



Elections (Keys and Local Authorities) Bill 2020

EXPLANATORY NOTES

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

INTRODUCTION

1. These explanatory notes relate to the Elections (Keys and Local Authorities) Bill 2020 ("the Bill"). They have been prepared by the Cabinet Office in order to assist readers of the Bill. They do not form part of the Bill and have not been endorsed by the House of Keys.
2. The notes need to be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill.

BACKGROUND

3. Following the 2016 General Election a root and branch review of the Island's elections legislation was conducted. This review was informed by a number of stakeholders and included:
 - a. The report of the Select Committee on the Organization and Operation of the General Election;
 - b. the Council of Ministers' response to the report of the Select Committee on the Organisation and Operation of the General Election; and
 - c. the reports of John Turner following his review of the Isle of Man's electoral legislation.
4. There have also been two consultations of the operation of elections and elections legislation namely, the consultation entitled "Elections that Work for Everyone" and the consultation entitled "Modernisation of the Island's Electoral System".
5. The intention of the Bill is, as far as possible and appropriate in the circumstances, to:
 - a. Address the difficulties experienced during the 2016 General Election;
 - b. provide consistency across national and local elections;
 - c. protect the integrity of free and fair elections;
 - d. improve clarity by eliminating areas of grey; and
 - e. enable the further use of technology in the future.
6. The Bill is broken down into a number of Parts:
 - a. Part 1 acts as the introduction, setting out the short title, commencement provisions and the main interpretation section;
 - b. Part 2 refers specifically to National Elections and addresses, amongst other things, qualifications of membership of the Keys, the terms of the Keys and vacancies in the Keys.

- c. Part 3 refers specifically to Local Elections. In part, it is similar to those provisions of Part 2 relating to the Keys, however in part it maintains the differences between electing members on a national level and electing members on a local level;
 - d. Part 4 regulates the registration and conduct of political parties;
 - e. Part 5 stipulates the provisions relevant to the organisation of elections. The part is split into divisions, with each division specifying whether it applies to national or local elections, or both;
 - f. Part 6 relates to the holding of elections;
 - g. Part 7 details offences etc. in relation to elections;
 - h. Part 8 sets out the provisions with regard to legal proceedings;
 - i. Part 9 addresses the recall of members; and
 - j. Part 10 provides further assistance by the provision of miscellaneous and supplemental provisions, including consequential amendments to other pieces of legislation.
7. There are also a number of schedules, namely:
- a. Schedule 1, which provides for the procedure on an election petition;
 - b. Schedule 2, which provides further clarity on donations and elections expenses;
 - c. Schedule 3, which contains further provisions with regards to the election of Mayor and appointment of Deputy Mayor;
 - d. Schedule 4, provides further information on petition officers, relevant to Part 9 and the recall of members;
 - e. Schedule 5, stipulates the oaths that must be taken by elected members; and
 - f. Schedule 6 sets out further consequential amendments to other pieces of legislation.

NOTES ON CLAUSES

PART 1 - INTRODUCTORY

Clause 1

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

Clause 2

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

Clause 3



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

PART 2 – NATIONAL ELECTIONS

Clause 4

11. This clause establishes the criteria that a prospective candidate must meet to qualify to be eligible to be elected as a member of the House of Keys.

Clause 5

12. This clause sets out those circumstances which will disqualify a person from being a candidate for election for the Keys.

Clause 6

13. This clause determines when a national election must be held, which is stated to be the fourth Thursday of every fifth year starting with 2021. The clause also allows for the date of the election to be amended by Order to another date in September, subject to Tynwald approval.

Clause 7

14. This clause sets out that the Keys is dissolved 6 weeks before a national election (unless sooner dissolved under clause 8).

Clause 8

15. Notwithstanding Clause 7, Clause 8 allows the Governor, with the advice of the Chief Minister (unless impracticable to obtain); to summon the Keys when not in session, adjourned or prorogued, prorogue the Keys and dissolve the Keys and issue a fresh writ for a national election.

Clause 9

16. This clause provides that during any period of national emergency (which is defined in the clause), the Governor in Council may by order;
- a. extend the term of the Keys or the term of any member of the Legislative Council by one year from the date that the term of the Keys would expire or the member cease to hold office; and
 - b. declare that the register of electors in force at the time of making such an order remains in force for the period of one year.
17. Where such an order has been made, another order may not be made with respect to a subsequent year unless a national election intervenes or the making of an order has been previously approved by Tynwald.

18. Any question on the operation of this clause must be referred to the Deemsters to determine.

Clause 10

19. This clause provides that, other than the Speaker's own resignation, the Speaker must report any casual vacancy which comes to his or her notice, to the Governor within 7 days stating the name of the constituency by which the new member is to be returned.

Clause 11

20. This clause provides assistance in determining when a Member's seat is deemed to become vacant in the following circumstances:
- a. In the event that the Member is punished with custody for any offence triable on information and whether or not the custodial sentence is suspended;
 - b. where the Member has been certified as incapable by reason of mental disorder of taking care of himself or herself or managing his or her own affairs;
 - c. where a member fails to attend at least three quarters of the total number of sittings of the Keys and Tynwald within any period of 12 months unless such Member has been granted leave of absence by the Speaker of the Keys or by the President of Tynwald;
 - d. where a holder of an office of profit under the Government is elected as a member and within 7 days of his or her election that person has not given notice or taken such step to vacate that office as soon as practicable;
 - e. where a sitting member of the Keys is adjudicated bankrupt; and
 - f. where a sitting member of the Keys accepts an office of profit under the Government or becomes a member of the Legislative Council or a local authority.
21. The clause also provides the notice requirements to be given by both a member of the Keys other than the Speaker and also by the Speaker, should that person wish to resign their position.

Clause 12

22. This clause provides that if a member sits or votes as a member whilst his seat is vacant, that person commits an offence and liable to a fine for each occasion upon which the member sits or votes.

Clause 13

23. Clause 13 provides that a member of the Keys cannot sit or vote unless and until the member has taken the required oath. The oath is set out in Schedule 5.

Clause 14

24. Clause 14 provides for the election of the Speaker and an acting Speaker to preside over the appointment of the Speaker. The clause also specifies when the office of the Acting Speaker terminates and where the office of Speaker is vacated.

Clause 15

25. This clause provides for the election of a Deputy Speaker at the first sitting of the House of Keys. The clause also specifies when the office of Deputy Speaker is vacated and that the Deputy Speaker must deputise in the absence of the Speaker when the Speaker is absent from the Island or is not present at any sitting of the Keys.

Clause 16

26. The clause specifies that the Speaker, Deputy Speaker and Acting Speaker are ineligible to be nominated and/or appointed as Chief Minister or a Minister. Additionally, the Speaker cannot be a member of a Department or Statutory Board.

Clause 17

27. Clause 17 specifies certain roles, the holder of which is disqualified from being a member of the Keys. Those roles are that of Deemster, Judge of Appeal, High Bailiff or Deputy High Bailiff. A person will not be disqualified for membership of the Keys by reason of holding an office or place of profit under the Crown or any other office or place, or for appointment to or for holding any office or place by reason of that person being a member of the Keys.

Clause 18

28. Clause 18 expressly retains the powers of the Keys as a legislative body to be clear that these remain the same as they were prior to the coming into operation of the Bill.

PART 3 LOCAL ELECTIONS

Clause 19

29. This clause establishes the criteria that a prospective candidate must meet to qualify to be eligible to be a member of a Local Authority, which is the same as the criteria required to be eligible to be a member of the House of Keys pursuant to clause 4.

Clause 20

30. This clause sets out those circumstances which will disqualify a person from being a candidate for election for a Local Authority.

Clause 21

31. Clause 21 states that the acts and proceedings of a person elected as the chairperson or a member of a local authority and acting in that office are as valid and effectual as if he or she had been qualified, notwithstanding his or her disqualification or want of qualification.

Clause 22

32. The clause makes clear that local elections must be conducted in accordance with regulations made by the Council of Ministers (subject to Tynwald approval) and specifically that the regulations must provide for local elections to be conducted by secret ballot. The regulations may also prescribe a procedure that utilises electronic means.

Clause 23

33. Clause 23 states that a local election must be held on the 4th Thursday in April of every fourth year starting from 2024. This date can be changed by order, subject to Tynwald approval, to any such date being not earlier than 1st April and not later than the 14th May.

Clause 24

34. This clause establishes when retiring members and sitting members (who are not re-elected) go out of office, which in the absence of an Order of the Council of Ministers will be no later than 1st May. Subject to the Council of Ministers making an order, the latest that such members will go out of office in a specific year will be the 15th May.

Clause 25

35. This clause permits the Governor, during a period of national emergency to extend the terms of local authorities by one year from the date when the term would



otherwise expire or the members cease to hold office. Furthermore the Governor can declare that the register of electors in force at the time of making such an order remains in force for one year. Any question arising under this section must be referred to the Deemsters to determine.

Clause 26

36. Any person elected to the office of chairperson, vice-chairperson or member of a local authority may not act unless that person has made a declaration of acceptance of his or her election to the office in accordance with this section. Non-compliance will cause the office of the elected person to become vacant.

Clause 27

37. This clause sets out that a person elected as a member of a local authority can resign by delivering written notice to the Clerk of the Authority and the resignation will take effect on receipt of the notice by the Clerk.

Clause 28

38. This clause states that a member of a local authority who fails to attend meetings for a consecutive period of 3 months, unless approved or otherwise provided for in the legislation, ceases to be a member of the local authority. The clause provides guidance on those circumstances in which a member will not be deemed to have failed to attend meetings.

Clause 29

39. This clause makes clear that if a member of a local authority becomes a member of the Legislative Council or the House of Keys, that person ceases to be a member of the authority.

Clause 30

40. Clause 30 states that if a member is adjudged bankrupt, he or she ceases to be a member of the authority.

Clause 31

41. The clause establishes when a local authority must immediately declare the office of any of its members vacant, in particular if they cease to be qualified, become disqualified or through failure to attend meetings. The High Court can also declare an office vacant.

Clause 32

42. For the purposes of filling a casual vacancy, this clause sets out the date on which the vacancy is deemed to have occurred; when a member, chairperson or vice chairperson has not accepted office, has resigned, died, been disqualified, where there has been an Order of the Court or ceasing to be qualified. The clause also states that where a seat is vacant as a result of a lack of candidates at a local election that vacancy may be treated as a casual vacancy.

Clause 33

43. Where the office of chairperson or vice chairman becomes vacant, an election to fill that vacancy must be held not later than the next ordinary meeting of the authority or if that is within 14 days of the date of the vacancy, the meeting after that.

Clause 34

44. This clause sets out the procedure to be followed to fill a casual vacancy in the case of members of a local authority.

Clause 35

45. This clause establishes that a person elected under clause 33 or 34 to fill any vacancy must hold office until the date upon which the person in whose place he or she is elected would regularly have gone out of office.

Clause 36

46. In the event that there are so many vacancies in a local authority that the authority is unable to act, the Cabinet Office (following consultation with the members of the authority), can by order temporarily appoint persons to fill all or any of the vacancies until other members are elected.

Clause 37

47. This clause provides that where a person acts/claims to act as a member of a local authority whilst disqualified proceedings can be brought to the High Court within a period of 6 months. The High Court has powers to make a declaration that the office is vacant, grant an injunction and fine the defendant. The clause also sets out where a person is deemed to be disqualified for the purposes of this section.

Clause 38

48. This clause sets out the procedure for a local authority to elect a chairperson and a vice chairperson.

Clause 39

49. This clause sets out the clauses of the legislation that are also relevant to the appointment of Mayor and Deputy Mayor.

Clause 40

50. The clause permits Deputy Returning Officers and other officials to be paid such fees and expenses in connection with local elections as may be prescribed by the Cabinet Office, by order. Such fees are to be paid out of the district fund of the local authority.

Clause 41

51. This clause sets out some additional explanations of terms used in this part.

PART 4 – REGISTRATION AND CONDUCT OF POLITICAL PARTIES

Clause 42

52. This clause specifies that unless a political party is registered under this part it cannot endorse a candidate in a national election.

Clause 43

53. Clause 43 specifies the conditions that a political party must comply with in order to be registered including the length of name, officeholders, address, constitution and accounts.

Clause 44

54. This clause makes clear that that a registered political party must not use or hold itself out as known by a name or abbreviation or any emblem other than the one it has registered with.

Clause 45

55. This clause sets out the content of an application to be registered as a political party and states that such application must be made to the Electoral Registration Officer together with specified accompanying documents.

Clause 46

56. Clause 46 specifies that it is for the Attorney General to consider whether the application to register as a political party meets the requirements of the Bill and if it does the Electoral Registration Officer must register the political party.

Clause 47

57. This clause makes clear that it is the responsibility of the Electoral Registration Officer to maintain a register of political parties and specifies the information to be included in the register. The Officer must also keep a copy of the political party's constitution and accounts.

Clause 48

58. This clause permits a registered political party to apply to the Electoral Registration Officer in the manner specified, to change its name or emblem, and if in the opinion of the Attorney General such change complies with the legislation the Electoral Registration Officer must amend the register accordingly.

Clause 49

59. Clause 49 sets out the changes in particulars of a registered party that must be notified in writing to the Electoral Registration Officer (within 10 days of the change). The Electoral Registration Officer must then enter the change in the register unless it appears that the change means that the party no longer complies with the legislation. In these circumstances the matter must be referred to the Attorney General.

Clause 50

60. This clause provides for when and how a registered political party should cause its accounts to be made up, audited and filed. The Officers of a party are personally liable for non-compliance with this section.
61. The Clause also states that the Treasury can make regulations to carry this part into effect, subject to Tynwald approval.

Clause 51

62. Clause 51 makes clear that a political party must not keep an anonymous donation, rather it should be sent to the Chief Financial Officer within 10 days of receipt following which it will be distributed to the nominated charitable trust.

Clause 52

63. Clause 52 sets out the circumstances and procedure for the Electoral Registration Officer to remove a registered political party from the register.

Clause 53

64. Clause 53 permits any person, on payment of a fee, to inspect the register of political parties or obtain a copy of it.

Clause 54

65. Clause 54 permits a political party to appeal to the High Court against various decisions of the Electoral Registration Officer not to register the party, amend any change or remove the party and the High Court can give any declarations to the Electoral Registration Officer in this regard.

Clause 55

66. This clause provides further assistance on the interpretation of phrases used within Part 4.

PART 5 – ORGANISATION OF ELECTIONS

Division 1

Clause 56

67. This clause establishes that Part 5 Division 1, which pertains to the Electoral Commission, only applies to national elections.

Clause 57

68. This clause states that within 12 months of the 2021 national election (and every second national election thereafter), the Governor in Council must appoint an Electoral Commission to report on the number and boundaries of constituencies and such other matters as Tynwald directs, within 18 months of its appointment.
69. By a resolution of Tynwald, the Governor in Council can appoint an Electoral Commission at any other time.
70. The clause also makes clear that members and former members of the Keys are ineligible to be appointed.

Clause 58

71. Clause 58 provides for members of the Electoral Commission to be paid attendance allowances and travelling allowances in accordance with the Payment of Members' Expenses Act 1989.

Division 2

Clause 59

72. This clause makes clear that Part 5 Division 2, which refers to Electoral Areas, only applies to national elections.

Clause 60

73. This clause lists the 12 constituencies that the Island is divided into and states that each constituency shall return 2 members.
74. The Department of Infrastructure shall prepare maps marking the boundaries as approved by Tynwald and these are available for inspection and purchase.

Clause 61

75. This Clause states that the Cabinet Office, by order (subject to Tynwald approval) can divide any constituency into 2 or more polling districts. However, prior to this, the Cabinet Office must consult such persons (including local authorities) as it considers appropriate.
76. The Cabinet Office must conduct a review of polling districts 2 years before each scheduled national election.

Division 3

Clause 62

77. This clause establishes the scope of the division, which refers to Returning Officers and Deputy Returning Officers and unless otherwise specified, the division applies to both national and local elections.

Clause 63

78. Clause 63 states that the Chief Secretary is the Returning Officer and responsible for ensuring the effectual conduct of the election in accordance with election regulations.
79. The clause also sets out the number of pre-election meetings that it is the responsibility of the Returning Officer to arrange, the cost of which will be paid out of money provided by the Treasury.
80. Finally the clause states that the Returning Officer must issue a Code of Conduct for tellers.

Clause 64

81. The clause states that the Chief Secretary may appoint one or more deputy returning officers in each constituency, ward or district for a term not exceeding 5 years. A deputy returning officer may be appointed for more than one constituency and may be authorised perform all the functions of the Returning Officer.

Clause 65

82. This clause provides a list of categories of person who are disqualified as acting as a deputy returning officer and if any person acts as a deputy returning officer after failing to disclose that he or she is disqualified, that person is liable to a fine not exceeding level 2 on the standard scale.

Clause 66

83. This clause provides that a deputy returning officer is permitted to be elected as a member of the Keys or a local authority other than that for which he or she is the deputy returning officer. Similarly nothing prevents the deputy returning officer from voting in an election.

Clause 67

84. This clause states that a deputy returning officer must have accepted his or her appointment before taking any step in the discharge of his or her duties.

Clause 68

85. This clause states that a deputy returning officer must maintain order at an election and sets out the powers that he or she has in order to enable him or her to carry out this function.

Clause 69

86. This clause only applies to national elections and states that the Treasury must pay the fees and expenses of deputy returning officers for the performance of their duties, as fixed by Order. Accounts for all fees and expenses must be furnished to the Treasury within 3 months of the closing of the election.

Division 4

Clause 70

87. This clause provides that every candidate in an election must have an election agent. Further, it provides for specified declarations to be made by the election agent.

Division 5

Clause 71

88. This clause states that this division, which relates to election donations and expenses, applies to both national elections and local elections.

Clause 72

89. This clause requires candidates to submit a statement to the Electoral Registration Officer no later than 5 working days before polling day providing the information requested by the clause concerning donations received by that candidate.

Clause 73

90. This clause makes clear that candidates or prospective candidates are prohibited from keeping anonymous donations, which should instead be sent to the Chief Financial Officer within 10 working days of receipt. It will then be distributed to the nominated charitable trust.

Clause 74

91. This clause limits the amount of expenditure that a candidate can incur during his or her campaign. A person who believes that a candidate has exceeded such amount can complain to the Electoral Registration Officer who will issue a notice to that candidate requesting a written declaration from the candidate itemising his or her expenditure.

Clause 75

92. Clause 75 makes further requirements as to the content of declarations to be made by candidates under this division, which must be delivered to the Officer. The Officer must then record the details and file a copy in the Central Registry where they are available for inspection.

Clause 76

93. This clause states that all candidates (whether or not successful) must submit a declaration of donations and expenses within 35 days of the election and in the form specified in the clause. On receipt of any complaint the Officer can request further information from the candidate who must comply within 15 days.

Clause 77

94. This clause states that a candidate must make a written declaration of any donations made by that candidate to a person resident in the constituency, district or ward where that candidate has offered himself or herself for election.

Clause 78

95. This clause states that a person who incurs or pays a candidate's election expenses must provide the candidate with the required information so that the candidate can comply with the obligations of this part.

Clause 79

96. This clause provides further definitions to assist with the interpretation of division 5.

PART 6 – HOLDING ELECTIONS

Clause 80

97. The clause states that a national election can only take place under and by authority of a writ issued by the Governor.

Clause 81

98. Clause 80 applies to local and national elections and states that proceedings at both must be conducted in accordance with election regulations and specifies the procedures which may be included within election regulations. This also includes the fact that the method of electing candidates and the procedure on counting of votes may involve the use of electronic means.

Clause 82

99. The clause stipulates the effect of non-compliance with elections regulations but states that provided that the High Court is satisfied that an election was conducted substantially in accordance with the law as to elections and any act or omission has not affected the result, no election may be declared invalid due to any act or omission in connection with the election or in breach of the election regulations.

Clause 83

100. This clause states the entitlement of eligible electors, who are not prohibited in any manner, to vote in person, in advance by post or by proxy.

Clause 84

101. This clause applies to both national and local elections and provides that a person can only vote by proxy if that person has a medical emergency or urgent business necessitating travel overseas and has made the requisite application.

Clause 85

102. This clause applies to both national and local elections and contains the provisions for a person to apply for an advance postal vote, what the application must contain (in accordance with any regulations) and when the Returning must approve the application.

Clause 86

103. This clause applies to both national and local elections and contains the provisions regarding when an eligible elector may apply for the appointment of a proxy and other conditions.

Clause 87

104. Clause 86 applies to both national and local elections and makes clear that the register of electors is conclusive that a person, at the time of registration, was resident at a particular address and whether that address is in a particular constituency, district or ward or part thereof.

Clause 88

105. This clause contains provisions as to the publication of public notices where no mode or place of publication is provided for. It applies equally to local and national elections.

Clause 89

106. This clause contains provisions as to the distribution and publication of election manifestos. If a candidate forwards an electronic copy of his or her manifesto to the Chief Secretary, the Chief Secretary must arrange for it to be displayed on an appropriate website within 3 days (and for the duration of the election campaign). Regulations, subject to Tynwald approval, may make further provision in this regard.

Clause 90

107. This clause contains provisions regarding the application of and attendance of election observers either at proceedings at an election or the counting of votes, which must be made to the Returning Officer who may grant or refuse such application.

Clause 91

108. This clause provides further stipulations regarding accredited observers such as, the number permitted and specifies that any observer must not behave in any manner amounting to misconduct otherwise their entitlement to observe can be removed.

Clause 92

109. This clause provides that the Returning Officer must prepare a code of practice on the attendance of accredited observers at elections and further specifies what the code must in particular include.



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PART 7 – OFFENCES ETC IN CONNECTION WITH ELECTIONS

Clause 93

110. This clause applies equally to national and local elections and lists when a person, who may or may not be a candidate, perpetrates a corrupt practice or an illegal practice.

Clause 94

111. This clause sets out when a person commits personation of another and applies equally to national elections and local elections.

Clause 95

112. This clause sets out when a person commits bribery and applies equally to national elections and local elections.

Clause 96

113. This clause sets out when a person commits the offence of undue influence and applies equally to national elections and local elections.

Clause 97

114. This clause provides restrictions on the publication of election materials including the requirement to show the name of the publisher and also where it is not permitted to display such material. The clause applies equally to national and local elections.

115. The clause also provides that the Returning Officer must issue a code of conduct in respect of the production of election materials.

Clause 98

116. The clause prohibits the issuing of any document resembling an official poll card and applies equally to national and local elections.

Clause 99

117. The clause makes clear that a person who corruptly induces or procures any other person to withdraw from being a candidate at an election for payment (or promise of payment) makes an illegal payment. It applies equally to national and local elections.

Clause 100

118. This clause applies to national elections and local elections and provides that a person makes an illegal payment when they knowingly provide money for any payment which is contrary to the provisions of this Act or for replacing any money

expended in any such payment unless it has previously been allowed as an exception.

Clause 101

119. Clause 101 applies to both national and local elections and sets out voting offences in respect of elections. This includes voting when knowingly subject to a legal incapacity and voting more than once as a proxy for an eligible elector. The clause also makes clear when, for the purposes of this section, a person must be treated as having voted.

Clause 102

120. This clause sets out that a person who engages in a corrupt practice commits an offence for which that person may be tried on information or summarily. The clause also states that a person who engages in an illegal practice commits an offence triable summarily. The clause applies to both national and local elections.

Clause 103

121. This clause makes clear that a candidate or prospective candidate who accepts support from a political party that is not registered for the purposes of this Act commits an offence.
122. Furthermore a person who knowingly or recklessly delivers false material to the Officer under Part 4 also commits an offence.

Clause 104

123. This clause details further offences that may be committed by a failure to send anonymous donations to the Chief Financial Officer or where a candidate's election expenses exceed the maximum amount or there is a failure to comply with other obligations in connection with funding.

Clause 105

124. This clause applies to deputy returning officers, presiding officers and a clerk or assistant employed by a deputy returning officer or presiding officer in connection with his or her official duties and makes clear that should such person act, without reasonable cause, in breach of their official duties, that person commits an offence. It applies to both national and local elections.

Clause 106

125. Clause 106, which is applicable to national and local elections, particularises offences which may be committed in respect of nomination papers and ballot papers, as well as making clear that every person who intentionally acts in contravention of the



directions or orders for the guidance of voters in election regulations commits an offence.

Clause 107

126. This clause, which is applicable to national and local elections, makes clear that the persons to which this section applies must aid and maintain the secrecy of voting and if such a person contravenes this section they commit an offence. The clause also permits the presiding officer to evict a teller in the event that the teller is not acting in compliance with any provision of a Code of Conduct issued under this Act.

Clause 108

127. The clause states that refusal to comply with the lawful command of a deputy returning officer is an offence. It applies to national and local elections.

Clause 109

128. The clause is clear that it is an offence for a person to deface, mutilate, destroy or remove a notice published by the Returning Officer. It applies to national elections and local elections.

Clause 110

129. This clause provides that a candidate or agent will commit an offence if they display a list of names of eligible electors showing how they will (or it is assumed that they will vote). It applies to both national and local elections.

Clause 111

130. It is an offence, under this clause, for a person to publish the names of any or all of the candidates for election other than the ones that that person is seeking to promote or procure, for the purposes of promoting or procuring that person for election. The clause applies to local and national elections.

Clause 112

131. This clause applies to both national and local elections and provides that certain officials must not act as an agent for a candidate otherwise they will commit an offence.

Clause 113

132. This clause prohibits a police officer from canvassing on behalf of a candidate at an election otherwise he or she commits an offence. It applies equally to national and local elections.

Clause 114

133. This clause protects the rights of creditors who, at the time of making a contract or incurring an expense, were ignorant of the fact that it was in contravention of this Act.

Clause 115

134. Clause 115, provides further interpretative provisions in respect of Part 7.

PART 8 – LEGAL PROCEEDINGS

Clause 116

135. The clause provides for the filing of an election petition where there is some question on an election or an election return. The High Court has jurisdiction for hearing such petitions and the clause refers to Schedule 1 which has effect for this purpose. It applies equally to local and national elections.

Clause 117

136. This clause sets out some detail in respect of a candidate being reported for either a corrupt or illegal practice and applies equally to national elections and local elections.

Clause 118

137. This clause states that where a candidate, who is reported to the High Court for an illegal or corrupt practice, is found guilty, the election at which he was appointed is void.

Clause 119

138. Where certain role holders are reported for a corrupt practice, this clause sets out disciplinary action which will ensue. It includes the procedure for a justice of the peace, an advocate and a licence holder for the purposes of the Licensing Act 1995. It applies equally to national and local elections.

Clause 120

139. This clause provides for when an election can be void for corrupt or illegal practices or illegal payments or hirings committed. An election is not liable to be avoided otherwise than under this section by reason of general corruption, bribery, treating or intimidation. The clause applies equally to national and local elections.

Clause 121

140. This clause provides that a candidate is incapable of being elected on the grounds that he has engaged an election agent or canvasser who is subject to incapacity on

the grounds of a corrupt or illegal practice. It applies equally to national and local elections.

Clause 122

141. This clause sets out the procedure for dealing with votes where a candidate is proved to have engaged in bribery, treating or undue influence either himself or herself or by an agent. It applies to both national and local elections.

Clause 123

142. This clause provides for relief for an innocent act, where the Court is satisfied that the act or omission would, if it were not for this section, be an illegal practice, payment or hiring but such act or omission did not arise from any want of good faith. It applies equally to national and local elections.

Clause 124

143. This clause applies equally to national and local elections and provides for the prosecution of a person charged with a corrupt practice.

Clause 125

144. This clause provides for the prosecution of offences disclosed on an election petition. For such prosecution the Attorney General must obey any directions given by the High Court. The clause also provides further information on the procedures to be followed. It applies equally to national elections and local elections.

Clause 127

145. This clause provides that where any person is subject to any incapacity by virtue of the report of the High Court and they are subsequently acquitted or prosecuted of any of the matters in respect of which the incapacity was imposed, the High Court may order that the incapacity remain unaffected or cease. The clause also provides further information on incapacities.

Clause 128

146. This section imposes time limits on bringing a prosecution and applies equally to national and local elections.

Clause 129

147. This section provides that where an association or body of persons (which could be incorporated) has committed an offence, any member of that body is liable to a fine or punishment. It applies equally to national and local elections.

Clause 130

148. This clause specifies that on any prosecution for a corrupt or illegal practice or for any illegal payment of hiring, the certificate of the Returning Officer that the election was duly held and the person named in the certificate was a candidate at the election is sufficient evidence of the facts stated in the certificate. It is applicable to national and local elections.

Clause 131

149. The clause provides further details on the functions of the Attorney General in particular where information is given to him or her that any corrupt or illegal practice has occurred in an election. The Attorney General must make such inquiries and institute such prosecutions as the circumstances require. This clause applies to national and local elections.

Clause 132

150. This clause provides that the High Court can issue an injunction to restrain a person from making or publishing such false statement of fact as mentioned previously in clause 93. The clause applies to national and local elections.

Clause 133

151. This clause states that section 24 of the High Court Act 1991, which provides for the making of rules of court) applies to proceedings in the High Court under this Act.

Clause 134

152. This clause provides for the serving of notices under this Act and applies equally to national and local elections.

Clause 135

153. This clause provides further definitions to assist with the interpretation of Part 8.

PART 9 – RECALL OF MEMBERS

Clause 136

154. This clause sets out how a member can become subject to a recall petition and provides information on the first recall condition and the second recall condition.

Clause 137

155. This clause provides further information with regard to the first recall condition.

Clause 138

156. This clause provides further information in respect of the expiry of the appeal period concerning the first recall condition.

Clause 139

157. Where a member is convicted of an offence which falls within this section, the Court that imposes such sentence must notify the Speaker. The Court must also notify the Speaker if an appeal is subsequently brought and the outcome of such appeal.

Clause 140

158. This clause states that the Speaker must give notice to the Returning Officer, in accordance with the provisions of this clause, as soon as reasonably practicable after becoming aware that the first or second recall condition has been met in relation to a member. The clause also contains exceptions to this provision.

Clause 141

159. This clause requires there to be a petition officer for each constituency, who will be the deputy returning officer for that constituency. The clause refers to Schedule 4 which contains further provisions with regard to petition officers.

Clause 142

160. The clause specifies that once the petition officer receives notice from the Returning Officer, he or she must designate a place or places at which a recall petition is to be made available for signing and also a day on which it will be available for signing. The clause provides further details with regard to the timing and number of places which may be designated.

Clause 143

161. This clause provides that the petition officer must send notice of the petition to all eligible electors required under this clause.

Clause 144

162. In accordance with this clause the petition officer must ensure that the recall petition is made available for signing throughout the signing period at the designated place or places and by post in accordance with any regulations made for the purpose.

Clause 145

163. This clause sets out the criteria that a person must meet in order to be able to sign a recall petition. Particularly, that person must be on the register of electors for the constituency, have the date of his or her 16th birthday before the end of the signing period and would be an eligible elector at a national election in the constituency.



Clause 146

164. This clause sets out that a person who is entitled to sign a recall petition may sign it in person, by post or by proxy, subject to the provisions of the Act being met.

Clause 147

165. This clause provides that where a person signs a recall petition more than once, that person commits an offence. The clause specifies how this could occur.

Clause 148

166. In certain circumstances, after the Speaker's notice of a recall petition but before the outcome of such petition, the petition process can be terminated. The circumstances, specified within this clause include where there is an alteration to the date of the next election, which is within 6 months from the Speaker's notice or where the member's seat is vacated.

Clause 149

167. This clause sets out when a recall petition will be deemed to have been successful.

Clause 150

168. This clause sets out the effect of a successful recall petition is that the member's seat becomes vacant.

Clause 151

169. This clause provides that the Cabinet Office may make regulations pertaining to the conduct of a recall petition and specifies the provisions that such regulations may contain. Any regulations made under this section are subject to the Affirmative Tynwald procedure.

PART 10 MISCELLANEOUS AND SUPPLEMENTAL

Clause 152

170. Except as regards Schedule 1, this clause enables the Governor in Council to make regulations prescribing anything which may, by this Act, be prescribed in respect of national elections, subject to the approval of Tynwald.

Clause 153

171. Except as regards Schedule 1, this clause enables the Cabinet Office to make regulations prescribing anything which may, by this Act, be prescribed in respect of local elections, subject to the approval of Tynwald.

Clause 154

172. This clause enables the Council of Ministers to make regulations with regard to the hearing of complaints which are considered to be of insufficient gravity to be resolved by means of an election petition.

Clause 155

173. This clause amends The Isle of Man Constitution Act 1919 by omitting section 12 of that Act, which provides for qualification provisions for an elected member.

Clause 156

174. This clause refers to Schedule 6 which has effect to enable further consequential amendments to be made.

Clause 157

175. This clause repeals the Local Elections Act 1986, the Representation of the People Act 1995, the Representation of the People (Amendment) Act 2015 and section 66 of the Charities Registration and Regulation Act 2019.

SCHEDULE 1

176. Schedule 1 makes provision for the procedure on an election petition including presentation and service of the petition, timing, security for costs, the trial of the petition, any withdrawal of the petition or change of petitioner and an appeal against the result of the petition.

SCHEDULE 2

177. Schedule 2 comprises two parts. The first part provides further information on the meaning and interpretation of "donation" for the purposes of this Bill including money, goods and services. The second part provides further information on the meaning and interpretation of "election expenses" for the purposes of this Bill.

SCHEDULE 3

178. Schedule 3 specifies the procedure to be undertaken for the purposes of electing a mayor and appointing a deputy mayor.

SCHEDULE 4

179. Schedule 4 refers to Part 9 (recall of members) and sets out the role of the petition officer in the recall process including his or her general duty, performance of functions and recovery of expenses incurred.



SCHEDULE 5

180. Schedule 5 sets out, in English and in Manx, the precise test of the oaths that are to be taken by new members of the Keys.

SCHEDULE 6

181. Schedule 6 sets out a table which specifies amendments which are required to be made to other pieces of legislation and includes where a provision is to be omitted or substituted. The legislation amended by this Schedule is the Legal Aid Act 1986, the Payment of Members' Expenses Act 1989 and the House of Keys and Public Authorities Elections Act 1941.