commission in the polling station of an offence, be dealt with as a person taken into custody by a constable for an offence without a warrant.

(4) The powers conferred by this rule shall not be exercised so as to prevent a voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

32 Sealing of ballot boxes

Immediately before the commencement of the poll, the presiding officer shall —

- (a) show the ballot box empty to such persons, if any, as are present in the polling station, so that they may see that it is empty,
- (b) then lock it up and place his seal on it in such manner as to prevent its being opened without breaking the seal,
- (c) place it in his view for the receipt of ballot papers, and
- (d) keep it so locked and sealed.

33 Questions to be put to voters

(1) The presiding officer may, and if required by a candidate or his polling agent shall, put to any person applying for a ballot paper at the time of his application, but not afterwards, the following questions or either of them —

- (a) in the case of a person applying as an elector —
 - (i) ‘Are you the person registered in the register of electors for this election as follows (read the whole entry from the register)?’
 - (ii) ‘Have you already voted, here or elsewhere, at this election for the constituency of [Repealed][Repealed]...., otherwise than as proxy for some other person?’
 - (iii) ‘What is your date of birth?’⁴¹
- (b) in the case of a person applying as proxy —
 - (i) ‘Are you the person whose name appears as A.B. in the list of proxies for this election as entitled to vote as proxy on behalf of C.D.?’
 - (ii) ‘Have you already voted, here or elsewhere, at this election for the constituency of [Repealed][Repealed].... as proxy on behalf of C.D.?’

(2) In the case of a person applying as proxy, the presiding officer may, and shall if required as mentioned in subsection (1), put the following additional question —

‘Are you the spouse [civil partner], parent, grandparent, brother [sister], child or grandchild of C.D.?’.

and if that question is not answered in the affirmative —

‘Have you at this election already voted in this constituency on behalf of 2 persons of whom you are not the spouse [civil partner], parent, grandparent, brother [sister], child or grandchild?’⁴²

(3) A ballot paper shall not be delivered to any person required to answer the above questions, or any of them, unless he has answered the questions or question satisfactorily.

(4) Save as authorised by this rule, no inquiry shall be permitted as to the right of any person to vote.

34 Challenge of voter

(1) If at the time a person applies for a ballot paper for the purpose of voting, or after he has applied for a ballot paper for that purpose, and before he has left the polling station, a candidate or his polling agent —

- (a) declares to the presiding officer that he has reasonable cause to believe that the applicant has committed an offence of personation, and
- (b) undertakes to substantiate the charge in a court of law,
the presiding officer may order a constable to arrest the applicant, and the order of the presiding officer shall be sufficient authority for the constable to do so.

(2) A person against whom a declaration is made under this rule shall not by reason thereof be prevented from voting.

(3) A person arrested under the provisions of this rule shall be dealt with as a person taken into custody by a constable for an offence without a warrant.

35 Voting procedure

(1) A ballot paper, marked with the official mark, shall be delivered to a voter who applies therefor, and immediately before delivery —

- (a) the number and name of the elector as stated in the copy of the register of electors shall be called out;
- (b) the number of the elector shall be marked on the counterfoil; and
- (c) a mark shall be placed on the register of electors against the number of the elector to denote that a ballot paper has been received, but without showing the particular ballot paper which has been received.

(2) The voter, on receiving the ballot paper, shall forthwith proceed alone into one of the compartments in the polling station and shall —

- (a) secretly mark his paper;
- (b) fold the paper so that his vote is concealed;
- (c) return to the presiding officer's table and show the back of the folded paper to the presiding officer so as to disclose the official mark; and
- (d) put the folded paper into the ballot box in the presence of the presiding officer.

(3) The voter shall vote without undue delay, and shall leave the polling station as soon as he has put his ballot paper into the ballot box.

(4) The voter shall not show his ballot paper after he has marked it to any person other than the presiding officer, and shall show it to the presiding officer only if the voter wishes to prove that it has been spoiled.

36 Votes marked by presiding officer

(1) The presiding officer, on the application of —

- (a) a voter who declares orally that he is incapacitated by blindness or other physical cause from voting in manner directed by these rules; or
- (b) a voter who declares that he objects on religious grounds to vote in the manner directed by these Rules; or⁴³
- (c) a voter who declares orally that he is unable to read;

shall, in the presence of the polling agents, cause the vote of the voter to be marked on a ballot paper in manner directed by the voter, and the ballot paper to be placed in the ballot box.

(2) The name and number on the register of electors of every voter whose vote is marked in pursuance of this rule and the reason why it is so marked, shall be entered on the list ('the list of votes marked by the presiding officer').

(3) In the case of a person voting as proxy for an elector, the number to be entered together with the voter's name shall be the elector's number.

37 Tendered ballot papers

(1) If a person representing himself to be —

- (a) a particular elector named on the register, whose name has not been ruled out as a person whose application to be treated as an absent voter has been allowed, or
- (b) a particular person named in the list of proxies as proxy for an elector,

applies for a ballot paper after another person has voted either as the elector or as his proxy, the applicant shall, on satisfactorily answering the questions permitted by law to be asked at the poll, be entitled subject to the following provisions of this rule, to mark a ballot paper (a 'tendered ballot paper') in the same manner as any other voter.

(2) A tendered ballot paper shall —

- (a) be of a different colour from the other ballot papers;
- (b) instead of being put into the ballot box, be given to the presiding officer and endorsed by him with the name of the voter and his number in the register of electors and set aside in a separate packet.

(3) The name of the voter and his number on the register of electors shall be entered on a list ('the tendered votes list').

(4) In the case of a person voting as proxy for an elector, the number to be endorsed or entered together with the voter's name shall be the elector's number.

38 Spoilt ballot papers

A voter who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper may, on delivering it to the presiding officer and proving to his satisfaction the fact of the inadvertence, obtain another ballot paper in the place of the ballot paper so delivered (in these rules called a 'spoilt ballot paper'), and the spoilt paper shall be immediately cancelled.

39 Adjournment of poll in case of riot

(1) Where the proceedings at any polling station are interrupted or obstructed by riot or open violence, the presiding officer shall adjourn the proceedings till the following day and shall forthwith give notice to the returning officer.

(2) Where the poll is adjourned at any polling station —

- (a) the hours of polling on the day to which it is adjourned shall be the same as for the original day; and
- (b) references in this Act to the close of the poll shall be construed accordingly.

40 Procedure on close of poll

(1) As soon as practicable after the close of the poll, the presiding officer shall, in the presence of the polling agents (if any), make up into separate packets, sealed with his own seal and the seals of such polling agents as desire to affix their seals —

- (a) each ballot box in use at the station, sealed so as to prevent the introduction of additional ballot papers, and unopened, but with the key attached;
- (b) the unused and spoilt ballot papers placed together;
- (c) the tendered ballot papers;
- (d) the marked copies of the register of electors and of the list of proxies;
- (e) the counterfoils of the used ballot papers;
- (f) the tendered votes list, the list of voters marked by the presiding officer and a statement of the number of voters whose votes are so marked by the presiding officer under the heads 'physical incapacity', 'a person who objects on religious grounds', and 'unable to read'.⁴⁴
- (g) the appointments of the presiding officer, poll clerks and polling agents;

and shall deliver the packets to the returning officer to be taken charge of by him.

(2) The marked copies of the register of electors and of the list of proxies shall be in one packet, but shall not be in the same packet as the counterfoils of the used ballot papers.

(3) The packets shall be accompanied by a statement ('the ballot paper account') made by the presiding officer showing the number of ballot papers entrusted to him, and accounting for them under the heads of ballot papers in the ballot box, unused, spoilt and tendered ballot papers.

Counting of votes

41 Attendance at count

(1) The returning officer shall make arrangements for counting the votes in the presence of the counting agents as soon as practicable after the close of the poll, and shall give to the counting agents notice in writing of the time and place at which he will begin to count the votes.

(2) No person other than —

- (a) the returning officer, presiding officer, poll clerks and counting clerks;
- (b) the candidates and their wives or husbands;
- (c) the counting agents;

may be present at the counting of the votes, unless permitted by the returning officer to attend.

(3) The returning officer shall give the counting agents all such reasonable facilities for overseeing the proceedings (including in particular facilities for satisfying themselves that the ballot papers are correctly sorted), and all such information with respect thereto as he can give them consistently with the orderly conduct of the proceedings and the discharge of his duties in connection therewith.

(4) In particular, where the votes are counted by sorting the ballot papers according to the candidate for whom the vote is given and counting the number of ballot papers for each candidate, the counting agents shall be entitled to satisfy themselves that the ballot papers are correctly sorted.

(5) Subject to paragraphs (6) and (7), the returning officer shall permit media representatives to attend the count.

(6) The returning officer may in his discretion limit the number of media representatives permitted to attend the count at any one time, and for that purpose may from time to time select the representatives who may be present and exclude any others.

(7) Any media representative permitted to attend the count shall comply with any general or special directions of the returning officer as to his conduct during the count (whether or not he is present), and if he fails to do so he may be excluded by or by order of the returning officer.

(8) In this paragraph ‘media representative’ means a reporter or photographer appearing to the returning officer to represent —

- (a) a bona fide newspaper or other periodical or journal, or
- (b) a person providing a programme service (within the meaning of the Broadcasting Act 1993).

42 The count

(1) Before the returning officer proceeds to count the votes, he shall —

- (a) in the presence of the counting agents open each ballot box and, taking out the ballot papers in it, count and record the number of them and verify each ballot paper account in accordance with paragraph (2);
- (b) count such of the absent voters’ ballot papers as have been duly returned, and record the number counted; and
- (c) then mix together the whole of the ballot papers mentioned in sub-paragraphs (a) and (b).

(1A) An absent voter’s ballot paper shall not be taken to be duly returned unless —

- (a) it is returned in the prescribed manner and reaches the returning officer or a polling station in the constituency before the close of the poll, and
- (b) the declaration of identity, duly signed and authenticated, is also returned in the prescribed manner and reaches him or such a polling station before that time.⁴⁵

(2) The returning officer shall verify each ballot paper account by comparing it with the number of ballot papers recorded by him, and the unused and spoilt ballot papers in his possession and the tendered votes list (opening and resealing the packets containing the unused and spoilt ballot papers and the tendered votes list), and shall draw up a statement as to the result of the verification, which any candidate may copy.

(3) An absent voter’s ballot paper shall not be deemed to be duly returned, unless it is returned in the proper envelope so as to reach the returning officer at the address thereon stated before the close of the poll, and is accompanied by the declaration of identity duly signed and authenticated.

(4) The returning officer shall not count any tendered ballot paper.

(5) The returning officer, while counting and recording the number of ballot papers and counting the votes, shall keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers printed on the back of the papers.

(6) The returning officer shall, so far as practicable, proceed continuously with counting the votes, allowing time only for refreshment, except that he may exclude —

- (a) with the agreement of each candidate or counting agent present, any time between 7.00 p.m. and midnight; and
- (b) any time between midnight and 9.00 a.m.

For the purposes of this paragraph the agreement of a candidate shall be as effective as the agreement of his counting agents.

(7) During the excluded time the returning officer shall place the ballot papers and other documents relating to the election under his own seal and the seal of such of the counting agents as desire to affix their seals and shall otherwise take proper precautions for the security of the papers and documents.

43 Re-count

(1) A candidate may if present or, in his absence, any of his counting agents may, when the counting or any re-count of the votes is completed, require the returning officer to have the votes re-counted or again re-counted, but the returning officer may refuse to do so if in his opinion the request is unreasonable.

(2) No step shall be taken on the completion of the counting or any re-count of votes until the candidates then present have been given a reasonable opportunity to exercise the right conferred by this rule.

44 Rejected ballot papers

(1) Any ballot paper —

- (a) which does not bear the official mark; or
 - (b) on which votes are given for more candidates than there are vacancies to be filled; or
 - (c) on which anything is written or marked by which the voter can be identified except the printed number on the back; or
 - (d) which is unmarked or void for uncertainty,
- shall, subject to paragraph (2), be void and not counted.

(2) Where the voter is entitled to vote for more than one candidate, a ballot paper shall not be deemed to be void for uncertainty as respects any vote as to which no uncertainty arises, and that vote shall be counted.

(3) A ballot paper on which the vote is marked —

- (a) elsewhere than in the proper place; or
 - (b) otherwise than by means of a cross; or
 - (c) by more than one mark against the same candidate's name,
- shall not for that reason be treated as void if —
- (i) an intention that the vote shall be for one or other of the candidates clearly appears, and
 - (ii) the way the paper is marked does not of itself identify the voter and it is not shown that he can be identified by it.

(4) The returning officer shall endorse the words 'rejected' on any ballot paper which under this rule is not to be counted, and shall add to the endorsement the words 'rejection objected to' if an objection is made by a counting agent to his decision.

(5) The returning officer shall draw up a statement showing the number of ballot papers rejected under the following heads —

- (a) want of official mark;
- (b) voting for more candidates than there are vacancies to be filled;
- (c) writing or mark by which voter could be identified;
- (d) unmarked or void for uncertainty;

and any counting agent may copy the statement.

45 Decisions on ballot papers

The decision of the returning officer on any question arising in respect of a ballot paper shall be final, but shall be subject to review on an election petition.

46 Equality of votes

Where, after the counting of the votes (including any re-count) is completed, an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the returning officer shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

PART 4 – FINAL PROCEEDINGS IN CONTESTED AND UNCONTESTED ELECTIONS

47 Declaration of result

(1) In a contested election, when the result of the poll has been ascertained, the returning officer shall forthwith —

- (a) declare to be elected the candidate or candidates to whom the majority of votes has been given; and
- (b) give public notice of —
 - (i) the candidate or candidates elected;
 - (ii) the total number of votes given for each candidate;
 - (iii) the total number of voters voting at the election (other than voters whose ballot papers have been rejected pursuant to rule 44); and
 - (iv) the number of rejected ballot papers under each head shown in the statement of rejected ballot papers.

(2) In an uncontested election the returning officer shall forthwith —

- (a) declare the candidate or candidates nominated to be elected; and

- (b) publish a notice of the candidate or candidates elected.
- (3) Notice under paragraph (1)(b) and (2)(b) shall be published by posting the same in one or more conspicuous places in the constituency and by depositing a copy thereof at Government Office.
- (4) The Chief Secretary shall as soon as may be publish in one or more newspapers published and circulating in the Island a notice of the names of the candidates elected, stating (in the case of a contested election) that a copy of the notice under paragraph (1)(b) may be inspected at any reasonable time at Government Office.
- (5) The notice under paragraph (4) —
 - (a) in the case of a general election, shall be a composite notice relating to all the constituencies; and
 - (b) in any other case, may be a composite notice relating to more than one constituency.

48 Return of the writ

- (1) The return of a member or members elected for any constituency shall be made by a certificate in the prescribed form endorsed by the returning officer on the writ of election.
- (2) The writ so endorsed shall be forthwith forwarded to the Clerk of the Rolls.
- (3) A duplicate of such certificate shall be handed by the returning officer to each candidate elected.
- (4) If the number of candidates elected is less than there are vacancies to be filled up, or if no candidates be elected, the returning officer shall make a special return of the writ setting forth the facts.

PART 5 – DISPOSAL OF DOCUMENTS

49 Sealing up of ballot papers

- (1) On the completion of the counting at a contested election the returning officer shall seal up in separate packages the counted and rejected ballot papers.
- (2) The returning officer shall not open the sealed packets of tendered ballot papers or of counterfoils, or of the marked copies of the register of electors.

50 Delivery of documents to Clerk of the Rolls

- (1) The returning officer shall then (and in any case within 7 days of declaring the result of the poll) forward to the Clerk of the Rolls the following documents —
 - (a) the packets of ballot papers in his possession;

- (b) the ballot paper accounts and the statements of rejected ballot papers and of the result of the verification of the ballot paper accounts;
- (c) the tendered votes lists, the lists of votes marked by the presiding officer and the statements relating thereto;
- (d) the packets of counterfoils;
- (e) the packets containing marked copies of registers and lists of proxies;
- (f) the oaths of himself, the deputy returning officer, the presiding officers, poll clerks and counting clerks;
- (g) the nomination papers;⁴⁶
- (h) the applications to be treated as an absent voter,⁴⁷

endorsing on each packet a description of its contents, the date of the election to which they relate and the name of the constituency for which the election was held.⁴⁸

51 Orders for production of documents

- (1) An order —
 - (a) for the inspection or production of any rejected ballot papers in the custody of the Clerk of the Rolls; or
 - (b) for the opening of a sealed packet of counterfoils or the inspection of any counted ballot papers in his custody, may be made —
 - (i) by the Keys, or
 - (ii) if satisfied by evidence on oath that the order is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of an election petition, by the High Court or a Deemster.

(2) An order under this rule may be made subject to conditions as to persons, time, place and mode of inspection, production or opening as the Keys or the High Court or Deemster making the order may think expedient.

(3) In making and carrying into effect an order for the opening of a packet of counterfoils or for the inspection of counted ballot papers, care shall be taken that the way in which the vote of any particular elector has been given shall not be disclosed until it has been proved that his vote was given and that the vote has been declared by a competent court to be invalid.

(4) Where an order is made for the production by the Clerk of the Rolls of any document in his possession relating to any specified election, the production by him or his agent of the document ordered in such manner as may be directed by that order shall be conclusive evidence that the document relates to the specified election;

and any endorsement on any packet of ballot papers so produced shall be prima facie evidence that the ballot papers are what they are stated to be by the endorsement.

(5) The production from proper custody of a ballot paper purporting to have been used at any election, and of a counterfoil marked with the same printed number and having a number marked thereon in writing, shall be prima facie evidence that the elector whose vote was given by that ballot paper was the person who at the time of the election had affixed to his name in the register of electors the same number as the number written on the counterfoil.

(6) Save as by this rule provided, no person shall be allowed to inspect any rejected or counted ballot papers in the possession of the Clerk of the Rolls or to open any sealed packets of counterfoils and certificates.

52 Retention and public inspection of documents

(1) The Clerk of the Rolls shall retain for a year all documents relating to an election forwarded to him in pursuance of these rules by a returning officer, and then, unless otherwise directed by order of the Keys or the High Court, shall cause them to be destroyed.

(2) The said documents, except ballot papers and counterfoils, shall be open to public inspection at such time and subject to such conditions as the Clerk of the Rolls may decide.

SCHEDULE 3

PROCEDURE ON ELECTION PETITION

Section 56(3)

1. Interpretation

In this Schedule —

“**petition**” means an election petition;

“**the court**” means the High Court.

2. Presentation and service of petition

(1) A petition may be presented by one or more of the following persons —

- (a) a person who voted as an elector at the election or who had a right so to vote;
- (b) a person claiming to have had a right to be elected or returned at the election; or
- (c) a person alleging himself to have been a candidate at the election.

(2) The respondent to a petition shall be —

- (a) if the petition complains of the conduct of a returning officer, the returning officer;

(b) in any other case, the member whose election or return is complained of.

(3) The petition shall —

- (a) be addressed to the court;
- (b) be in the prescribed form;
- (c) state the prescribed matters;
- (d) be signed by the petitioner, or all the petitioners if more than one;
- (e) be filed at the General Registry; and
- (f) be served in the prescribed manner.

(4) The Chief Registrar shall cause a copy of the petition to be sent to the returning officer of the constituency to which the petition relates, who shall forthwith publish it in that constituency.

3. Time for presentation or amendment of petition

(1) Subject to this paragraph, a petition shall be presented within 28 days after the return has been made to the Clerk of the Rolls of the member to whose election the petition relates.

(2) If the matter complained of in the petition is an alleged illegal payment, or any payment of money or other act made or done since the return has been made, by the member to whose election the petition relates or any agent of his or with the privity of the member, in pursuance or furtherance of the matter complained of, the petition may so far as respects such matter be filed within 28 days after the date of the payment or other act.

(3) If the petition is one complaining of no return, it shall be filed within 56 days of the issue of the writ of election.

(4) For the purposes of this paragraph, an allegation that an election is avoided under section 61 shall be treated as an allegation of corrupt practices, notwithstanding that the offences alleged are, or include, offences other than corrupt practices.

4. Security for costs etc.

(1) The petitioner shall in accordance with rules of court give security, in such amount (not exceeding the prescribed amount) as the Clerk of the Rolls directs, for all costs which may become payable by him in connection with the petition.

(2) Within the prescribed time the petitioner shall serve on the respondent —

- (a) a notice of the presentation of the petition, and of the nature of the proposed security, and
- (b) a copy of the petition.

(3) The respondent may in accordance with rules of court object to any security given by the petitioner on the ground that —

- (a) any surety is insufficient or dead, or cannot be found or identified, or
- (b) a person named as surety has not duly acknowledged the recognisance;

and the objection shall be decided by the court.

(4) If no security is given as required by this paragraph, or any objection is allowed and not removed, no further proceedings shall be had on the petition.

5. Petition at issue

On the expiration of the time limited for objections, or, after objection made, on the objection being disallowed or removed, whichever last happens, the petition shall be at issue.

6. Trial of petition

(1) A petition shall be tried in open court without a jury, and notice of the time and place of trial shall be given in the prescribed manner, not less than 14 days before the day of trial.

(2) The trial of a petition shall be proceeded with notwithstanding the acceptance by the respondent of an office of profit under the Crown or under the Government of the Island, and notwithstanding the prorogation of the Keys.

(3) On the trial of a petition, unless the court otherwise directs, any charge of a corrupt or illegal practice may be gone into, and evidence in relation thereto received, before any proof has been given of agency on behalf of any candidate in respect of the corrupt or illegal practice.

(4) On the trial of a petition complaining of an undue election and claiming the seat or office for some person, the respondent may give evidence to prove that that person was not duly elected, in the same manner as if he had presented a petition against the election of that person.

(5) If it appears during the hearing of a petition that there is an equality of votes between any candidates at the election, and that the addition of a vote would have entitled any of these candidates to be declared elected, then —

- (a) any decision under the provisions as to equality of votes in the election rules shall, in so far as it determines the question between those candidates, be effective also for the purposes of the petition; and
- (b) in so far as that question is not determined by such a decision the court shall decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote.

7. Witnesses

(1) The Attorney General shall obey any direction given him by the court with respect to the summoning and examination of any witness to give evidence at the trial.

(2) The Attorney General shall, without any direction from the court, cause any person appearing to him to be able to give material evidence as to the subject of the trial to attend the trial and shall with the leave of the court examine him as a witness.

(3) A person called as a witness respecting an election before the court shall not be excused from answering any question relating to any offence at, or connected with, the election, on the ground that the answer thereto may criminate or tend to criminate that person or the spouse or civil partner of that person, or on the ground of privilege; but —

- (a) a witness who answers truly all questions which he is required by the court to answer shall be entitled to receive a certificate of indemnity under the hand of the Deemster presiding at the court stating that the witness has so answered; and
- (b) an answer by a person to a question put by, or before, the court shall not, except in the case of any criminal proceeding for perjury in respect of the evidence, be in any proceeding, civil or criminal, admissible in evidence against that person or the spouse or civil partner of that person.⁴⁹

(4) The giving or refusal to give a certificate of indemnity to a witness by a court shall be final and conclusive.

(5) Where a person has received a certificate of indemnity in relation to an election, and any legal proceeding is at any time instituted against him for any corrupt or illegal practice committed by him previously to the date of the certificate at or in relation to the election, or any illegal payment or hiring or contravention of section 39 so committed, the court having cognizance of the case shall on production of the certificate stay the proceeding, and may in its discretion award to the said person such costs as he may have been put to in the proceeding.

(6) Nothing in this paragraph shall relieve a person receiving a certificate of indemnity from any incapacity under this Act or from any proceedings to enforce that incapacity (other than a criminal prosecution).

(7) The reasonable expenses incurred by any person in appearing to give evidence at the trial of a petition, according to the scale allowed to witnesses on the trial of civil actions, may be allowed to him by a certificate of the court.

8. Conclusion of trial of petition

(1) At the conclusion of the trial of a petition the court shall determine whether the member whose petition, election or return is complained of, or any, and what, other person was duly returned or elected, or whether the election was void, and shall forthwith certify in writing the determination to the Speaker, and the determination so certified shall be final to all intents and purposes.

(2) Where any charge is made in the petition of any corrupt or illegal practice having been committed at the election, the court shall, in addition to giving a certificate, and at the same time, make a report to the Speaker as required by paragraph 9 and also stating whether corrupt or illegal practices have, or whether there

is reason to believe that corrupt or illegal practices have, extensively prevailed at the election.

(3) The court may at the same time make a special report to the Speaker as to matters arising in the course of the trial an account of which in the judgment of the court ought to be submitted to the Keys.

(4) The Keys on being informed of a certificate and any report of the court, shall order the certificate and report (if any) to be entered in their proceedings or minutes and shall give the necessary direction for confirming or altering the return, or for reporting to the Governor the vacancy in pursuance of section 5 with a view to issuing a writ for a new election, or for carrying the determination into execution as the circumstances may require; and where the court makes a special report, the Keys may make such order in respect of that report as they think proper.

9. Further provisions as to report under paragraph 8

(1) The report of the court under paragraph 8 shall state —

- (a) whether any corrupt or illegal practice has or has not been proved to have been committed by or with the knowledge and consent of any candidate at the election, and the nature of the corrupt or illegal practice;
- (b) whether any of the candidates has been guilty by his agents of any corrupt or illegal practice in reference to the election;
- (c) the names of all persons (if any) who have been proved at trial to have been guilty of any corrupt or illegal practice and whether they have been furnished with certificates of indemnity.

(2) Before any report is made against a person who is neither a party to the petition nor a candidate on behalf of whom the seat is claimed by the petition, the court shall first —

- (a) cause notice to be given to him, and
- (b) if he appears in pursuance of the notice, give him an opportunity of being heard by himself and of calling evidence in his defence to show why he should not be so reported.

(3) The report shall be laid before the Attorney General with a view to his instituting or directing a prosecution against such persons as have not received certificates of indemnity, if the evidence should, in his opinion, be sufficient to support a prosecution.

(4) This paragraph is subject to section 32(4) and (5).

10. Withdrawal of petition

(1) A petitioner shall not withdraw a petition without the leave of the court on special application, made in the prescribed manner.

(2) The application shall not be made until the prescribed notice of the intention to make it has been given in the constituency to which the petition relates.

(3) Where there are more petitioners than one, the application shall not be made except with the consent of all the petitioners.

(4) If a petition is withdrawn the petitioner shall be liable to pay the costs of the respondent.

11. Evidence required for withdrawal of petition

(1) Before leave for the withdrawal of a petition is granted, there shall be produced affidavits by all the parties to the petition and their advocates, but the court may on cause shown dispense with the affidavit of any particular person if it seems to the court on special grounds to be just so to do.

(2) Each affidavit shall state that, to the best of the deponent's knowledge and belief, no agreement or terms of any kind whatsoever has or have been made, and no undertaking has been entered into, in relation to the withdrawal of the petition; but if any lawful agreement has been made with respect to the withdrawal of the petition, the affidavit shall set forth that agreement, and shall make the foregoing statement subject to what appears from the affidavit.

(3) The affidavits of the applicant and his advocate shall further state the ground on which the petition is sought to be withdrawn.

(4) Copies of the said affidavits shall be delivered to the Attorney General a reasonable time before the application for the withdrawal is heard, and the court may hear the Attorney General or his assistant, or other representative, in opposition to the allowance of the withdrawal of the petition, and may receive the evidence on oath of any person or persons whose evidence the Attorney General or his assistant or other representative may consider material.

(5) Where more than one advocate is concerned for the petitioner or respondent, whether as agent for another advocate or otherwise, the affidavit shall be made by all such advocates.

12. Corrupt withdrawal

If any person makes any agreement or enters into any undertaking in relation to the withdrawal of a petition, and the agreement or undertaking is for the withdrawal of the petition in consideration —

- (a) of any payment, or
- (b) that the seat or office shall at any time be vacated, or
- (c) of the withdrawal of any other petition,

or is (whether lawful or unlawful) not mentioned in the said affidavits, he shall be guilty of an offence and liable on conviction on information to imprisonment for a term not exceeding 12 months or to a fine, or to both.

13. Substitution of new petitioner

(1) On the hearing of the application for leave to withdraw, any person who might have been a petitioner in respect of the election may apply to the court to be

substituted as a petitioner, and the court may, if it thinks fit, substitute him accordingly.

(2) If the proposed withdrawal is in the opinion of the court the result of any agreement or undertaking prohibited by section 39 or induced by any corrupt bargain or consideration, the court may by order direct that the security given on behalf of the original petitioner shall remain as security for any costs that may be incurred by the substituted petitioner, and that, to the extent of the sum named in the security, the original petitioner and his sureties shall be liable to pay the costs of the substituted petitioner.

(3) If the court does not so direct, then security to the same amount as would be required in the case of a new petitioner and subject to the like conditions shall be given on behalf of the substituted petitioner before he proceeds with his petition and within the prescribed time after the order of substitution.

(4) Subject as aforesaid, a substituted petitioner shall as nearly as may be stand in the same position and be subject to the same liabilities as the original petitioner.

14. Report on withdrawal

If a petition is withdrawn, the court shall make a report to the Speaker stating whether in the opinion of the court the withdrawal of the petition was —

- (a) the result of any agreement or undertaking, or
 - (b) in consideration of any matter specified in paragraph 12 or for any other consideration,
- and, if so, shall state the circumstances attending the withdrawal.

15. Withdrawal after double return

(1) Where —

- (a) a petition complains of a double return to a writ for an election; and
- (b) the respondent has given notice to the court that he does not intend to oppose the petition; and
- (c) no party has been admitted under the following provisions to defend the petition; and
- (d) there is no petition complaining of the other member returned on the double return,

the petitioner may withdraw by notice addressed to the court, who upon receipt of the notice shall report the fact of the withdrawal to the Speaker.

(2) The Keys shall thereupon give the necessary directions for amending the double return by striking out the certificate by which the respondent declining to oppose the petition was returned, or otherwise as the case may require.

16. Abatement of petition

(1) A petition shall be abated by the death of a sole petitioner or of the survivor of several petitioners.

(2) The abatement shall not affect the liability of the petitioner or any other person to the payment of costs previously incurred.

(3) On the abatement the prescribed notice thereof shall be given in the constituency to which the petition relates; and within the prescribed time after the notice is given, any person who might have been a petitioner in respect of the election may apply to the court in the prescribed manner and at the prescribed time to be substituted as a petitioner; and the court may, if it thinks fit, substitute him accordingly.

(4) Security shall be given on behalf of a petitioner so substituted, as in the case of a new petition.

17. Withdrawal and substitution of respondents before trial

(1) If before the trial of a petition a respondent other than a returning officer —

(a) gives the prescribed notice that he does not intend to oppose the petition, or dies; or

(b) becomes a member of the Council,

or the Keys have resolved that his seat is vacant, the prescribed notice thereof shall be given in the constituency to which the petition relates, and, within the prescribed time after the notice is given, any person who might have been a petitioner in respect of the election may apply to the court to be admitted as a respondent to oppose the petition, and shall be admitted accordingly, except that the number of persons so admitted shall not exceed 3.

(2) A respondent who has given the prescribed notice that he does not intend to oppose the petition shall not be allowed to appear or act as a party against the petition in any proceedings thereon, and he shall not sit or vote in the Keys until the Keys have been informed of the report on the petition.

(3) Where a respondent to a petition has given the prescribed notice in the prescribed time and manner, the court shall report that fact to the Speaker.

18. Costs of petition

(1) All costs of and incidental to the presentation of a petition and the proceedings consequent thereon, except as otherwise provided for, shall be defrayed by the parties to the petition in such manner and in such proportions as the court may determine; and in particular any costs which in the opinion of the court have been caused by vexatious conduct, unfounded allegations or unfounded objections on the part either of the petitioner or of the respondent, and any needless expense incurred or caused on the part of the petitioner or respondent, may be ordered to be defrayed by

the parties by whom it has been incurred or caused, whether or not they are on the whole successful.

(2) If a petitioner neglects or refuses for 3 months after demand to pay to any person summoned as a witness on his behalf or to the respondent any sum certified to be due to him for his costs, and the neglect or refusal is within one year after the demand proved to the satisfaction of the court, every person who under this Act entered into a recognisance relating to the petition shall be held to have made default in the recognisance, and the court shall thereupon certify the recognisances to be forfeited and grant execution against every such person in favour of the witness or respondent, as the case may be, in respect of the sum due to him.

19. Further provisions as to costs

- (1) Where upon the trial of a petition it appears to the court —
- (a) that a corrupt practice has not been proved to have been committed in reference to the election by or with the knowledge and consent of the respondent to the petition, and
 - (b) that the respondent took all reasonable means to prevent corrupt practices being committed on his behalf,
- the court may make one or more orders with respect to the payment either of the whole or such part of the costs of the petition as the court may think right as provided by subparagraph (2).

(2) If it appears to the court that any person or persons is or are proved, whether by providing money or otherwise, to have been extensively engaged in corrupt practices, or to have encouraged or promoted extensive corrupt practices in reference to the election, the court may, after giving that person, or those persons, an opportunity of being heard by an advocate and examining and cross-examining witnesses to show cause why the order should not be made, order the whole or part of the costs to be paid by that person or those persons or any of them; and may order that if the costs cannot be recovered from one or more of those persons, they shall be paid by some other of those persons or by either of the parties to the petition.

(3) Where any person appears to the court to have been guilty of a corrupt or illegal practice, the court may, after giving that person an opportunity of making a statement to show why the order should not be made, order the whole or any part of the costs of, or incidental to, any proceeding before the court in relation to the said person to such person or persons as the court may direct.

20. Appeals and jurisdiction

(1) No appeal shall lie without the special leave of the court from the decision of the court on any question of law, whether on appeal or otherwise, under the foregoing provisions of this Schedule, and if leave to appeal is granted the decision of the court on the appeal shall be final and conclusive.

(2) Subject to the provisions of this Act and of rules of court, the court shall, so far as may be, observe the principles, practices and rules on which select committees of the Keys used to act in dealing with election petitions.

(3) The court shall, subject to the provisions of this Act, have the same powers, jurisdiction and authority with respect to a petition and the proceedings thereon as if the petition were an ordinary action within its jurisdiction.

SCHEDULE 4⁵⁰

SCHEDULE 5

SUBSTITUTED SCHEDULE 1 TO THE LOCAL ELECTIONS ACT 1986

Section 79⁵¹

SCHEDULE 6

TRANSITIONAL PROVISIONS

Section 81(l)

Interpretation

1. In this Schedule 'the 1951 Act' means the Representation of the People Act 1951.

Polling districts

2. Any order under section 49 of the 1951 Act which is in force immediately before commencement shall have effect as if it were made under section 12(2).

Returning officers

3. Any returning officer holding office immediately before the 1st January 1996 shall be deemed to have been appointed for a term expiring 12 months after the date on which he was appointed under section 61 of the 1951 Act.

Disciplinary action

4. Until the coming into operation of the Licensing Act 1995 the references in section 59 to that Act shall be construed as references to the Licensing Act 1961.

Premises not to be used as committee rooms

5. Until the coming into operation of the Licensing Act 1995 —

- (a) the references to liquor in section 40(2) shall be construed as references to intoxicating liquor within the meaning of the Licensing Act 1961, and
- (b) section 40(3) shall not have effect.

Forms

6. The Appendix to Schedule 4, and Schedule 5, to the 1951 Act, as they had effect immediately before the 1st January 1996, shall have effect as if they were contained in regulations under this Act, and may be revoked or amended accordingly.⁵²

Fees

7. (1) Schedule 6 to the 1951 Act, as it had effect immediately before the 1st January 1996, shall have effect as if it were an order under subsection (2) of section 20, and may be revoked or amended accordingly.⁵³

(2) In its application to the first order under that subsection, that subsection shall have effect with the substitution, for the reference to the last such order, of a reference to the last order under section 75(1) of the 1951 Act.

SCHEDULE 7

AMENDMENT OF ENACTMENTS

Section 81(2)

[Sch 7 amended by Education Act 2001 Sch 11 and by Registration of Electors Act 2006 Sch 3, and amends the following Acts –

Isle of Man Constitution Amendment Act 1919 q.v.

Local Elections Act 1986 q.v.

Legal Aid Act 1986 q.v.]

SCHEDULE 8

REPEALS AND REVOCATIONS

Section 81(3)

PART 1 – ENACTMENTS REPEALED

Part 1 repeals the following Acts wholly –

Representation of the People Act 1951

Representation of the People Act 1956

Representation of the People Act 1966

Representation of the People (Members of Tynwald and Local Authorities) Act 1971

Representation of the People (Amendment) Act 1976

Representation of the People (Preferential Voting) Act 1982

Representation of the People Act 1985

Representation of the People Act 1990

and the following Acts in part –

Bankruptcy Code 1892

Isle of Man Constitution Amendment Act 1919

Castletown Town Act 1966

Ramsey Town Act 1970

Civil Evidence Act 1973

Statute Law Revision (Miscellaneous Provisions) Act 1979

Governor's General Functions (Transfer) Act 1980

Constitution (Amendment) Act 1981

Statute Law Revision Act 1983

Registration of Electors Act 1984

Douglas Extension of Boundaries Act 1985

Treasury Act 1985

Fines Act 1986

Local Elections Act 1986

Education Act 1986

Payment of Members' Expenses Act 1989

Ramsey (Boundary Extension) Act 1993

Broadcasting Act 1993.]

PART 2 – ORDERS REVOKED

Part 2 repeals the following Orders wholly –

Election Rules Amendment Order 1966 (GC31/66)

Election Rules (Amendment) Order 1983 (GC231/83)

Election Rules (Amendment) (No.2) Order 1983 (GC13/84)

Election Rules (Amendment) Order 1986 (GC176/86)

Election Rules (Amendment) (No.3) Order 1986 (GC251/86)

and the following Orders in part –

Transfer of Functions (Treasury) Order 1986 (GC69/86)

Department of Local Government and the Environment Order 1986 (GC192/86).]

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

¹ S 2 amended by Representation of the People (Amendment) Act 2006 s 1(a) and (b).

² Para (b) amended by Registration of Electors Act 2006 Sch 3.

³ S 5 amended by Representation of the People (Amendment) Act 2004 s 1.

⁴ Subs (9) added by Representation of the People (Amendment) Act 2004 s 2.

⁵ Subs (10) added by Representation of the People (Amendment) Act 2004 s 2.

⁶ Subs (1A) inserted by Presiding Officers Act 2008 s 1.

⁷ Subs (1B) inserted by Presiding Officers Act 2008 s 1.

⁸ Para (b) amended by Representation of the People (Amendment) Act 2004 s 3.

⁹ S 9A inserted by Presiding Officers Act 2008 s 2.

¹⁰ S 9B inserted by Presiding Officers Act 2008 s 3.

¹¹ Subs (2) amended by Representation of the People (Amendment) Act 2006 s 4.

¹² S 26 substituted by Representation of the People (Amendment) Act 2006 s 2.

¹³ Subs (1) amended by Representation of the People (Amendment) Act 2006 s 3.

¹⁴ Para (a) amended by Representation of the People (Amendment) Act 2006 s 4.

¹⁵ Subs (3) amended by Civil Partnership Act 2011 Sch 14.

¹⁶ Para (j) amended by Civil Partnership Act 2011 Sch 14.

¹⁷ Para (d) amended by Education (Miscellaneous Provisions) Act 2009 Sch 1.

¹⁸ Subs (1) amended by Education (Miscellaneous Provisions) Act 2009 Sch 1.

¹⁹ Para (a) amended by Education (Miscellaneous Provisions) Act 2009 Sch 1.

²⁰ Para (b) amended by Education (Miscellaneous Provisions) Act 2009 Sch 1.

²¹ Subs (2) amended by Education (Miscellaneous Provisions) Act 2009 Sch 1.

²² Subs (3) amended by Education (Miscellaneous Provisions) Act 2009 Sch 1.

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- ²³ S 76 and cross heading relating to this section repealed by Registration of Electors Act 2006 Sch 3.
- ²⁴ Definition of ‘the Board of Education’ repealed by Education (Miscellaneous Provisions) Act 2009 Sch 1.
- ²⁵ Definition of ‘registration officer’ amended by Registration of Electors Act 2006 Sch 2.
- ²⁶ S 78 repealed by Education (Miscellaneous Provisions) Act 2009 Sch 1.
- ²⁷ 1985/8/Sch 1; 1993/2/2; GC37/92
- ²⁸ Entry (3) amended by SD297/11. Entry (7) amended by SD570/06.
- ²⁹ Para (d) substituted by SD570/06.
- ³⁰ Para (b) substituted by SD570/06.
- ³¹ Definition of ‘elector’ amended by Registration of Electors Act 2006 Sch 3.
- ³² Definition of ‘electoral number’ amended by Registration of Electors Act 2006 Sch 3.
- ³³ Subrule (1) amended by SD570/06.
- ³⁴ Subitem (i) amended by SD155/10 Sch 10.
- ³⁵ Rule 23 substituted by SD570/06.
- ³⁶ Para (a) amended by SD570/06.
- ³⁷ Subrule (1A) inserted by SD570/06.
- ³⁸ Item (d) amended by Civil Partnership Act 2011 Sch 14.
- ³⁹ Item (b) amended by Civil Partnership Act 2011 Sch 14.
- ⁴⁰ Subrule (3) amended by SD570/06.
- ⁴¹ Subpara (iii) inserted by SD570/06.
- ⁴² Subpara (2) amended by Civil Partnership Act 2011 Sch 14.
- ⁴³ Paragraph (b) substituted by SD570/06.
- ⁴⁴ Para (f) amended by SD570/06.
- ⁴⁵ Subrule (1A) inserted by SD570/06.
- ⁴⁶ Para (g) inserted by SD570/06.
- ⁴⁷ Para (h) inserted by SD570/06.
- ⁴⁸ Subrule (1) amended by SD570/06. (Ed.: Please note that there is no subrule (2).)
- ⁴⁹ Subpara (3) amended by Civil Partnership Act 2011 Sch 14. Item (b) amended by Civil Partnership Act 2011 Sch 14.
- ⁵⁰ Sch 4 repealed by Education (Miscellaneous Provisions) Act 2009 Sch 1.
- ⁵¹ Sch 5 substitutes Sch 1 to Local Elections Act 1986.
- ⁵² Appendix to Sch 4 and Sch 5 repealed by SD638A/95.
- ⁵³ For order under s 20(2) see SD455/96.



REPRESENTATION OF THE PEOPLE REGULATIONS 2014

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Statutory Document No. XX/20XX

*Representation of the People Act 1995*

REPRESENTATION OF THE PEOPLE REGULATIONS 2014

*Approved by Tynwald:**Coming into Operation:*

The Governor in Council makes the following Regulations under sections 16, 18, 22, 26, 27, 31 and 80 of the Representation of the People Act 1995.

PART 1 – INTRODUCTORY

1 Title

These Regulations are the Representation of the People Regulations 2014.

2 Commencement

If approved by Tynwald, these Regulations come into operation on .

3 Interpretation

(1) In these regulations —

“**the Act**” means the Representation of the People Act 1995;

“**advance voter ballot paper account**” has the meaning assigned by paragraph 10(4) of Schedule 2;

“**advance voters’ list**” has the meaning assigned by paragraph 4 of Schedule 2;

“**ballot paper account**” means a statement made by the presiding officer showing the number of ballot papers entrusted to him or her, and accounting for them under the heads of ballot papers in the ballot box, unused, spoilt and tendered ballot papers;

“**electoral number**” means a person’s number in the register to be used at the election;

“**nomination day**” means the final day for the delivery of nomination papers;

“**spoilt ballot paper**” has the meaning assigned by regulation 41;

“**tendered ballot paper**” has the meaning assigned by regulation 40(1);

“**tendered votes list**” has the meaning assigned by regulation 40(3).

- (2) In these regulations references to polling and counting agents are references to agents whose appointments have been duly made and notified and, where the number of agents is limited, who are within the permitted number.

4 Oath of office of returning officers and deputy returning officers

- (1) The form of oath required by section 16(1) of the Act to be taken by returning officers is set out in Part 1 of Schedule 1 and a copy of the oath must be annexed to the writ.
- (2) On appointing a deputy returning officer under section 18 of the Act the returning officer must immediately administer to the deputy returning officer an oath in the form set out in Part 2 of Schedule 1, and the certificate of the oath must be attached to each appointment.

5 Timetable

The proceedings at an election must be conducted in accordance with the following Table: —

<i>Event</i>	<i>By when</i>
(1) Issue of writ	(a) In the case of a by-election, within 2 months of receiving the report of a casual vacancy (but the Governor must not issue the writ if it appears to the Governor that the Keys will be dissolved within 4 months of the date on which the writ would otherwise be issued).
	(b) Immediately on the dissolution of the Keys (which is 6 weeks before the election).
	(c) If the returning officer has made a special return of a writ to the effect that the number of candidates elected is less than the number of vacancies to be filled or that no candidate has been elected, within one month of the receipt of the special return.
(2) Delivery of nomination papers	From 10.00 am 6 days after the day mentioned in (1)(b) above and 1 pm on the 6th day thereafter.
(3) The making of objections to nominations	Within the time for the delivery of nomination papers and half an hour

	thereafter.
(4) last day for receipt of advance voter applications from outside the Island	7 days before date of election
(5) Last day for – (a) receipt of advance voter applications within the Island; (b) issue of advance voter ballot papers outside the Island; (c) receipt of proxy application.	6 days before date of election
(6) Last day for issue of advance voter ballot papers within the Island; Registration Officer to issue a copy of the list of proxies to returning officers	3 days before date of election
(7) Polling	(a) for general election between 8 am and 8 pm on the 4th Thursday in September.
	(b) for other elections between 8.00 a.m. and 8.00 p.m. on a day, to be fixed by the Governor, not earlier than the 28th day and not later than the 42nd day after the receipt of the writ by the returning officer
(8) Return of the writ	Within 24 hours after completion of the count.

PART 2 – STAGES COMMON TO CONTESTED AND UNCONTESTED ELECTIONS

6 Delivery of writ

- (1) Every writ of election must be delivered by hand to the returning officer no later than the day after it was issued.
- (2) On receiving the writ the returning officer must immediately endorse on it the date on which he or she received it.

7 Notices of election

- (1) The Chief Secretary must publish the following notices of election as soon as practicable after the issue of the writ –
 - (a) a notice for potential voters containing information on advance and proxy voting;
 - (b) a notice for potential candidates containing information about the nomination process.
- (2) The notice mentioned in paragraph (1)(b) must contain –
 - (a) a warning as to corrupt practices; and

- (b) advice on obtaining a copy of the Act, these regulations and a copy of the register of electors.
- (3) The notices of election are composite notices for —
 - (a) all the constituencies, in the case of a general election;
 - (b) all the constituencies to which the writs relate, where writs for more than one by-election are issued on the same day.
- (4) The notices of election must be published —
 - (a) by insertion in a newspaper published and circulating within the Island; and
 - (b) by display on an appropriate website in an appropriate manner, and may be published by placard posted up in some public and conspicuous situation in the constituency to which the notices refer.

8 Nomination of candidates

- (1) Every candidate must be nominated by a separate nomination paper delivered to the returning officer, at the place fixed for the purpose, by the candidate personally or by the candidate's proposer or seconder.
- (2) The nomination paper must be as near as possible to the form specified by the Chief Secretary and must state —
 - (a) the full names, place of residence, telephone number, email address (if any) and political party (if any) of the candidate (the surname being placed first in the list of names); and
 - (b) whether the candidate meets the qualification requirements for membership of the Keys set out in section 1(1) of the Act.
- (3) Each candidate must produce to the returning officer his or her passport as proof of compliance with section 1(1)(b) of the Act.

9 Subscription of nomination paper

- (1) The nomination paper must be subscribed by 2 electors as proposer and seconder, and by not less than 20 other electors assenting to the nomination, but only 20 of those electors are treated for the purposes of paragraph (5) as having subscribed the nomination paper.
- (2) The nomination paper must give the electoral number of each person subscribing it.
- (3) Nomination papers must be supplied on request to candidates by the Chief Secretary and made available to download from the Government website during the period between the day on which notice of the election was given, up to and including the last day for the delivery of nomination papers.

- (4) The nomination paper must include or be accompanied by an instruction as to its completion.
- (5) The same elector may subscribe as many nomination papers as there are vacancies to be filled, but no more, and the elector's signature is invalid on any nomination paper subscribed and duly delivered in excess of that number.

10 Consent to nomination

If a nomination paper is not delivered personally by the person named as candidate, the person is not validly nominated unless his or her written consent to the nomination, attested by a witness, is delivered at the place and within the time appointed for the delivery of nomination papers.

11 Place and time for early delivery of nomination papers

Nomination papers may be delivered to the returning officer for a constituency to a place specified by the returning officer by the candidate personally or by his or her proposer or seconder at a time agreed with the returning officer, being any time in the week before nomination day.

12 Nomination day and objections to nominations

- (1) The deadline for the delivery of nomination papers is 1 pm on nomination day, and delivery must be to a place specified by the returning officer.
- (2) A person may object to the nomination of a candidate during any time for the delivery of nomination papers and within half an hour thereafter.
- (3) Accordingly, the returning officer must invite the persons mentioned in regulation 13(1) to attend at a specified venue by the deadline mentioned in paragraph (1) for the duration of the half hour period specified in paragraph (2).

13 Right to attend prior to close of nominations and objections

- (1) Except for the purpose of delivering a nomination paper or assisting the returning officer, no person may attend the proceedings during the time mentioned in regulation 9(3) other than —
 - (a) a person standing nominated as a candidate;
 - (b) the proposer or seconder of such a person; and
 - (c) one other person selected by such a person.
- (2) The right to attend conferred by this regulation includes the right to inspect, and to object to the validity of, any nomination paper.

14 Decisions as to validity of nomination papers

- (1) When a nomination paper and, if required, the candidate's consent to nomination, are delivered in accordance with these regulations, the candidate stands nominated unless and until —
 - (a) the returning officer decides that the nomination paper is invalid;
 - (b) proof is given to the satisfaction of the returning officer of the candidate's death; or
 - (c) the candidate withdraws in accordance with regulation 15.
- (2) The returning officer may hold a nomination paper invalid at any time before the expiry of the period specified in regulation 12(1).
- (3) A nomination paper may not be held invalid except on the ground that —
 - (a) the particulars of the candidate or the persons subscribing the paper are not as required by law; or
 - (b) the paper is not subscribed as so required.
- (4) The returning officer must give a decision on any objection to a nomination paper as soon as practicable after it is made.
- (5) If deciding that a nomination paper is invalid, the returning officer must —
 - (a) endorse and sign on the paper the decision and the reasons for it; and
 - (b) as soon as practicable, notify the candidate in writing of the decision and the reasons for it.
- (6) The decision of the returning officer that a nomination paper is valid is final and may not be questioned in any proceeding whatsoever.
- (7) Subject to paragraph (6), nothing in this regulation prevents the validity of a nomination being questioned on an election petition.

15 Withdrawal of candidates

- (1) A candidate may, up until the time specified in regulation 12(1), but not afterwards, withdraw from the candidature by giving a notice in writing to that effect to the returning officer.
- (2) A notice under this regulation must be —
 - (a) signed by the candidate or, if the candidate is outside the Island, by his or her proposer;
 - (b) if delivered by any person other than the candidate, attested by a witness; and
 - (c) if signed by the proposer, accompanied by a signed declaration by the proposer as to the candidate's absence from the Island.

16 Method of election

- (1) If at the expiry of the time specified in regulation 12(1) more candidates stand nominated than there are vacancies to be filled, a poll must be taken in accordance with Part 3.
- (2) If at that time no more candidates stand nominated than there are vacancies to be filled, those candidates are immediately declared to be elected in accordance with Part 4.

PART 3 – CONTESTED ELECTIONS**DIVISION 1 - GENERAL PROVISIONS****17 Poll to be taken by ballot**

The votes at the poll are to be given by ballot, the votes given to each candidate counted and the result determined in accordance with the following provisions of this Part.

18 The ballot papers

- (1) The ballot of every voter is to consist of a ballot paper, and only the persons standing nominated may have their names on the ballot paper.
- (2) Every ballot paper must –
 - (a) be in the form specified by the Chief Secretary;
 - (b) be printed in accordance with the Chief Secretary's directions;
 - (c) contain the names and other particulars of the candidates nominated as shown in their respective nomination papers;
 - (d) have a 3 cm border round its edge so that all text is inside this border;
 - (e) be capable of being folded up;
 - (f) have a number printed on the back; and
 - (g) have attached a counterfoil with the same number printed on the face.
- (3) The list of candidates on the ballot paper must be arranged alphabetically in the order of their surnames and, if there are 2 or more candidates of the same surname, in the order of their other names.

19 The official mark

- (1) Every ballot paper must be marked with an official mark in the manner specified by the Chief Secretary so as to preclude false ballot papers being included in the count.

- (2) The official mark must be kept secret and an interval of not less than 7 years must intervene before the use of the same official mark at elections for the same constituency.

20 Prohibition of disclosure of votes

A person who has voted at the election may not be required, in any legal proceedings to question the election or return, to state for whom he or she voted.

21 Use of schools and public rooms

- (1) Subject to subsection (2), the returning officer may use, free of charge, for the purpose of taking the poll any room —
 - (a) in a school —
 - (i) maintained by the Department of Education and Children; or
 - (ii) in respect of which grants are made out of moneys provided by Tynwald to the person or body of persons responsible for the management of the school; or
 - (b) the expense of maintaining which is payable out of any rate.
- (2) A room mentioned in paragraph (1)(a) may be used only if the returning officer considers that there is no adequate alternative accommodation within, or within half a mile beyond the limits of, the polling district for which the room is to be used.
- (3) The returning officer must make good any damage done to, and defray any expense incurred by the persons having control over, any room mentioned in paragraph (1) by reason of its being used for the purpose of taking the poll.

DIVISION 2 - ACTION TO BE TAKEN BEFORE THE POLL

22 Notice of poll

The returning officer must, as soon as practicable after the expiration of the time specified in regulation 12(1), give public notice of the poll in the manner specified by the Chief Secretary.

23 Distribution of election manifestos

- (1) The funding of the cost of delivery of a manifesto under section 31(2) of the Act —
 - (a) is limited to the minimum charge for a standard letter;
 - (b) where 2 or more candidates issue a manifesto jointly, is limited to the supply of only one copy of the manifesto to each household.

- (2) If the candidate supplies a manifesto for delivery –
 - (a) that would cost more than the minimum charge for a standard letter; or
 - (b) after the date required by the Isle of Man Post Office to allow reasonable time for franking and delivery before the election,the Post Office may refuse to deliver it unless the candidate pays for the postage.

24 Death of candidate

- (1) This regulation applies if, after publication of the notice of the poll and before the result of the election is declared, proof is given to the satisfaction of the returning officer of the death of one of the persons shown as standing nominated.
- (2) Where this regulation applies the returning officer must countermand notice of the poll or, if polling has begun, direct that the poll be abandoned, and all proceedings with reference to the election must be commenced afresh in all respects as if the writ had been received on the day on which proof was given to the returning officer of the death.
- (3) No fresh nomination is necessary in the case of a person whose name has been published as standing nominated.
- (4) The time for delivery of nomination papers and the time for polling is determined in accordance with the second column in the Timetable in regulation 5 (with the necessary modification of any reference to the date on which the writ is received).
- (5) If the poll is abandoned under this regulation the proceedings at or consequent on that poll are interrupted, and the presiding officer at any polling station must take like steps for delivery to the returning officer of ballot boxes, ballot papers and other documents as he or she is required to take on the close of the poll, and the returning officer must dispose of ballot papers and other documents in his possession as required on the completion of the counting of the votes.
- (6) However –
 - (a) it is not be necessary for any ballot paper account to be prepared or verified; and
 - (b) the returning officer, without taking any step or further step for the counting of the ballot papers or of the votes, must seal up all the ballot papers, whether the votes on them have been counted or not, but it is not necessary to seal up counted and rejected ballot papers in separate packets.
- (7) The provisions of these regulations as to the inspection, production, retention and destruction of ballot papers and other documents relating to a poll at an election apply to any such documents relating to a poll

abandoned by reason of a candidate's death, with the following modifications—

- (a) ballot papers on which the votes were neither counted nor rejected are treated as counted ballot papers; and
- (b) no order may be made for the production or inspection of any ballot papers or for the opening of a sealed packet of counterfoils or certificates as to employment on duty on the day of the poll unless the order is made by a court with reference to a prosecution.

25 Advance voting

Schedule 2 sets out the requirements and procedures applicable to advance voters.

26 Proxy votes

Schedule 3 has effect in respect of applications to vote by proxy.

27 Provision of polling stations

- (1) The returning officer must provide one polling station for each polling district.
- (2) Two or more polling stations may be provided in the same room.
- (3) A polling station must be within half a mile of the limits of the polling district that it is intended to serve.
- (4) The returning officer must provide each polling station with sufficient compartments so that voters can mark their votes screened from observation.

28 Appointment of presiding officers and clerks

- (1) The returning officer must appoint, in writing and in the form specified by the Chief Secretary, and pay the following officers and clerks —
 - (a) not more than 2 presiding officers to attend at each polling station;
 - (b) a chief counting officer; and
 - (c) such poll clerks and counting clerks as may be necessary for the purposes of the election.
- (2) But no person who has been employed by or on behalf of a candidate in or about the election may be appointed under paragraph (1).
- (3) The presiding officer must be in possession at the polling station of the document of appointment in respect of his or her own appointment together with those of the poll clerks and the returning officer must

retain the documents of appointment of the chief counting officer and counting clerks.

- (4) If 2 presiding officers are appointed to attend at the same polling station, the returning officer must ensure that only one of them is on duty at the polling station at any one time.
- (5) On making the appointments under paragraph (1) the returning officer must immediately administer to each of the persons there mentioned an oath in the form set out in Part 3 of Schedule 1, and the certificate of the oath must be attached to each appointment.
- (6) The returning officer may, if he or she thinks fit, preside at a polling station, in which case the provisions of these regulations relating to a presiding officer apply to the returning officer (and to any person to whom the returning officer has delegated the duties of a presiding officer in accordance with these regulations) with any necessary modifications.
- (7) A presiding officer may delegate to any poll clerk any act (including the asking of questions) that the returning officer is required or authorised by these regulations to do at a polling station, except ordering —
 - (a) the arrest of any person; or
 - (b) the exclusion or removal of any person from the polling station.

29 Issue of official poll cards

- (1) As soon as is practicable the Chief Secretary must send an official poll card to —
 - (a) each elector, except an elector whose has applied to be an advance voter; and
 - (b) each person appointed as proxy to vote for an elector.
- (2) An elector's official poll card must be sent or delivered to the elector's qualifying address.
- (3) The official poll card must be in the form specified by the Chief Secretary and must set out —
 - (a) the name of the constituency;
 - (b) the elector's name, qualifying address and number on the register of electors;
 - (c) the date and hours of the poll and the situation of the elector's polling station.

30 Equipment of polling stations

- (1) The returning officer must provide each presiding officer with such number of ballot boxes and ballot papers as the returning officer considers necessary.

- (2) Every ballot box must be so constructed that the ballot papers can be put in it, but cannot be withdrawn from it without its being unlocked.
- (3) The returning officer must provide each polling station with —
 - (a) materials to enable voters to mark the ballot papers;
 - (b) instruments for stamping the official mark on the ballot papers;
 - (c) copies of the register of electors, or such part of it as contains the names of the electors allotted to the station, but with the names of advance voters ruled out;
 - (d) a copy of the list of electors in respect of whom appointments of proxies have been made and not revoked, or such part of the list as contains the names of electors allotted to the station.
- (4) A notice in the form specified by the Chief Secretary, giving directions for the guidance of the voters in voting, must be printed in conspicuous characters and exhibited in every compartment of every polling station.

31 Appointment of polling and counting agents

- (1) Each candidate may, before the date of the poll, appoint —
 - (a) not more than 2 polling agents to attend at each polling station in the constituency for the purpose of detecting personation; and
 - (b) such number of counting agents to attend at the counting of the votes as the candidate may wish, up to the maximum number permitted for each and every candidate by the returning officer.
- (2) The candidate must give notice in writing in the form specified by the Chief Secretary of such appointments stating the names and addresses of the persons appointed to the returning officer before the date of the poll.
- (3) If an agent dies, or becomes incapable of acting, the candidate may appoint another agent, and must as soon as practicable give the returning officer notice in writing of the name and address of the new agent appointed.
- (4) The returning officer must hand to the presiding officer the document of appointment of every polling agent.
- (5) A candidate may personally do any act or thing which any polling or counting agent of the candidate's, if appointed, would have been authorised to do, or may assist the agent in doing any such act or thing.
- (6) Where by these regulations any act or thing is required or authorised to be done in the presence of the polling or counting agents, the non-attendance of any agents or agent at the time and place appointed for the purpose does not, if the act or thing is otherwise duly done, invalidate the act or thing done.

32 Declaration of secrecy

- (1) Before the opening of the poll a declaration of secrecy in the form specified by the Chief Secretary must be signed by –
 - (a) the returning officer;
 - (b) every officer or clerk authorised to attend at a polling station or the counting of the votes;
 - (c) every accredited observer attending at a polling station or at the counting of the votes;
 - (d) every candidate attending at a polling station or at the counting of the votes;
 - (e) every candidate's spouse or civil partner attending at the counting of the votes;
 - (f) every polling agent and counting agent; and
 - (g) every person permitted by the returning officer to attend at the counting of the votes, though not entitled to do so.
- (2) Despite anything in paragraph (1), the following persons attending at the counting of the votes –
 - (a) any accredited observer;
 - (b) any candidate;
 - (c) any candidate's spouse or civil partner attending by virtue of the regulation authorising candidates' spouses or civil partners to attend as such;
 - (d) any person permitted by the returning officer to attend, though not entitled to do so,

need not sign the declaration before the opening of the poll, but must do so before he or she is permitted to attend the counting, and a polling or counting agent appointed after the opening of the poll must sign the declaration before acting as such agent.

- (3) The returning officer must sign the declaration in the presence of a justice of the peace or commissioner for oaths, and any other person must do so in the presence of either of a justice of the peace or the returning officer, and section 47 of the Act (requirement of secrecy) must be read to the declarant by the person witnessing the declaration.

DIVISION 3 - THE POLL

33 Admission to polling station

The presiding officer must regulate the number of voters to be admitted to the polling station at the same time, and must exclude all other persons except –

- (a) the candidates;

- (b) the polling agents appointed to attend at the polling station;
- (c) the poll clerks;
- (d) the constables on duty;
- (e) any accredited observer; and
- (e) the companions of blind voters.

34 Keeping of order in station

- (1) The presiding officer must keep order at the polling station.
- (2) If a person misconducts himself or herself in a polling station, or fails to obey the lawful orders of the presiding officer, the person may immediately, by order of the presiding officer, be removed from the polling station by a constable, and the person so removed may not re-enter the polling station during that day without the permission of the presiding officer.
- (3) Any person so removed may, if charged with the commission of an offence in the polling station, be dealt with as a person taken into custody by a constable for an offence without a warrant.
- (4) Unless the interests of good order require it the powers conferred by this regulation may not be exercised so as to prevent a voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

35 Sealing of ballot boxes

Immediately before the commencement of the poll, the presiding officer must —

- (a) show that the ballot box is empty to such persons, if any, as are present in the polling station;
- (b) lock it up and place his or her seal on it in such manner as to prevent its being opened without breaking the seal;
- (c) place it in his or her view for the receipt of ballot papers, and
- (d) keep it so locked and sealed.

36 Questions to be put to voters

- (1) The presiding officer may, and if required by a candidate or the candidate's polling agent must, put to any person applying for a ballot paper at the time of such application, but not afterwards, any of the following questions —
 - (a) in the case of a person applying as an elector —
 - (i) “Are you the person registered in the register of electors for this election as follows? [read the whole entry from the register]”

- (ii) “Have you already voted, here or elsewhere, at this election for the constituency of [name the constituency], otherwise than as proxy for some other person?”
 - (iii) “What is your date of birth?”
 - (b) in the case of a person applying as proxy —
 - (i) “Are you the person whose name appears as [name the proxy] in the list of proxies for this election as entitled to vote as proxy on behalf of [name the person who has appointed the proxy]?”
 - (ii) “Have you already voted, here or elsewhere, at this election for the constituency of [name the constituency] as proxy on behalf of [name the person who has appointed the proxy]?”
- (2) In the case of a person applying as proxy, the presiding officer may, and must if required as mentioned in paragraph (1), put the following additional question —
 - (i) “Are you the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild of [name the person who has appointed the proxy]?”and if that question is not answered in the affirmative —
 - (ii) “Have you at this election already voted in this constituency on behalf of 2 persons of whom you are not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild?”
- (3) A ballot paper must not be delivered to any person required to answer the above questions, or any of them, unless the person has answered the questions or question satisfactorily.
- (4) Save as authorised by this regulation, no inquiry is permitted as to the right of any person to vote.

37 Challenge of voter

- (1) If at the time or after a person applies for a ballot paper for the purpose of voting but before the person has left the polling station, a candidate or the candidate’s polling agent —
 - (a) declares to the presiding officer that he or she has reasonable cause to believe that the applicant has committed an offence of personation; and
 - (b) undertakes to substantiate the charge in a court of law,the presiding officer may order a constable to arrest the applicant, which order is sufficient authority for the constable to do so.

- (2) A person against whom a declaration is made under this regulation is not by reason of that declaration prevented from voting.
- (3) A person arrested under this regulation is to be dealt with as a person taken into custody by a constable for an offence without a warrant.

38 Voting procedure

- (1) A ballot paper, marked with the official mark, must be delivered to a voter who applies for it, and immediately before delivery –
 - (a) the number and name of the elector as stated in the copy of the register of electors must be called out;
 - (b) the number of the elector must be marked on the counterfoil; and
 - (c) a mark must be placed on the register of electors against the number of the elector to denote that a ballot paper has been received, but without showing the particular ballot paper which has been received.
- (2) The voter, on receiving the ballot paper, must proceed immediately and alone into one of the compartments in the polling station and there must –
 - (a) secretly mark the paper;
 - (b) fold the paper so that the vote is concealed;
 - (c) return to the presiding officer's table and show the back of the folded paper to the presiding officer so as to disclose the official mark; and
 - (d) put the folded paper into the ballot box in the presence of the presiding officer.
- (3) The voter must vote without undue delay, and must leave the polling station straight after putting the ballot paper into the ballot box.
- (4) The voter must not show the ballot paper after marking it to any person other than the presiding officer, and must show it to the presiding officer only if the voter wishes to prove that it has been spoiled.

39 Votes marked by presiding officer

- (1) The presiding officer, on the application of a voter who declares orally that he or she is –
 - (a) incapacitated by blindness or other physical cause from voting in the manner directed by these regulations; or
 - (b) unable to read,must, in the presence of the polling agents, cause the vote of the voter to be marked on a ballot paper in the manner directed by the voter, and the ballot paper to be placed in the ballot box.

- (2) The name and number on the register of electors of every voter whose vote is marked in pursuance of this regulation and the reason why it is so marked, must be entered on a list of votes marked by the presiding officer.
- (3) In the case of a person voting as proxy for an elector, the number to be entered together with the voter's name is the elector's number.

40 Tendered ballot papers

- (1) If a person representing himself or herself to be —
 - (a) a particular elector named on the register, whose name has not been ruled out as an advance voter; or
 - (b) a particular person named in the list of proxies as proxy for an elector,

applies for a ballot paper after another person has voted either as the elector or as the elector's proxy, as the case may be, the applicant must, on satisfactorily answering the questions permitted by law to be asked at the poll, be entitled to mark a ballot paper (a "**tendered ballot paper**") in the same manner as any other voter.

- (2) A tendered ballot paper must —
 - (a) be of a different colour from the other ballot papers;
 - (b) instead of being put into the ballot box, be given to the presiding officer and endorsed by the presiding officer with the name of the voter and the voter's number in the register of electors and set aside in a separate packet.
- (3) The name of the voter and his number on the register of electors must be entered on a list (the "**tendered votes list**").
- (4) In the case of a person voting as proxy for an elector, the number to be endorsed or entered together with the voter's name is the elector's number.

41 Spoilt ballot papers

A voter who has inadvertently dealt with his or her ballot paper in such manner that it cannot be conveniently used as a ballot paper may, on delivering it to the presiding officer and proving to the presiding officer's satisfaction the fact of the inadvertence, obtain another ballot paper in the place of the ballot paper so delivered (a "**spoilt ballot paper**"), and the spoilt ballot paper must be immediately cancelled.

42 Adjournment of poll in case of riot

- (1) If the proceedings at any polling station are interrupted or obstructed by riot or open violence, the presiding officer must adjourn the proceedings

till the following day and must immediately give notice to the returning officer.

- (2) Where the poll is adjourned at any polling station —
 - (a) the hours of polling on the day to which it is adjourned must be the same as for the original day; and
 - (b) references in this Act to the close of the poll are construed accordingly.

43 Procedure on close of poll

- (1) As soon as practicable after the close of the poll, the presiding officer must, in the presence of the polling agents (if any) —
 - (a) make up the items listed in paragraph (2) into separate packets, sealed with the presiding officer's own seal and the seals of any polling agents wishing to affix their seals; and
 - (b) deliver them to the returning officer to take charge of.
- (2) The items are —
 - (a) each ballot box in use at the station, sealed so as to prevent the introduction of additional ballot papers, and unopened but with the key attached;
 - (b) the unused ballot papers;
 - (c) the spoilt ballot papers;
 - (d) the tendered ballot papers;
 - (e) the ballot paper account;
 - (f) the marked copies of the register of electors;
 - (g) the list of proxies;
 - (h) the counterfoils of the used ballot papers;
 - (i) the tendered votes list;
 - ji) the list of voters marked by the presiding officer;
 - (k) a statement of the number of voters whose votes are so marked by the presiding officer under the heads "physical incapacity" and "unable to read";
 - (l) the appointments of the presiding officer, poll clerks, polling agents and any accredited observer.

DIVISION 4 - COUNTING OF VOTES

44 Attendance at count

- (1) The returning officer must make arrangements for counting the votes in the presence of the counting agents as soon as practicable after the close of the poll.

- (2) No person other than —
 - (a) the returning officer, presiding officer, chief counting officer, poll clerks and counting clerks;
 - (b) any accredited observer;
 - (c) the candidates and their spouses or civil partners; and
 - (d) the counting agents;may be present at the counting of the votes, unless permitted by the returning officer to attend.
- (3) The returning officer must give the counting agents —
 - (a) all such reasonable facilities for overseeing the proceedings (including in particular facilities for satisfying themselves that the ballot papers are correctly sorted); and
 - (b) all such information with respect to the proceedings as he or she can give them consistent with the orderly conduct of the proceedings and the discharge of his or her duties in connection with those proceedings.
- (4) In particular, if the votes are counted by sorting the ballot papers according to the candidate for whom the vote is given and counting the number of ballot papers for each candidate, the counting agents are entitled to satisfy themselves that the ballot papers are correctly sorted.

45 The count

- (1) Before the returning officer proceeds to count the votes, the returning officer must —
 - (a) in the presence of the counting agents open each ballot box, take out the ballot papers in it, count and record them and verify each ballot paper account in accordance with paragraph (2);
 - (b) count and record such of the advance voter ballot papers as have been duly returned; and
 - (c) merge the ballot papers mentioned in sub-paragraphs (a) and (b).
- (2) An advance voter ballot paper is not to be taken to be duly returned unless it meets the requirements of Schedule 2.
- (3) The returning officer must —
 - (a) verify each ballot paper account by comparing it with the number of ballot papers recorded and opening, counting the contents and resealing the packets containing the unused and spoilt ballot papers and the tendered votes list and adding all but the tendered ballot papers to the total; and
 - (b) draw up a statement as to the result of the verification, which any candidate may copy.

- (4) While counting and recording the number of ballot papers and counting the votes the returning officer must keep the ballot papers face up and take all proper precautions to prevent any person seeing the numbers printed on the back.
- (5) The returning officer must, so far as practicable, proceed continuously with counting the votes.

46 Re-count

- (1) A candidate may if present or, in the candidate's absence, any of the candidate's counting agents may, when the count or any re-count of the votes is completed, request the returning officer to have the votes re-counted or again re-counted, and the returning officer may refuse to do so only if he or she considers the request unreasonable.
- (2) No step may be taken on the completion of the count or any re-count of votes until the candidates or, in a candidate's absence, any of his or her counting agents, then present have been given a reasonable opportunity to exercise the right conferred by this regulation.

47 Rejected ballot papers

- (1) Any ballot paper —
 - (a) not bearing the official mark;
 - (b) on which votes are given for more candidates than there are vacancies to be filled;
 - (c) on which anything is written or marked by which the voter can be identified except the printed number on the back; or
 - (d) that is unmarked or void for uncertainty,is void and must not be counted.
- (2) However, if the voter is entitled to vote for more than one candidate, a ballot paper is not void for reasons of uncertainty as respects any vote as to which no uncertainty arises, and that vote must be counted.
- (3) A ballot paper on which the vote is marked —
 - (a) elsewhere than in the proper place;
 - (b) otherwise than by means of a cross; or
 - (c) by more than one mark against the same candidate's name,is not for that reason void if it is clear that the vote is for a particular candidate and the way the paper is marked cannot identify the voter.
- (4) The returning officer must endorse the words "rejected" on any ballot paper which under this regulation is not to be counted, and if a counting agent objects to that decision must add to the endorsement the words "rejection objected to".

- (5) The returning officer must draw up a statement showing the number of ballot papers rejected under the following heads —
- (a) want of official mark;
 - (b) voting for more candidates than there are vacancies to be filled;
 - (c) writing or mark by which voter could be identified;
 - (d) unmarked or void for uncertainty,
- and any counting agent may copy the statement.

48 Decisions on ballot papers

The decision of the returning officer on any question arising in respect of a ballot paper is final, but is subject to review on an election petition.

49 Equality of votes

If, after the counting of the votes (including any re-count) is completed, an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the returning officer must immediately decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

PART 4 – FINAL PROCEEDINGS IN CONTESTED AND UNCONTESTED ELECTIONS

50 Declaration of result

- (1) In a contested election, when the result of the poll has been ascertained, the returning officer must immediately and inside, or if necessary to give greater access to the public to the result, outside, the counting station —
- (a) declare to be elected the candidate or candidates to whom the majority of votes has been given; and
 - (b) give public notice of —
 - (i) the candidate or candidates elected;
 - (ii) the total number of votes given for each candidate;
 - (iii) the total number of voters voting at the election (other than voters whose ballot papers have been rejected under regulation 47); and
 - (iv) the number of rejected ballot papers under each head shown in the statement of rejected ballot papers.
- (2) In an uncontested election the returning officer must immediately —
- (a) declare the candidate or candidates nominated to be elected; and
 - (b) publish a notice of the candidate or candidates elected.

- (3) Notice under paragraph (1)(b) and (2)(b) must be published by posting it in one or more conspicuous places in the constituency and by depositing a copy of the notice with the Chief Secretary.
- (4) The Chief Secretary must as soon as may be publish a notice of the names of the candidates elected, stating (in the case of a contested election) that a copy of the notice under paragraph (1)(b) may be inspected at any reasonable time at a place determined by the Chief Secretary.
- (5) The notice under paragraph (4) –
 - (a) in the case of a general election, must be a composite notice relating to all the constituencies; and
 - (b) in any other case, may be a composite notice relating to more than one constituency.
- (6) The notice under paragraph (4) must be published –
 - (a) by insertion in a newspaper published and circulating within the Island; and
 - (b) by display on an appropriate website in an appropriate manner, and a copy of the notice under paragraph (1)(b) may also be included.

51 Return of the writ

- (1) The return of a member or members elected for any constituency must be made by a certificate in the form specified by the Chief Secretary endorsed by the returning officer on the writ of election.
- (2) A photocopy of the certificate or a handwritten copy of it must be handed by the returning officer on the night of the election to each candidate elected.
- (3) If the number of candidates elected is less than there are vacancies to be filled up, or if no candidates be elected, the returning officer must make a special return of the writ setting out the facts.
- (4) If the required number of candidates successfully nominated is equal to the number of vacancies so that those candidates are elected at the close of time for objections on nomination day the candidates must be handed a photocopy of the certificate or a handwritten copy of it on that day.

PART 5 – DISPOSAL OF DOCUMENTS

52 Sealing up of ballot papers

- (1) On the completion of the counting at a contested election the returning officer must seal up in separate packages the counted and rejected ballot papers.

- (2) The returning officer must not open the sealed packets of tendered ballot papers or of counterfoils, or of the marked copies of the register of electors.

53 Delivery of documents to Clerk of the Rolls

- (1) The returning officer must as soon as practicable and in any event within 7 days of declaring the result of the poll —
 - (a) endorse on each of the packets of documents listed in paragraph (2) a description of its contents, the date of the election to which it relates and the name of the constituency for which the election was held; and
 - (b) forward the packets to the Clerk of the Rolls along with the writ endorsed as mentioned in regulation 51(1).
- (2) The packets of documents are —
 - (a) the ballot papers (including the advance voters' ballot papers which will have been mixed in with the other ballot papers accepted at the polling station);
 - (b) the rejected ballot papers;
 - (c) the ballot paper accounts;
 - (d) the statements of rejected ballot papers;
 - (e) the statements of the result of the verification of the ballot paper accounts;
 - (f) the oath of the returning officer annexed to the writ and the oaths of deputy returning officers, presiding officers, poll clerks and counting clerks;
 - (g) the nomination papers;
 - (h) applications for an advance vote under paragraph 1 of Schedule 2;
 - (i) the packets referred to in paragraph 13 of that Schedule (counterfoils of issued advance voter ballot papers and marked copy of advance voters' list);
 - (j) the packets referred to in paragraph 15(7) of that Schedule (spoilt advance voter ballot papers, declarations of identity and ballot paper envelopes);
 - (k) the packets referred to in paragraph 25 of that Schedule (the contents of the receptacles of rejected votes, declarations of identity and rejected ballot paper envelopes and the lists of spoilt and lost advance voter ballot papers);
 - (l) the advance voter ballot paper account;
 - (m) the documents listed in regulation 43(2)(b) to (k) amalgamated so as to keep separate packets of each item but including items from all polling stations;

- (n) the appointments of the chief counting officer and counting agents;
 - (o) the declarations of secrecy; and
 - (p) the declarations of identity.
- (3) If any covering envelopes are received by the returning officer after the close of the poll or any envelopes addressed to advance voters are returned as undelivered too late to be re-addressed, the returning officer must put them unopened into a separate packet, seal it up and forward it to the Clerk of the Rolls within 7 days of the conclusion of the count.
- (4) Any other documents in the returning officer's possession must either be forwarded to the Clerk of the Rolls or disposed of securely as the returning officer thinks most appropriate.

54 Orders for production of documents

- (1) An order —
- (a) for the inspection or production of any rejected ballot papers in the custody of the Clerk of the Rolls; or
 - (b) for the opening of a sealed packet of counterfoils or the inspection of any counted ballot papers in the custody of the Clerk of the Rolls,

may be made by the Keys, or if satisfied by evidence on oath that the order is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers or for the purpose of an election petition, by a judge.

- (2) An order under this regulation may be made subject to conditions as to persons, time, place and mode of inspection, production or opening as the Keys or the judge making the order thinks expedient.
- (3) In making and carrying into effect an order for the opening of a packet of counterfoils or for the inspection of counted ballot papers, care must be taken not to disclose the way in which the vote of any particular elector has been given until it has been proved that the vote was given and has been declared by a competent court to be invalid.
- (4) If an order is made for the production by the Clerk of the Rolls of any document in the Clerk's possession relating to any specified election, the production by the Clerk or the Clerk's agent of the document, ordered in such manner as may be directed by that order, is conclusive evidence that the document relates to the specified election; and any endorsement on a packet of ballot papers so produced is *prima facie* evidence that the ballot papers are what they are stated to be by the endorsement.
- (5) The production from proper custody of a ballot paper purporting to have been used at an election, and of a counterfoil marked with the same printed number and having a number marked on it in writing, is *prima*

facie evidence that the elector whose vote was given by that ballot paper was the person who at the time of the election had affixed to his or her name in the register of electors the same number as the number written on the counterfoil.

- (6) Save as provided by this regulation, no person may inspect any rejected or counted ballot papers in the possession of the Clerk of the Rolls or open any sealed packets of counterfoils and certificates.

55 Retention and public inspection of documents

- (1) The Clerk of the Rolls must retain for a year all documents relating to an election forwarded to the Clerk under regulation 53 by a returning officer, and then, unless otherwise directed by order of the Keys or the High Court, must cause them to be destroyed.
- (2) The documents, apart from ballot papers and counterfoils, must be open to public inspection at such time and subject to such conditions as the Clerk of the Rolls may decide.

56 Purchase of copies of marked registers etc

- (1) A person entitled under regulations to receive a copy of the full register of electors may apply to the Clerk of the Rolls at any time within a year of an election taking place to purchase a copy of any register of voters or list of advance voters used for that election.
- (2) The application must be made in writing accompanied by such fee as the Treasury may specify and must indicate —
 - (a) which register or list is requested;
 - (b) the purpose for which the register or list will be used; and
 - (c) why the full register or unmarked lists would not be sufficient for that purpose.
- (3) A marked register or list supplied under this regulation may be used only for research purposes within the meaning of section 29 of the Data Protection Act 2002, for electoral purposes or for any prescribed purposes that would entitle the recipient to receive a copy of the full register of electors.

MADE

W GREENHOW
Chief Secretary



SCHEDULE 1

[Regulation 4 and 28(5)]

OATHS OF OFFICE**PART 1 – OATH OF OFFICE OF RETURNING OFFICER**

I, the undersigned, having been appointed Returning Officer for the constituency of

do solemnly swear [or affirm] that I am qualified according to law to act as Returning Officer for the said constituency and that I will act faithfully in that capacity, without partiality, fear, favour or affection.

Signature _____

PART 2 – OATH OF DEPUTY RETURNING OFFICER

I, the undersigned, having been appointed Deputy Returning Officer for the constituency of _____

do solemnly swear [or affirm] that I am qualified according to law to act as Deputy Returning Officer for the said constituency and that I will act faithfully in that capacity, without partiality, fear, favour or affection.

Signature _____

PART 3 - OATH OF OTHER OFFICERS AND CLERKS

I, the undersigned, having been appointed *[Presiding Officer] [Poll Clerk] [Chief Counting Officer] [Counting Clerk] for the constituency of

do solemnly swear [or affirm] that I will act faithfully in that capacity without partiality, fear, favour or affection.

Signature _____

SCHEDULE 2

[Regulation 25]

ADVANCE VOTING**PART 1 -APPLICATIONS****1 General requirements for applications for an advance vote**

- (1) An application under section 26 of the Act must be made in writing on a form provided by the Chief Secretary and be signed and dated by the intended voter or, if the voter has nominated one, the voter's proxy ("the applicant").
- (2) The application must —
 - (a) give the full name of the applicant and address in respect of which the applicant is registered; and
 - (b) identify the election in respect of which it is made.
- (3) The returning officer may refer to any signature previously provided to him or her by the applicant to verify whether an application has been signed by the applicant.
- (4) The Chief Secretary must make available forms for advance voting at the Government Office and on the Government website on and after the day following nomination day.

2 Closing date for applications

An application for advance voting must be made to the returning officer so as to reach the returning officer —

- (a) where the advance voters ballot paper is to be marked in the Island, at least 3 clear days before the day fixed for the poll; or
- (b) where the advance voters ballot paper is to be marked outside the Island, at least 7 clear days before the day fixed for the poll.

3 Grant or refusal of applications

- (1) Where the returning officer grants an application under section 26 of the Act to allow advance voting, the returning officer must —
 - (a) where practicable, notify the applicant of the decision;
 - (b) enter the applicant's number and name on the advance voters' list; and
 - (c) rule out and initial the number, name and particulars of the applicant in the register of electors to be used at the polling station, and place the letter "A" against the name of that elector.

- (2) When refusing an application, the returning officer must notify the applicant of the decision and of the reason for it.
- (3) Where a person is removed from the advance voters' list, the returning officer must notify the person of the fact and the reason for it.

4 Advance voters' list

The returning officer must, in respect of each election, keep a list (the “**advance voters' list**”) consisting of a list of those whose applications to be advance voters have been granted, together with the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent.

PART 2 -ISSUE AND RECEIPT OF ADVANCE VOTER BALLOT PAPERS

DIVISION 1 - ISSUE

5 Form of declaration of identity

The form of the declaration of identity accompanying the ballot paper provided to an advance voter must incorporate a certificate as to the execution of the declaration and the marking of the ballot paper and be in the form specified by the Chief Secretary.

6 Presence at issue and opening of advance voter ballot papers

- (1) No person may be present at the proceedings on the issue of advance voter ballot papers other than the advance voter, returning officer and the presiding officer or polling clerks.
- (2) No person may be present at the opening of advance voter ballot papers other than —
 - (a) the returning officer, the presiding officer, the chief counting officer and counting clerks;
 - (b) a candidate;
 - (c) an election agent or any person appointed by a candidate to attend in his election agent's place; and
 - (d) any agents appointed under paragraph 7.

7 Agents of candidates who may be present at the opening of advance voter ballot papers

- (1) Every candidate may appoint one or more agents to be present at the opening of advance voter ballot papers up to the number allowed by the returning officer, which must be the same in the case of each candidate.

- (2) Regulation 31 applies with any necessary modifications to the appointment of an agent under this paragraph as it applies to agents appointed under that regulation.

8 Declaration of secrecy

Every person attending the proceedings in connection with the issue or receipt of absent voter ballot papers must sign, in the presence of a justice of the peace or a returning officer, a declaration of secrecy in the form specified by the Chief Secretary and section 47 of the Act (requirement of secrecy) must be read to the declarant by the person witnessing the declaration.

9 Time when advance voter ballot papers are to be issued

If a returning officer is satisfied that the applicant is entitled to be treated as an advance voter the returning officer must issue an advance voter ballot paper —

- (a) where it is to be marked in the Island, at least 2 clear days before the day fixed for the poll; or
- (b) where the advance voter ballot paper is to be marked elsewhere than in the Island, at least 3 clear days before the day fixed for the poll.

10 Procedure on issue of advance voter ballot paper

- (1) Every advance voter ballot paper issued must be stamped with an official mark that is different from the official mark to be used in that constituency on the day of the poll.
- (2) The number of the elector as stated in the register must be marked on the counterfoil attached to the ballot paper.
- (3) A mark must be placed on the advance voters' list against the number of the elector to denote that a ballot paper has been issued to the elector, but without showing the particular ballot paper issued.
- (4) The returning officer must note on a form provided by the Chief Secretary entitled the "**advance voter ballot paper account**" the total number of ballot papers issued to advance voters.
- (5) The number of an advance voter ballot paper must be marked on the declaration of identity sent with that paper.

11 Refusal to issue advance voter ballot paper

If a returning officer is satisfied that 2 or more entries in the advance voters' list relate to the same elector, the returning officer must not issue more than one ballot paper in respect of that elector at any one election.

12 Envelopes

- (1) Unless the advance voter is voting at premises specified by the returning officer, in addition to the ballot paper and declaration of identity the returning officer must issue —
 - (a) a smaller envelope for the ballot paper (a “ballot paper envelope”) marked with —
 - (i) the letter “A”;
 - (ii) the words “ballot paper envelope”; and
 - (iii) the number of the ballot paper;
 - (b) a “covering envelope” marked with the letter “B” for the return of the advance voter sealed ballot paper envelope and the declaration of identity.
- (2) The covering envelope must be marked “Advance Voter Ballot Paper” and addressed to the returning officer at such place as the returning officer thinks most convenient and expeditious.

13 Sealing up of counterfoils and security of marked copy of advance voters’ list

- (1) As soon as practicable after the issue of advance voter ballot papers, the returning officer must make up into a packet —
 - (a) the counterfoils of those ballot papers that have been issued; and
 - (b) the marked copy of the advance voters’ list,and must seal the packets.
- (2) The returning officer must take proper precautions for the security of the advance voters’ list until the packet containing it has been sealed.

14 Provision and delivery of advance voter ballot papers and record of communications

- (1) Unless the advance voter provides to the returning officer a good reason why he or she requires to vote from the place where he or she is residing, the returning officer must in writing invite the advance voter to attend for the purposes of voting, with proof of identity, at location specified by the returning officer and the ballot paper must be issued in the advance voter’s presence and after voting sealed in a ballot paper envelope as described in paragraph 12(1)(a).
- (2) For the purposes of delivering advance voter ballot paper where the voter is to vote from where he or she is residing, the returning officer may use —
 - (a) a universal postal service provider;
 - (b) a commercial delivery firm; or

- (c) a certifying person appointed under paragraph 17(3) .
- (3) A record of communications (whether sent by post, email, telephone or facsimile or delivered in person) sent to or by the returning officer must be kept, together with all such particulars as will enable the sender of incoming communications and the recipient of outgoing communications to be identified and the date and time of receipt or despatch (as the case requires).
- (4) Where communications are posted or delivered by a commercial delivery firm the cost of so doing must be paid in advance by the returning officer.

15 Spoilt ballot paper or declaration of identity

- (1) If an advance voter has inadvertently dealt with his or her ballot paper or declaration of identity in such a manner that it cannot be conveniently used as a ballot paper (a “spoilt advance voter ballot paper”) or, as the case may be, a declaration of identity (a “spoilt declaration of identity”) he or she may return (either by hand or by post) to the returning officer the spoilt absent voter ballot paper or, as the case may be, the spoilt declaration of identity.
- (2) Where an advance voter exercises the entitlement conferred by sub-paragraph (1), he or she must also return —
 - (a) the advance voter ballot paper or, as the case may be, the declaration of identity, whether spoilt or not; and
 - (b) the envelopes supplied for the return of the documents mentioned in sub-paragraph (1).
- (3) On receipt of the documents referred to in sub-paragraphs (1) and (2), the returning officer must issue another advance voter ballot paper or, as the case may be, declaration of identity.
- (4) However, where those documents are received after 5 p.m. on the day of the poll, the returning officer may issue another advance voter ballot paper or, as the case may be, declaration of identity, only if the advance voter returned the documents by hand.
- (5) Paragraphs 10 (except sub-paragraph 10(3)), 12, 13 and, (subject to sub-paragraph (7)), 14 apply to the issue of a replacement advance voter ballot paper under sub-paragraph (3).
- (6) The spoilt advance voter ballot paper, the declaration of identity and the ballot paper envelope must be immediately cancelled.
- (7) As soon as practicable after cancelling those documents the returning officer must place them in a separate sealed packet and if on any subsequent occasion documents are cancelled as mentioned above, the returning officer must open the sealed packet and place the additional cancelled documents inside before re-sealing the packet.

- (8) If an advance voter applies in person, the returning officer may hand a replacement advance voter ballot paper to the voter instead of delivering it in accordance with paragraph 14.
- (9) The returning officer must enter on a list kept for the purposes of this paragraph —
 - (a) the name and number of the elector as stated in the register; and
 - (b) the number of the advance voter ballot paper issued under this paragraph.

16 Lost advance voter ballot papers

- (1) If an advance voter has not received his or her advance voter ballot paper by the fourth day before the day of the poll, he or she may apply (whether or not in person) to the returning officer for a replacement ballot paper.
- (2) If the application is received by the returning officer before 5 p.m. on the day before the day of the poll and the returning officer —
 - (a) is satisfied as to the voter's identity; and
 - (b) has no reason to doubt that the advance voter did not receive the original advance voter ballot paper,the returning officer must issue another advance voter ballot paper.
- (3) The returning officer must enter on a list kept for the purposes of this paragraph —
 - (a) the name and number of the elector as stated in the register; and
 - (b) the number of the advance voter ballot paper issued under this regulation.
- (4) Paragraphs 10 (except sub-paragraph 10(3)), 12, 13 and (subject to sub-paragraph (5)) 14 apply to the issue of a replacement advance voter ballot paper under sub-paragraph (2).
- (5) If an advance voter applies in person, the returning officer may hand a replacement ballot paper to the advance voter instead of delivering it in accordance with paragraph 14.

17 Certifying persons

- (1) Subject to sub-paragraph (2), the following persons may act as a certifying person under paragraph 19, namely —
 - (a) where the advance voter ballot paper is marked in the Island —
 - (i) the returning officer for the constituency in which the advance voter is entitled to vote; or
 - (ii) a person appointed under sub-paragraph (3);

- (b) where the advance voter ballot paper is marked outside the Island, a person of reasonable standing in the community;
 - (c) in the case of an advance voter who is a presiding officer, poll clerk, chief counting officer or counting clerk appointed by a returning officer, the returning officer by whom he or she was so appointed.
- (2) Although a person may be otherwise qualified to act as a certifying person, no person may act as such if the person is –
- (a) a candidate or the spouse or civil partner of a candidate, or
 - (b) a polling agent or counting agent appointed by a candidate.
- (3) One or more certifying persons must be appointed by the Governor in respect of each constituency after consultation with the returning officer.
- (4) A certifying person may be appointed for a number of constituencies.

18 Secrecy

- (1) Every certifying person appointed under paragraph 17(3) must, before entering upon his or her duties as such, complete and sign a declaration of secrecy, to be witnessed by the returning officer.
- (2) The declaration of secrecy must specify that the certifying person must not, except for a purpose authorised by law, communicate to any person any information as to –
- (a) the name or number on the register of electors of any person who has or has not applied for an advance voter ballot paper; or
 - (b) the candidate to whom any advance voter has given his or her vote.

19 Voting by advance voters

- (1) Before marking the ballot paper, the advance voter must produce to a certifying person –
- (a) satisfactory evidence of the voter's identity;
 - (b) the ballot paper showing its number and marked in the manner prescribed under regulation 19;
 - (c) the declaration of identity and form of instructions;
- (2) For the purposes of sub-paragraph (1) any of the following constitutes satisfactory evidence –
- (a) a valid passport;
 - (b) a national identity document issued by the Government of a Member State of the European Union;
 - (c) a full or provisional driving licence granted under the law for the time being in force in the Island;

- (d) a proof of age card or bus pass issued by the relevant issuing authority in the Island;
 - (e) any other document or combination of documents acceptable to the certifying officer in establishing the advance voter's identity.
- (3) The advance voter must sign the declaration of identity before the certifying person; but if the advance voter is unable to sign the declaration of identity the certifying person, on satisfying himself or herself as to the identity of the advance voter, must write the name of the advance voter on the declaration and add the words "Advance voter unable to sign".
- (4) After sub-paragraph (3) has been complied with the advance voter must vote secretly by marking the ballot paper in the presence but not in the sight of the certifying person, and insert the ballot paper and declaration of identity in an envelope addressed as mentioned in paragraph 12(2) and seal the envelope.
- (5) If the advance voter is unable to mark the ballot paper personally, the certifying officer must, on request, mark the ballot paper as the advance voter directs.
- (6) But other than as set out in this paragraph the advance voter must not allow any person to see how he or she voted.
- (7) Where the advance voter ballot paper is to be marked in the Island, the ballot paper may be delivered at any time before the close of the poll.

DIVISION 2 - RECEIPT

20 Receipt of advance voter ballot papers

- (1) Where an advance voter ballot paper is marked in the Island and is required to be collected by the certifying person the covering envelope must as soon as practicable thereafter be handed unopened to the returning officer by the certifying person.
- (2) Where the advance voter ballot paper is marked elsewhere than in the Island the covering envelope must, as soon as practicable after receipt at the place to which it is addressed, be handed unopened to the returning officer by a responsible person designated by the returning officer to attend there for that purpose.
- (3) Subject to sub-paragraph (4), as soon as practicable after the close of the poll the presiding officer of the polling station must deliver, or cause to be delivered, any advance voter ballot paper or declaration of identity returned to that station to the returning officer in the same manner and at the same time as the returning officer delivers, or causes to be delivered, the packets referred to in regulation 43(2).

- (4) The returning officer may collect, or cause to be collected, any advance voter ballot paper or declaration of identity which by virtue of sub-paragraph (3) the presiding officer of a polling station would otherwise be required to deliver or cause to be delivered to him or her.
- (5) Where the returning officer collects, or causes to be collected, any advance voter ballot paper or declaration of identity in accordance with sub-paragraph (4) the presiding officer must first make those documents up into separate packets sealed with the returning officer's own seal and the seals of such polling agents as are present and wish to affix their seals.

21 Procedure in relation to declarations of identity

- (1) The returning officer must satisfy himself or herself that the declaration of identity has been duly signed by the voter and authenticated by a witness who has signed the declaration and given his or her name and address (a "valid declaration of identity").
- (2) If the returning officer is not so satisfied, the returning officer must mark the declaration "rejected", attach to it the ballot paper envelope, or if there is no such envelope, to any ballot paper and, subject to sub-paragraph (3), place it in the receptacle for rejected votes.
- (3) Before placing the declaration in the receptacle for rejected votes, the returning officer must show it to the agents and, if any of them object to his or her decision, he or she must add the words "rejection objected to".
- (4) The returning officer must then compare the number on the declaration of identity with the number on the ballot paper envelope and, if they are the same, he or she must place the declaration and the ballot paper envelope in the appropriate receptacles for those documents.
- (5) If there is a valid declaration of identity but no ballot paper envelope, the returning officer must place –
 - (a) in the ballot box, any ballot paper the number on which is the same as the number on the declaration of identity;
 - (b) in the receptacle for rejected votes, any other ballot paper, to which must be attached the declaration of identity marked "provisionally rejected"; and
 - (c) in the receptacle for declarations of identity, any declaration of identity not disposed of under sub-paragraph (b).
- (6) If the number on a valid declaration of identity does not match the number on the ballot paper envelope, or if that envelope has no number on it, the returning officer must open the envelope.
- (7) Where an envelope has been opened under sub-paragraph (6), the returning officer must –

- (a) place in the ballot box any ballot paper the number on which matches the number on the valid declaration of identity;
- (b) place in the receptacle for rejected votes any other ballot paper, to which must be attached the declaration of identity marked “provisionally rejected”;
- (c) place in the receptacle for rejected votes any declaration of identity marked “provisionally rejected” in respect of a ballot paper envelope that does not contain a ballot paper; or
; and
- (d) place in the receptacle for declarations of identity, any such declaration not disposed of under head (b) or (c).

22 Opening of ballot paper envelopes

The returning officer must open separately each ballot paper envelope placed in the receptacle for ballot paper envelopes and place —

- (a) in the ballot box, any advance voter ballot paper the number on which matches the number on the ballot paper envelope;
- (b) in the receptacle for rejected votes, any other ballot paper which must be marked “provisionally rejected” and to which must be attached the ballot paper envelope; and
- (c) in the receptacle for rejected ballot paper envelopes, any ballot paper envelope which must be marked “provisionally rejected” because it does not contain a ballot paper.

23 Lists of rejected advance voter ballot papers

- (1) In respect of any election, the returning officer must keep 2 separate lists of rejected advance voter ballot papers.
- (2) In the first list, the returning officer must record the ballot paper number of any advance voter ballot paper for which no valid declaration of identity was received with it.
- (3) In the second list, the returning officer must record the ballot paper number of any advance voter ballot paper that is entered on a valid declaration of identity where that ballot paper is not received with the declaration of identity.

24 Checking of lists kept under paragraph 23

- (1) If the returning officer receives a valid declaration of identity without the advance voter ballot paper to which it relates, the returning officer may, at any time before the close of the poll, check the list kept under paragraph 23(2) to see whether the number of the advance voter ballot paper to which the declaration relates is entered on that list.

- (2) If the returning officer receives an advance voter ballot paper without the declaration of identity to which it relates, the returning officer may, at any time before the close of the poll, check the list kept under paragraph 23(3) to see whether the number of that ballot paper is entered on that list.
- (3) The returning officer must conduct the checks required by subparagraphs (1) and (2) as soon as practicable after the receipt of packets from every polling station in the constituency.
- (4) If the ballot paper number in the list matches that number on a valid declaration of identity or, as the case may be, the advance voter ballot paper, the returning officer must retrieve that declaration or paper.
- (5) The returning officer must then take the appropriate steps under this Schedule as though any document earlier marked “provisionally rejected” had not been so marked and must amend the document accordingly.

25 Sealing of receptacles

- (1) As soon as practicable after the completion of the procedure under paragraph 24(3) and 24(4), the returning officer must make up into separate packets the contents of —
 - (a) the receptacle of rejected votes;
 - (b) the receptacle of declarations of identity;
 - (c) the receptacle of rejected ballot paper envelopes; and
 - (d) the lists of spoilt and lost advance voter ballot papers,and must seal up such packets.
- (2) Any document in those packets marked “provisionally rejected” is deemed to be marked “rejected”.

26 Abandoned poll

If a poll is abandoned or countermanded after advance voter ballot papers have been issued by reason of the death of a candidate, the returning officer —

- (a) must not take any step or further step to open covering envelopes or deal with the contents in accordance with this Schedule; and
- (b) must, despite paragraphs 21 and 22, treat all unopened covering envelopes and the contents of those that have been opened as if they were counted ballot papers.

SCHEDULE 3

[Regulation 26]

PROXY VOTES**1 Application for the appointment of a proxy**

- (1) An application under section 27 of the Act must comply with the requirements of this paragraph and such further requirements in this Schedule as are relevant to the application.
- (2) The application must contain –
 - (a) the full name of the applicant;
 - (b) the address in respect of which the applicant is registered or has applied to be (or is treated as having applied to be) registered in the register;
 - (c) the full name and address of the person whom the applicant wishes to appoint as proxy, together with the person's family relationship, if any, with the applicant;
 - (d) if it is signed only by the applicant, a statement by the applicant that he or she has consulted the person so named and that that person is capable of being and willing to be appointed to vote as the applicant's proxy; or
 - (e) if it is also signed by the person to be appointed, a statement by that person that he or she is capable of being and willing to be appointed to vote as the applicant's proxy.
- (3) The application must be made on a form provided by the Chief Secretary and be signed and dated by the applicant.
- (4) The application must identify the date and description of the election in respect of which it is made.
- (5) An application for the appointment of a proxy must be disregarded for the purposes of any particular election unless it is received by the registration officer at least 3 clear days before the day fixed for the poll.

2 Determination of applications

- (1) Where the registration officer allows an application for the appointment of a proxy, the registration officer must –
 - (a) appoint the proxy by issuing a proxy paper in the form specified by the Chief Secretary; and
 - (b) confirm in writing to the elector that the proxy has been appointed, the proxy's name and address, and the duration of the appointment.

- (2) The registration officer must keep a list of the electors in respect of whom appointments of proxies have been made, together with the names and addresses of their proxies (the “list of proxies”).
- (3) Where the registration officer disallows an application the registration officer must notify the applicant and the proxy of his or her decision and the reasons for it.

3 Revocation of the appointment of a proxy

- (1) Where the appointment of a proxy is revoked by notice given to the registration officer under section 27(6)(a) of the Act, the registration officer must –
 - (a) notify the person whose appointment as proxy has been revoked, unless the registration officer has previously been notified by that person that he or she no longer wishes to act as proxy; and
 - (b) remove the person’s name from the list of proxies.
- (2) Where the appointment of a proxy is revoked by virtue of section 27(6) of the Act, the returning officer must notify the elector that the appointment has been revoked.
- (3) An application by a proxy to be removed from the list of proxies and a notice under section 27(6)(a) of the Act by an elector revoking a proxy's appointment must be disregarded for the purposes of a particular election unless it is received by the registration officer at least 3 clear days before the day fixed for the poll.

4 Issue of list of proxies

The registration officer must, 2 clear days before the day fixed for the poll, issue a copy of the list of proxies for that election to the returning officer of every constituency where there is to be a contested election.

5 Voting by proxy

- (1) A person entitled to vote as proxy may do so in person at the polling station allotted to the elector on production to the presiding officer of the proxy paper issued to the person by the registration officer.
- (2) The procedure to be followed is that laid down in regulation 36 except that the presiding officer must also delete the proxy from the list of proxies on the issue to him or her of a ballot paper.
- (3) The presiding officer may require the proxy to provide satisfactory evidence of identity before permitting the proxy to vote.
- (4) The production of any of the following documents shall be considered to be satisfactory evidence for the purposes of sub-paragraph (3) –
 - (a) a valid passport;

- (b) a national identity document issued by the Government of a Member State of the European Union;
- (c) a full or provisional driving licence granted under the law for the time being in force in the Island;
- (d) a proof of age card or bus pass issued by the relevant issuing authority in the Island.



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