

**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.



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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. **22**.

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* .

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

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 **“the applicant’s”**;
 - (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**.