



Registration of Electors Bill 2020

EXPLANATORY NOTES

These notes are circulated for the information of Members with the approval of the Member in charge of the Bill, the Honourable Chris Thomas MHK.

INTRODUCTION

1. These explanatory notes relate to the Registration of Electors Bill 2020 ("the Bill"). They have been prepared by the Cabinet Office in order to assist readers of the Bill. They do not form part of the Bill and have not been endorsed by the House of Keys.
2. The notes need to be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill.
3. An updated impact assessment has been prepared for the purpose of providing further assistance and this is included as an Appendix to these notes.

BACKGROUND

4. The maintenance of the electoral register is an essential part of ensuring that elections can take place. The current registration system, in which a full postal canvass is conducted on a household basis, is outdated for the following reasons:
 - a. Currently approximately 43,000 paper forms are posted to every household in the Isle of Man every year followed by up to 20,000 reminder forms a few weeks later. This is both costly in terms of time and expense.
 - b. The responsibility for completing the form lies with a "head of household", meaning that potential voters could be disenfranchised.
5. Together with the Election (Keys and Local Authorities) Bill 2020, the Bill seeks to improve the legislation in the field of elections. In drafting, consideration has been given to the following documents:
 - a. The report of the Select Committee on the Organization and Operation of the General Election;
 - b. The Council of Ministers' response to the report of the Select Committee on the Organisation and Operation of the General Election;
 - c. The report of John Turner following his review of the Isle of Man's electoral legislation; and
 - d. The responses to two consultations of the operation of elections and elections legislation namely, the consultation entitled Elections that Work for Everyone and the consultation entitled Modernisation of the Island's Electoral System.



NOTES ON CLAUSES

Clause 1

6. Clause 1 gives the short title that the Act will have if the Bill is passed.

Clause 2

7. Clause 2 provides for the commencement of the Bill. Certain provisions will come into operation immediately when Royal Assent is announced in Tynwald and the remaining provisions will be brought into operation by one or more Appointed Day Orders made by the Council of Ministers. Such orders can make consequential, incidental, supplemental, transitional, transitory or saving provisions as are necessary or expedient in connection with the coming into operation of any provision of the Bill.

Clause 3

8. Clause 3 defines the meaning of terms which are used in the Bill.

Clause 4

9. Clause 4 establishes the entitlement of an eligible elector to vote in both national and local elections but states that he or she must not vote more than once in the same election otherwise he or she commits an offence. The clause also sets out the criteria to be a qualifying person including requirements as to place of abode and legal capacity to vote.
10. The clause refers to Schedule 3, which sets out, for illustrative purposes, the relationship between a "qualifying person", "registered person" and "eligible elector".

Clause 5

11. Clause 5 places a duty on the Electoral Registration Officer (also referred to as "the Officer" in these notes), to ensure that a register of electors for each polling district is prepared, maintained and revised. This duty is subject to a qualifying person complying with the requirement to register.
12. The clause maintains the ability, for the purposes of verification (or where circumstances otherwise require), for the Electoral Registration Officer, to submit a form to any person aged 16 years or older for them to complete (and return to the Officer), accurately and truthfully inserting their own relevant personal data and, if applicable, any other person. If a person fails to insert the required information or fails to return the form, the Electoral Registration Officer may impose a civil penalty on that person. Furthermore, if a person returns a form which knowingly contains



false information, that person commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

13. The clause makes clear that a person may only be entered in a register of electors in respect of one polling district for national elections and one polling district for local elections but these polling districts need not be the same for each.

Clause 6

14. This clause introduces into the legislation the concept of individual registration (as opposed to the current position where the "Head of Household" is responsible for registration). Under this clause it is the individual responsibility of a qualifying person to ensure that he or she is registered and that his or her relevant personal data are updated and current as far as reasonably practicable. In particular, the qualifying person must ensure that updates are promptly made in respect of any change to his or her name or residential address, especially if the new residential address is not in the Island. The Electoral Registration Officer may impose a civil penalty on a qualifying person who fails to comply with this section.
15. The Electoral Registration Officer must issue guidance, to qualifying persons, on how to register and how to update personal data submitted in the course of registering and take all reasonable steps to ensure that this guidance comes to the attention of qualifying persons.
16. The clause provides further information, for clarity, on two particular terms:
 - a. *"the registration requirement", to make clear that this "means the requirement for a qualifying person to ensure that his or her relevant personal data are submitted to the Cabinet Office, in any manner which the Cabinet Office may from time to time specify"; and*
 - b. *"to register" meaning "to submit, or to have submitted on one's behalf, one's relevant personal data, as referred to in paragraph (a)(i); and does not in any way relate to the entry of any name or other relevant personal data on a register of electors."*

Clause 7

17. Clause 7 introduces special categories of persons into the legislation. This allows a person who falls within one of these categories to comply with the registration requirement under clause 6 by means of a bespoke procedure set out in regulations. Once registered under this procedure that person will be allowed to vote by post. Such persons are:



- a. Those persons who are ordinarily resident in the Island but temporarily absent due to their service in the armed forces of the Crown, their enrolment on a course of study outside the Island or their employment; and
- b. Those persons who the Officer permits to register anonymously under the provisions of Clause 8.

Clause 8

18. Clause 8 permits the Electoral Registration Officer a discretion to allow a person to register anonymously if he or she is satisfied that that person is vulnerable and at risk and may have regard to any of the specified factors. Clause 8 also builds on the regulations required by clause 7(1) to prescribe a bespoke procedure for special categories of person to register by stating that the regulations may make provision for persons registered anonymously to either
- a. Become eligible electors (i.e. persons whose names appear on the register of electors); or
 - b. Be placed in a position equivalent to that of eligible electors.

Clause 9

19. Clause 9 provides that the Electoral Registration Officer must enter the name and any other prescribed relevant personal data of every registered person, in a register of electors. The relevant personal data will be prescribed in regulations.
20. Clause 9 also obliges the Cabinet Office to issue guidance on how soon after compliance with the registration requirement and the conditions subject to which a registered person is entitled to conclude that he or she has become an eligible elector.

Clause 10

21. Under this clause the Electoral Registration Officer can refuse to enter the name and other prescribed relevant personal data of a "qualifying person" where:
- a. The qualifying person has purportedly complied with the registration requirement in clause 6; and
 - b. The Officer has reason to doubt the accuracy of that person's identity, age, residential status or legal capacity to vote.
22. A person who has been refused under this clause can make an objection under the provisions of Part 5 of the Bill.

Clause 11



23. This clause provides that the Electoral Registration Officer must publish a full, updated register of electors for each polling district in each constituency and where a district is divided into wards for each ward of that district, on the same day every calendar year. To change this date the Officer must give 90 days' notice unless the reason for the change of date is that the corresponding day will fall on a weekend or a public holiday. This clause needs to be read and construed with clause 14.

Clause 12

24. The clause sets out the information which the Officer must utilise in compiling an updated register of electors. The information can be submitted by the data subject or by another person and by any means, provided that it has been disclosed lawfully.

25. The clause permits the Officer to process personal data relating to qualifying persons for the purposes of verification. Furthermore any Department or Statutory Board can process personal data by disclosing the same to the Officer to the extent necessary for the purposes of verification.

Clause 13

26. This clause sets out the actions that the Officer should take once the registers have been updated to ensure that they are placed correctly in each constituency and deposited in the Central Registry. These requirements will be prescribed by regulations.

Clause 14

27. This clause requires the Officer to make a copy of each register available for inspection free of charge, in each district and at the Cabinet Office, in accordance with regulations.

28. The Officer is obliged to give public notice of the places where the registers of electors and the lists of claims and objections to it, may be inspected and such notice must specify the manner and timing of such objections and confirm that names of persons marked "J" in the register will be included in the jurors lists pursuant to the provisions of the Jury Act 1980.

29. The Officer is obliged to ensure that an electronic copy of every register for any polling district is accessible to each Local Authority.

30. Finally, the clause places an obligation on a Local Authority to notify the Officer of every error or omission.

Clause 15



31. The Officer must prepare and publish an alteration notice each month setting out all the changes made to the register of electors since the publication of the last full and updated register of electors or the last alteration notice. The changes to be included each month are where qualifying persons have updated their personal data or had their personal data updated on their behalf, where a person's circumstances have changed and they fall within the special categories in clause 7 and where a person is removed from the register in accordance with clause 16.

Clause 16

32. Subject to receiving the information the Officer must promptly remove all relevant personal data of every eligible elector who has died or ceased to reside in the island.

Clause 17

33. The Cabinet Office has discretion to allow a person to vote in an election where their relevant personal data does not appear in the last alteration notice. In exercising this discretion the Cabinet Office must have regard only to relevant considerations including any act or omission of the Cabinet Office and any extenuating circumstances.
34. Any exercise of this discretion must be communicated and published in accordance with the section and any person who objects to the manner in which the Cabinet Office has exercised its discretion under this section may make an objection under the provisions of Part 5 of the Bill.

Clause 18

35. The Chief Secretary must appoint an Electoral Registration Officer and a Deputy Electoral Registration Officer both of whom are required to be employees of the Cabinet Office. The roles are to perform the functions set out in this legislation and as specified in other enactments.

Clause 19

36. This clause sets out the assistance to be given to the Electoral Registration Officer to enable to Electoral Registration Officer to fulfil his or her functions. Specifically, assistance is required to be given by:
- a. The registrar of each district appointed for the purpose of the Civil Registration Act 1984 who must advise the Officer of all deaths registered, in accordance with regulations;
 - b. Local Authorities; and
 - c. Any person owning or occupying premises (or their agent).



Clause 20

37. This clause sets out the provisions in relation to any person who claims to be entitled to have his or her name entered in the register, whose name is entered in the register but who objects to being marked as "J" in the register, to an entry of another person in the register or objects to a claim by another person.
38. The Officer is obliged to keep records of all such claims and cause copies of lists and objections to be available for public inspection, free of charge, at the Cabinet Office.

Clause 21

39. This clause sets out further provisions with regard to the procedure and determination of claims and objections and includes the right of the Officer to request further information from a claimant or objector where the particulars already given are insufficient.

Clause 22

40. This clause sets out when the Officer must make any modification to the register, which must be in accordance with regulations.
41. The Officer must place the letter "J" against the name of a person entered in a register of electors who is qualified to serve as a juror and send such list to the Chief Registrar in accordance with regulations.

Clause 23

42. This clause establishes that regulations may impose restrictions on what persons inspecting the register are allowed to do with the information including copying, disclosing or otherwise making use of it. Regulations may also make contravention of this section an offence.

Clause 24

43. This clause provides a general power for the Council of Ministers to make regulations under this Bill, subject to Tynwald approval and also contains a specific power as to what the regulations must contain.

Clause 25

44. This clause sets out that the expenses incurred for the purposes of this Bill by the Treasury, Cabinet Office, Clerk of the Rolls, the High Bailiff and the Officer may be paid out of the moneys provided by Tynwald. Furthermore that the Cabinet Office,



with the concurrence of Treasury, may by regulations prescribe any fees for the purposes of clause 24(2)(b) (making copies of the register).

Clause 26

45. This Clause permits the Cabinet Office to process personal data held by the Treasury, under the Census Act 1929, for the purpose of compiling or reviewing a register of electors. Any such processing is required to comply with the data protection legislation.

Clause 27

46. Clause 27 contains consequential amendments made to other pieces of primary legislation including the introduction of a provision into the Census Act 1929 to allow for the processing of personal data by way of the disclosure of personal data, processed as part of the Census, to the Cabinet Office/Officer for the purposes of electoral registration.

Clause 28

47. Clause 28 repeals the Registration of Electors Act 2006.

Schedule 1

48. Schedule 1 provides further information on the hearing and determination of appeals by the High Bailiff, the powers of the High Bailiff and any appeals against the decision of the High Bailiff.

Schedule 2

49. Schedule 2 sets out the civil penalties that may be applicable for contravention of the provisions of this legislation. Regulations will give effect to the operative parts of this schedule including the procedure to be followed before imposing a civil penalty, reviews and appeals against the imposition of a civil penalty, interest and recovery.

Schedule 3

50. Schedule 3 is a diagram which shows the interconnection between a "qualifying person", "registered person" and "eligible elector" and assists with the interpretation of clause 4.

APPENDIX

DEPARTMENT: Cabinet Office		
IMPACT ASSESSMENT OF: Isle of Man Registration of Electors Bill 2020		
Stage: Introduction into the branches	Version: 3	Date: 13 February 2020
Related Publications:		
Responsible Officer: Richard Parslow		
Email Address: Richard.parslow@gov.im		Telephone: 685704

SUMMARY: INTERVENTION AND OPTIONS
<p>Briefly summarise the proposal's purpose and the intended effects</p> <p>The changes proposed in the Registration of Electors Bill 2020 support a new system based on the principle of individual and continuous registration, with the ability to verify information against other data held by Government.</p> <p>Electors will remain on the register for life, or until such time as they permanently cease to be an Isle of Man resident. Individuals – rather than the head of household – will be responsible for the accuracy of their information and it will be possible to make any revisions on a rolling basis.</p> <p>The new legislation has been drafted in line with the policy direction provided by the Council of Ministers following a review of the Island's electoral legislation.</p> <p>Potential impacts in respect of electoral registration:</p> <p>Financial –</p> <p>Annual canvass: The annual update of the electoral register is currently a costly and time consuming exercise, largely based on a paper system. In many cases, the process merely confirms information that is already held by the Government.</p> <p>The Registration of Electors Bill supports a move towards a new system based on individual and rolling registration, with the ability to verify information against other data held by Government.</p> <p>This will help to achieve more accurate and complete electoral registers, jury lists and demographics information. It will also reduce costs and streamline administration by</p>

eliminating the need for a full canvass each year costing approximately £40,000. Instead of printing, posting and processing more than 60,000 paper forms as currently happens, the Cabinet Office will in future have to contact a much smaller number of people.

Other options considered:

Do nothing

Retaining the current system based on a full postal canvass of households would pass up the opportunity to achieve financial and administrative savings. Therefore it is not proposed to follow the 'do nothing' option.

Special categories: The Registration of Electors Bill 2020 introduces special categories of persons who are entitled to register by means of a bespoke procedure and will furthermore be entitled to vote, in an election, by post.

The special categories are for those Isle of Man residents who are temporarily absent from the Island because of their employment, service in the Armed Forces of the Crown, or studies off-Island. There will also be a special category for persons deemed vulnerable and at risk that the Electoral Registration Officer permits to register anonymously.

The Bill was originally drafted to include only employees in the public service, rather than all employees who find themselves temporarily absent from the Isle of Man by reason of their employment. The public consultation showed support for extending the employment overseas category from public servants to everyone whose normal place of abode is in the Isle of Man, but who find themselves employed overseas on a temporary contract or secondment.

There are currently no Isle of Man public servants posted overseas, while the 2016 Census recorded 17 Isle of Man residents serving in the Armed Forces of the Crown and 387 residents who stated that their main place of work was off-Island. Up to 600 students leave the Island each year to attend university.

There will be a cost to the Cabinet Office in terms of mailing the postal ballot pack to the special category electors and providing a business reply service, as shown in the table below. The post-consultation proposal will increase the cost, with the extension of the special category from public servants to all Island residents temporarily employed overseas. The overall amount will depend on the take up of postal voting by overseas workers/students and the country where they are based.

Treasury concurrence has been obtained for this cost.

	Standard postage A5	Business Reply
IoM/UK/CI	57p	59p
Europe	90p	92p
Rest of the World	£1.50	92p

Other options considered:

Do nothing

By doing nothing and retaining the status quo, the above increase in financial cost would not occur as there would not be the requirement under the legislation. However, based on the calculations, the benefit derived from the cost is deemed to outweigh the cost itself and therefore it is not proposed to follow the 'do nothing' option.

Data sharing: The Registration of Electors Bill 2020 proposes a new system based on individual and rolling registration, with the ability to verify information against other data held by Government.

It is proposed that a legal gateway should be created to enable the sharing, matching and verification of data between the Electoral Register and the Census, which is considered the most complete data set of residents in the Isle of Man.

This will help to achieve more accurate and complete electoral registers, jury lists and demographics information. It will also reduce costs and streamline administration by eliminating the need for a full canvass each year costing approximately £40,000. Instead of printing, posting and processing more than 60,000 paper forms as currently happens, the Cabinet Office will in future have to contact a much smaller number of people.

The annual canvass traditionally runs from mid-January through until 18 March and during this time, three members of the Crown & Elections team are engaged processing forms, answering calls and dealing with enquiries. Additional officers from within the Crown and External Relations Division are drafted in to support this work on an ad hoc basis.

The move to a system of individual and rolling registration and the ability to verify data will reduce the burden on staff resources and provide an opportunity to re-assess the staff structure across the directorate.

Other options considered:

Do nothing

By doing nothing, the costs and administration necessitated by a full canvass would remain the same. The ability to reduce both means that it is not proposed to follow the 'do nothing' option.

Edited register: The Registration of Electors Bill 2020 abolishes the 'edited' register, which is commercially available to purchase without restrictions and is frequently used for direct marketing purposes. This move will protect Isle of Man residents from receiving unsolicited items in the post.

The full register will remain available for use by credit reference agencies, but will not be available for purchase by 'junk mail' companies.

Income to Government will reduce by a modest amount as a result of abolishing the edited register, approximately £3,000 a year.

Other options considered:

Do nothing

By retaining the edited register the Government could receive the same income as previously generated by sales i.e. approximately £3,000 per annum. However, it has been considered by Government that the protection of an individual's privacy outweighs the financial benefit to Government and as such it is not proposed to follow the 'do nothing' option.

Staff resources –

The annual canvass traditionally runs from mid-January through until 18 March. During this time, three members of the Crown & Elections team are engaged processing forms, answering calls and dealing with enquiries. Additional officers from within the Crown and External Relations Division are drafted in to support this work on an ad hoc basis.

The move to a system of individual registration and data sharing will provide flexibility in respect of how the electoral register is updated. This will reduce the burden on staff resources and provide an opportunity to re-assess the structure within Crown & Elections.

The Bill proposes that the quarterly publication of the electoral register should be stopped in favour of annual publication, with monthly 'alteration notices'. This will reduce the administrative work carried out by the Crown & Elections team.

Electors –

Work to modernise the electoral registration system supports the 'tell us once' principle of public administration. This would remove the need to write to people every year to request information.

Changes to the electoral registration system set out in the Bill that will have an impact on the public include the ability to submit claims or objections at any time and the introduction of special categories of electors.

The current legislation provides for fines of up to £1,000 for people who provide false information or those who fail to provide the information required by the Electoral Registration Officer.

The new Bill includes a proposal to issue a civil penalty (current proposal is £80 in line with the UK) for failing to provide the information requested by the Electoral Registration Officer. Providing false information will be retained as a criminal matter.

Reputation –

The requirement to maintain an accurate register of electors is an important part of the democratic process. Shortcomings in the current legislation have been identified and challenged through the official complaints process. The proposed reforms are intended to address those issues.

Summary and recommendations

Extending the special category of electoral registration to include all Isle of Man residents working overseas will make postal voting available to a further 300-400 electors, but will have a cost impact.

Establishing a gateway to enable the sharing of data between the Electoral Register and the Census will reduce costs and streamline administration by eliminating the need for a full canvass each year.

Abolishing the edited register will reduce the potential income to Government, but increase the privacy afforded to Isle of Man residents.

For the above reasons it is therefore recommended that the proposals are approved.

Link to Programme for Government

Reform of the Island's electoral registration / election legislation is included in the Responsible Island section of the Programme for Government:

- Objective: We have more responsive legislation and regulation
- Action: Following the review of the electoral system, ensure revised legislation is in place for the 2021 General Election.



Responsible Departmental Member

Minister for Policy and Reform

Ministerial sign off

I have read the Impact Assessment and I am satisfied that the balance between the benefit and any costs is the right one in the circumstances.

Signed by the Responsible
Minister

Date:

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