

4. BILL FOR SECOND READING

**4.1. Registration of Electors Bill 2020 –
Second Reading approved**

Mr Thomas to move:

That the Registration of Electors Bill 2020 be read for a second time.

The Speaker: Item 4, Bill for Second Reading, Registration of Electors Bill 2020.
I call on Mr Thomas to move.

Mr Thomas: Thank you, Mr Speaker.

1420 I am pleased to move the Second Reading of the Registration of Electors Bill 2020.

The maintenance of the electoral register is an essential part of ensuring that democratic elections can be held in the Isle of Man. The current registration system, in which a full postal canvass is conducted on a household basis each year, is outdated. The new legislation will improve the process for electors and make it more efficient for Government by moving to a new system based on individual and lifelong registration. The proposed changes will result in a more accurate and complete register, supporting efforts to strengthen political engagement and increase turnout at elections.

1430 The Bill before you today has been informed by extensive stakeholder engagement, expert advice and public feedback. The Cabinet Office carried out a review of the Island's electoral legislation with the support of Mr John Turner, the former Chief Executive of the Association of Electoral Administrators. The results of two consultations have been taken into account, along with Select Committee recommendations and evidence from Tynwald Members, 2016 House of Keys election candidates, returning officers, registered political parties, local authorities and Government Departments.

1435 Mr Speaker, it is important to provide some background about the existing arrangements before explaining the compelling reasons for supporting the changes set out in this Bill. The current system places responsibility on the head of each household to confirm or update the electoral registration details of every eligible elector within that household. There is, therefore, the potential for people to be disenfranchised if the head of household fails to respond to the annual canvass. The current process is also costly and time consuming and in the vast majority of cases it merely confirms basic citizen details already held by Government.

1440 The Registration of Electors Bill 2020 supports a new system based on the principle of individual and continuous registration, with the ability to verify information against other Government data. 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 the household, will be responsible for the accuracy of their details and it will be possible to make any changes on a rolling basis.

1450 The concept of using existing Isle of Man Government records to verify data for electoral registration purposes was supported by 85% of respondents to the public consultation. Our citizens often voice their frustration at having to provide the same information multiple times across different Government Departments and services. So work in general is currently taking place to support the 'tell us once' principle of public administration and the Registration of Electors Bill 2020 has been drafted to allow for developments in this area.

1455 But while this forms part of our overall plans for a smarter digital future, we are also proposing changes that will achieve immediate benefits. The creation of a gateway between the electoral register and the census will provide a secure and lawful means of sharing basic information. It will help to achieve more accurate and complete electoral registers, jury lists and demographics information. **(Mr Robertshaw:** Hear, hear.) Costs will be reduced and

1460 administration streamlined by eliminating the need to print and post more than 60,000 paper forms as part of a full paper canvass each year.

Mr Speaker, the Bill makes it clear that all qualifying individuals must be registered. Compulsory registration supports the principle that a complete and accurate electoral register is a critical part of engaging people in the democratic process. Failure to provide the information required by the Electoral Registration Officer will in future be dealt with by way of a civil penalty. 1465 Knowingly providing false information will remain a criminal matter.

The qualifying criteria remain unchanged in that individuals are entitled to be registered if they have: attained the age of 16; had their usual place of abode in the Isle of Man for the preceding 12 months; and are not subject to any legal incapacity to vote.

1470 The Bill supports the introduction of special arrangements to enable Isle of Man residents who are serving in the armed forces, studying off-Island or temporarily working overseas to be registered and to vote by post in an election. Provision will also be made for anonymous registration to help protect the identity of a person who is deemed to be at personal risk.

Mr Speaker, Hon. Members, in future, the full register will be published annually and a monthly update, known as an 'alteration notice', will capture any additions, removals or 1475 amendments to the register. In the month of an election, an updated register will be published seven days prior to polling day. This will apply for all national and local elections and by-elections, not just Keys general elections as is currently the case.

1480 The opportunity is also being taken to abolish the edited version of the register. This is viewed as a positive move, as it will restrict the sale of electors' details to third parties and protect them from receiving unsolicited mail.

In conclusion, I would encourage Hon. Members to support the Bill. The proposals will modernise the Island's electoral registration system, streamline administration and reduce costs.

1485 Mr Speaker, I beg to move that the Registration of Electors Bill 2020 be read for a second time.

The Speaker: Dr Allinson.

1490 **Dr Allinson:** Thank you, Mr Speaker. I beg to second and reserve my remarks.

The Speaker: Hon. Member for Onchan, Ms Edge.

Ms Edge: Thank you, Mr Speaker.

1495 I have a couple of queries really for the Minister and whether he could clarify ...

I just do not understand why we are bringing a Bill forward and it does not include MLCs in any of the wording of it as to: do they not have to be on the electoral roll to stand to be part of our parliament? I am just wondering what the situation has been in the past.

1500 Also, just under clause 8, obviously the vulnerable people and their capacity, it is quite key. The capacity legislation should be coming forward. Is there something within that that the Minister ... to make sure that there is a more of a process in place sooner for these people rather than ... It sounds quite long-winded really, that a vulnerable person has to go and get support from the Constabulary, social services or medical practitioners, when they perhaps do have a person who is responsible for them in the first place anyway.

So if the Minister could just clarify some of that.

1505 **The Speaker:** Hon. Member for Ramsey, Mr Hooper.

Mr Hooper: Thank you very much, Mr Speaker.

1510 I would just like to thank the Cabinet Office firstly, for taking the time to talk me through some of the provisions in this Bill. I am not going to go through all the detail I have raised with

them, but I am just going to comment very briefly on one or two of the most significant points I think that probably are worth raising here.

1515 Firstly, the Bill gives quite a lot of discretion to the Electoral Registration Officer and to the Cabinet Office, which I think makes some sense, because you do not want the process being too bureaucratic and too tied down with red tape. But I think because of the discretion that is being given, that does mean that there needs to be appropriate oversight then of those decisions that are made to make sure there is a proper appeal mechanism. I am not quite sure this Bill in its current form has that 100% right in terms of checks and balances.

1520 I think if we are giving one person the ability to decide who gets to vote, then we need to make sure that the appeal and challenge mechanism that is built into the Bill is absolutely spot on and works as intended. Otherwise we could end up in the situation where you are coming up to an election and someone is inadvertently excluded from their right to vote because of a decision that has been made; because of a slow appeals process with no timescales; or for all sorts of reasons.

1525 So there is an appeal mechanism in here. I am just not 100% satisfied it is going to work as intended, both in respect of those timescales and in respect of appropriate oversight of some of the decisions that are made. So I am quite grateful that the Cabinet Office have already said they are going to look at this and see whether my interpretation is right or not. But I still think it is worth raising here.

1530 The Minister mentioned in his opening remarks bespoke provisions to allow people living overseas to vote – so students; members of the armed forces. Again, I think the Bill as drafted does not quite do what the Minister hopes it does. It seems, to my mind, to restrict those people to only being able to vote by post; which seems bizarre. If you are on Island and you are registered to vote, you should be able to vote in person as well as voting by post. Again, I have already raised this with the Cabinet Office, but it is just worth flagging up here.

1535 The last thing I would like to comment on is the Minister briefly touched on moving towards a more digital approach to the register; the Smart Service Framework that he keeps telling us about. The Bill itself sets out some very clear procedures in respect of publishing registers, access to registers and sharing of data in between various Departments. So I just want to check with the Minister that the Bill as drafted is flexible enough to deal with how the Smart Service Framework is going to work in the near future.

1540 The reason I raise this is because there is one particular provision in the Bill that talks about Departments being able to process information and share that information with the Electoral Registration Officer for the purposes of verification. My understanding was that there would be no data being shared in between various Departments as a result of the Smart Services Framework. It would be more of a call-and-response-type automated system. So there would be no need to share data with anyone. The Registration Officer would not need to necessarily have access to the underlying data that exists within the Department for Health or within Home Affairs; it would just be that verification process.

1550 So again, I would expect all that will be set out in regulations, but I would appreciate if the Minister could confirm that the provisions in this Bill actually do not allow the Departments to physically share data, because that is not his intention; his intention is still to proceed with developing that yes/no-type system.

Thank you.

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The Speaker: I call on the mover to reply. Mr Thomas.

1560 **Mr Thomas:** Thank you, Mr Speaker, and to my hon. friend, Dr Allinson for seconding; and also for the two sets of questions that I have received and for the work involved by the questioners and other Members in helping us develop this Bill and its sister Bill, the Elections Bill, that is coming in a couple of weeks to go through in parallel with this one.

1565 In terms of MLCs, a conscious decision was made politically that this whole process would deal with elections to local authorities and to national elections, to the House of Keys, as the parliament of the Isle of Man; we would not deal with the Legislative Council process. So a decision was made that this process would deal with the national elected parliament and the national commissioners who provide local administration.

1570 The very specific point about the Legislative Council is a very interesting one and a good one, and we have been thinking about it a lot. Obviously if this Bill is enacted and then is brought into force any MLC that is not actually on the electoral register will have committed an offence in the terms of this Act which would now be in force. So I would very much doubt that a Member of this place would actually vote for somebody who had committed an offence under the Act.

1575 It could have been the case that in the past there might have been MLC candidates who were not actually on the electoral register when they were putting themselves forward. I would hope that we and our predecessors might have taken that into account when we were making up our minds about their suitability. But it is not really clear to me how we make up our minds in terms of MLC candidates (*Laughter*) and I am not sure whether we actually did test those things; and whether we did actually test them on their ability to scrutinise legislation more generally.

1580 But certainly it is the case now that every member of the Isle of Man will be liable to a level 2 fine, up to £1,000, for not fulfilling their obligation to be on the electoral register and MLCs are actually normal people in that sense. But as I say, the decision was made not to get into the intricacy of reforming the Legislative Council and the nature of MLCs in this process. This is about elections to the national parliament of the Isle of Man, the House of Keys, and also to the commissioners, and that we should provide the local democratic element in the Island.

1585 In terms of the point about clause 8, vulnerable people, capacity legislation, there are lots of levels to that question; the points that are all *very* well made. I will, when moving clause 8, deal in detail with the timetable of the capacity legislation; how it interacts precisely. The clause says already that:

the [Electoral Registration] Officer may have regard to any of the following ...

1590 In other words, they can make a decision without supporting information if they are satisfied. I myself have actually asked for more clarity in terms of exactly how we are going to deal with social services and medical practitioners, because they are not currently defined in this legislation. So when I move clause 8, I will have much more full and much better answers to deal with precisely ... Because they are some of the issues that this parliament of ours needs to take into account as we take this legislation through its stages.

1595 In terms of Mr Hooper's helpful questions – and I appreciate Mr Hooper phoning me last week, taking the time to sit with officers, engage further on lots of points – make a good point about the Electoral Registration Officer in terms of appeals; in terms of ombudsman-type relationships; in terms of complaints; in terms of the nature of staff; in terms of the oversight of different parts of the process. So to reassure him, very pleased to carry on this debate in the next couple of weeks to see whether there is anything that we can do better.

1600 Factually, there has not ever, in recent memory, been any complaints of the nature that the Member has imagined, but I concede that this question could be brought into force if we get into the business of civil penalties, for instance.

1605 So I will read out quite a long answer so it is on the record for *Hansard*, and when we come to the clauses debate then everybody can get involved as necessary around the Island, because this is an engaging process: we need returning officers and members of the public to help us. But there are a number of clauses within the Bill that place specific duties and oversight on the Electoral Registration Officer.

1610 Clause 18 stipulates that the person appointed by the Chief Secretary to be the Officer must be a person employed in the Cabinet Office. It follows that any directive given under the resulting Act to the Cabinet Office binds the Officer as well. Therefore, if the Officer fails to

satisfactorily discharge his or her duties, administrative sanctions can be brought to bear on the Officer by the Cabinet Office.

1615 The overriding objective of clause 9 is that a person who has satisfied all the requirements be allowed to exercise the franchise accordingly. Whilst a formal appeal procedure is available, the focus is on quick action in advance of the election to ensure that the person is allowed to vote. Therefore, with this in mind, I bring to the questioner's attention clause 17, which gives the Cabinet Office discretion to allow a person to vote even though the person's name is not on the last alteration notice published before the election, which seems to me to provide the protection that we would all be looking for in the right cases.

1620 The discretion is expressly said to not be required to be manifested in the statutory provision, so no form of legislation needs to be enacted to allow a suitable unregistered person to vote. An executive decision can in appropriate circumstances be taken by the Cabinet Office. Effectively, therefore, if the Electoral Registration Officer maliciously or recklessly omits a qualified person's name from the register, the Cabinet Office can overrule the Officer and correct the error administratively, thereby allowing the person to vote. The fact that the Electoral Registration Officer is an employee of the Cabinet Office makes that person subject to the usual disciplinary procedures if he or she does not act truthfully and with integrity.

1625 In terms of oversight, under section 21 of the Bill the initial responsibility to do the determination of claims and objections falls to the ERO. If the ERO allows or disallows a claim or objection, the ERO will notify the relevant parties accordingly. If one of the parties is not satisfied with the ERO's decision, the matter is referred to the High Bailiff for a hearing under Schedule 1, as the questioner suggested, and Schedule 1 sets out the powers of the High Bailiff and the procedure for appeals.

1630 The hearing of appeals procedures provide oversight of the Electoral Registration Officer and it also should be noted that while there is a need for the system to be in place to manage claims and objections, no such submissions have been made in recent memory – as I suggested.

1635 So in summary, it goes back to us being a smart, small nation and we cannot have everything just because they have it somewhere else. We could have a whole electoral registration commission if we wanted, but that is a few more people and a large amount of potential public revenue. We could have all sorts of systems put in place, but is it necessary in our context? That is what we always constantly have to be taking into account, as we are a small, smart nation with precious public resources. **(Several Members: Hear, hear.)**

1640 And with that ... Also, the other two points that the hon. questioner made were also very valuable. The point raised about needing to get into the detail of how we handle the 300 or 400 people who could apply to vote in Isle of Man elections through the provisions is important and I look forward to discussing this further with the Hon. Member before I move that clause.

1645 The Hon. Member is right, because we are a small, smart nation we have decided that we will set up a system to do it by post. We will not engage with consulates all over the place around the world, putting in place special arrangements for one or two people, but that would be a system in place that we can consider. But to me, we have got to be realistic about what we can deliver.

1650 In terms of the Smart Service Framework, the hon. questioner is correct. Often the Smart Service Framework will be used for yes/no interrogation rather than data transfer. But when it comes to demographics, a rolling census and that sort of thing, and making policy better by actually having the evidence to apply to policy decisions, we actually need to be able to transfer data. That is why we are looking at the Census Act and that is why we have got a special Smart Service Framework Bill in mind, hopefully next year, to actually tidy up these sorts of things. But at this stage, this Bill is currently, in our opinion, sufficient.

1655 We are having a meeting of the Smart Service Framework Oversight Team this week. Dr Allinson and myself will be raising this issue now it has been raised in this hon. place and we will be reflecting on this further. But my feeling is that we have got the right provisions inside

this legislation, not to mix it up unduly with the Smart Service Framework, which is much more massive and needs bespoke political process and legislative process to deal with it adequately.

And with that, Mr Speaker, Hon. Members, I beg to move.

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The Speaker: I put the question that the Registration of Electors Bill 2020 be read for a second time. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

That concludes the business before the House today. We will now stand adjourned until 10th March, 10 o'clock in our own Chamber.

The House adjourned at 11.48 a.m.