



News Release

Date of Issue: 7th February 2003
Place of Issue: Douglas, Isle of Man
Contact: The Hon Tony Brown
Speaker of the House of Keys
Tel: (01624) 685500/824393

2003 Elections to the Legislative Council

The term of office of the following four Members of the Legislative Council will expire on 28th February 2003: Mrs Christian, Mr Crowe, Mr Kniveton and Mr Lowey. Mr Speaker has directed that the election for the four vacancies thus created on the Legislative Council will be held at the sitting on **Tuesday 4th March 2003**.

There is in addition a casual vacancy arising from the resignation of Dr Mann. Mr Speaker has directed under Standing Order 6(3) that an election to fill that vacancy is to be held at a special sitting of the House at **9.45 am on Tuesday 18th March 2003**.

Under section 2 of the Isle of Man (Elections to Council) Act 1971, nominations of candidates must be delivered to the Secretary of the House in writing no less than ten days before the sitting at which the election is to be held. To comply with this provision, proposals for nomination must be submitted by:

- **5.00 pm on Friday 21st February 2003** in respect of the four full-term vacancies; and
- **5.00 pm on Friday 7th March 2003** in respect of the vacancy of Dr Mann's seat, which is to be filled for the period ending 28th February 2005.

Section 2 also requires that nominations must be accompanied by particulars in writing of:

- (a) the qualifications and experience of the candidate; and
- (b) the reasons why the proposer considers the candidate to be suitable to be a Member of the Council.

Attached are Guidance Notes on the election process which provide further detail.

ELECTIONS TO THE LEGISLATIVE COUNCIL

Guidance Notes

1. Introduction

The procedure for elections to the Legislative Council is governed partly by statute and partly by the Standing Orders of the Keys. Members will be aware that in cases of conflict between statutory provisions and Standing Orders, the statutory provisions prevail; because Standing Orders 208-211 have not been revised, there is in some places a degree of inconsistency.

A summary of the procedure is set out below; it refers Members to the relevant authorities and advises them of the interpretations of Standing Orders by Mr Speaker and of other action which he proposes to take in the conduct of the election. The references in brackets are to the relevant statutes.

2. Statutory Duty of the Keys

The Keys have a statutory duty to elect a person to fill the vacancy created:

- within 14 days of a Member of the Council going out of office at the end of his or her term, or
- forthwith on a vacancy occurring on the death, resignation, disqualification or otherwise of a Member of the Council.

1919 Act ss8&22; Standing Orders 208-211 apply.

PRE-ELECTION PROCEDURE

3. Qualifications for election to the Council

To be qualified as an elected Member of the Council a person must:

- (i) be not less than 21 years of age;
- (ii) at the time of his or her election, be a resident of the Isle of Man*;
- (iii) at the time of his or her election, not be a person in receipt of a salary payable by the UK or Isle of Man Government*;

[* This condition must continue to be satisfied by an elected Member, so long as the Member continues in office by virtue of the election : 1919 Act s12]

(1919/12, amd 1961/25, 1969/5)

For clarification, these statutory qualifications allow for candidates to be nominated who are not Members of the Keys .

4. Proposals for nominations

A Member of the House seeking to nominate a candidate for election to the Council must comply with the statutory procedure which is set out below.

"Any proposal that a person be elected to the Council shall be made in writing and delivered to the Secretary of the House not less than 10 days before the sitting of the House at which the election falls to be made, and shall be accompanied by particulars in writing of -

- (a) the qualifications and experience of the candidate, and
- (b) the reasons why the proposer thinks the candidate to be suitable to be a Member of the Council".

(1971/2(1A)), ins 1989/Schd 1, para 24).

The prior consent of a person who it is proposed to nominate is not a statutory requirement but would obviously be desirable.

The Secretary of the House will, on their receipt, circulate the proposals to all Members of the House. Following previous practice, the names of those proposed and their proposers will be listed in alphabetical order on the Order Paper for the sitting at which the election is to be held, and the other particulars required will be annexed to the Order Paper.

PROCEDURE AT THE ELECTION

(i) Proposing and Seconding Candidates in the House

5. Candidates who have been proposed for nomination in accordance with para 4 may be proposed and require a seconder (SO 209(1)(a)). Proposers and seconders are entitled to speak in favour of their candidates.

Following previous practice, Mr Speaker intends to call upon the proposers of the candidates in the order in which they are set out in the Order Paper.

After a candidate is proposed, Mr Speaker will seek a seconder for that nominee. Mr Speaker will formally invite other Members to speak, although practice has been that other Members do not do so. Mr Speaker will then call upon the proposer of the next nominated candidate listed on the Order Paper.

If a proposed nominee does not attract a proposer or a seconder at the point at which the nominee comes before the House, it will be competent for the nominee to be seconded, or proposed and seconded, at any subsequent time before Mr Speaker announces the names of the proposed and seconded candidates (see para 7).

(ii) Voting

6. Voting is by ballot and Standing Orders contemplate the usual ballot paper being used (SO 209(1)(b)-(e)).

SO 209(1)(d) provides for the insertion of the names of candidates for election who are not Members of the House in blank spaces on the ballot paper. However, if there were a preponderance of candidates who were not Members of the House there is some risk of ballot papers being spoiled by errors in inserting the names of such candidates on the ballot paper. Consequently, Mr Speaker will seek the leave of the House to use specially prepared ballot papers on which are printed the names of all the candidates for which proposed nominations have been received by the Secretary.

7. Mr Speaker will announce the names of all candidates duly proposed and seconded in the order in which their names appear on the ballot paper (SO 209(1)(f)).

8. **Each Member may vote for any number of candidates up to the number of vacancies to be filled (SO 209(1)(g)).** The same Standing Order provides that “a voting paper which fails to comply with this requirement shall be disallowed”. Thus Mr Speaker will disallow a ballot paper carrying a greater number of votes than there are vacancies to be filled.

SO 106 provides that a Member may not take part in the debate, or vote, on a motion in which he or she has a direct pecuniary interest. On one view SO 106 would apply to a Member of the House nominated for election to the Council. However, SO 106 has not been so applied in the past and Mr Speaker, following these precedents, will not apply it to this election.

9. The count is conducted in the usual manner. The voting papers are collected and Mr Speaker appoints two Members to be scrutineers who, with the Secretary of the House, ascertain the number of votes for each candidate and report the voting to Mr Speaker (SO 209(1)(h)).
10. **No person shall be elected unless not less than 13 votes shall be recorded in his favour (1971/2; SO 209(1)(i)).**

(iii) Balloting Candidates with a majority but less than 13 votes

11. **"If a person shall have a majority of the votes of the Members of the House present and voting recorded in his favour but such majority is less than 13 votes** then subject to the provisions of this section, the name of that person shall be **forthwith** voted upon separately by the House and if he shall then receive a majority of not less than 13 votes he shall, subject as aforesaid and subject also to the provisions of section 21 of the principal Act, be deemed to be elected a Member of the Council" (1971/2(3); SO 209(1)(l)) (emphasis added).

To comply with this statutory provision, any candidate who in a ballot attracts the votes specified, will have his or her name put separately to the House before proceeding with any further ballot which might be required.

Section 21 of the "principal Act" (the Isle of Man Constitution Amendment Act 1919: 1971/6) relates to statutory procedural requirements following the election.

12. **"Where two or more persons receive a majority of the votes of the Members of the House present and voting but the majorities of those persons do not amount to 13 votes** the House shall **forthwith** vote separately upon the name of the person who shall have received the largest majority and then, so often as the necessity arises, separately upon the names of the other such persons in the order of the amounts of their majorities. Where there is an equality in the amount of two or more majorities the order in which such persons shall be voted upon separately shall be decided by lot" (1971/2(4); SO 209(1)(m)) (emphasis added).

As with the statutory provision at paragraph 11, should two or more candidates in a ballot attract the specified votes to satisfy the use of this statutory provision, they will have their names put before the House in accordance with the provision before proceeding with any further ballot which might be required.

The necessity for votes under this provision is deemed to arise as often as there remains a vacancy to be filled (1971/2(5)). Consequently, candidates to which this provision applies will have their names balloted in turn unless in the course of those ballots all the vacancies in the Council are filled, and the House will only proceed with a further ballot as described below if this procedure does not result in sufficient candidates attracting 13 votes to fill the remaining vacancies on the Council.

Following previous practice, if the order in which candidates are put to the House has to be decided by lot, Mr Speaker will draw the names of the candidates and they will be put to the House in the order in which they are drawn.

(iv) Subsequent Ballots

13. Subject to the proceedings at paragraphs 11 and 12, **provided there will be at least 2 candidates remaining thereafter, in a ballot *where no candidate is elected*, the candidate who received the smallest number of votes shall be omitted and the House shall ballot again on the remaining candidates** (SO209(1)(k)(i) and (ii)(a)).

In such a ballot, where two or more candidates each received the smallest number of votes, or all the candidates receive an equal number of votes, there will be a ***ballot of those candidates*** and the candidate receiving the smallest number of votes in that ballot will be omitted. If in that ballot two or more candidates each receive the smallest number of votes, or all candidates receive an equal number of votes, there shall be a ***second ballot of those candidates*** and the candidate who receives the smallest number of votes in the ballot shall be omitted. ***If in the second ballot*** two or more candidates each receive the smallest number of votes, or all candidates receive an equal number of votes, one of them shall be eliminated by a lot drawn by Mr Speaker (SO 209(1)(k)(b)).

Mr Speaker would propose that, in the case of such a lot, the name of the candidate drawn would be eliminated from the subsequent ballot.

14. Subject to the proceedings at paragraphs 11 and 12, ***where no candidate is elected in a ballot of two candidates, the House will have one further ballot only on these two candidates***. This procedure was introduced by Mr Speaker Cringle for the March-May 1998 elections to the Legislative Council as a procedure for ensuring that the Keys exhausted all possibilities of electing to the Council in furtherance of its statutory duty.

(v) Subsequent Sittings

15. If after completing the above procedures there remain vacancies in the elected membership of the Council, Mr Speaker will call for fresh nominations (SO 209(1)(n)). SO 209(1)(n) provides that where Mr Speaker calls for fresh nominations "all *members* previously nominated shall be eligible for nomination". This Standing Order pre-dates the statutory requirement to submit proposals for nomination to the Secretary of the House at least 10 days in advance of the sitting at which an election is to be held (see para 4 above).

February 2003

Malachy Cornwell-Kelly
Secretary of the House and Counsel to the Speaker

Abbreviations

- 1919: Isle of Man Constitution Amendment Act 1919
- 1961: Isle of Man Constitution Act 1961
- 1969: Isle of Man Constitution Act 1969
- 1971: Isle of Man Constitution (Elections to Council) Act 1971
- 1975: Isle of Man Constitution (Amendment) Act 1975
- 1980: Constitution (Legislative Council) (Amendment) Act 1980
- 1989: Statute Law Revision Act 1989
- 1990: Constitution Act 1990

[section numbers are indicated thus : 1919/12, signifying Isle of Man Constitution Amendment Act 1919, s.12]

- SO: Standing Orders of the House of Keys
- sub: substituted by
- amd: amended by
- ins: inserted by