

### 3. Representation of the People (Amendment) Bill 2015 – Second Reading approved

Mr Corkish to move:

*That the Representation of the People (Amendment) Bill 2015 be now read a second time.*

**The President:** Turning now to the Representation of the People (Amendment) Bill 2015. I call on the Hon. Member, Mr Corkish, to take the Second Reading and clauses.

**Mr Corkish:** Thank you, Madam President.

I am pleased to bring and present the Representation of the People (Amendment) Bill for its Second Reading here today. Today's Second Reading is an important step towards improving transparency and governance of the Island's election process and ensuring that key reforms are in place prior to the 2016 General Election.

The Bill comprises 37 clauses and two schedules, focusing on four significant new provisions as well as providing clarity to improve understanding of current legislation and removing out-of-date provisions. These provisions introduce a party registration system, limit candidates' campaign expenses, add requirements relating to donations and place new restrictions on proxy voting.

This Bill contains reforms recommended by the Independent Review Panel, appointed to review the transparency of processes applying to candidates standing for election following events which occurred in connection with the 2010 Douglas East by-election. The recommendations in respect of candidates' donations and expenses were included in the Representation of the People (Amendment) Bill 2011, which did not complete its passage through the House of Keys.

The Representation of the People (Amendment) Bill 2015 encompasses the reforms, as included in the 2011 Bill, provisions reflecting the Panel's recommendations on the registration and conduct of political parties, which had not been part of the original 2011 Bill, as well as other amendments brought about by the post-2011 election review conducted by the Cabinet Office.

Hon. Members may recall that the Bill and its regulations were subject to public consultation last year. The Bill before Council today includes amendments made as a result of this consultation exercise and the presentation to Members of Tynwald and it has been further amended in the Keys.

The Panel recognised early in their considerations that, whatever system may be developed by any jurisdiction in connection with election candidate funding, the design of a completely watertight system is impossible. If people are determined to bend the rules, it is impossible to prevent this.

The Panel also recognised that any system of reporting by candidates in relation to election expenses and donations will need to evolve over time; and to be reformed and fine-tuned on a regular basis, as has happened in all mature democracies.

Initially, therefore, a simple and straightforward reporting system has been included in the Bill which, should it be approved, can be amended as and when necessary – for example, if a more sophisticated party political system develops in the Island.

Madam President, the Bill includes provisions that will require all candidates in a House of Keys election to disclose donations received during a defined relevant period that are equal to or greater than the 'minimum amount', which has been set at £50. This amount may be amended by regulations, subject to the approval of Tynwald. In addition to donations given to candidates, there are also new provisions to limit the amount a candidate can spend on his or her election campaign. The limit has been calculated using the formula £2,000 plus 50 pence for every person registered to vote in the candidate's constituency. It is important to note that a candidate will not automatically be required to submit a statement of expenses. This is only required if the Electoral Registration Officer receives a complaint that a candidate has exceeded the specified limit.

The Bill provides for the timing and manner by which donations must be declared. Also, details of what constitute a donation and an election expense is included in the Bill and is further defined in the explanatory notes which have been circulated to Members.

Historically, candidates standing for election to the House of Keys have, in the majority of cases, stood as independent candidates. In recent years there has been growing participation by candidates representing political parties. The issue of party political funding is being addressed, for the present time, by seeking to increase the amount of information available in the public domain regarding political parties which support candidates for election to the Keys. Such parties will be required to register their details on a public register. The Bill includes the mechanism for applying to appear on such a register, including conditions to be met, and provides for circumstances in which a party may be removed.

The same approach has been taken as that which applies to candidates' donations and expenses; namely, that the registration requirement should not be onerous. A deliberate light-touch approach has been taken and the Bill provides for very similar requirements as those which currently apply to the registration of charities and trade unions.

Proxy voting is open to abuse, but there are voters who have no other means of casting their vote. Therefore, the availability of proxy voting is restricted by the Bill to those who cannot vote in person or cast an advance vote, which is the new term introduced by the Bill for an absent vote.

Madam President, the Bill also makes other changes to clarify and modernise existing provisions and to remove obsolete provisions. Hon. Members will be well aware that next year's general election is fast approaching. We have the opportunity to ensure a fairer and more robust legislative base is in place in advance of that election.

Further reforms will be included in the election regulations to be made following the passage of this Bill to replace the current mix of regulations and rules, many of which are obsolete and out of date; thereafter, new forms, guidance and codes of practice need to be in place. It is important the whole package is available from early next year in order that candidates and officials are aware of the provisions which will apply to the 2016 General Election.

Madam President, I hope that Hon. Members will be able to give the Bill their support and I beg to move that the Representation of the People (Amendment) Bill 2015 be read a second time.

**The President:** The Hon. Member, Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane. I beg to second.

**The President:** The Hon. Member, Mr Cretney.

**Mr Cretney:** Could I just ask the mover of the Bill to confirm that the 2010 situation in East Douglas was not one which involved parties; it was, indeed, more to do with a blind trust?

He comments also about political parties. Can he just, for the record, be aware that the Manx Labour Party has been represented and fought in elections since 1918 and so has long been represented in the Tynwald setting?

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.

In reading the explanatory notes, a lot of the amendments from the 2011 Amendment Bill I think indicate that some of them have been taken into account with the drafting of this Amendment Bill. I just wondered whether anyone took due cognisance of the amendments that got passed to that, and I speak specifically about the amendments which went through during that debate in 2011 with reference to candidates providing a register of their interests, such as they would have to complete if they were elected.

Mr Watterson, during the debate in 2011 on this issue, put forward an amendment that notwithstanding the proposal about going back 12 months, the Council of Ministers should introduce legislation to require candidates for election to submit to the Clerk of Tynwald a declaration of interest in the same manner as Members of Tynwald. The Branches disagreed on that amendment, but it was brought back for a combined vote and it was carried. So there was a decision of Tynwald, which because it was an amendment has in fact been lost in the depths of time it would appear, and I just wondered if there are any other of those items which may fall into the same category that we should be including within this Amendment Bill.

**The President:** The mover to reply.

**Mr Corkish:** Thank you, Madam President.

I thank Mr Cretney for his questions today. I can totally with him that the way that the Manx Labour Party conducted themselves has been above board and there is no intention of besmirching the good name of the Manx Labour Party.

With regard to Mr Coleman, is he referring to the prospective candidate in this particular...?

**Mr Coleman:** Yes. I think it was that... sorry, Madam President.

**The President:** If you wish to clarify for the Hon. Member.

**Mr Coleman:** That they would actually submit a form to the Clerk of Tynwald and it would be available to be looked at by potential... well, for voters.

**Mr Corkish:** Thank you, Madam President.

The matter of the prospective candidate has been looked at to make it clear that a person can declare their intention to stand as a candidate many months before their nomination is accepted by the returning officer, during which time they may receive donations and/or incur expenses. There is then an obligation on a *candidate* to declare relevant donations and expenses, both as a prospective candidate and as a future candidate.

**The President:** It does not quite address the question, but –

**Mr Coleman:** Can I just clarify the point? The point is that, as such –

**The President:** Hon. Member, I do not think you can. I just think that the hon. mover has not got the reply.

**Mr Corkish:** I am sorry, Madam President.

Further then, the legal requirements placed upon a prospective candidate under this Bill... they do not have a nomination paper accepted by a returning officer. They are only required to forward anonymous donations. Any candidate must declare those donations and that candidate's expenses must include those incurred while he is a prospective candidate and a candidate. If that is not an answer to your question, Mr Coleman, I will defer to the members of the Cabinet Office who have looked further into that particular question, if I may Madam President?

**The President:** Indeed, you may. Would you like to –

**Mr Corkish:** Mr Quayle is here from the Cabinet Office.

**The President:** Would you give us your name and office, please, Mr Quayle, for the record.

**Mr Quayle:** Certainly, Madam President.

My name is Stuart Quayle. I am a senior external relations manager in the Cabinet Office.

The simple answer is: I do not know the reasons why this particular point was not included. But from our consideration the 2011 Bill did not go through House of Keys; it was introduced to the Keys, but it was not passed by the Keys. So I am not sure, if I am perfectly honest, exactly what you are referring to in terms of the joint resolution of Tynwald on that particular matter.

**The President:** The Hon. Member may respond, but I think the point here is that if there is something that is not in the Bill that you wish to see in it, you should be bringing forward amendments.

**Mr Coleman:** It was not –

**The President:** I will allow you to communicate with Mr Quayle, Hon. Member, for clarity.

**Mr Coleman:** The point I was really making was not a specific. I quoted an example, and there might have been amendments in the 2011 Bill which in the process might have been voted for and I just wondered whether they had been considered when we came up with the recommendations that we have here. Or because the Bill had fallen, the will of Tynwald – it was a 20 to 10 vote for this amendment by way – obviously that this would be a good idea to have.

But I wanted to know whether there was a general scanning of what went on in 2011 to look at items which Tynwald felt were good ideas and good amendments, even though at the end of the day the Bill fell. That was it.

**The President:** I do not know whether you have that background, Mr Quayle, but –

**Mr Quayle:** The answer to the generality is that the 2011 Bill was thoroughly reviewed, as were the debates surrounding that Bill, and it went through quite a long process of review through the Council of Ministers Governance Committee and they reached a conclusion at what aspects they wanted to pick up from the earlier deliberations.

But more broadly, because it is a deliberately light-touch approach to regulation, the pre-candidate declaration of interests around that point I think would go further than what the intention of this Bill was as a starting point for that kind of regulation. But there was a thorough review of what was on the table at that time.

**The President:** Thank you, Mr Quayle.

Mr Corkish, do you wish to continue?

**Mr Corkish:** Thank you, Madam President.

I would just like to thank Mr Quayle from the Cabinet Office for the further information, and I hope that satisfies, to some degree, that question posed by Mr Coleman.

I beg to move.

**The President:** The motion is that the Bill be read a second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

## **Representation of the People (Amendment) Bill 2015 – Clauses considered**

**The President:** We turn now to the clauses, and the mover has requested to move various groups of clauses together. We can do that, Hon. Members, but we will be jumping around in one or two places and if there is a feeling that each clause should be voted on separately, we can do that.

So we take clauses 1 and 2 first, please, Hon. Member.

**Mr Corkish:** Thank you, Madam President.

I thank you for your agreement. Before moving on to the consideration of clauses, I would like to thank the Hon. Members for hearing the Bill and supporting the Bill through First and Second Readings.

As detailed, the explanatory notes have been circulated. I do not propose to go into the detailed specifics of each clause as Members will have that information, but I will provide an overview of the effect of the clauses.

Clause 1 gives the Bill its short title.

Under clause 2, the Council of Ministers, by order, can introduce different parts of the Act on different dates for different purposes. This clause also provides for the Act to cease to have effect on the day following its promulgation or on the day following that on which the last of its provisions comes into operation.

Madam President, I beg to move that clauses 1 and 2 do stand part of the Bill.

**The President:** Do we have a seconder?

**Mr Henderson:** I beg to second, Eaghtyrane.

**The President:** The motion is that clauses 1 and 2 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clauses 3, 4 and schedule 1.

**Mr Corkish:** Thank you, Madam President.

Clauses 3 and 4 identify the Act which the Bill amends and provide a schedule of amendments to be made throughout the Act.

Clause 3 provides for the Representation of the People Act 1995 to be amended in accordance with the provisions of this Bill.

Clause 4 allows for the provisions in schedule 1 to amend the 1995 Act so as to make it gender-neutral.

Madam President, I beg to move that clauses 3 and 4 and schedule 1 do stand part of the Bill.

**The President:** The Hon. Member, Mr Henderson.

**Mr Henderson:** I beg to second, Eaghtyrane.

**The President:** The Hon. Member, Mr Turner.

**Mr Turner:** Just a comment, really, Madam President.

Obviously going forward we are making a lot of the legislation gender neutral, but I cannot help just to comment on the schedule of how complex that is – changing all ‘he’ and ‘she’, ‘himself’ and ‘herself’. I commend the drafter and I cannot guarantee that every one of those I can say is in the right place, but it is an extremely complicated schedule. It is more of a comment, and obviously

going forward we are looking at the gender neutrality, but it is quite an interesting schedule. I have never seen anything like that before.

**The President:** Not before time. *(Laughter)*

**Mr Turner:** Absolutely!

**A Member:** Hear, hear.

**The President:** I have often said we should have a word which is 's/he' so you can interpret it either way.

Hon. Member, the mover to reply.

**Mr Corkish:** Yes, thank you, Madam President.

I thank my hon. colleague, Mr Turner, for his comment and overview on 'he' and 'she', and perhaps it should be termed as 'they'. I do not know. *(Interjection)* Yes.

I beg to move, Madam President.

**The President:** The motion is that clauses 3, 4 and schedule 1 stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clauses 5.

**Mr Corkish:** Thank you, Madam President.

Clause 5 includes new provisions on what qualifies and disqualifies a person from standing for election to the House of Keys. Inclusion on the electoral register for any area in the Island is a new qualification, extending the existing requirement that any person wishing to nominate a candidate must be a registered elector.

New disqualifications are added to provide further assurance that those standing for election are fit and proper persons. The Council of Ministers believes it to be in the public interest to prevent persons with unspent convictions of offences, concerning bribery, dishonesty and corruption, from standing as candidates. Therefore, the new provisions relate to those convicted of such offences, those serving a custodial sentence following any conviction and those who are an undischarged bankrupt. The current provision disqualifying those deemed incapable of sitting in the House of Keys under this or any other Act is retained, but clarified by the Bill.

This clause also specifies that the general election will take place every five years on the fourth Thursday in September and that the Keys will be dissolved six weeks before this date.

Madam President, I beg to move that clause 5 do stand part of the Bill.

**Mr Henderson:** I beg to second, Eaghtyrane.

**The President:** The Hon. Member, Mr Cretney.

**Mr Cretney:** Can I just ask then, I presume that there was consideration given because the September election was new in the last general election and there were two alternatives considered at that time: either May or September. So I am taking it that the powers that be decided that September is a good time to have the general election for the future.

**The President:** The mover to reply.

**Mr Corkish:** Thank you, Madam President.

I can only accept, perhaps as Mr Cretney may have alluded to, that yes, after due consideration of May or September, September was deemed to be... following the results shown in the last election that September was an accepted month for the election.

**The President:** The motion is that clause 5 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 6.

**Mr Corkish:** Thank you, Madam President.

Clause 6 inserts new sections 10A to 10N into the Representation of the People Act 1995. A deliberate light-touch approach has been taken so that this first step towards regulating political parties does not impose an onerous administrative burden.

The purpose of this clause is to take an initial step in encouraging political parties to register in order to increase openness and transparency regarding their activities. To be clear, organisations, including political parties that do not appear on the register, are *not* being outlawed by this clause.

The Bill includes a definition of a 'political party' specifying that one of the expressed objectives of a party's constitution must be that it supports or otherwise endorses a candidate for election to the Keys. A party covered by this definition is eligible for registration under this clause. A political party that does not meet this definition would not qualify for registration, but could continue to promote itself as a political party under its own constitutional arrangements. Hon. Members will appreciate that it should be fairly clear in the public's mind which organisations should register as political parties.

Candidates will be able to receive donations from any organisation, with transparency coming not from a link to a registered political party, but from the requirement to declare donations above the minimum amount. There is a clear difference between receiving donations from organisations and standing for a political party. The draft regulations seek to make this distinction even clearer by allowing candidates to include details of their political party on their nomination paper and on the ballot paper. The ordinary meaning of the word 'endorsement' provides assistance with regard to the nature of implied endorsement, specifying that it has to be explicit and made publicly. If either of these conditions is not met, there can be no endorsement, implied or otherwise – for example, simply agreeing with policies of a political party would not amount to a candidate being endorsed by that party.

I do not propose to go through this lengthy clause line by line as Hon. Members have this information to hand, but to summarise, in order to register, a party has to supply basic information, along with a copy of its constitution and most recent accounts. The application has to be signed by at least 20 registered electors, to correspond to the number of electors required to support a candidate's nomination. These 20 registered electors do not have to be active members of a political party and their names are not included on any documents that are available to the public from General Registry.

Parties can be removed from the register, but this is subject to appeal and reapplication. As parties are only required to register in order to support or endorse candidates to the House of Keys, one of the reasons for removal is failure to do so for three successive general elections. Parties must not retain anonymous donations and must forward them to the Chief Financial Officer. Although the donations are then forwarded to the Manx Lottery Trust for distribution, the destination for said donations can be changed by regulations, subject to Tynwald approval.

Madam President, I beg to move that clause 6 do stand part of the Bill.

**The President:** The Hon. Member, Mr Henderson.

**Mr Henderson:** I beg to second, Eaghtyrane, and reserve my remarks.

**The President:** The motion is that clause 6 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 7.

**Mr Corkish:** Thank you, Madam President.

This clause divides part 2 of the Representation of the People Act 1995, which deals with the organisation of elections into four divisions for clarity and ease of reference.

I beg to move that clause 7 do stand part of the Bill.

**The President:** The Hon. Member, Mr Henderson.

**Mr Henderson:** I beg to second, Eaghtyrane, and reserve my remarks.

**The President:** The motion is that clause 7 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 8.

**Mr Corkish:** Thank you, Madam President.

Clause 8 substitutes section 12 of the 1995 Act and provides for the Council of Ministers by order, and after appropriate consultation, to divide any constituency into two or more polling districts. For clarity, the 1995 Act only deals with boundaries for polling districts in relation to House of Keys elections.

Madam President, I beg to move that clause 8 do stand part of the Bill.

**The President:** The Hon. Member, Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

I beg to second and reserve my remarks.

**The President:** The motion is that clause 8 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clauses 9, 10 and 11.

**Mr Corkish:** Thank you, Madam President.

I should like to group clauses 9, 10 and 11 as they all contain provisions relating to returning officers and their deputies.

Clause 9 amends section 16 of the 1995 Act to clarify when a returning officer must take an oath of office.

Clause 10 amends section 18 of the 1995 Act to require a returning officer to appoint one or more deputies, who can be authorised to perform any or all of the returning officer's functions. It also requires every function of a returning officer to be able to be exercised in the returning officer's absence.

Clause 11 amends section 20 of the 1995 Act to remove the requirement for returning officers to submit their expenses claims in duplicate.

Madam President, I beg to move that clauses 9, 10 and 11 do stand part of the Bill.

**The President:** The Hon. Member, Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

I beg to second and reserve my remarks.

**The President:** The motion is that clauses 9, 10 and 11 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 12.

**Mr Corkish:** Thank you, Madam President.

Clause 12 inserts new sections 20A to 20G into the 1995 Act. The provisions contained in this clause should be read in conjunction with new schedule 3A, inserted as schedule 2 to the Bill under clause 33, which with your assistance I intend to move next. Again, I do not propose to go through this lengthy clause line by line. The new sections introduce a starting point to regulating and providing transparency regarding donations received and expenses incurred by candidates.

The Independent Review Panel recommended that a period, known as the 'election window' should exist, during which expenses should be limited and donations declared. In respect of a general election, this window is 12 months up to polling day and in the case of any other election the window is from the date on which the vacancy occurs until polling day.

As a person only officially becomes a candidate when their nomination has been accepted by the returning officer, in order to legislate for this recommendation there are references to 'prospective candidate' throughout this clause. The purpose of the concept of a prospective candidate is to recognise that a person can declare their intention to stand many months before they become an official candidate for an election. There is then an obligation on that person to declare relevant donations and to limit expenses, both as a prospective candidate and as a candidate.

The new sections impose a requirement to submit a written declaration of donations of or worth £50 or more received as a candidate or as a prospective candidate. If a number of donations are given by the same person or by connected persons, the amount must be aggregated in order to establish whether the £50 limit has been exceeded. A donation can be of money, a loan of money, goods or the use of goods or services. If no donations have been received, then there is still a requirement for a written declaration to be made to that effect.

If a candidate or prospective candidate receives an anonymous donation, they must not keep the donation; instead, the donation must be sent to the Chief Financial Officer, who will pay the amount to the Manx Lottery Trust. Other charitable trusts may be prescribed in regulations, which are subject to Tynwald approval.

As far as election expenses are concerned, a candidate's total campaign expenditure during the relevant period as a candidate and, if appropriate, a prospective candidate must not exceed the maximum amount of £2,000, plus 50p per registered elector. This amount is variable by regulation. Depending on the constituency and registration rates, the proposed limit equates to approximately £4,500 to £5,000. Complaints alleging that a candidate's election expenses have exceeded the maximum amount must be lodged within three months of an election. This period is longer than the existing 28 days during which an election petition can be presented and is considered a reasonable length of time for a candidate to be expected to retain information regarding their campaign expenses.

This clause was amended in the Keys to allow parameters to be set around the manner and form of any such complaint. This will allow, for example, a requirement for a complaint to be made in writing with the name and address of the complainant supplied, together with other particulars, such as the reason why it is alleged that the expenses have exceeded the maximum amount. If such a complaint is made, the candidate must supply a written declaration itemising the amounts expended – whether direct or notional – and the goods and services to which the amounts relate. Invoices, receipts and other proof of expenses must be submitted if requested. Declarations relating to a candidate's donations and expenses will be available for inspection at the General Registry.

The purpose of these provisions, particularly the limit, is to create a level playing field as far as possible and to promote open and transparent elections. It is important to remove any real or perceived advantage to candidates with significant personal wealth or backed by wealthy individuals or organisations.

Madam President, I beg to move that clause 12 do stand part of the Bill.

**The President:** The Hon. Member, Mr Henderson.

**Mr Henderson:** Sorry, Eaghtyrane.  
I beg to second.

**The President:** The Hon. Member, Mr Turner.

**Mr Turner:** The point I am going to raise actually could be raised at any point during this, but I think specifically for this because this is an important area.

The Bill itself, obviously, is drafted in a way that it has to work technically and legally. Is there going to be some sort of guidance pack made available for candidates, rather than having to delve through the Representation of the People Act when it is amended? We know ourselves how difficult it can be to find certain things that we are looking for, and whilst you would expect candidates to familiarise themselves with the broad purposes of the Act, getting down to the specifics can be quite difficult. So is there going to be any guidance, maybe information packs, for candidates to assist them to ensure that they could do everything correctly? Because I would imagine they all want to do it correctly, but there is a lot in here that they have to do and some changes, and that would certainly help candidates I would presume.

**The President:** The Hon. Member, Mr Cretney.

**Mr Cretney:** I would just like to place on record my strong support for this particular part of the proposed legislation inasmuch as we see in other jurisdictions, perhaps larger jurisdictions, that some people can buy themselves into an elected office, and I think it is very appropriate and correct that we have these limits. I think on the Isle of Man, as a matter of course anyway, that if people were too brash, in terms of their election campaign, it may rebound on them anyway. But I do believe this is an important measure.

**The President:** The mover to reply.

**Mr Corkish:** Thank you, Madam President.

The short answer to that posed by Mr Turner is yes, there will be an information package available to prospective candidates for the 2016 election so they are not ignorant of what is implied before their move.

I totally agree with Mr Cretney and I thank him for his... yes, this introduces a level playing field here and encourages transparency for everybody concerned and good governance here on the Isle of Man.

Madam President, I beg to move.

**The President:** The motion is that clause 12 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Now we jump to clause 33, Hon. Members, on page 33 of the Bill, along with schedule 2.

Mr Corkish.

**Mr Corkish:** Thank you, Madam President, and I thank you again for your help and assistance.

Moving clause 33, it inserts schedule 3A into the 1995 Act and provides more detail as to the meaning of 'donations and expenses' referenced in clause 12. So, with your permission, I am moving clause 33 now, and I thank you for that.

In summary, money spent or services received as part of an election campaign in order to increase a person's chances of success or to try to prejudice the chances of another candidate are included as election expenses. A gift of money, a loan of money provided with an interest rate lower than market value and discounted use of goods or services for the same aforementioned purposes are included as donations.

Volunteers' time is often regarded as a more common and useful donation than a gift of money, but the schedule makes it clear that a volunteers' time is not included as a donation or a notional expense, but any goods used or supplied by a volunteer would be included as such.

Expenses incurred during the relevant period – in normal circumstances that means the 12 months prior to polling day – are counted; however, any cost incurred before provisions relating to expenses come into force would be excluded from being an expense.

There are exceptions detailed in schedule 2 which include volunteers' time, as it is recognised candidates do receive voluntary help with their campaign from family and friends. There is an exception for expenses incurred in connection with a person's proper performance in elected office. Also, the Council of Ministers is provided with an order making power to disregard certain costs from being included as expenses. This is a safeguard to provide for further exceptions to be made if it is found that any are required.

Several technical amendments were made to the schedule in the Keys to deal with four issues. The first issue was that the schedule did not make the distinction between a 'candidate' and a 'prospective candidate' throughout.

The second related to references to anonymous loans. A loan cannot be anonymous as the lender must be identified in order for it to be repaid.

The third issue was an inconsistency, in terms of a restriction in the timeframe within which an anonymous gift of money could be made, and the final issue related to an incorrect cross-reference.

I do not propose to go into further detail as the schedule is intended to give an overview of the purposes and timeframes that should be considered when determining whether or not something is to be included as a donation and/or as an expense.

Madam President, I beg to move that clause 33 and schedule 2 do stand part of the Bill.

**The President:** The Hon. Member, Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.  
I beg to second and reserve my remarks.

**The President:** Lord Bishop.

**The Lord Bishop:** Thank you, Madam President.

I am interested in section 5 or paragraph 5 of schedule 2, the exception for newspapers and broadcasts:

'A person does not make a donation by publishing any matter relating to an election'

And then the second says 'except for an advertisement' – interesting to have a definition of 'advertisement' because the technical use of advertisement is simply to inform somebody about something. Presumably this word 'advertisement' is being used in the technical sense of a commercial advertisement.

**The President:** The Hon. Member, Mr Cretney.

**Mr Cretney:** Could I just seek a little bit of clarification in relation to the use of volunteers? The Member has indicated that the use of volunteers would be considered as not a charge, a cost. However, if the volunteer happened, for example, to be a taxi driver and put at the disposal of a

candidate his taxi during the day, would the fuel which was consumed during the day be considered to be an expense?

**The President:** The Hon. Member, Mr Turner.

**Mr Turner:** Just to build on the Lord Bishop's comment about advertisement, I think, certainly from my experience in commercial radio, that they are not able to take commercial advertisements for candidates. I think it would not be the best step, having heard the campaigns in the United States – the radio advertisements for candidates standing for various offices out there were incredible. They were literally saying, 'Don't vote for my opponent because they are terrible people', and they were literally accusing them of all sorts of corruption. Whilst making very entertaining listening, it does cause problems. I think the broadcasting rules prevent that anyway, here.

I think what the Lord Bishop was talking about was to do with advertisements placed in the printed media, in which case if somebody does take out some column inches of non-editorial, an advertisement with the vote for whoever, then I am sure that would be a declarable cost because it is in fact purchasing, just as it is purchasing the leaflets and the posters and the banners.

**The President:** The Hon. Member, Mr Coleman.

**Mr Coleman:** Thank you, Madam President.

I just have a question about interpretation. If a candidate happened to own a company which had delivery vans going all around his constituency and he had very large advertisements on the side of that delivery van, how would that be interpreted? Because it would be going around in the usual carrying out of his company, it just happens to have a very large mobile advertisement on the side of it. If you looked at the value of attribution, surely it could not be the cost of hiring a van for driving around a constituency and I just wondered how that would be interpreted.

**The President:** Right, we have some challenges for the Hon. Member to reply to. *(Laughter)*

**Mr Corkish:** Absolutely. Thank you, Madam President.

Can I first address, perhaps, Mr Cretney and Mr Coleman regarding advertising? I think there are a lot of areas that have been addressed within the Bill, and I think I said at the very beginning that such a Bill is not perfect, neither could be perfect. The fact that a prospective candidate has a friend with a taxi is possible, the same as a man with a fleet of vans. I do not know how or if that has been considered. It happens because you can stick a poster on your own car or a family member's car which would equate, possibly, to the same kind of advertising. It is how that would be converted into an expense, but if I need any further clarification on that I would defer to the Cabinet Office if that has been addressed.

**The President:** Could we call on you, Mr Quayle, to make a comment?

**Mr Quayle:** Thank you, Madam President, I would be happy to.

The point that Mr Cretney made about petrol expenses, petrol used by a volunteer would be classed as a donation, but because it is unlikely to be above £50 it would not need to be declared, but it would be a notional expense. For intents of purpose of declaration it would not be over £50. Petrol used by a candidate is a direct expense.

In terms of Mr Coleman's point, I go back to what Mr Corkish said about this being a lighter touch as far as possible in the schedule. So in terms of every eventuality I cannot give a definitive answer on whether that would be a direct expense, but it would be something that we can clarify for Third Reading.

**The President:** Is there anything you wish to add, Mr Corkish?

**Mr Corkish:** No, apart from to thank Mr Quayle for that added clarification and just to say again that this Bill is not perfect; it is one step in a right direction.

Can I defer to Mr Quayle again, who would like to speak?

**The President:** Is there something further you wish to add, Mr Quayle?

**Mr Quayle:** Thank you, Madam President.

The cost of the advert placed on the van would be a direct expense, so that would be a cost incurred.

**The President:** There is recipe for confusion in many areas!

**Mr Corkish:** Just to further clarify: coverage by radio or newspapers, of course, would be part of the run-up to an election in any case. A newspaper or radio *advertisement* would be a direct expense, whether it is of a reduced price or free of charge, but coverage – we are moving into a modern age – on Facebook and other issues like that, that is free of charge so there would be no cost incurred there at all.

**The President:** Right.

**Mr Corkish:** I beg to move.

**The President:** The motion is that clause 33 and schedule 2 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

We revert now to clause 13 along with clause 14.

**Mr Corkish:** Thank you Madam President, I would like to group 13 and 14 as they deal with election regulations and the effect of non-compliance with them.

Clause 13 substitutes section 22 and repeals Schedule 2, allowing regulations to be made for the conduct of elections.

Under clause 14, section 23 of the 1995 Act is amended to change the previous reference of rules to that of regulations.

Madam President, I beg to move that clauses 13 and 14 do stand part of the Bill.

**The President:** The Hon. Member, Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

I beg to second and reserve my remarks.

**The President:** The motion is that clauses 13 and 14 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 15.

**Mr Corkish:** Thank you, Madam President.

Clause 15 amends section 24 of the 1995 Act to clarify that a person entitled to vote may do so only in person or by proxy.

I beg to move that clause 15 do stand part of the Bill.

**The President:** The Hon. Member, Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.  
I beg to second and reserve my remarks.

**The President:** The motion is that clause 15 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Now we have another group clauses, clauses 16, 17, 18 and 25 will be taken together.

**Mr Corkish:** Thank you, Madam President.

Thank you for your help. Clauses 16, 17, 18 and 25 all relate to either the manner of voting or, in the case of clause 25, consequential amendments generated by the introduction of advance voting.

Clause 16 substitutes section 25 of the 1995 Act to provide that a person may vote in person at an allotted polling station, in advance of polling day or by proxy.

Clause 17 amends the terminology from absent vote to advance vote.

'Absent voting' had been open to any registered voter who would be absent from the polling station for whatever reason. However, the terminology suggested it was only available to those who would be absent from the Island. Availability of advance voting has been restricted to those in the British Islands due to time restrictions arising from the need to issue, send and then return a completed ballot paper.

Clause 18 effectively makes proxy voting a last resort, available only to those electors who cannot vote at the polling station or in advance. This clause seeks to address the deficiencies in the proxy voting system that were exposed in the 2010 Douglas East by-election, whilst recognising that there are a limited number of circumstances under which proxy voting remains the only option for certain electors.

New restrictions on who may apply and the facility for the Electoral Registration Officer to request further information from any applicant will tighten procedures and place an onus on the applicant to prove that they can only vote by proxy.

Clause 25 removes an incorrect reference to voting by post and changes terminology of absent vote to advance vote.

Madam President, I beg to move that clauses 16, 17, 18 and 25 do stand part of the Bill.

**The President:** The Hon. Member, Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.  
I beg to second and reserve my remarks.

**The President:** The Hon. Member, Mr Cretney.

**Mr Cretney:** Can I ask the mover... with absent voting in the past it was always made clear that that was available, for example, for elderly people or people who were indisposed and what would happen would be that the returning officer or his agent would call to the home of the person who requested such an absent vote. With the advance voting this is still going to be available, is that correct?

**The President:** The mover to reply.

**Mr Corkish:** Thank you, Madam President and in answer to Mr Cretney the simple answer is yes, that will still be available to the voter.

*Mr Wild arrived in the Chamber at 12.14 p.m.*

**The President:** The motion is that clauses 16, 17, 18 and 25 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clause 19.

**Mr Corkish:** Thank you, Madam President.

Clause 19 makes amendments to reflect modern society and acknowledges the growing number of people who prefer to access information electronically.

The clause provides that public notices must appear in one newspaper and on the Government website and makes display in a conspicuous place in the relevant constituency an option, not a requirement.

Clause 19 also entitles candidates to submit their manifesto for display on the Government website and to be delivered to each household containing a registered elector.

Madam President, I beg to move that clause 19 do stand part of the Bill.

**The President:** The Hon. Member, Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

I beg to second and reserve my remarks.

**The President:** The motion is that clause 19 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 20.

**Mr Corkish:** Thank you, Madam President.

Clause 20 inserts new provisions into the 1995 Act to allow a representative of a named relevant body to be an accredited observer to attend election proceedings. Applications are approved by His Excellency the Lieutenant Governor and observers will be subject to a Code of Practice.

I beg to move, Madam President, that clause 20 do stand part of the Bill.

**The President:** The Hon. Member, Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

I beg to second and reserve my remarks.

**The President:** The motion is that clause 20 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clauses 21 and 28.

**Mr Corkish:** Thank you, Madam President.

I thank you again for your assistance. I wish to group clauses 21 and 28 as they relate to corrupt and illegal practices and those who may be granted relief.

Clause 21 amends provisions regarding corrupt and illegal practices to take into account the more serious offences in relation to political parties and to funding, which are detailed in clause 26.

Clause 28 amends section 63 of the 1995 Act to provide protection to returning officers by clarifying that anything they have done or omitted to do, in good faith, in the exercise of their functions would not be subject to High Court proceedings in relation to illegal practices, payment or hiring.

Madam President, I beg to move that clauses 21 and 28 do stand part of the Bill.

**The President:** The Hon. Member, Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.  
I beg to second and reserve my remarks.

**The President:** The motion is that clauses 21 and 28 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 22.

**Mr Corkish:** Thank you, Madam President.

Clause 22 expands provisions regarding election publications so that they apply in relation to discouraging or preventing a person being elected as well as promoting a person to be elected. It also clarifies where such material can be posted, including by electronic means.

Madam President, I beg to move that clause 22 do stand part of the Bill.

**The President:** The Hon. Member, Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.  
I beg to second and reserve my remarks.

**The President:** The motion is that clause 22 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clauses 23 and 24.

**Mr Corkish:** Thank you, Madam President.

I would like to group clauses 23 and 24 as they both update the legislation to reflect modern social conditions.

Clause 23 substitutes section 40 of the 1995 Act to specify premises where alcohol or other refreshment is sold or supplied cannot be used for election purposes. Parts of such premises which have separate entrances may be used.

Clause 24 repeals section 41 of the 1995 Act which is an outdated provision relating to bands of music.

Madam President, I beg to move that clauses 23 and 24 do stand part of the Bill.

**The President:** The Hon. Member, Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.  
I beg to second and reserve my remarks.

**The President:** The motion is that clauses 23 and 24 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

We have already dealt with clause 25 and so we go to clause 26, Hon. Members.

**Mr Corkish:** Thank you.

Clause 26 inserts new sections 44A and 44B into the 1995 Act to update offences of illegal practices in relation to offences connected to political parties and funding.

Madam President, I beg to move that clause 26 do stand part of the Bill.

**The President:** The Hon. Member, Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.  
I beg to second and reserve my remarks.

**The President:** The motion is that clause 26 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clauses 27 and 29.

**Mr Corkish:** Thank you, Madam President.  
They are grouping 27 and 29 clauses as they both make amendments to interpretation provisions.  
Clause 27 removes duplicate definitions of 'candidate' and 'prescribed' as these are defined under section 77 of the 1995 Act.  
Clause 29 amends section 77 of the 1995 Act and inserts new definitions into the interpretation section.  
Madam President, I beg to move that clauses 27 and 29 do stand part of the Bill.

**The President:** The Hon. Member, Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.  
I beg to second and reserve my remarks.

**The President:** The motion is that clauses 27 and 29 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clause 30.

**Mr Corkish:** Madam President, clause 30 amends section 80 of the 1995 Act to clarify the position that regulations cannot be made in respect of the procedure on election petition as this is dealt with under Rules of Court.  
Regulations may amend the time periods referenced in the newly inserted sections relating to election donations and expenses.  
I beg to move that clause 30 do stand part of the Bill.

**The President:** The Hon. Member, Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.  
I beg to second and reserve my remarks.

**The President:** The motion is that clause 30 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clause 31.

**Mr Corkish:** Thank you, Madam President.  
Clause 31 includes a transitional provision regarding the coming into force of the provisions of the Act. Any period of time before a provision is operational is to be disregarded.  
Madam President, I beg to move that clause 31 do stand part of the Bill.

**The President:** The Hon. Member, Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.  
I beg to second and reserve my remarks.

**The President:** The motion is that clause 31 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.  
Clause 32.

**Mr Corkish:** Thank you.

Clause 32 amends paragraph 1 of schedule 3 to the 1995 Act to insert a new definition for 'prescribed' as it concerns the procedure on election petition.

Madam President, I beg to move that clause 32 do stand part of the Bill.

**The President:** The Hon. Member, Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

I beg to second and reserve my remarks.

**The President:** The motion is that clause 32 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

We have already dealt with 33, clause 34.

**Mr Corkish:** Thank you, Madam President.

Clause 34 repeals transitional provisions which are now spent.

Madam President, I beg to move that clause 34 do stand part of the Bill.

**The President:** The Hon. Member, Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.

I beg to second and reserve my remarks.

**The President:** The motion is that clause 34 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Clause 35.

**Mr Corkish:** Can I group clauses –

**The President:** I am sorry – clause 35, you want to add clauses 36 and 37 in the same group.

**Mr Corkish:** With your indulgence, thank you, Madam President.

I would like to group clauses 35, 36 and 37. They all contain consequential amendments to various Acts.

Clause 35 provides for consequential amendments to the Local Elections Act 1986 relating to election regulations, qualification/disqualification and advance voting. The amendments do not incorporate provisions regarding proxy voting, donations, expenses, registration of political parties or accredited observers.

Clause 36 provides for consequential amendments to the Payment of Members Expenses Act 1989, only in as far as references to the Election Rules are replaced with references to election regulations.

Clause 37 provides for consequential amendments to the Registration of Electors Act 2006.

In particular, clause 37 clarifies the position that, due to the constituency boundary changes approved in the Representation of the People (Amendment) Act 2014, different polling districts can apply for elections to the Keys and elections to local authorities. Therefore, a person will be registered in one polling district for Keys elections and one polling district for local authority elections.

A further amendment is included under clause 37 to provide that the Chief Secretary must appoint a person employed in the Cabinet Office to be the Electoral Registration Officer.

Madam President, I beg to move that clauses 35, 36 and 37 do stand part of the Bill.

**The President:** The Hon. Member, Mr Henderson.

**Mr Henderson:** Gura mie eu, Eaghtyrane.  
I beg to second and reserve my remarks.

**The President:** The motion is that clauses 35, 36 and 37 do stand part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Hon. Members, that concludes consideration of the business on our Order Paper.

### **Procedural**

**The President:** Before we adjourn, can I just make the point that if Hon. Members are moving amendments, and time permits it, could you please advise the Clerk of the wording so that it can be circulated to Members so that they can look at it in advance of consideration.

Thank you, Hon. Members, Council will now adjourn. The adjournment will be until Tuesday next, 12th May, in this Chamber.