



**Isle of Man
Government**

Reiltys Ellan Vannin

Local Elections Legislation

Including:

The Local Elections Act 1986

The Representation of the People Act 1995 (as amended in 2015)

The Local Election Rules 2003 (as amended in 2008, 2012 and 2020)

The Local Election (Absent Voters) Regulations 2008 (as amended in 2012
and 2020)

Department of Infrastructure

March 2020

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Notes

1. With regard to the Representation of the People Act 1995, please note that:-

 - Only certain sections of the 1995 Act apply to Local Elections – (See Schedule 1 of the Local Elections Act 1986, which also sets out the modifications which should be read alongside the 1995 Act).
 - Only the relevant Sections and Schedules from the 1995 Act have been included in this booklet.
2. With regard to the Local Election Rules 2003 and the Local Election (Absent Voters) Regulations 2008, please note that:-

 - Both were amended in 2012 and more recently in 2020. The changes approved in February Tynwald to the Rules and Regulations have been incorporated within this booklet.
 - Index lists have been compiled and included within this booklet for use as a guide to the contents of the Rules and Regulations (Note: A list of contents are already set out within the Local Elections Act 1986 and the Representation of the People Act 1995).

PART 1

Local Elections Act 1986

LOCAL ELECTIONS ACT 1986

(Chapter 10)

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3. Day of election.
4. Application of Representation of the People Act 1995.
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Received Royal Assent: 11 March 1986
Passed: 18 March 1986

AN ACT

to make fresh provision for the election of members of local authorities; to re-enact with minor amendments certain enactments dealing with the qualifications for, and tenure of, office of members of local authorities; and for connected purposes.

Local elections

1 Conduct of local elections

(1) Elections of a member or members of a local authority (in this Act referred to as 'local elections') shall be conducted in accordance with rules made by the Department.

[Subs (1) amended by GC192/86 and by SD155/10 Sch 5.]

(2) Rules under this section shall provide for local elections to be conducted by secret ballot, and for that purpose shall reproduce the Election Rules contained in Schedule 2 to the Representation of the People Act 1995, subject to such exceptions, adaptations and modifications as the Department thinks fit.

[Subs (2) substituted by Representation of the People Act 1995 Sch 7.]

(3) Rules under this section shall not have effect unless they are approved by Tynwald.

2 Returning officers

(1) The returning officer for a local election shall be-

(a) in the case of an election of a councillor or councillors, the mayor, or a councillor appointed by the mayor to act in his place;

[Para (a) substituted by Douglas Corporation Act 1988 Sch.]

(b) in the case of any other local election, the chairman of the local authority.

(2) If-

(a) there is no chairman of the local authority; or

(b) the chairman of the local authority is a candidate in the election; or

(c) the councillor so assigned or the chairman of the local authority, as the case may be, is absent or otherwise incapable of acting as returning officer,

[Para (c) amended by Douglas Corporation Act 1988 Sch.]

the local authority shall appoint some other person to act as returning officer.

3 Day of election

(1) Subject to section 17(2), the day of election for the purposes of all local elections shall be such day in April as the Department may determine, in the year 2004 and in each fourth succeeding year.

(2) The Department shall-

- (a) make a determination under subsection (1), and
- (b) cause public notice thereof to be given in one or more newspapers published and circulating in the Island,

not later than the 31st December preceding the day in question.

[S 3 substituted by Local Government (Miscellaneous Provisions) Act 2003 s 1.]

4 Application of Representation of the People Act 1995

The provisions of the Representation of the People Act 1995 specified in column 1 of Schedule 1 shall apply to local elections as they apply to elections of members of the House of Keys, subject to the modifications specified in relation thereto in column 3 of that Schedule.

[S 4 amended by Representation of the People Act 1995 Sch 7.]

5 Tenure of office

Every member of a local authority shall go out of office on the 1st May 2004 and on the 1st May in each fourth succeeding year.

[S 5 substituted by Local Government (Miscellaneous Provisions) Act 2003 s 1.]

Qualifications and disqualifications

6 Qualifications for election and holding office as member of local authority

A person shall, unless disqualified by virtue of this Act or any other enactment, be qualified to be elected and to be a member of a local authority for any district if his name is entered on the register of electors for that or any other district and on the day of the election he has attained the age of 18.

7 Disqualifications for election and holding office as member of local authority

(1) Subject to section 8, a person shall be disqualified for being elected or being a member of a local authority if he-

- (a) holds any paid office or employment (other than the office of mayor) appointments to which are or may be made or confirmed by the local authority or any committee or sub-committee of the authority or by a

joint board or joint committee on which the authority are represented or by any person holding any such office or employment; or

(b)

[Para (b) repealed by Representation of the People Act 1995 Sch 8.]

(c) has within 5 years before the day of election or since his election been convicted in the Island, the United Kingdom, the Channel Islands or the Republic of Ireland of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than 3 months without the option of a fine; or

(d) is disqualified for being elected or for being a member of that authority by virtue of any enactment relating to corrupt or illegal practices.

(2) A paid officer of a local authority who is employed under the direction of a joint board or joint committee on which the authority is represented and any member of which is appointed by or on the nomination of some other local authority shall be disqualified for being elected or being a member of that other local authority.

(3) For the purposes of subsection (1)(c), the ordinary date on which the period allowed for making an appeal with respect to the conviction expires or, if such an appeal is made, the date on which the appeal is finally disposed of or abandoned or fails by reason of the non-prosecution thereof shall be deemed to be the date of the conviction.

8 Exceptions to provisions of section 7

[Subss (1) and (2) repealed by Representation of the People Act 1995 Sch 8.]

(3) A person shall not be disqualified for being elected or being a member of a local authority by reason only of his holding the office of returning officer for that authority.

9 Validity of acts done by unqualified persons

The acts and proceedings of any person elected to an office as chairman or member of a local authority and acting in that office shall, notwithstanding his disqualification or want of qualification, be as valid and effectual as if he had been qualified.

Acceptance of office etc.

10 Declaration of acceptance of office

(1) The person elected to the office of chairman, vice-chairman or member of a local authority shall not, unless he has made a declaration of acceptance of office in such form as may be prescribed by the Department and the declaration has within one month from the day of the election been delivered to the clerk of the authority, act in the office except for the purpose of taking such a declaration.

[Subs (1) amended by GC192/86.]

(2) If such a declaration is not duly made and delivered within the appointed time, the office of the person elected shall at the expiration of that time become vacant.

(3) The declaration shall be made before either-

- (a) two members of the authority to which the declarant is elected; or
- (b) the clerk to the authority; or
- (c) a justice of the peace or magistrate in the Island, the United Kingdom or the Channel Islands; or
- (d) a commissioner for oaths.

(4) Any person before whom a declaration is authorised to be made under this section may take the declaration.

(5) Within 14 days after the expiration of the period of one month referred to in subsection (1), the authority shall send to the Department a list of the names and addresses of the members of the authority,

[Subs (5) added by Local Government Act 2006 s 4.]

11 Resignation

A person elected to any office referred to in section 10(1) may at any time resign his office by written notice delivered to the clerk of the authority and his resignation shall take effect upon the receipt of the notice by the clerk.

12 Vacation of office by failure to attend meetings

(1) Subject to subsections (2) and (3), if a member of a local authority fails throughout a period of 3 consecutive months from the date of his last attendance to attend any meeting of the authority, he shall, unless the failure was due to some reason approved by the authority before the expiry of that period, cease to be a member of the authority.

(2) Attendance as a member at a meeting of any committee or sub-committee of the authority, or at a meeting of any joint committee, joint board or other body by whom for the time being any of the functions of the authority are being discharged, or who were appointed to advise the authority on any matter relating to the discharge of their functions, and attendance as a representative of the authority at a meeting of any body of persons, shall be deemed for the purposes of subsection (1) to be attendance at a meeting of the authority.

(3) A member of any branch of Her Majesty's naval, military or air forces when employed during war or any emergency on any naval, military or air force service, and a person whose employment in the service of Her Majesty in connection with war or any emergency is such as, in the opinion of the Department, to entitle him to relief from disqualification on account of absence, shall not cease to be a member of a local authority by reason only of a failure to attend meetings of the local authority if the failure is due to that employment.

[Subs (3) amended by GC192/86.]

13 Members of Tynwald

A member of a local authority who becomes a member of the Legislative Council or the House of Keys shall thereupon cease to be a member of the authority.

13A Bankruptcy

If a member of a local authority is adjudged bankrupt, he shall thereupon cease to be a member of the authority.

[S 13A inserted by Representation of the People Act 1995 Sch 7.]

14 Declaration of vacancy in office in certain cases

Where a member of a local authority-

- (a) ceases to be qualified to be a member of the authority; or
- (b) becomes disqualified for being a member of the authority otherwise than by virtue of-
 - (i) and (ii)

[Subparas (i) and (ii) repealed by Audit Act 2006 Sch 2.]

- (ii) section 7(6) of that Act; or
- (iii) a conviction; or
- (iv) a breach of any provision of the Representation of the People Act 1995; or

[Subpara (iv) amended by Representation of the People Act 1995 Sch 7.]

- (c) ceases to be a member of the authority by reason of failure to attend meetings of the authority;

the authority shall, except in any case in which a declaration has been made by the High Court under this Act, forthwith declare his office to be vacant.

Casual vacancies

15 Date of casual vacancies

(1) For the purpose of filling a casual vacancy in any office of chairman, vice-chairman or member of a local authority, the date on which the vacancy is to be deemed to have occurred shall be-

- (a) in the case of non-acceptance of office by any person who is required to make and deliver a declaration of acceptance of office, on the expiration of the period appointed under section 10 for the delivery of the declaration;
- (b) in the case of resignation, upon the receipt of the notice of resignation by the clerk of the authority;
- (c) in the case of death, on the date of death;

- (d) in the case of a disqualification by virtue of a conviction, on the expiration of the ordinary period allowed for making an appeal with respect to the conviction or, if an appeal is made, on the date on which that appeal is finally disposed of or abandoned or fails by reason of non-prosecution thereof;
- (e) in the case of an election being declared void by the High Court, on the date of the decision or order of the court;
- (f) in the case of a person ceasing to be qualified to be a member of a local authority, or becoming disqualified, for any reason other than one mentioned in paragraphs (a) to (e), or ceasing to be a member of a local authority by reason of failure to attend meetings, on the date on which his office is declared to have been vacated either by the High Court or by the local authority, as the case may be; and
- (g)

[Para (g) repealed by Representation of the People Act 1995 Sch 8.]

(2) Public notice of a casual vacancy in any such office shall be given by the local authority in which the office exists-

- (a) in a case where the local authority declares the office to be vacant, immediately after the declaration; and
- (b) in any other case, as soon as practicable after the date on which, by virtue of subsection (1), the vacancy is deemed to have occurred.

(3) The local authority shall forthwith send to the Department a copy of every notice under subsection (2).

[Subs (3) added by Local Government Act 2006 s 4.]

16 Filling of casual vacancy in case of chairman, etc

(1) On a casual vacancy occurring in the office of chairman or vice-chairman of a local authority, an election to fill the vacancy shall be held not later than the next ordinary meeting of the authority held after the date on which the vacancy occurs, or if that meeting is held within 14 days after that date, then not later than the next following ordinary meeting of the authority, and shall be conducted in the same manner as an ordinary election.

(2) Where the office vacant is that of chairman of the authority, a meeting of the authority for the election may be convened by the clerk of the authority.

17 Filling of casual vacancy in case of members

(1) Subject to the provisions of this section, on a casual vacancy occurring in the office of member of a local authority an election to fill the vacancy shall be held-

- (a) in a case in which the High Court or the authority has declared the office to be vacant, within 42 days from the date of the declaration;

(b) in any other case, within 42 days after notice in writing of the vacancy has been given to the clerk of the authority by 2 local government electors for the district of the authority.

(2) The day of election to fill a casual vacancy in any such office shall be fixed by the returning officer.

(3) Where a casual vacancy in any such office occurs within 6 months before the day on which the member whose office is vacant would regularly have retired, an election shall not be held under subsection (1) unless on the occurrence of the vacancy (or in the case of a number of simultaneous vacancies, the occurrence of the vacancies) the total number of unfilled vacancies in the membership of the authority exceeds one third of the whole number of members; and where an election under subsection (1) is not held, the vacancy shall be filled at the next ordinary election.

(4) Where more than one casual vacancy in any such office is filled at the same election, the person elected by the smallest number of votes shall be deemed to be elected in place of the member who would regularly have first retired, and the person elected by the next smallest number of votes shall be deemed to be elected in place of the member who would regularly have next retired and so with respect to the others; and if there has not been a contested election, or if any doubt arises, the order of retirement shall be determined by lot.

(5) Where an election to fill one or more casual vacancies in any such office is combined with an ordinary election of members of the authority, the following provisions shall apply-

(a) where an election is contested-

- (i) the persons who are elected by the smallest numbers of votes, or, if any relevant votes are equal, such persons as are determined by lot, shall be deemed elected to fill the casual vacancies;
- (ii) if the persons elected to fill the casual vacancies will hold office for different periods, the person elected by the smallest number of votes or, if the relevant votes are equal, such person as is determined by lot, shall hold office for the shorter period, and so with respect to the others;

(b) where the election is not contested-

- (i) those declared elected (if fewer than the vacancies to be filled) shall be deemed elected to fill the vacancies in which they will hold office for the longest periods;
- (ii) where there are 2 or more persons declared elected and they are to fill vacancies in which they will hold office for different periods, any retiring members elected shall be deemed elected to fill the vacancies in which they will hold office for the longest period, and the question which of the persons declared elected who are not retiring members is to be deemed elected

to fill any of the vacancies not filled by retiring members shall be determined by lot.

- (6) Where under this section any question is required to be determined by lot-
- (a) in the case of a contested election, the lot shall be drawn by the returning officer immediately after the question has arisen; and
 - (b) in any other case, the lot shall be drawn at the next meeting of the authority after the question has arisen, and the drawing shall be conducted under the direction of the person presiding at the meeting.

18 Term of office of persons filling casual vacancies

A person elected under section 16 or 17 to fill any vacancy shall hold office until the date upon which the person in whose place he is elected would regularly have gone out of office.

19 Temporary appointment

Where there are so many vacancies in the office of member of a local authority that the authority is unable to act, the Department may, after consultation with the members of the authority, by order appoint persons to fill all or any of the vacancies until other members are elected and take up office.

[S 19 amended by GC192/86.]

Proceedings for disqualification

20 Proceedings for disqualification

(1) Proceedings against any person on the ground that he acted or claims to be entitled to act as a member of a local authority while disqualified for so acting within the meaning of this section may be instituted in the High Court by, and only by, a local government elector for the district of the authority, but proceedings under this section shall not be instituted against any person on the ground that he so acted after the expiration of more than 6 months from the date on which he so acted.

(2) Where in proceedings instituted under this section it is proved that the defendant has acted as a member of a local authority while disqualified for so acting, then the High Court may-

- (a) make a declaration to that effect and declare that the office in which the defendant has acted is vacant;
- (b) grant an injunction restraining the defendant from so acting;
- (c) order that the defendant shall forfeit to Her Majesty such sum as the court thinks fit, not exceeding £200 for each occasion on which he so acted while disqualified.

A sum ordered to be forfeited under paragraph (c) shall be applied as a fine imposed by a court of summary jurisdiction.

(3) Where in proceedings under this section it is proved that the defendant claims to act as a member of a local authority and is disqualified for so acting, the court may make a declaration to that effect, declare that the office in which the defendant claims to be entitled to act is vacant and grant an injunction restraining him from so acting.

(4) No proceedings shall be instituted against a person otherwise than under this section on the ground that he has, while disqualified for acting as a member of a local authority, so acted or claimed to be entitled so to act.

(5) For the purposes of this section a person shall be deemed to be disqualified for acting as a member of a local authority-

- (a) if he is not qualified to be, or is disqualified for being, a member of the authority; or
- (b) if by reason of failure to make and deliver a declaration of acceptance of office within the period required, or by reason of resignation or failure to attend meetings of the local authority, he has ceased to be a member of the authority.

(6) This section shall, so far as applicable, apply with respect to membership of or a claim to be entitled to act as a member of a committee of a local authority or a joint committee of two or more local authorities as it applies to membership of or a claim to be entitled to act as a member of a local authority.

Mayor, chairman, etc.

21 Election of chairman, etc

(1) The chairman of a local authority shall be elected by the authority at its annual meeting from among the members of the authority.

(2) The election of the chairman shall be the first business transacted at the annual meeting of the local authority.

(3) The term of office of the chairman shall be one year, but he shall continue in office until his successor has accepted such office.

(4) A local authority may elect a member of the authority to be vice-chairman of the authority, and such vice-chairman, unless he resigns or becomes disqualified, shall hold office until immediately after the election of the chairman at the next annual meeting of the authority.

22 Mayor and deputy mayor

(1) Sections 6, 7, 8, 9, 12, 13, 14 and 20 apply to the office of mayor as they apply to the office of member of a local authority.

(2) Sections 10, 11, 15, 16, 18 and 21(2) and (3) apply to the office of mayor as they apply to the office of chairman of a local authority.

(3) Schedule 2 has effect with respect to the election of a mayor and the appointment of a deputy mayor.

[S 22 substituted by Douglas Corporation Act 1988 Sch.]

Supplemental

23 Fees and expenses

(1) Returning officers and other officials shall be paid such fees and expenses in connection with local elections as may be prescribed by order of the Department.

[Subs (1) amended GC192/86.]

(2) All fees and expenses payable by virtue of this section shall be defrayed out of the district fund of the local authority.

(3) An order under subsection (1) may prescribe different fees and expenses as respects different local authorities.

(4) An order under subsection (1) shall not have effect unless it is approved by Tynwald.

24 Interpretation

In this Act-

'alderman'

[Definition of 'alderman' repealed by Douglas Corporation Act 1988 Sch.]

'annual meeting', in relation to a local authority, means the meeting of the authority held in pursuance of paragraph 1 of Schedule 1 to the Local Government Act 1985;

'the Board'

[Definition of 'the Board' repealed by GC192/86.]

'the borough' means the borough of Douglas;

'commissioner for oaths', in relation to a declaration made in the United Kingdom or the Channel Islands, includes a person authorised to administer oaths in the place in which the declaration is made;

'the council' and **'councillor'** means the council and a councillor of the borough respectively;

'the Department' means the Department of Infrastructure;

[Definition of 'the Department' inserted by GC192/86 and amended by SD155/10 Sch 5.]

'joint board' means a body corporate established under an enactment and consisting of members appointed by 2 or more local authorities or by the Department and one or more local authorities;

[Definition of 'joint board' amended by GC192/86.]

'the local authority', in relation to a local election, means the authority to which the election relates;

'local election' means an election of a member or members of a local authority;

'local government elector', in relation to the district of a local authority, means a person registered in the register of electors for that district;

'mayor' means the mayor of the borough;

'member' means-

(a) in relation to the council, a councillor;

(b) in relation to any other local authority, a commissioner;

'register of electors', in relation to a district, means the register of electors to vote at any local election in the district, or the registers of electors to vote at any local election in the respective wards of the district, as the case may be.

25 Amendments

(1)

[Subs (1) repealed by Local Government (Miscellaneous Provisions) Act 2003 Sch.]

(2) The enactments specified in Schedule 3 are amended in accordance with that Schedule.

(3)

[Subs (3) repealed by Statute Law Revision Act 1992 Sch 2.]

26 Short title, etc.

(1) This Act may be cited as the Local Elections Act 1986.

(2) This Act shall come into operation on the 1st March 1989.

[Subs (2) substituted by Douglas Corporation Act 1988 s 3.]

Schedule 1

Provisions of 1995 Act Applicable to Local Elections

Section 4 [Sch 1 substituted by Representation of the People Act 1995 Sch 5 and amended by Statute Law Revision Act 1997 Sch 1 and by SD155/10 Sch 5.]

Section	Subject Matter	Modifications
23	Effect of non-compliance with rules	
24	Entitlement to vote at election	For 'constituency' (in each place) substitute 'district or ward'
25	Place and manner of voting	Omit paragraph (c).
26	Absent voters	In subsection (1), for 'constituency' substitute 'district or ward'.
28	Employers to grant facilities for voting	

29	Effect of registers	In paragraph (b), for 'constituency' (in both places) substitute 'district or ward'.
30	Public notices	
32	Corrupt and illegal practices	
33	Personation	
34	Bribery	
35	Treating	
36	Undue influence	
37	Election publications	
39	Corrupt withdrawal	
40	Premises not to be used as committee rooms	
41	Bands of music	
42	Providing money for illegal purposes	
43	Voting offences	In subsection (1), omit paragraphs (c), (f), (g), (h), (i) and (j); in paragraph (a), omit 'whether as an elector or by proxy,'; in paragraph (d), omit '(otherwise than as a proxy)', and for 'constituency' substitute 'district or ward'.
44	Offences of corrupt practices etc.	
45	Breach of official duty	
46	Offences relating to nomination papers etc.	
47	Requirement of secrecy	
48	Obedience to returning officer	
49	Defacing of notices	
52	Officials not to act for candidates	
53	Canvassing by police officers	
54	Rights of creditors	
55	Interpretation of Part 4	For the definition of 'candidate' substitute- 'candidate' means a person elected or having been nominated or having declared himself to be a candidate for election, to the office to be filled at the election;'

56	Election petition	In subsection (1), for 'to the Keys under this Act' substitute 'relating to an election'.
57	Report as to candidate guilty of corrupt or illegal practices	
58	Avoidance of election if candidate reported guilty	
59	Disciplinary action for corrupt practice	
60	Avoidance of election for general corruption	
61	Avoidance of election for employing corrupt agent	
62	Votes to be struck off for corrupt or illegal practices	
63	Relief for innocent act	In subsection (2)(c), for 'constituency' substitute 'district or ward'
64	Prosecutions for corrupt practices etc.	
65	Prosecution of offences disclosed on election petition	
66	Incapacities on report or conviction of practice	In subsection (1), for paragraph (d) substitute corrupt or illegal '(d) if reported guilty by his agents of an illegal practice, for 3 years;'
67	Mitigation and remission of incapacities	
68	Time limit for prosecutions	
69	Offences by corporations	
70	Evidence by certificate	
71	Functions of Attorney General	
72	Injunction restraining false statement	
73	Rules of court	
74	Service of notices	
75	Interpretation of Part 5	

77	Interpretation: general	<p>In subsection (1), after 'In this Act-' insert- 'the Department' means the Department of Infrastructure;';</p> <p>and for the definitions of 'election' and 'election rules' substitute-</p> <p>' 'election' means a local election (within the meaning of the Local Elections Act 1986);</p> <p>'election rules' means rules under section 1 of the Local Elections Act 1986;'.</p>
80	Regulations	<p>In subsection (1), for 'Governor in Council' substitute 'Department'.</p>
Schedule 3	Procedure on election petition	<p>In paragraph 2(4), for 'constituency' (in both places) substitute 'district or ward'.</p> <p>In paragraph 6, omit sub-paragraph (3).</p> <p>In paragraph 8, in sub-paragraphs (1) and (2), for 'Speaker' substitute 'Department'; in sub-paragraph (3), for 'Speaker' and 'Keys' substitute 'Department'; and omit sub-paragraph (4).</p> <p>In paragraph 14, for 'Speaker' substitute 'Department'.</p> <p>In paragraph 15, in sub-paragraph (1), for 'Speaker' substitute 'Department'; in sub-paragraph (2), for 'Keys' substitute 'Department'.</p> <p>In paragraph 16(3), for 'constituency' substitute 'district or ward'.</p> <p>In paragraph 17, in sub-paragraph (1), for paragraph (b) substitute '(b) resigns or otherwise ceases to hold the office to which the petition relates,', and for 'constituency' substitute 'district or ward'; in sub-paragraph (2), for 'Keys until the Keys' substitute 'local authority until the Department'; and in sub-paragraph (3), for 'Speaker' substitute 'Department'.'</p>

Schedule 2

Mayor and Deputy Mayor

[Sch 2 substituted by Douglas Corporation Act 1988 Sch.]

1. The mayor shall be elected by the council from among the councillors or persons qualified to be councillors.
2. (1) At an election of the mayor, in case of equality of votes, the person presiding at the meeting shall give a casting vote, whether or not he voted or was entitled to vote in the first instance.

(2) If an election of the mayor is not held at the annual meeting, it may be held on the day following, or the High Court may, on the petition of the Attorney General or of the Corporation or any burgess, order that the election be held on a day appointed by the Council.

(3) An election of the mayor not called into question within 2 months of the date of the election shall be deemed to be a valid election.
3. (1) The mayor may appoint a councillor to act as deputy mayor during the illness or absence of the mayor.

(2) Any such appointment shall be signified to the council in writing and recorded in the minutes.

(3) The deputy mayor may, while acting as such, do all acts which the mayor as such might do, except that he shall not-
 - (a) preside at a meeting of the council unless appointed by the meeting to do so, or
 - (b) unless he is a justice of the peace, act as such or in any judicial capacity.

Schedule 3

Amendment of Enactments

[Sch 3 amended by Representation of the People Act 1995 Sch 8, and amends the following Act - House of Keys and Public Authorities Elections Act 1941 q.v.]

Schedule 4

[Sch 4 repealed by Statute Law Revision Act 1992 Sch 2.]

PART 2

The Representation of the People Act 1995

*** Provisions applying to Local Elections (Sch 1 of the Local Elections Act 1986)**

REPRESENTATION OF THE PEOPLE ACT 1995

(Chapter 13)

Arrangement of Sections

PART 1

THE HOUSE OF KEYS

Qualifications for membership of the Keys

1. Qualifications for membership of the Keys.

Term of the Keys

2. Term of the Keys.
3. Summoning, prorogation and dissolution of the Keys.
4. Extension of term of Keys in emergency.

Vacancies in the Keys

5. Report of casual vacancies.
6. Vacancy in seat.
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Received Royal Assent: 18 October 1995

Passed: 19 October 1995

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

PART 3

HOLDING OF ELECTIONS

Writs of election

23 Effect of non-compliance with election regulations

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 or her official duty in connection with the election, or otherwise in breach of the election regulations, 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.

24 Entitlement to vote at election

(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.

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

(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 or she is under the age of 16 years on the date of the poll.

(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 or she may be liable for voting.

25 Place and manner of voting

(1) A person entitled to vote at an election —

(a) may do so in person at the polling station allotted under election 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).~~

26 Advance votes

(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)).~~

(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) The application shall include —
 - (a) an address in the British Islands 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 advance voters.

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

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.

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);
 - (ea) a person who commits an offence under any provision of section 44A or 44B which is triable on information;
 - (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 or she shows that he or she 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 or her election be avoided, for an illegal practice under subsection (2)(e) or (g) committed by any agent of the candidate's.
- (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 the candidate's, 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 or she 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 or she —
 - (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 or she directly or indirectly, by himself or herself, or by any other person on his or her 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 or she procures or engages, promises or endeavours to procure the return of any person at an election or the vote of any voter.¹¹⁸

- (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 or she —
 - (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 or she directly or indirectly, by himself or herself, or by any other person on his or her behalf, receives, agrees, or contracts for any money, gift, loan or valuable consideration, office, place or employment for himself or herself 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 or she directly or indirectly, by himself or herself, or by any other person on his or her 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 or she corruptly, by himself or herself 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 or her behalf.

36 Undue influence

- (1) A person is guilty of undue influence if the person —
- (a) directly or indirectly, by himself or herself or by any other person on his or her behalf, makes use of, or threatens to make use of any force, violence or restraint, or
 - (b) inflicts or threatens to inflict, by himself or herself 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 the person —
- (a) impedes or prevents the free exercise of the franchise of an elector, or
 - (b) 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, or discouraging or preventing, 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; or
 - (c) on any 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 a Department or Statutory Board.
- (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 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) In this section —

"distribute" includes distributing by electronic means;

"print" includes any process for multiplying copies of a document, other than copying it by hand;

"publish" includes publishing by electronic means.

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.

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, in any capacity or by any means provided for by this Act, knowing that he or she is subject to a legal incapacity to vote; or
 - (b) apply for the person or another person to vote in advance of the election, knowing that he or she 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 or her at any election knowing that he or she 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) [Repealed]
 - ~~(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 or her proxy at the election has already voted as his or her 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 or she is not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild;~~
 - (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 herself or for some other person, or of securing the appointment of himself or herself or some other person as a proxy.
- (2) For the purposes of this section a person shall be treated as having voted if he or she —
- (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 advance 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 or her official duty, he or she 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 or her 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 or her 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 or she 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 or she 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 election regulations 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 or her 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 or her ballot paper after he or she has marked it so as to make known to any person the name of the candidate for whom he or she has or has not voted.
- (5) If any person acts in contravention of this section, he or she 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 or her 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 or she 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 or she is guilty of an offence and liable on summary conviction to a fine not exceeding £200.

52 Officials not to act for candidates

If —

- (a) any returning officer at an election,
- (b) any officer or clerk appointed under election regulations, or¹⁶¹
- (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 or she 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 or her vote at an election, he or she 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 or her 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**” [Repealed]¹⁶⁵

“**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 or she 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 or she shall be treated as having been reported personally guilty of that illegal practice.
- (2) If a candidate is reported guilty by his or her 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 or her 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 or her 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 or her agents,

then the candidate shall not be treated for the purposes of sections 58 and 66 as having been reported guilty by his or her 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 or her agents of any corrupt or illegal practice his or her 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

- (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 or she 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 or she 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 or her in his or her 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 or her 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) the election of the person (if any), shall be void, and
 - (b) the person 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 the candidate knows or has reasonable grounds for supposing to be subject to an incapacity to vote at the election by reason of having been convicted or reported guilty of any corrupt practice or illegal practice, the candidate 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 herself or by any person on the candidate's 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, the person's 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, the person's vote shall be void.

63 Relief for innocent act

- (1) An application for relief under this section may be made to the High Court.
- (1A) For the sake of clarity, under this section—
 - (a) an application may be made by a person, and

(b) relief may be granted under it to a person,

even if the person is not entitled to present an election petition.¹⁸²

(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 by the High Court with respect to the prosecution of offenders, and if it appears to the Attorney General that any person who has not received a certificate of indemnity has been guilty of a corrupt or illegal practice, the Attorney General shall, without any such direction, prosecute that person for that offence before the High Court, or if the Attorney General 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 or her summarily, unless —
 - (a) the court thinks it expedient in the interests of justice that the person prosecuted should be tried before some other court; and
 - (b) in the case of an allegation of a corrupt practice, the person prosecuted 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 the person prosecuted 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 on 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 the accused 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 the accused to be brought before the court of summary jurisdiction before whom the accused is to be prosecuted, or
 - (b) remand the accused 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 the accused's attendance before a court of summary jurisdiction, or
 - (b) a warrant to apprehend the accused and bring the accused before such a court.
- (9) The court of summary jurisdiction before whom the accused 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 the accused for trial; and
 - (b) if the offence is not an offence triable on information, proceed to hear the case.

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 or her 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 or her agents of an illegal practice, during the term of the Keys for which the election was held;

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

- (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;
 - (b) of being registered as an elector or voting at any election for the Keys or a local authority; or
 - (c) of holding any public or judicial office,

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

- (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.
- (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 or she 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 or she 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 she 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 or she 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 or her 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, the Attorney General shall make such inquiries and institute such prosecutions as the circumstances of the case appear to the Attorney General to require.
- (2) The Attorney General shall, either personally 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.

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 the person to appear before the High Court, or otherwise, or of giving the person an opportunity of making a statement, or showing cause, or being heard by himself or herself 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, the person's 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" [Repealed]

"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" [Repealed]

"public office" means any office under the Crown or under any Department, Statutory Board or local authority.

PART 6 – MISCELLANEOUS AND SUPPLEMENTAL

76 [Repealed]

Supplemental

77 Interpretation: general

(1) In this Act —

~~**"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;

"anonymous" – see subsection (2);

"the Board of Education" [Repealed]

"candidate" – see subsection (6);

"donation" – see subsection (3);

"election" means an election of a member or members of the Keys;

"election expenses" – see subsection (4);

"election petition" means a petition presented in pursuance of Schedule 3;

"election rules" [Repealed]

"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;

"Electoral Registration Officer" means the officer for the time being appointed under section 4(1) of the Registration of Electors Act 2006;

"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;

"nominated charitable trust" means the Manx Lottery Trust, an independent charitable trust established by a trust deed dated 21st May 2008;

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

“**prescribed**”, except in Schedule 3, means prescribed by regulations;

“**prospective candidate**” – see subsection (7);

“**registration officer**” has the same meaning as in the Registration of Electors Act 2006;

“**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;

“**support**” need not be financial support;

“**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;

“**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.

- (2) For the purposes of this Act a donor or donation is “**anonymous**” if the recipient is unable, despite taking all reasonable steps —
 - (a) in the case of a donation made by a person other than in the person’s capacity as a trustee, to ascertain the identity of the donor making the donation;
 - (b) in the case of a donation made by a trustee, to ascertain the identity of the settlor or other contributor to the trust providing the asset from which the donation is derived.
- (3) Whether something constitutes a donation for the purposes of this Act, and if so the timing and amount of the donation, is to be determined in accordance with Part 1 of Schedule 3A.
- (4) Whether or not something constitutes an election expense for the purposes of this Act and, if so, the timing and amount of the expense is to be determined in accordance with Part 2 of Schedule 3A.
- (5) Regulations may amend the definition of “nominated charitable trust”.
- (6) For the purposes of this Act a person becomes a candidate for an election on the day on which, in accordance with election regulations, a person is nominated for election to the Keys, and that nomination is accepted by a returning officer.
- (7) For the purposes of this Act a person becomes a prospective candidate for the next election of the Keys when —

- (a) that person ("C") declares C's intention to be a candidate at that election; or
 - (b) another person, with C's consent, declares C's intention to be such a candidate.
- (8) But if the declaration referred to in subsection (7) occurs more than 12 months before the day of the election, C becomes a prospective candidate on the day that is 12 months before election day.

78 [Repealed]

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 Schedule 3) may be prescribed.
- (1A) Regulations may amend this Act so as to vary any reference to any period of time mentioned in sections 20A to 20G.
- (2) Regulations under this Act shall not have effect unless they are approved by Tynwald.

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 3

PROCEDURE ON ELECTION PETITION

Section 56(3)

1 Interpretation

In this Schedule —

"petition" means an election petition;

"prescribed" means prescribed by rules of court;

"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 or herself 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 the member's 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 the petitioner 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 or she 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 election regulations 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 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 the Attorney General 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 or her 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 or she 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.
- (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 the person for any corrupt or illegal practice committed by the person 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 or she 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 or her 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 the person, and
 - (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.
- (3) The report shall be laid before the Attorney General with a view to the Attorney General's instituting or directing a prosecution against such persons as have not received certificates of indemnity, if the evidence should, in the Attorney General's 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 the applicant's 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 the Attorney General's 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 the Attorney General's 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 the person 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 or her 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 or she proceeds with his or her 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 or she 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 or her 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 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.
- (2) A respondent who has given the prescribed notice that he or she 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 or she 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 or her behalf or to the respondent any sum certified to be due to him or her for his or her 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 or her.

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 or her 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 sub-paragraph (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 5

SUBSTITUTED SCHEDULE 1 TO THE LOCAL ELECTIONS ACT 1986

Section 79

[Sch 5 substitutes Sch 1 to Local Elections Act 1986.]

PART 3

The Local Election Rules 2003 (as amended in 2008, 2012 and 2020)

Index List of Local Elections Rules 2003 (as amended)
(for guidance purposes only)

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PART 1

INTRODUCTORY

1. Citation and commencement

This Order may be cited as the Local Election Rules 2003, and, subject to section 1(3) of the Act, shall come into operation on the 1st February 2004.

2. Interpretation

(1) In these Rules —

"**the Act**" means the Local Elections Act 1986;

"**the authority**", in relation to an election, means the local authority to which the election relates;

" **bank holiday**" means a bank holiday under the Bank Holidays Act 1989 or a day declared to be a non-business day under a Treasury Order under Section 1 of the Banking and Financial Dealings (isle of man) Act 1973;

"**Department**" means the Department of Infrastructure;

"**election**" means a local election;

"**elector**" means a local government elector;

"**electoral area**" means the district of an authority or, where the district is divided into wards, a ward of the district;

"**form**" with a number means the form so numbered in Schedule 1;

"**register of electors**" means the register of electors in force on the day of election;

"**mark**" means a figure, a word written in the English language or the Manx language, or a mark such as "x".

(2) Save as otherwise expressly provided, a public notice required to be given under these rules shall be given in the manner specified for notices of a local authority by section 32 of the Local Government Act 1985¹.

3. **Time-table**

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

(1) Publication of notice of election.	Not less than 7 nor more than 14 days before the last day for the delivery of nomination papers.
(2) Delivery of nomination papers.	Before 5.00 pm on a day to be fixed by the returning officer, such day to be not more than 28 days and not less than 21 days before the day of election.
(3) Delivery of withdrawal of candidature.	Not later than 2.00 pm on the next day after the day fixed for the delivery of nomination papers.
(4) Making of objections to nominations.	Not later than 2.00 pm on the next day after the day fixed for the delivery of nomination papers.
(5) Publication of nominations.	Immediately after the expiry of the time for making objections to nomination papers and, if objections are made, as soon thereafter as any objections are

¹ 1985 c.24

disposed of.

- (6) Polling. Between 8.00 am and 8.00 pm on the day of election.

4. Computation of time

(1) In computing a period of days for the purposes of this rule Saturday, Sunday, Christmas Eve, Christmas Day, Good Friday or a bank holiday shall be disregarded.

(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 does not limit sections 48(3) and 49 of Interpretation Act 2015.

5. Revocation

The Local Election Rules 1996² are revoked.

PART 2

STAGES COMMON TO CONTESTED AND UNCONTESTED ELECTIONS

6. Notice of election

(1) In the case of a casual vacancy, the notice of election in Form 1, shall be published by the Clerk to the authority by —

(a) insertion in one or more newspapers published and circulating the Island, and

(b) posting in one or more conspicuous places in the electoral area..

(2) In the case of a general election, the notice of election in Form 1A (a composite notice), shall be published by -

(a) the Department by insertion in one or more newspapers published and circulating the Island, and

(b) the Clerk to the authority by posting in one or more conspicuous places in the electoral area.

² SD 35/96

7. 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 clerk to the authority at the place fixed for the purpose.
- (2) The nomination paper shall be in form 2 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);
 - (c) whether the candidate is disqualified under section 7 of the Act for standing as a candidate for, and being elected to be a Member of, the local authority."
- (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 clerk to the authority, after consultation (if possible) with the candidate or his proposer or seconder, may shorten it or substitute another.

8. Subscription of nomination paper

- (1) The nomination paper shall be subscribed by 2 electors for the electoral area as proposer and seconder, and by not less than 8 other electors for the electoral area as assenting to the nomination, but so that only 8 of those electors shall be treated for the purposes of paragraph (5) as having subscribed the nomination paper.
- (2) The nomination paper shall give the electoral number and address of each person subscribing it.
- (3) The clerk to the authority shall supply any elector for that authority's or any other district 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 clerk to the authority.
- (4) The form of nomination paper shall include or be accompanied by instructions in form 3 as to the completion and signing of such nomination paper.
- (5) 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.
- (6) In this rule —

"elector" means a person who, pending the publication of the register of electors, appears from the lists of electors as revised by the registration officer to be entitled to be so registered;

"electoral number" means a person's number in that register or, pending the publication of the register, his number (if any) in the lists of electors for it.

9. 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.

10. Place for delivery of nomination papers

Nomination papers shall be delivered to the clerk to the authority at the principal office of the authority.

11. Attendance by returning officer

(1) The returning officer shall attend at the principal office of the authority at 2.00 pm on the next day after the last day for delivery of nomination papers and decide on the validity of every nomination paper.

(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.

12. Notice to candidate of nominations

The clerk to the authority shall forthwith after the end of the time for delivery of nomination papers send to each person nominated notice of every nomination in respect of the electoral area for which that person is nominated, stating that objections with respect to any nomination may be made in writing to the returning officer at the time appointed for considering such nominations.

13. Right to attend nomination

(1) Except for the purpose of delivery 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) Each candidate or, if he is absent from the Island, his proposer or seconder may in writing appoint a representative to attend the proceedings before the returning officer under this rule, and the appointment shall be delivered to the clerk to the authority before 5.00 pm on the last day for delivery of nomination papers.

(3) Where a person stands nominated by more than one nomination paper, only the persons subscribing to, 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.

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

14. 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 16.

(2) The returning officer may hold a nomination paper invalid at any time before the expiry of the period specified in rule 11(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.

15. Nomination for more than one ward

A candidate who is validly nominated for more than one ward must duly withdraw from his candidature in all those wards except one, and if he does not so withdraw he shall be deemed to have withdrawn from his candidature in all those electoral wards.

16. Withdrawal of candidates

- (1) A candidate may within the time limited by rule 3 withdraw from his candidature by giving a notice in writing to that effect to the clerk to the authority.
- (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 one 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.

17. 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 at least 4 days before the day of election 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 16, or
 - (b) a nomination is objected to 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.

18. Method of election

- (1) If at the expiry of the time specified in rule 11(1) more candidates stand nominated than there are vacancies to be filled, a poll shall 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 shall forthwith be declared to be elected in accordance with Part 4.

PART 3

CONTESTED ELECTIONS

General provisions

19. 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.

20. 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 form 4 and shall be printed in accordance with Schedule 2, and —
 - (a) shall contain the names and other particulars of the candidates nominated and qualified to hold office as a member of a local authority as shown in their respective nominations 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.
 - (e) shall have a 3cm border so that the candidate`s name is not marked by the press.
- (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.

21. The official mark

- (1) Every ballot paper shall be marked with an official mark, which shall be either embossed or perforated or printed, and which, except in the case of an absent voter, shall be applied at the time of voting, 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 electoral area.

22. 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.

Action to be taken before the poll

23. Notice of poll

The returning officer shall, as soon as practicable after the expiration of the time for the withdrawal of and objections to nominations, give public notice of the poll in form 5.

24. 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 is

a vacancy had been notified to the clerk to the authority on the day on which proof was given to the returning officer of the death.

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

25. Absent voters' ballot papers

The returning officer shall, in accordance with the Local Elections (Absent Voters) Regulations 2008, issue to those entitled to vote as an absent voter a ballot paper and a declaration of identity in Form 2 in the Schedule to those Regulations, together with such envelopes for their return (whether free of charge or otherwise) as may be prescribed in Regulation 16 of those Regulations.

26. 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 but so that no polling station shall have less than 2 compartments.

27. Appointment of presiding officers and clerks

(1) The returning officer shall appoint, in writing and in form 6, 7 or 8, as the case may be, and pay the following officers and clerks —

(a) not more than two presiding officers to attend at each polling station, and

(b) a chief counting clerk and such other counting clerks and poll clerks as may be necessary for the purposes of 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.

but shall not appoint any person who has been employed by or on behalf of a candidate in or about the election.

(2) On appointing any such officer or clerk the returning officer shall forthwith administer, and is authorised to administer, to him an oath in form 9, 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.

28. Issue of official poll cards

(1) The local authority shall as soon as practicable send an official poll card to each elector, except an elector whose application under regulation 2 of the Local Elections (Absent Voters) Regulations 2008 to be treated as an absent voter has been allowed.

(2) An elector's official poll card shall be sent or delivered to his qualifying address.

(3) The official poll card shall be in form 10 and shall set out —

- (a) the name of the authority;
- (b) the elector's name, qualifying address and electoral number;
- (c) the date and hours of the poll and the situation of the elector's polling station.

(4) In this rule "electoral number" means a person's number in the register to be used at the election.

29. 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) instruments for making 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;

(4) A notice in form 11, 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.

30. Appointment of polling and counting agents

- (1) Each candidate may, not later than 12 noon on the day 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 not later than 12 noon on the day 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.

31. Declaration of secrecy

- (1) Before the opening of the poll a declaration of secrecy in form 12 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 wife or husband attending at the counting of the votes;
 - (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 wife or husband attending by virtue of rule 43(2);
 - (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 commissioners 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 of the Representation of the People Act 1995³ (requirement of secrecy), as applied by section 4 of the Act, shall be read to the declarant by the person taking the declaration.

The poll

32. 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 for the counting of the votes;
- (c) the poll clerks;
- (d) the constables on duty; and
- (e) the companions of blind voters.

33. Keeping of order in station

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

³ 1995 c.13

(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.

34. 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.

35. 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) "Are you the person registered in the register of electors for this election as follows (*read the whole entry from the register*)?"
- (b) "Have you already voted, here or elsewhere, at this election for the [district] [ward] of?"
- (c) "What is your date of birth?"

(2) 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.

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

36. Challenge of voter

(1) If at the time a person applied 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.

37. Voting procedure

(1) A ballot paper, marked with the official mark, shall be delivered to a voter who applies thereof, 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.

38. 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; or
- (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").

39. Tendered ballot papers

(1) If a person representing himself to be a particular elector named in the register, whose name has not been ruled out as a person whose application to be treated as an absent voter has been allowed, applies for a ballot paper after another person has voted as the elector, 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").

40. Spoilt ballot papers

A voter who has inadvertently dealt with his ballot paper in such a 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.

41. 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 any enactment to the close of the poll shall be construed accordingly.

42. 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;
- (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";
- (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 the counterfoils of the used ballot papers shall be first sealed in separate packages and such two packages shall together be sealed up in a third package.

(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

43. 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 the counting of 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 rule "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 1993⁴).

44. The count

- (1) Before the returning officer proceeds to count the votes, he shall —
 - (a) in the presence of 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 subparagraphs (a) and (b).

⁴ 1993 c.12

- (1A) An absent voter's ballot paper shall not be taken as duly returned unless-
- (a) it is returned in the prescribed manner and reaches the returning officer or a polling station in the district or ward 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 polling station before that time.
- (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 pm and midnight; and
 - (b) any time between midnight and 9.00 am.
- 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.

45. Recount

- (1) A candidate 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.

46. 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.

47. 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.

48. Equality of votes

(1) 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.

(2) A decision by lot under paragraph (1) shall be taken as follows: the names of the candidates concerned having been written on similar slips of paper, and the slips having been folded so as to prevent identification and mixed and drawn at random, the candidate whose name is drawn shall be the candidate chosen;

PART 4

FINAL PROCEEDINGS IN CONTESTED AND UNCONTESTED ELECTIONS

49. 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 46); 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) give public notice of the candidate or candidates elected.

(3) The returning officer shall forthwith send a copy of the notice under paragraph (1)(b) or (2)(b) to the Department.

PART 5
DISPOSAL OF DOCUMENTS

50. Sealing up of ballot papers

- (1) On the completion of the count 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.

51. 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 statement 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;
 - (f) the oaths of himself, the deputy returning officer, the presiding officers, poll clerks and counting clerks,
 - (g) the nomination papers;
 - (h) the applications to be treated as an absent voter,
 - (i) the records kept in accordance with regulation 18(2) of the Local Elections (Absent Voters) Regulations 2008,

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

52. 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 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.

(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 High Court 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 a 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 provided by this rule, 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.

53. 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 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 1

FORM 1

NOTICE OF ELECTION (Casual Vacancy or Vacancies)

LOCAL ELECTIONS ACT 1986

[NAME OF LOCAL AUTHORITY]

NOTICE OF ELECTION

Notice is hereby given that an election of . . . member(s) of the *[name of local authority]* [for the ward of] will be held on *[day of election]*.

Forms of nomination may be obtained from the undersigned at *[address]* during normal office hours during the period up to and including the *[last date for delivery of nomination papers]*.

The form of nomination paper includes instructions as to its completion and signing.

A nomination paper duly completed must be delivered to the undersigned before 5.00pm on the *[last date for delivery of nomination papers]* at *[address]*.

In the event of a contested election polling will take place on *[polling day]*.

Candidates may obtain one copy of the register of electors for the *[district]* *[ward]* from the undersigned free of charge.

Copies of the Local Elections Act 1986, the Local Election Rules 2003 (as amended) and the Local Elections (Absent Voters) Regulations 2008 (as amended) are available from the Tynwald Library, Legislative Buildings, Douglas, IM1 3PW and from the Department of Infrastructure`s website.

ABSENT VOTERS

Absent voters` ballot papers can be obtained only by means of an application duly completed and received by the undersigned –

- (a) where the absent voter`s ballot paper is to be marked in the Isle of Man, at least 7 clear days before the date of the poll; or
- (b) where the absent voter`s ballot paper is to be marked elsewhere than in the Isle of Man, at least 9 clear days before the date for the poll.

Absent voters` ballot papers will be issued to persons whom the returning officer has accepted as being entitled to vote as such at the address in the Isle of Man or elsewhere as notified to the undersigned –

- (a) where the ballot paper is to be marked in the Isle of Man, at least 5 clear days before the day fixed for the poll; or
- (b) where the ballot paper is to be marked elsewhere than in the Isle of Man, at least 7 clear days before the day fixed for the poll.

Provided that where the absent voter`s ballot is to be marked in the Isle of Man the ballot may be delivered by the certifying officer to the returning officer at any time before the close of the poll.

Application forms are available from the undersigned during normal office hours.

The Representation of the People Act 1995 (as amended) provides that a person who is or will be entitled to vote at an election may apply to the returning officer of the district or ward in which that person seeks to exercise his or her vote to be treated as an absent voter.

TAKE NOTICE that all persons who are guilty of bribery, treating, undue influence, personation or other corrupt practices at the election, are, on conviction of such offence, liable to the penalties mentioned in that behalf in the Representation of the People Act 1995.

By Order

Clerk to the *[name of authority]*

[Address]

FORM 1A

NOTICE OF ELECTION (COMPOSITE)

LOCAL ELECTIONS ACT 1986

LOCAL AUTHORITIES GENERAL ELECTION

Notice is hereby given that a general election for all local authorities will be held on *[day of election]*.

Forms of nomination may be obtained from the address/office of the Clerk specified below during normal office hours during the period up to and including the *[last date for delivery of nomination papers]*.

The form of nomination paper includes instructions as to its completion and signing.

A nomination paper duly completed must be delivered to the Clerk of the Authority before 5.00pm on the *[last date for delivery of nomination papers]* at the address of the Clerk.

District/Ward	No of Members	Last date for delivery of nomination papers	Name/address of Clerk
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[Details inserted following consultation with local authorities]

In the event of a contested election polling will take place on *[date of election]*

Candidates may obtain one copy of the register of electors for the district/ward from their returning officer free of charge.

Copies of the Local Elections Act 1986, the Representation of the People Act 1995, the Local Election Rules 2003 (as amended) and the Local Elections (Absent Voters) Regulations 2008 (as amended) are available from the Tynwald Library, Legislative Buildings, Douglas, IM1 3PW and from the Department`s website.

ABSENT VOTERS

Absent voter`s ballot papers can be obtained only by means of an application duly completed and received by the returning officer –

- (a) where the absent voter`s ballot paper is to be marked in the Isle of Man, at least 7 clear days before the day fixed for the poll; or
- (b) where the absent voter`s ballot paper is to be marked elsewhere than in the Isle of Man, at least 9 clear days before the day fixed for the poll.

Absent voter`s ballot papers will be issued to persons whom the returning officer has accepted as being entitled to vote as such at the address in the Isle of Man or elsewhere as notified to the returning officer –

- (a) where the ballot paper is to be marked in the Isle of Man, at least 5

- clear days before the day fixed for the poll; or
- (b) where the ballot paper is to be marked elsewhere than in the Isle of Man, at least 7 clear days before day fixed for the poll.

Provided that where the absent voter's ballot is to be marked in the Isle of Man the ballot may be delivered by the certifying officer to the returning officer at any time before the close of the poll.

Application forms are available from the Returning Officer and at any police station in the district during normal office hours.

The Representation of the People Act 1995 (as amended) provides that a person who is or will be entitled to vote at an election may apply to the returning officer of the district or ward in which that person seeks to exercise his or her vote to be treated as an absent voter.

TAKE NOTICE that all persons who are guilty of bribery, treating, undue influence, personation or other corrupt practices at the election, are, on conviction of such offence, liable to the penalties mentioned in that behalf in the Representation of the People Act 1995.

By Order

Chief Executive
Department of Infrastructure

FORM 2

FORM OF NOMINATION PAPER

LOCAL ELECTIONS ACT 1986

[NAME OF LOCAL AUTHORITY]

NOMINATION PAPER

Election of a member of the *[name of district / ward]*

CANDIDATE'S SURNAME	
OTHER NAMES IN FULL	
PLACE OF RESIDENCE	
DESCRIPTION	
ELECTORAL NUMBER	

Declaration

I _____ the above nominated person, hereby –

- (a) consent to my nomination for the above *[district] [ward]*; and
- (b) declare that I am not disqualified under section 7 of the Local Elections Act 1986 for standing as a candidate for, and being elected to be a member of, the above local authority.

Signature of nominated
person

Witness to signature
(ONLY required where the
nominated person does not
submit the form personally)

WE, BEING ELECTORS FOR THE SAID [DISTRICT] [WARD], HEREBY NOMINATE THE ABOVE MENTIONED PERSON AS A CANDIDATE AT THE SAID ELECTION:—

(Entries must be written and should be set out in the same manner as in the Register of Electors).

/cont.

FOR REFERENCE ONLY

	ELECTORAL NUMBER	SURNAME	OTHER NAMES	ADDRESS	USUAL SIGNATURE
PROPOSER					
SECONDER					
ASSENTORS:					
1					
2					
3					
4					
5					
6					
7					
8					

FORM 3

INSTRUCTION AS TO NOMINATION PAPERS

Note

1. The attention of candidates and electors is drawn to the rules for filling up nomination papers and other provisions relating to nomination contained in the Local Election Rules 2003.
2. Where a candidate is commonly known by some title he may be described by his title as if it were his surname.
3. A person's electoral number is his number in the register to be used at the election.
4. An elector may not subscribe more nomination papers than there are vacancies to be filled for the same election.
5. Each nomination requires the signature of a proposer and seconder and 8 assentors, all of whom must be persons on the same register of electors for the district for which the candidate seeks election or, in the case of a ward election, the register for the ward in question.
6. The proposer, seconder and assentors should enter their electoral numbers, their addresses and their full names (surname first) and sign with their usual signatures.
7. One candidate only may be nominated on each nomination paper.
8. The nomination paper duly completed must be delivered to the returning officer at the time and place appointed for the delivery of nomination papers. The person supplying this paper will on request give information as to the time and a place.
9. Only a candidate or his proposer or seconder may deliver a completed nomination paper to the returning officer. If the candidate does not himself do so, the nomination paper must be accompanied by his written consent to the nomination attested by one witness.
10. A person proposing to deliver a completed nomination paper to the returning officer is advised to do so early in the time appointed for delivery, in case any errors need to be rectified.
11. More than one nomination paper in respect of the same candidate may be tendered to the returning officer, but only the first correctly completed paper will be accepted.

FORM 4

FORM OF BALLOT PAPER

[Form of front of ballot paper]

[Note: must include a 3cm border - see Rule 20(2)(e)]

Counterfoil No.

1.	BROWN (JOHN Brown of 17 Lake Street, Douglas, Salesman)	
2.	BROWN (THOMAS WILLIAM Brown of 52 George Street, Douglas, Merchant)	
3.	JONES (WILLIAM DAVID Jones of 14 Queens Avenue, Douglas, Esquire)	
4.	SMITH (MARY Smith of 72 High Street, Douglas, Married Woman)	

[Note: the counterfoils to have a number to correspond with that on the back of the ballot paper.]

[Form of back of ballot paper]

No.

Election for the district/ward of

[Note: the number on the ballot paper is to correspond with that of the counterfoil.]

FORM 5

NOTICE OF POLL

LOCAL ELECTIONS ACT 1986

[NAME OF LOCAL AUTHORITY]

[Ward of]

NOTICE IS HEREBY GIVEN that a poll for the election of ... member(s) of [name of local authority] [for the ward of] will take place on day the day of 20 and will commence at 8.00 am and close at 8.00 pm on that day.

The candidates nominated for this election are:-

<i>Full Name</i>	<i>Address</i>	<i>Description</i>
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The polling stations for this election are:-

<i>Number</i>	<i>Polling District</i>	<i>Place</i>
---------------	-------------------------	--------------

Dated 20

Returning Officer

FORM 6

FORM OF APPOINTMENT OF PRESIDING OFFICER

LOCAL ELECTIONS ACT 1986

APPOINTMENT OF PRESIDING OFFICER

I hereby appoint

of

presiding officer to preside at the polling station at

and subsequently to assist at the count, at the election of . . . member(s) of [name of local authority] [for the ward of]

Dated 20

Returning Officer

FORM 7

FORM OF APPOINTMENT OF POLL CLERK

LOCAL ELECTIONS ACT 1986

APPOINTMENT OF POLL CLERK

I hereby appoint

of

poll clerk to attend at the polling station at

and assist the presiding officer for the purpose of taking the poll and subsequently to assist at

the count, at the election of . . . member(s) of [*name of local authority*] [for the ward of

]

Dated

20

Returning Officer

FORM 8

FORM OF APPOINTMENT OF COUNTING CLERK

LOCAL ELECTIONS ACT 1986

APPOINTMENT OF COUNTING CLERK

I hereby appoint

of

counting clerk to assist at the count of the election of . . . member(s) to [*name of local*

authority] [for the ward of

]

Dated

20

Returning Officer

FORM 9

FORM OF OATH TO BE TAKEN BY PRESIDING OFFICER AND CLERKS

I, the undersigned [name]
appointed [presiding officer] [poll clerk] [counting clerk] for the district of
[ward of] do solemnly swear that I will act faithfully in
that capacity without partiality, fear, favour or affection.

[Signature]

FORM 10

FORM OF OFFICIAL POLL CARD

LOCAL ELECTIONS ACT 1986 OFFICIAL POLL CARD	
LOCAL AUTHORITY:	
POLLING DISTRICT:	
NUMBER ON REGISTER:	
NAME:	
ADDRESS:	
Your polling station will be:	
Polling day:	

LOCAL AUTHORITY ELECTION

The poll will be open from 8.00 am to 8.00 pm.

The address of your polling station is shown [above][overleaf].

When you go to the polling station, tell the clerk your electoral number, name and address, as shown above. The presiding officers will give you a ballot paper: see that he stamps the official mark on it before he gives it to you.

Mark your vote on the ballot paper secretly in one of the voting compartments. You may vote for not more than . . . candidate(s). Put one X in the space to the right opposite the name(s) of the candidate(s) for whom you wish to vote. If you put any other mark on the ballot paper your vote may not be counted.

Then fold the ballot paper in two to conceal your vote, show the official mark on the back to the presiding officer and put the paper into the ballot box.

If you spoil the ballot paper by mistake do not destroy it; give it back to the presiding officer and ask for another.

FORM 11

DIRECTIONS FOR THE GUIDANCE OF THE VOTER IN VOTING

1. You may vote for not more than . . . candidate(s).
2. You should make sure that the ballot paper you have received from the presiding officer has the official mark stamped on it. The paper is invalid without it.
3. Go into one of the voting compartments provided. Look at the ballot paper carefully and then record your vote by placing, in the spaces provided at the right hand side of the paper, the letter "x" opposite the name of the candidate(s) for whom you wish to vote.
4. In no circumstances write anything else on the ballot paper; if you do your vote may be invalid.
5. You should not place any mark or writing on the ballot paper by which you may be identified, your ballot paper may be invalid and your vote may not be counted.
6. If by accident you damage or spoil your paper or if you mark it in such a way that it may be rejected as spoilt, or if you place a wrong mark on it or mark it inadvertently in the wrong place, then take the paper back to the presiding officer, tell him what has happened and ask him for a fresh ballot paper.
7. When you have marked your ballot paper, fold it so that the front of it is hidden and, holding the paper so that the presiding officer can see the official mark on the back of it, put it into a ballot box.
8. You must neither take your ballot paper out of the polling station nor put any other paper into a ballot box. To do so is a serious offence.
9. When you have voted leave the polling station at once.

FORM 12

FORM OF DECLARATION OF SECRECY

I solemnly promise and declare that I will not do anything forbidden by section 47 of the Representation of the People Act 1995, which has been read to me.

SCHEDULE 2

DIRECTIONS AS TO PRINTING THE BALLOT PAPERS

1. Nothing is to be printed on the ballot paper except in accordance with these directions.
 2. So far as practicable, the following arrangements shall be observed in the printing of the ballot paper:—
 - (a) no word shall be printed on the face except the particulars of the candidates;
 - (b) no rule shall be printed on the face except the horizontal rules separating the particulars of the candidates from one another and the vertical rules separating those particulars from the numbers on the left-hand side and the spaces on the right where the vote is to be marked;
 - (c) the whole space between the top and bottom of the paper shall be equally divided between the candidates by the rules separating their particulars.
 3. The surname of each candidate shall in all cases be printed by itself in large capitals, and his full particulars shall be set out below it and shall be printed in ordinary type except that small capitals shall be used —
 - (a) if his surname is the same as another candidate's, for his other names; and
 - (b) if his other names are also the same as the other candidate's, either for his residence or for his description unless each of them is the same as that of another candidate with the same surname and other names.
 4. The number on the back of the ballot paper shall be printed in small characters.
-

PART 4

The Local Election (Absent Voters) Regulations 2008 (as amended in 2012 and 2020)

Index List of Local Elections (Absent Voters) Regulations 2008 (as amended)
(for guidance purposes only)

Part 1- General

1. Citation, commencement and interpretation

Part 2 – Absent Voters

2. General requirements for applications for an absent vote
3. Additional provisions concerning the requirement that an application for an absent vote must be signed by the applicant
4. Supplies of forms
5. Closing date for applications
6. Grant or refusal of applications
7. Absent voter's list

Part 3 – Issue and Receipt of Absent Voter's Ballot Papers

8. Form of declaration of identity
9. Persons entitled to be present at proceedings on issue of absent voter's ballot papers
10. Persons entitled to be present at the opening of absent voter's ballot papers
11. Agents of candidates who may be present at the opening of absent voter's ballot papers
12. Notification of requirement of secrecy
13. Time when absent voter's ballot papers are to be issued
14. Procedures on issue of absent voter's ballot paper
15. Refusal to issue absent voter's ballot paper
16. Envelopes
17. Sealing up of counterfoils and security of special lists
18. Delivery of absent voter's ballot papers
19. Spoilt absent voter's ballot papers
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21. Certifying persons
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23. Voting by absent voters
24. Receipt of absent voter's ballot papers
25. Procedure in relation to declarations of identity
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28. Checking of lists kept under regulation 27
29. Sealing of receptacles
30. Abandoned poll
31. Forwarding of documents
32. Revocation

Schedule 1	-	Form 1.	Application to be treated as an Absent Voter
		Form 2.	Declaration of Identity and Form of Instructions
		Form 3.	Absent Voters' Ballot Paper Account

PART I

General

1. Citation, commencement and interpretation

(1) These Regulations may be cited as the Local Elections (Absent Voters) Regulations 2008, and, subject to section 80(2) of the 1995 Act, shall come into operation on the 1st March 2008.

(2) In these Regulations –

“the 1995 Act” means the Representation of the People Act 1995, as applied by section 4 of the 1986 Act;

“the 1986 Act” means the Local Elections Act 1986;

“the absent voter’s ballot paper account” has the meaning given by regulation 14(4);

“the absent voter’s list” has the meaning given by regulation 7;

“agent” includes the election agent and a person appointed to attend in the election agent’s place;

“the authority”, in relation to an election, means the local authority to which the election relates;

“appointed certifying person” means a person appointed as a certifying person under regulation 21(3);

“Ballot paper envelope” shall be construed in accordance with regulation 16 (2);

“covering envelope” shall be construed in accordance with regulation 16(3);

“certifying person” means a person specified in regulation 21(1);

“Department” means the Department of Infrastructure;

“the district” means the district of the authority;

“election” means a local election within the meaning of the 1986 Act;

“the Election Rules” means the Local Election Rules 2003⁵

“register of electors” means the register of electors in force on the day of election;

“spoilt absent voter’s ballot paper” means a ballot paper referred to in regulation 19;

“valid declaration of identity” means one falling within regulation 25(1).

(3) References in these Regulations to a numbered form are to the form so numbered in the Schedule.

(4) Rule 4 (computation of time) of the Election Rules 2003 applies to these Regulations as it applies to those rules.

⁵ SD 888/03 as amended by SD 40/08.

PART II
ABSENT VOTERS

2. General requirements for applications for an absent vote

- (1) An application for an absent vote must comply with the requirements of this regulation and such further requirements in this Part as are relevant to the application.
- (2) The application must state —
 - (a) the full name of the applicant; and —
 - (b) the address in respect of which the applicant is registered.
- (3) The application shall be made in writing in Form 1 and be signed and dated by the applicant.
- (4) An application for an absent vote must identify the election in respect of which it is made.

3. Additional provision concerning the requirement that an application for an absent vote must be signed by the applicant

The returning officer may satisfy himself that an application for an absent vote meets the requirement in regulation 2(3) that it has been signed by the applicant, by referring to any signature previously provided by the applicant to the returning officer.

4. Supplies of forms

- (1) The returning officer shall cause a supply of forms of application to be available at every police station within the district or ward on and after the day following the day fixed for the delivery of nomination papers.
- (2) The returning officer or police officer in charge of a police station shall, on and after the day following the day fixed for the delivery of nomination papers, supply a candidate or the agent of a candidate or any elector with such reasonable number of forms of application as may be required, but it is not necessary for an application to be on a form supplied by the returning officer.

5. Closing date for applications

- (1) An application to be treated as an absent voter shall be made to the returning officer so as to reach him —
 - (a) where the absent voter's ballot paper is to be marked in the Island, at least 7 clear days before the day fixed for the poll; or
 - (b) where the absent voter's ballot paper is to be marked outside the Island at least 9 clear days before the day fixed for the poll.

6. Grant or refusal of applications

- (1) Where the returning officer grants an application to vote by post, he shall —
 - (a) where practicable, notify the applicant of his decision,
 - (b) enter the applicant's number and name on the absent voter's 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) Where the returning officer refuses such an application, he shall notify the applicant of his decision and of the reason for it.

(3) Where a person is removed from the absent voters list, the returning officer shall notify that person of this and the reason for it.

7. Absent voter's list

The returning officer shall, in respect of each election, keep a special list ("the absent voters list") consisting of a list of those whose applications to vote by post at the election 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 III

ISSUE AND RECEIPT OF ABSENT VOTER'S BALLOT PAPERS

Issue of Absent Voter's Ballot Papers

8. Form of declaration of identity

The form of the declaration of identity sent with the ballot paper to an absent voter shall incorporate a certificate as to the execution of the declaration and the marking of the ballot paper and shall be in Form 2.

9. Persons entitled to be present at proceedings on issue of absent voter's ballot papers

No person may be present at the proceedings on the issue of absent voter's ballot papers other than the returning officer and his clerks.

10. Persons entitled to be present at the opening of absent voter's ballot papers

No person may be present at the opening of absent voter's ballot papers other than —

- (a) the returning officer and his clerks,
- (b) a candidate,
- (c) an election agent or any person appointed by a candidate to attend in his election agent's place or, any person appointed by the candidate to attend at those proceedings, and
- (d) any agents appointed under regulation 11.

11. Agents of candidates who may be present at the opening of absent voter's ballot papers

(1) Each candidate may appoint one or more agents to be present at the opening of the absent voter's ballot papers up to the number he may be authorised by the returning officer to appoint. The number so authorised shall be the same in the case of each candidate.

(2) Notice in writing of the appointment stating the names and addresses of the persons appointed shall be given by the candidate to the returning officer before the day 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) Agents may be appointed and notice of appointment given to the returning officer by the candidate's election agent instead of by the candidate.

(5) In this Part of these Regulations references to agents shall be taken as references to agents whose appointments have been duly made and notified and, in the

case of agents appointed under paragraph (1) above, who are within the number authorised by the returning officer.

(6) A candidate may himself do any act or thing which any 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 in this Part of these Regulations any act or thing is required or authorised to be done in the presence of the candidates or their agents, the non-attendance of any such persons or person 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.

12. Notification of requirement of secrecy

The returning officer shall make such arrangements as he thinks fit to ensure that every person attending the proceedings in connection with the issue or receipt of absent voter's ballot papers has been given a copy in writing of the provisions of subsections (3) and (5) of section 47 of the 1995 Act.

13. Time when absent voter's ballot papers are to be issued

The returning officer shall issue an absent voter's ballot paper —

- (a) where it is to be marked in the Island, at least 5 clear days before the day fixed for the poll; or
- (b) where the absent voter's ballot paper is to be marked elsewhere than in the Island, at least 7 clear days before the day fixed for the poll,

if he is satisfied that the applicant is entitled to be treated as an absent voter. The ballot paper must be sent to the absent voter by the returning officer in accordance with rule 18 of these Rules.

14. Procedure on issue of absent voter's ballot paper

(1) Each absent voter's ballot paper issued shall be stamped with an official mark, which shall be different from the official mark to be used in that district or ward on the day of the poll.

(2) The number of the elector as stated in the register shall be marked on the counterfoil attached to the ballot paper.

(3) A mark shall be placed in the absent voter's 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 shall note in column 1 of an account in Form 3 (the "absent voter's ballot paper account") the total number of ballot papers issued to absent voters.

(5) The number of an absent voter's ballot paper shall be marked on the declaration of identity sent with that paper.

(6) Regulation 14(6) is omitted [SD 1083/11]

15. Refusal to issue absent voter's ballot paper

Where a returning officer is satisfied that two or more entries in the absent voter's list, relate to the same elector, he shall not issue more than one ballot paper in respect of that elector at any one election.

16. Envelopes

- (1) Paragraphs (2) and (3) below prescribe the envelopes to be issued to an absent voter in addition to the ballot paper and declaration of identity (issued under rule 25 of the Election Rules).
- (2) The returning officer shall issue a smaller envelope for the ballot paper ("a ballot paper envelope") marked with —
 - (a) the letter "A"
 - (b) the words "ballot paper envelope", and
 - (c) the number of the ballot paper.
- (3) The returning officer shall issue an envelope (a "covering envelope") marked with the letter "B" for the return of the absent voter's sealed ballot paper envelope and the declaration of identity.

17. Sealing up of counterfoils and security of special lists

- (1) As soon as practicable after the issue of each batch of absent voter's ballot papers, the returning officer shall make up into a packet the counterfoils of those ballot papers which have been issued and shall seal such a packet.
- (2) As soon as practicable after the last batch of absent voter's ballot papers have been issued, the returning officer shall make up into a packet the marked copy of the absent voters list and shall seal such a packet.
- (3) Until the time referred to in paragraph (2), the returning officer shall take proper precautions for the security of the lists referred to in that paragraph.

18. Delivery of absent voter's ballot papers

- (1) For the purposes of delivering absent voter's ballot papers, the returning officer may use —
 - (a) a universal postal service provider;
 - (b) a commercial delivery firm, or
 - (c) clerks appointed under rule 27 of the Elections Rules.
- (2) The returning officer must keep a record of all incoming and outgoing communications (whether by post, email, telephone, facsimile or in person), together with all such particulars (as appropriate) to enable the identification of —
 - (a) the person who has contacted the returning officer; or
 - (b) the person whom the returning officer has contacted, and (in either case) the time that the contact was made.
- (3) The postage of all such envelopes shall be prepaid by the returning officer (except where paragraph (1)(c) applies).
- (4) Regulation 18(4) is omitted [SD 1083/11]
- (5) The envelope for the return of the declaration of identity and the ballot paper shall be marked "*Absent Voter's Ballot Paper*" and shall be addressed to the returning officer at such place as the returning officer thinks most convenient and expeditious.

19. Spoilt absent voter's ballot papers

(1) If an absent voter has inadvertently dealt with his absent voter's ballot paper or declaration of identity in such a manner that it cannot be conveniently used as a ballot paper (referred to as "a spoilt absent voter's ballot paper") or, as the case may be, a declaration of identity (referred to as "a spoilt declaration of identity") he may return (either by hand or by post) to the returning officer the spoilt absent voter's ballot paper or, as the case may be, the spoilt declaration of identity.

(2) Where an absent voter exercises the entitlement conferred by paragraph (1), he shall also return –

(a) the absent voter's ballot paper or, as the case may be, the declaration of identity, whether spoilt or not;

(b) the envelopes supplied for the return of the documents mentioned in paragraph (1).

(3) Subject to paragraph (4), on receipt of the documents referred to in paragraph (1) and, where applicable paragraph (2), the returning officer shall issue another absent voter's ballot paper or, except where those documents are received after 5 p.m. on the day of the poll.

(4) Where the returning officer receives the documents referred to in paragraph (1) and, where applicable paragraph (2), after 5pm on the day before the day of the poll, he shall only issue another absent voter's ballot paper, if the absent voter's voter returned the documents by hand.

(5) Regulations 14 (except paragraph (3)), 16, 17 and, (subject to paragraph (8)), 18 shall apply to the issue of a replacement absent voter's ballot paper under paragraph (3) above.

(6) The spoilt absent voter's ballot paper, the declaration of identity and the ballot paper envelope shall be immediately cancelled.

(7) The returning officer, as soon as practicable after cancelling those documents, shall make up those documents in a separate packet and shall seal the packet; and if on any subsequent occasion documents are cancelled as mentioned above, the sealed packet shall be opened and the additional cancelled documents included in it and the packet shall be again made up and sealed.

(8) Where an absent voter applies in person, the returning officer may hand a replacement absent voter's ballot paper to him instead of delivering it in accordance with regulation 18.

(9) The returning officer shall enter in a list kept for the purpose ("the list of spoilt absent voter's ballot papers") –

(a) the name and number of the elector as stated in the register, and

(b) the number of the absent voter's ballot paper issued under this regulation.

20. Lost absent voter's ballot papers

(1) Where an absent voter has not received his absent voter's ballot paper by the fourth day before the day of the poll, he may apply (whether or not in person) to the returning officer for a replacement ballot paper.

(2) Regulation 20 (2) is omitted [SD 1083/11]

(3) Where 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 absent voter did not receive the original absent voter's ballot paper,

he shall issue another absent voter's ballot paper.

(4) The returning officer shall enter in a list kept for the purpose ("the list of lost absent voter's ballot papers") –

- (a) the name and number of the elector as stated in the register, and
- (b) the number of the absent voter's ballot paper issued under this regulation.

(5) Regulations 14 (except paragraph (3)), 16, 17 and, (subject to paragraph (6)), 18 shall apply to the issue of a replacement absent voter's ballot paper under paragraph (3).

(6) Where an absent voter applies in person, the returning officer may hand a replacement ballot paper to him instead of delivering it in accordance with regulation 18.

21. Certifying persons

(1) Subject to paragraph (2), the following persons may act as a certifying person under regulation 23, namely –

- (a) where the absent voter's ballot paper is marked in the Island –
 - (i) the returning officer for the district or ward in which the absent voter is entitled to vote; or
 - (ii) an advocate; or
 - (iii) a person appointed for the purpose under paragraph (3);
- (b) where the absent voter's ballot paper is marked outside the Island, any of the following persons, namely –
 - (i) a consular official,
 - (ii) justice of the peace,
 - (iii) minister of religion authorised to solemnise marriages,
 - (iv) advocate, barrister, solicitor, or notary public,
 - (v) physician, surgeon, or dental surgeon,
 - (vi) chartered accountant,
 - (vii) commissioned officer in Her Majesty's armed forces,
 - (viii) master of a British ship,
 - (ix) manager of a commercial bank or of any branch of such a bank,
 - (x) member of the academic staff of a university, university college or other institution of further or higher education,
 - (xi) civil servant of the grade of Executive Officer or above,
 - (xii) a police officer, or
 - (xiii) the manager of a hospital, nursing home or residential care home where the absent voter is confined.

(c) in the case of an absent voter who is a presiding officer, poll clerk or counting clerk appointed by a returning officer, the returning officer by whom he was so appointed.

(2) Although he may be otherwise qualified to act as a certifying person, no person shall act as such if he is –

(a) a candidate or either the spouse or civil partner of a candidate; or

(b) a polling agent or counting agent appointed by a candidate.

(3) One or more appointed certifying persons shall be appointed for the district or ward by the Department after consultation with the returning officer.

(4) A certifying person may be appointed to act in respect of more than one district or ward.

(5) The returning officer shall from time to time inform each appointed certifying person of the names and addresses of those absent voters upon whom the returning officer requires him to attend for the purposes of this Part.

22. Secrecy

(1) Every appointed certifying person shall, before entering upon his duties as such, make before the returning officer a declaration in the following form –

"I solemnly promise and declare that I will not do anything forbidden by regulation 22(2) of the Local Elections (Absent Voters) Regulations 2008 which has been read to me."

(2) A certifying person shall maintain and aid in maintaining the secrecy of voting and shall not, except for some purpose authorised by law, communicate to any person any information as to –

(a) the name or the number on the register of electors of any person who has or has not applied for an absent voter's ballot paper, or

(b) the candidate to whom any absent voter has given his vote.

23. Voting by absent voters

(1) Before marking the ballot paper, the absent voter may be required to produce to a certifying person satisfactory evidence of the voter's identity and must in any event produce to the certifying person –

(a) the ballot paper showing the number thereon and marked in the manner prescribed under rule 21 of the Election Rules; and

(b) the declaration of identity and form of instructions in Form 2.

(1A) For the purpose of paragraph 1 any of the following constitutes satisfactory evidence.

(a) a valid passport;

(b) a national identity document issued by the Government of the United Kingdom or 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, in any part of the United Kingdom, any part of the Channel Islands or Gibraltar;

- (d) a proof of age card issued by the Isle of Man Office of Fair Trading;
 - (e) a bus pass issued by the Department which contains a photograph of the holder.
- (2) The absent voter must sign the declaration of identity before the certifying person; but if the absent voter is unable to sign the declaration of identity the certifying person, on satisfying himself as to the identity of the absent voter, shall write the name of the absent voter thereon and add the words "*Absent voter unable to sign*".
- (3) After signing the declaration of identity or, in a case where the absent voter is unable to sign, after it has been completed by the certifying person, the absent 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 regulation 18(5) and seal the envelope.
- (4) If the absent voter is unable to mark the ballot paper personally, the certifying officer shall, on request, mark the ballot paper as the absent voter directs.
- (5) Subject as aforesaid, the absent voter shall not allow any person to see how he voted.
- (6) Where the absent voter's ballot paper is to be marked in the Island, the ballot paper may be delivered by the certifying person to the returning officer at any time before the close of the poll.

Receipt of Absent Voter's Ballot Papers

24. Receipt of absent voter's ballot papers

- (1) Where an absent voter's ballot paper is marked in the Island the covering envelope shall as soon as practicable thereafter be handed unopened to the returning officer by the certifying person.
- (2) Where the absent voter's ballot paper is marked elsewhere than in the Island the covering envelope shall, 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 paragraph (4), as soon as practicable after the close of the poll the presiding officer of the polling station shall deliver, or cause to be delivered, any absent voter's ballot paper or declaration of identity returned to that station to the returning officer in the same manner and at the same time as he delivers, or causes to be delivered, the packets referred to in rule 42(1) of the Election Rules.
- (4) The returning officer may collect, or cause to be collected, any absent voter's ballot paper or declaration of identity which by virtue of paragraph (3) the presiding officer of a polling station would otherwise be required to deliver or cause to be delivered to him.
- (5) Where the returning officer collects, or causes to be collected, any absent voter's ballot paper or declaration of identity in accordance with paragraph (4) the presiding officer shall first make it (or them) up into a packet (or packets) sealed with his own seal and the seals of such polling agents as are present and desire to affix their seals.

25. Procedure in relation to declarations of identity

(1) The returning officer shall satisfy himself 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 name and address (referred to as a "valid declaration of identity").

(2) Where the returning officer is not so satisfied, he shall mark the declaration "rejected", attach to it the ballot paper envelope, or if there is no such envelope, the ballot paper and, subject to paragraph (3), place it in the receptacle for rejected votes.

(3) Before placing the declaration in the receptacle for rejected votes, the returning officer shall show it to the agents and, if any of them object to his decision, he shall add the words "rejection objected to".

(4) The returning officer shall then examine the number (or numbers) on the declaration of identity against the number (or numbers) on the ballot paper envelope and, where they are the same, he shall place the declaration and the ballot paper envelope respectively in the receptacle for declarations of identity and the receptacle for ballot paper envelopes.

(5) Where there is a valid declaration of identity but no ballot paper envelope, he shall place —

(a) in the receptacle for ballot papers any ballot paper the number on which is the same as the number (or one of the numbers) on the declaration of identity;

(b) in the receptacle for rejected votes, any other ballot paper, to which shall 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) Where the number (or numbers) on a valid declaration of identity is not the same as the number (or numbers) on the ballot paper envelope or where that envelope has no number on it (or only one number where the declaration of identity has more than one), the returning officer shall open the envelope.

(7) Where an envelope has been opened under paragraph (6), the returning officer shall —

(a) place in the receptacle for ballot papers any ballot paper the number on which is the same as the number (or one of the numbers) on the valid declaration of identity;

(b) place in the receptacle for rejected votes any other ballot paper, to which shall 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 —

(i) which does not contain a ballot paper; or

(ii) Sub-paragraph (ii) of Regulation 25(7)(c)omitted [SD 1083/11]

and shall indicate the missing ballot paper, where that is the case; and

place in the receptacle for declarations of identity, any such declaration not disposed of under sub-paragraph (b) or (c).

(8) If the receptacle used for the purpose of any provision of this regulation is not a ballot box it must either be lockable or be kept in such a way that the items kept or placed in it cannot be tampered with by unauthorised persons.

26. Opening of ballot paper envelopes

- (1) The returning officer shall open separately each ballot paper envelope placed in the receptacle for ballot paper envelopes.
- (2) He shall place —
 - (a) in the receptacle for ballot papers any absent voter's ballot paper the number on which is the same as the number (or one of the numbers) on the ballot paper envelope;
 - (b) in the receptacle for rejected votes, any other ballot paper which shall be marked "provisionally rejected" and to which shall be attached the ballot paper envelope; and
 - (c) in the receptacle for rejected ballot paper envelopes, any ballot paper envelope which shall be marked "provisionally rejected" because it does not contain either a ballot paper or, where more than one number appears on the ballot paper envelope, a sufficient number of ballot papers (and indicating, in such a case, the missing ballot paper).

27. Lists of rejected absent voter's ballot papers

- (1) In respect of any election, the returning officer shall keep two separate lists of rejected absent voter's ballot papers.
- (2) In the first list, he shall record the ballot paper number of any absent voter's ballot paper for which no valid declaration of identity was received with it.
- (3) In the second list, he shall record the ballot paper number of any absent voter's ballot paper which is entered on a valid declaration of identity where that ballot paper is not received with the declaration of identity.

28. Checking of lists kept under regulation 27

- (1) Where the returning officer receives a valid declaration of identity without the absent voter's ballot paper (or papers or, as the case may be, all of the papers) to which it relates, he may, at any time prior to the close of the poll, check the list kept under regulation 27(2) to see whether the number (or numbers) of a Absent Voter's ballot paper to which the declaration relates is entered in that list.
- (2) Where the returning officer receives an absent voter's ballot paper without the declaration of identity to which it relates, he may, at any time prior to the close of the poll, check the list kept under regulation 27(3) to see whether the number of that ballot paper is entered in that list.
- (3) The returning officer shall conduct the checks required by paragraphs (1) and (2) above as soon as practicable after the receipt of packets from every polling station in the district or ward.
- (4) Where the ballot paper number in the list matches that number on a valid declaration of identity or, as the case may be, the absent voter's ballot paper, the returning officer shall retrieve that declaration or paper.

(5) The returning officer shall then take the appropriate steps under this Part of these Regulations as though any document earlier marked "provisionally rejected" had not been so marked and shall amend the document accordingly.

29. Sealing of receptacles

(1) As soon as practicable after the completion of the procedure under regulation 28(3) and (4), the returning officer shall 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 absent voter's ballot papers,

and shall seal up such packets.

(2) Any document in those packets marked "provisionally rejected" shall be deemed to be marked "rejected".

30. Abandoned poll

Where a poll is abandoned or countermanded after absent voter's ballot papers have been issued, by reason of the death of a candidate, the returning officer –

- (a) shall not take any step or further step to open covering envelopes or deal with the contents in accordance with the provisions of this Part of these Regulations; and
- (b) shall, notwithstanding regulations 25 and 26, treat all unopened covering envelopes and the contents of those that have been opened as if they were counted ballot papers.

31. Forwarding of documents

(1) The returning officer shall forward to the Clerk of the Rolls at the same time as he forwards the documents mentioned in rule 51 of the Election Rules –

- (a) any packet referred to in regulation 17, 19(7) or 29, endorsing on each packet a description of its contents, the date of the election to which it relates and the name of the district or ward for which the election was held, and
- (b) the absent voter's ballot paper account in Form 3.

(2) Where any covering envelopes are received by the returning officer after the close of the poll or any envelopes addressed to absent voters are returned as undelivered too late to be re-addressed, he shall 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.

(3) Any packets of documents forwarded under this regulation shall be deemed to have been forwarded in pursuance of the Election Rules.

32. Revocation

The Local Election (Absent Voters) Regulations 1996⁶ are revoked.

⁶ SD 36/96

SCHEDULE

FORM 1

APPLICATION TO BE TREATED AS AN ABSENT VOTER

[Front of form]

The Representation of the People Act 1995

The Local Elections Act 1986

[Name of local authority]

APPLICATION TO BE TREATED AS AN ABSENT VOTER

Electoral number _____

Surname _____

Other names _____

Isle of Man electoral Address _____

District or ward _____

Date of election _____

ABSENT VOTE APPLICATION

Please tick one of the following:-

- 1. I wish to mark my ballot paper at the office of the returning officer
- 2. I wish the certifying person to deliver the ballot paper to me at the address shown below.
- 3. I will be outside the Isle of Man on the date of the election (*on the dates shown below) and I wish to apply for a ballot paper to be sent to me at the address shown below.

* Dates I will be off Island: From (- - / - - / - - - -) to (- - / - - / - - - -)

Please supply the contact address for either 2 or 3 above (if different to your electoral address):

Contact Tel No: -----

Signature (or mark) of applicant Date

Witnessed by:

Signature -----Date -----

Address -----

PRINT FULL NAME -----

A witness must know the person whose signature he/ she witnesses. A witness must be aged 18 or over and must not be related to the person whose signature he/she witnesses.

FORM 2

DECLARATION OF IDENTITY AND FORM OF INSTRUCTIONS

[Front of form]

The Representation of the People Act 1995

The Local Elections Act 1986

[Name of local authority]

ABSENT VOTER'S DECLARATION OF IDENTITY

Do not complete this form until the instructions overleaf have been read

Do not mark the ballot paper until this form has been completed

Ballot paper no _____

I hereby declare that I am the person to whom the ballot paper as above (which I now produce) was sent.

¹Absent Voter's signature (or mark) _____

Certificate by certifying person

I hereby certify –

- (i) that the above-named person produced the ballot paper referred to above, no vote having been recorded on the said ballot paper, and signed the above declaration in my presence or, being unable to write, requested me to complete the same, and
- (ii) either that the above-named person marked the said ballot paper in my presence but not in my sight, or that the above-named person declared that he or she was unable personally to mark the ballot paper and requested me to do so and I marked the ballot paper as he or she directed.
- (iii) that the above named person produced the following evidence of identity to me _____

²Signature _____

³Address _____

³Qualification _____

¹See paragraph 5 of the instructions

²See paragraph 6 of the instructions

³Where the absent voter's ballot paper is marked in the Isle of Man it is not necessary for an appointed certifying person to state his or her address and qualification.

[Back of form]

INSTRUCTIONS TO THE ABSENT VOTER

1. **Before marking** the enclosed ballot paper, you must produce –
 - (i) the ballot paper showing the number and official mark on it; and
 - (ii) this form, and
 - (iii) if required, satisfactory evidence of your identity (e.g. a valid passport or a national identity issued by the Government of the United Kingdom or a Member State of the European Union; a full or provisional driving licence granted under the law for the time being in force in the Island, in any part of the United Kingdom, any part of the Channel Islands or Gibraltar; a proof of age card issued by the Isle of Man Office of Fair Trading; or a bus pass issued by the Department of Infrastructure)to a certifying person (see paragraph 6 below).
2. You must sign the declaration of identity before the certifying person.
3. After signing the declaration of identity, you must vote secretly, **IN THE PRESENCE BUT NOT IN THE SIGHT OF THE CERTIFYING PERSON**, by placing one X in the space to the right of the candidate[s] for whom you wish to vote.

You may vote for not more than . . . candidate[s].

If you do not vote in this way, or if you make any other mark on the ballot paper, your vote may not be counted.
4. As soon as you have voted, you must fold the marked ballot paper so as to conceal the voting and place it in the enclosed envelope marked A, then seal Envelope A and place it **TOGETHER WITH THIS FORM**, in the enclosed envelope marked B and which is addressed to the returning officer.

If the ballot paper has been marked **in** the Isle of Man, you must hand the envelope to the certifying person; he will cause it to be delivered unopened to the returning officer.

If the ballot paper has been marked **outside** the Isle of Man, you must send the envelope so as to arrive not later than 8 pm on the day of the poll.
5.
 - (1) If you cannot sign the declaration of identity, the certifying person, once he is satisfied as to who you are, will write your name on it and add the words "*Absent Voter unable to sign*".
 - (2) If you cannot mark the ballot paper yourself, the certifying person will, on request, mark the ballot paper as you direct him.
 - (3) If you cannot do so, the certifying person will, immediately after he has marked the ballot paper on your directions, fold the paper so as to conceal the voting thereon,

place it with this form in the enclosed envelope addressed to the returning officer, and deal with it in accordance with paragraph 4 above.

6. A certifying person must be –

- (a) the returning officer for the district or ward; or
- (b) where the ballot paper is to be marked in the Isle of Man, either an advocate, or a person appointed by the Department of Infrastructure (who will call on the absent voter and will, if requested, produce his or her warrant of appointment); or

(c) where the ballot paper is to be marked outside the Isle of Man, any of the following –

- consular official;
- justice of the peace;
- minister of religion authorised to solemnise marriages;
- advocate;
- solicitor;
- barrister;
- notary public;
- physician;
- surgeon;
- dental surgeon;
- chartered accountant;
- commissioned officer in HM Armed Forces;
- master of a British ship;
- manager of a commercial bank or of any branch of such a bank;
- member of the academic staff of a university, university college or other institution of further or higher education;
- civil servant of the grade of Executive Officer or above;
- police officer;
- manager of a hospital, nursing home or residential care home where the absent voter is confined; or

(d) if the absent voter is a presiding officer, poll clerk or counting clerk in the election, the returning officer by whom he was appointed;

BUT A CANDIDATE, THE SPOUSE OR CIVIL PARTNER OF A CANDIDATE, OR A POLLING AGENT OR COUNTING AGENT APPOINTED BY A CANDIDATE MAY NOT ACT AS A CERTIFYING PERSON.

FORM 3

ABSENT VOTERS' BALLOT PAPER ACCOUNT

The Representation of the People Act 1995

The Local Elections Act 1986

[Name of Local Authority]

ABSENT VOTERS' BALLOT PAPER ACCOUNT

1 No of ballot papers issued	2 No of covering envelopes returned	3 No of rejections under -		4 No of ballot papers counted
		(a) Reg.27(2)	(b) Reg.27(3)	

Date _____

Returning Officer _____
