

IN THE KEYS

CONSTITUTION BILL 2007

[Reprinted incorporating amendments made by the Keys on 24th April 2007]

Explanatory Memorandum

1. The Bill is a Private Member's Bill to provide for the Legislative Council to be directly elected.
2. *Clause 1* states the overall purpose of the Bill and *Clause 2* defines the membership of Tynwald Court.
3. *Clauses 3 & 4 and Schedules 1 & 2* provide for the election of the Legislative Council to be by popular vote and for the constituencies and procedures by which elections are to take place.
4. *Clause 5* states the membership of the Legislative Council and provides for the position of the Bishop to be open to review.
5. *Clauses 6 & 7* provide for the elections of the Chief Minister and the President of Tynwald.
6. *Clause 8* gives equal status to Bills originating in either the Council or the Keys, and maintains the requirement for a Bill to pass in both branches.
7. *Clauses 9 & 10 and Schedules 3 & 4* deal with consequential amendments and repeals, and make the usual provision with regard to commencement and transitional arrangements.
8. The implementation of the Bill may entail some expenditure.
9. In the view of the Member moving the Bill, its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.

Arrangement of Sections

Section

1. Legislative Council
2. Membership of Tynwald
3. Election and term of office of elected members of Council
4. Constituencies
5. Constitution of Council
6. Nomination of Chief Minister
7. President of Tynwald
8. Bills
9. Consequential amendments and repeals
10. Short title and commencement

SCHEDULES: —

- Schedule 1 — Modifications of the Representation of the People Act 1995
- Schedule 2 — Constituencies
- Schedule 3 — Amendment of enactments
- Schedule 4 — Enactments repealed

A BILL

to make new provision for the constitution of the Legislative Council; to make new provision about Tynwald; to make provision with respect to the election of the Chief Minister and the President of Tynwald; and for connected purposes.

WE, your Majesty's most dutiful and loyal subjects, the Council and Keys of the said Isle, do humbly beseech your Majesty that it may be enacted, and be it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows (that is to say):—

Reform of the Legislative Council

1. (1) The composition, constitution, functions and proceedings of the Legislative Council are amended in accordance with this Act. Legislative Council

5 (2) Notwithstanding any enactment to the contrary, the members of Legislative Council in office immediately before this subsection comes into operation shall remain in office until the end of August 2013 unless a member resigns or the office is otherwise vacated (otherwise than by the passage of time).

10 *Composition of Tynwald Court*

2. (1) The members of Tynwald are — Membership of Tynwald

- (a) the President of Tynwald;
- (b) the Bishop;
- (c) the Attorney General;
- (d) the 8 members of the Legislative Council elected pursuant to the Representation of the People Act 1995 as modified by this Act (in this Act referred to as “the elected members of Council”); and **5**
- (e) the 24 members of the House of Keys elected pursuant to the Representation of the People Act 1995.

(2) Tynwald shall consist of the members of Tynwald meeting together pursuant to a lawful summons in that behalf or by adjournment. **10**

(3) Accordingly Her Majesty may assent to a Bill by and with the advice and consent of the members of Tynwald in Tynwald assembled, notwithstanding any law or custom to the contrary. **15**

Elections to the Legislative Council

Election and term of office of elected members of Council

3. (1) Elections of the elected members of Council shall be held in accordance with the Representation of the People Act 1995 as soon as practicable after the end of the period of 24 months following each general election of the Keys. **20**

(2) In its application to the Council and to elections under subsection (1), the said Act of 1995 shall have effect subject to the modifications specified in Schedule 1.

(3) Every elected member of Council shall, unless that member sooner vacates office, go out of office at the end of the period of 24 months following the first general election of the Keys after the date on which the member was elected. **25**

Constituencies

4. (1) For the purposes of an election of elected members of the Council, the Island shall be divided into the 8 constituencies specified in column 1 of Schedule 2, and each constituency shall return and be represented by one member. **30**

(2) Each constituency shall comprise the constituencies (or parts of constituencies) for the purposes of elections of members of the Keys to be specified in relation thereto in column 2 of Schedule 2 in accordance with subsections (3) and (4). **35**

(3) A committee shall be appointed under section 11(5) of the Representation of the People Act 1995 and that committee

shall proceed to determine boundaries for each constituency for the election of elected members of the Council and report on the same to Tynwald.

(4) A report under subsection (3) shall be made within —

- 5**
- (a) 3 months of this Act being passed; and
 - (b) thereafter, within 3 months of any change being made to any constituency of the Keys.

10 (5) If Tynwald approves (with or without amendments) the determination of such a committee, the Council of Ministers shall by order amend Schedule 2 so as to give effect to the determination of the committee as approved and amended by Tynwald.

(6) The constituencies shall be subject to review under section 11(5) of the Representation of the People Act 1995 in the same manner as constituencies of the House of Keys.

15 *Composition of the Legislative Council*

5. (1) The Legislative Council shall consist of 11 members, as follows — Constitution of Council

- (a) the President of Tynwald;
- (b) the Bishop;
- 20** (c) the Attorney General;
- (d) 8 members elected in accordance with this Act.

(2) The Legislative Council will meet separately from the House of Keys.

25 (3) The Attorney General shall not have the right to vote in Tynwald or in the Council, and the presence of the Attorney General shall not reckon towards the constitution of a quorum of Tynwald or the Council.

(4) The Governor in Council may by order —

- 30** (a) abolish the right of the Bishop to be a member of Council and Tynwald; or
- (b) abolish the right of the Bishop to vote in Council and for the presence of the Bishop not to be reckoned towards the constitution of a quorum of Tynwald or the Council; or

- (c) make such amendment to this Act and any other enactment as appears to be necessary to give effect to an order under paragraph (a) or (b).

(5) An order under subsection (4) shall not come into operation unless it is approved by Tynwald. **5**

Nomination of Chief Minister and President of Tynwald

Nomination
of Chief
Minister

6. (1) The President of Tynwald or, if the office of President of Tynwald is vacant, the Governor shall, as soon as practicable after a general election of members of the Keys, summon the members of Tynwald to assemble for the purposes of elections under subsection (2); and the members of Tynwald assembled in pursuance of such a summons shall be to all intents and purposes a sitting of Tynwald. **10**

(2) At the sitting held in pursuance of a summons under subsection (1) Tynwald — **15**

(a) shall nominate the Chief Minister in accordance with section 2 of the Council of Ministers Act 1990, and

(b) if the office of President of Tynwald is vacant, shall next elect the President of Tynwald in accordance with section 7. **20**

(3) The President of Tynwald and the Attorney General shall not have the right to vote in an election under subsection (2)(a).

(4) The Attorney General shall not have the right to vote in an election under subsection (2)(b). **25**

President of
Tynwald

7. (1) Tynwald shall from time to time by resolution elect one of the members of Tynwald specified in section 2(1)(d) and (e) (in this Act referred to as “the elected members of Tynwald”) to be President of Tynwald.

(2) The person elected to be President of Tynwald shall forthwith go out of office as an elected member of Tynwald. **30**

(3) The office of President of Tynwald shall be vacated —

(a) on the death of the President of Tynwald;

(b) on resignation by notice in writing to the Governor;

(c) on removal by a resolution of Tynwald; **35**

(d) on the day of the first ordinary sitting of Tynwald held in the month during which falls the 5th anniversary of the sitting at which the President was elected; or

5 (e) where the President was elected to fill a casual vacancy, on the day when the person in whose place the President was elected would ordinarily have gone out of office,

10 and section 6(2) to (4) and (6) to (9) of the Representation of the People Act 1995 applies to the office of President of Tynwald as it applies to the seat of an elected member of Tynwald, with the substitution of references to the Governor for references to the President of Tynwald.

15 (4) Where the President of Tynwald goes out of office under subsection (3)(d) or (e), that person shall be eligible for re-election; and accordingly the reference in subsection (1) to an elected member of Tynwald includes a reference to a retiring President of Tynwald who is eligible for re-election by virtue of this subsection.

20 (5) The Governor shall, as soon as practicable after the vacation of the office of President of Tynwald (otherwise than under subsection (3)(d) or (e)), summon Tynwald for the purpose of electing the President of Tynwald.

Functions

25 **8.** A Bill (including a private member’s Bill) may be introduced in either the Keys or the Legislative Council and if passed shall subsequently be taken in the Legislative Council or the Keys as the case may be. Bills

Supplemental

30 **9.** (1) The enactments specified in Schedule 3 are amended in accordance with that Schedule. Consequential amendments and repeals

30 (2) The enactments specified in Schedule 4 are repealed to the extent specified in column 3 of that Schedule.

(3) The Governor in Council may by Order make such provision repealing or amending any provision of an enactment (other than this Act) which is inconsistent with, or is unnecessary or requires modification in consequence of this Act.

35 **10.** (1) This Act may be cited as the Constitution Act 2008, and the extant provisions of the Constitution Acts 1919 to 1994 and this Act may be cited together as the Constitution Acts. Short title and commencement

(2) This Act shall come into operation on such day or days as may be appointed by order made by the Governor in Council.

(3) An order under subsection (2) may contain such transitional provisions as the Governor in Council may consider appropriate for the purpose of bringing this Act into operation. **5**

Section 3(2)

SCHEDULE 1

MODIFICATIONS OF THE REPRESENTATION
OF THE PEOPLE ACT 1995

General modifications

1. Subject to any particular modifications made by this Schedule, the following general modifications shall have effect —

- (a) for references to the Keys substitute references to the Legislative Council (in this Schedule referred to as “the Council”);
- (b) for references to members of the Keys substitute references to elected members of the Council;
- (c) for references to the Speaker substitute references to the President of Tynwald;
- (d) for references to voting in a constituency substitute references to voting in the electoral district comprising that constituency;
- (e) for references to the register of electors for a constituency substitute references to that part of the register of electors which relates to the electoral district comprising that constituency.

Qualifications etc.

2. (1) In section 1(1) (qualifications), for “Any person may stand as a candidate for and be elected a member of the Keys for a constituency” substitute “Any person may stand as a candidate for and be elected an elected member of the Council”.

Term of Keys

3. Omit sections 2 and 3.

4. In section 4 —

- (a) for subsection (1)(a) substitute —

“(a) extend the term of office of the elected members of the Council by a period of one year from the date when otherwise the members would cease to hold office; and”;

- (b) in subsection (2), for “members of the Keys, or to elected members of the Council” substitute “elected members of the Council”.

Vacancies

5. In section 6(6)(b), for “Council” substitute “Keys”.

6. Omit sections 8 and 9.

Constituencies and polling districts

7. (1) Omit section 11(1) and (2).
 (2) For section 12 substitute —

“Electoral districts and polling districts **12.** (1) Each constituency for the purposes of elections of members of the Keys shall constitute an electoral district for the purposes of elections of elected members of the Council.

(2) Subject to subsection (3), each electoral district shall constitute a single polling district.

(3) Where a constituency for the purposes of elections of members of the Keys is divided into 2 or more polling districts, those districts shall, for the purposes of elections of elected members of the Council, constitute the polling districts within the electoral district comprising that constituency.”.

- (3) Omit Schedule 1.

Returning officers

8. For section 13 substitute —

“Returning officers **13.** (1) The Governor shall by writing appoint to be senior returning officer in respect of each constituency one of the returning officers appointed for the Keys constituencies comprised in that constituency.

(2) Subject to the election rules and to regulations under subsection (3), the returning officer appointed for each constituency for the purpose of elections of members of the Keys shall act as returning officer within the electoral district comprising that constituency in relation to elections of elected members of the Council.

(3) Regulations may make provision as to the exercise of functions by returning officers in relation to elections of elected members of the Council; and subject to any such provision, a returning officer shall perform the officer’s functions in accordance with any directions given by the senior returning officer.

(4) It is the duty of the senior returning officer and returning officers to do everything at an election which is necessary for effectually conducting the election in accordance with the election rules.

(5) Subject to subsection (6), the appointment of a senior returning officer shall be for such term (not exceeding 4 years) as is specified in the instrument by which it is made.

(6) A senior returning officer shall retire on the Governor declaring the office to be vacant — SCH. 1

- (a) if the officer has given to the Governor notice of desire to do so; or
- (b) if it appears to the Governor expedient that the officer should do so.”.

9. After section 23 insert —

“Registers of electors **23A.** The register of electors for all the constituencies for the purposes of elections of members of the Keys shall together constitute the register of electors for the Island for the purposes of elections of elected members of the Council.”.

Board of Education and local elections

10. Omit sections 78 and 79 and Schedules 4 and 5.

Election rules

11. (1) In Schedule 2, in the Election Rules, in the table in rule 1, for item 1 substitute —

“(1) Issue of writ —

- (a) Within one month after the expiry of the term of office of an elected member of the Council.
- (b) In the case of a casual vacancy —
 - (i) if the term of office of the member whose place is to be filled would ordinarily have expired within 4 months of receiving the report of the casual vacancy, the writ shall not be issued;
 - (ii) otherwise, within 2 months of receiving the report of the vacancy.
- (c) Where the chief returning officer has made a special return of a writ to the effect that the number of candidates elected is less than there are vacancies to be filled up or that no candidate has been elected, within one month of the receipt of the special return.”.

(2) For rule 3 substitute —

“Issue of writ **3.** (1) Each writ of election shall be directed to the senior returning officer and all returning officers and conveyed to the senior returning officer by hand, and a copy of the writ shall be conveyed by hand to each returning officer.

SCH. 1

(2) On receipt of the writ or copy the senior returning officer and each returning officer shall forthwith endorse on it the date on which it was received.”.

(3) In rule 4, for “writ” substitute “copy writ”.

(4) In rule 5, in paragraph (3)(b), for “the constituency” substitute “each electoral district”.

(5) In rule 9, for “constituency” (in each place) substitute “electoral district”.

(6) After rule 45 insert —

“Calculation of total number of votes **45A.** (1) The returning officers shall draw up statements certified under their hands and specifying the number of votes given for each candidate, and any counting agent may copy the statement.

(2) Each returning officer, other than the senior returning officer, shall forthwith —

(a) deliver to the senior returning officer, or

(b) transmit to the senior returning officer by such electronic means as the senior returning officer may direct,

the statement referred to in paragraph (1).

(3) When the senior returning officer has drawn up such a statement for that officer’s own electoral district and received such statements from the returning officers for the other electoral districts, the senior returning officer shall calculate the total number of votes for each candidate.”.

(7) In rules 46, 47 and 48, for “returning officer” substitute “senior returning officer”.

(8) In rule 50 —

(a) for “declaring the result of the poll” substitute “drawing up the statement of votes under rule 45A(1)”; and

(b) at the end insert —

“(2) The senior returning officer shall within 24 hours of declaring the result of the poll forward to the Clerk of the Rolls the statements of votes under rule 45A(1).”.

(9) The power under section 22(3) to amend the election rules includes power to amend those rules as modified by this paragraph.

Section 4

SCHEDULE 2

CONSTITUENCIES

	Name of constituency	Area of constituency
1	Constituency 1	
2	Constituency 2	
3	Constituency 3	
4	Constituency 4	
5	Constituency 5	
6	Constituency 6	
7	Constituency 7	
8	Constituency 8	

Section 9

SCHEDULE 3

AMENDMENT OF ENACTMENTS

The Constitution Act 1990 (c.6)

1. (1) At the end of section 4 add —

“(3) The President of Tynwald, upon receipt of a request signed by a majority of the members of either branch of Tynwald, shall, in the usual manner, and with all reasonable speed, convene a meeting of Tynwald.

(4) The President of Tynwald, upon receipt of a request signed by a majority of the members of the Council, shall, in the usual manner, and with all reasonable speed, convene a meeting of the Council.

(5) The President of Tynwald, upon receipt of a request signed by a majority of the members of the House, shall, in the usual manner, and with all reasonable speed, convene a meeting of the House.”.

(2) For section 5(2) substitute —

“(2) The office of Deputy President of Tynwald shall be vacated —

(a) on the death of the Deputy President of Tynwald;

(b) on resignation by notice in writing to the President of Tynwald or, if the office of President of Tynwald is vacant, to the Governor;

(c) on removal by a resolution of Tynwald.”.

(3) In section 9, in the definition of “elected member”, for “Isle of Man Constitution Act 1919 substitute “Constitution Act 2008”.

The Representation of the People Act 1995 (c.13)

2. (1) In section 6, after subsection (6) insert —

“(6A) A sitting member of the Keys may stand for election as an elected member of the Council and neither subsection (6) nor any other enactment shall be construed as vacating the member’s seat by reason of standing for such election.

(6B) A sitting member of the Council may stand for election as a member of the Keys and neither subsection (6) nor any other enactment shall be construed as vacating the member’s seat by reason of standing for such election.”.

3. For section 9(1)(a) substitute —

“(a) on their first assembling after the completion of the sitting of Tynwald referred to in section 6(2) of the Constitution Act 2008; and”.

4. In section 14(1), for paragraphs (f) and (g) substitute — SCH. 3

“(f) any member of Tynwald;

(g) any person who has served as a member of Tynwald in the session immediately preceding the election, or in the current session in the case of a by-election.”.

5. In rule 6 of Schedule 2 —

- (a) for paragraph (2)(b) substitute —

“(b) whether the person is a British citizen or has the right to remain in the Island in accordance with section 1 of this Act;

(bb) the description “Manx nationality” if appropriate and the person so desires.”.

- (b) after rule (2) insert —

“(2A) A nomination paper shall be in either the English or Manx language.”.

Section 9

SCHEDULE 4

ENACTMENTS REPEALED

<i>Reference</i>	<i>Short title</i>	<i>Extent of repeal</i>
X p.390	The Isle of Man Constitution Amendment Act 1919.	Sections 6 to 23.
XXI p.104	The Isle of Man Constitution Act 1969.	The whole Act.
1971 c.13	The Isle of Man Constitution Act 1971.	The whole Act.
1971 c.34	The Isle of Man Constitution (Elections to Council) Act 1971.	The whole Act.
1975 c.12	The Isle of Man Constitution (Amendment) Act 1975.	The whole Act.
1978 c.1	The Constitution (Amendment) Act 1978	The whole Act.
1990 c.6	The Constitution Act 1990.	Sections 2 and 3. In Schedule 1, paragraphs 3 and 4(1) and (2).

IN THE KEYS

**Constitution
[Reprinted]**

A BILL

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MR. QUAYLE

APRIL 2007
