

ELECTIONS AND MEETINGS (LOCAL AUTHORITIES) BILL 2021

Explanatory Memorandum

1. This Bill is promoted by Mr Baker MHK.
2. In the opinion of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.
3. The resulting Act is not expected to have any financial or human resource implications.
4. Clause 1 provides for the short title of the resultant Act.
5. Clause 2 provides that the Bill is to come into operation on its announcement day.
6. Clause 3 is introductory.
7. Clauses 4 to 10 amend the Local Elections Act 1986 to —
 - (a) provide that local authority elections for the 2021 shall take place in July of that year and thereafter in April of every successive fourth year;
 - (b) enable the Department to make regulations postponing an election to a different date;
 - (c) provide that members of a local authority go out of office on 1st August in the year 2021;
 - (d) provide that attendance at meetings can be effected remotely;
 - (e) provide that casual vacancies can be filled as soon as reasonable practicable after they have arisen;
 - (f) extend the existing provision of the Act which provides that the chairman continues in office until the successor has accepted the office, to the chairman of a local authority where that authority has not held an annual general meeting at which such a person would be elected;
 - (g) apply the same provision as in (f) to the election of a mayor and deputy mayor.
8. Clause 11 is introductory.
9. Clauses 12 to 15 amend the Local Government Act 1985 to —
 - (a) enable attendance at meetings to be effected remotely;
 - (b) provide that a local authority discharges any duty it has to publish documents or make them available for inspection or copying by publishing them electronically or (as appropriate) in a conspicuous place;

- (c) enable an annual meeting in 2021 to be held in August and to give a local authority the power to decide when and where to hold its meetings;
 - (d) determine what constitutes quorum when one-third or more of a local authority are disqualified or where casual vacancies apply to that number.
- 10. Clause 16 is introductory.
- 11. Clauses 17 and 18 amend the Emergency Powers (Amendment) Act 2020 to —
 - (a) postpone the date of local elections in 2021 to 22 July 2021;
 - (b) provide that an existing office holder continues in post until 1 August 2021.
- 12. Clause 19 deals with vacancies arising under certain Orders and provides that the existing office holder is to continue in office until their successor has been appointed.
- 13. Clause 20 deals with continuity of offices and appointments in respect of joint boards and committees of local authorities.
- 14. Clause 21 introduces the Schedule which —
 - (a) makes consequential amendments to various Orders by postponing the date of local authority elections for 2021 to 22 July 2021, and
 - (b) omits article 3(2) of the Elections (Keys and Local Authorities) (Appointed Day) Order 2021 under which the repeal of the Local Elections Act 1986 was to come into operation on 1 January 2022.

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ELECTIONS AND MEETINGS (LOCAL AUTHORITIES) BILL 2021

- A BILL** to change the date on which local elections in 2021 are due to take place and to enable meetings of local authorities to take place remotely; and for connected purposes

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

PART 1 – INTRODUCTORY

- 1 Short title**
- The short title of this Act is the Elections and Meetings (Local Authorities) Act 2021.
- 2 Commencement**
- This Act comes into operation on its announcement day.

PART 2: AMENDMENT OF THE LOCAL ELECTIONS ACT 1986

- 3 The Local Elections Act 1986**
- The *Local Elections Act 1986* is amended as follows.
- 4 Amendment of section 3**
- For section 3(1) (day of election), substitute —
- “(1) Subject to section 17(2), the day of election for the purposes of all local elections shall be such day in July as the Department may determine in the year 2021, and such day in April as the Department may determine in the year 2025 and in each fourth succeeding year.”

5 New section 3A

After section 3 insert —

“3A Power to postpone elections

(1) The Department may, by regulations provide that a local election under this Act or meeting under this Act or the *Local Government Act 1985* that would otherwise be required to be held on a particular date is instead to be held on such later date, or within such period, as is specified in the regulations.

Tynwald procedure – approval required

(2) The power to make regulations under subsection (1) may be exercised more than once in respect of an election or meeting.

(3) The power to make regulations under subsection (1) is capable of being exercised so as to amend any enactment dealing with local authority elections.

(4) Regulations may make consequential, supplementary, incidental, transitional or saving provision and may, in particular, make provision about—

- (a) acts or omissions in connection with a meeting or an election prior to its postponement;
- (b) things that have yet to be done in connection with a meeting or an election prior to its postponement;
- (c) steps to be taken in respect of such a meeting or elections;
- (d) the manner of voting at an election that has been postponed;
- (e) the terms of office of incumbent office-holders or those elected at a postponed meeting or election;
- (f) the nomination of candidates.”

6 Amendment of section 5

In section 5 (“tenure of office”) for “1st May 2021” substitute “1st August 2021”.

7 Amendment of section 12

After section 12(3) (vacation of office by failure to attend meetings) insert —

“(4) For the purposes of this section —

- (a) any reference to “attend” or “attendance” in respect of a meeting includes being present through remote attendance;
- (b) “remote attendance” means attendance by electronic means including by telephone conference, video

- 1 conference, live web cast and live interactive streaming;
 2 and
 3 (c) any reference to the place where a meeting is held, or to be
 4 held, includes reference to more than one place including
 5 electronic, digital or virtual locations such as internet
 6 locations, web addresses or conference call telephone
 7 numbers.”

8 Amendment of section 17

9 For section 17(1) (filling of casual vacancy in case of members) substitute —

- 10 “(1) Subject to the provisions of this section, on a casual vacancy
 11 occurring in the office of a member of a local authority an election
 12 to fill the vacancy must be held —
 13 (a) in a case in which the High Court or the authority has
 14 declared the office to be vacant, as soon as practicable after
 15 the date of the declaration; or
 16 (b) in any other case, as soon as practicable after the date on
 17 which, by virtue of section 15(1), the vacancy is deemed to
 18 have arisen.”

19 Amendment of section 21

20 After section 21(4) (election of chairman etc) insert —

- 21 “(5) Where, despite paragraph 1 of Schedule 1 to the Local Government
 22 Act 1985 and for whatever reason, a local authority does not hold
 23 an annual meeting (whether remotely or otherwise), the chairman
 24 whose tenure of office is due to end on 1st August 2021 shall
 25 continue in office until 1st May 2022 unless a successor is
 26 appointed before that date, in which case that successor shall
 27 continue in office until 1st May 2022.”

28 Amendment of section 22

29 In section 22(2) (mayor and deputy mayor) for “and (3)” substitute “, (3) and
 30 (5)”.

31 PART 3: AMENDMENT OF THE LOCAL GOVERNMENT ACT 32 1985

33 11 The Local Government Act 1985

34 The *Local Government Act 1985* is amended as follows.

12 New section 10A

After section 10 (proceedings and allowances) insert —

“10A Remote attendance

- (1) A reference in this Act or in any other document to a local authority meeting is not limited to a meeting of persons all of whom, or any of whom, are present in the same place and any reference to a “place” where a meeting is held, or is to be held, is not to be read as limited to a single physical location.
- (2) For the purposes of this Act or any such document, a member of a local authority (a “member in remote attendance”) attends the meeting at any time if all of the conditions in subsection (3) are satisfied.
- (3) The conditions referred to in subsection (2) are that the member in remote attendance is able at that time —
 - (a) to hear and be heard by the other members in attendance;
 - (b) to hear and be heard by any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and
 - (c) to be heard by any other members of the public attending the meeting.
- (4) In this Act any reference to a member, or a member of the public, attending or being present at a meeting includes that person attending by remote attendance.
- (5) A local authority may make other standing orders, and any other rules of the authority governing meetings, about remote attendance at meetings of that authority, which may include provision for —
 - (a) voting;
 - (b) member and public access to documents;
 - (c) remote attendance of public and press to a local authority meeting to enable them to attend or where appropriate to participate in that meeting.
- (6) This section applies notwithstanding any prohibition or other restriction contained in the standing orders, any other rules of the local authority or any other document governing the meeting and any such prohibition or restriction has no effect.
- (7) In this section, “remote attendance” means attendance by electronic means including by telephone conference, video conference, live web cast and live interactive streaming.

- (8) A decision taken at a meeting which had this section been in operation at the time that decision was taken would have been taken in accordance with this section, may be ratified at a meeting after the date on which this section comes into operation and shall take effect at the date of its ratification."

13 Amendment of section 32

For section 32 (public notices) substitute —

"32 Public notices

- (1) Save as otherwise expressly provided, a public notice required to be given by a local authority under any enactment may be given —
- (a) by posting it in a conspicuous place at the principal office of the authority or, in the case of the local authority for a parish district, at a place in the parish where public notices are normally exhibited;
 - (b) by posting it in such other places, if any, as appear to the authority to be desirable for giving publicity to the notice;
 - (c) by publishing it on the local authority's website or on some other online electronic platform (including a social media platform);
 - (d) to a person in electronic form.
- (2) Save as otherwise expressly provided, any requirement under any enactment on a local authority to make a document available for copying or inspection is satisfied if the document is published —
- (a) on the local authority's website or on some other online electronic platform (including a social media platform);
 - (b) posted in a conspicuous place outside the principal office of the authority or, in the case of a local authority for a parish district, at a place where public notices are normally exhibited; or
 - (c) electronically (including being provided to a person in that way)."

14 Amendment of Schedule 1

In Schedule 1 (meetings and proceedings of local authorities) —

- (a) after paragraph 1(3) (annual meeting) insert —

"(4) Despite sub-paragraph (2) the annual meeting of a local authority for the year 2021 shall be held on such day in August as the authority may fix.";

(b) in paragraph 2(1) (other ordinary meetings) omit “a meeting in each quarter in which the annual meeting is not held and may hold”;

(c) after paragraph 4 (time and place of meetings) insert —

“Cancellation of meetings

4A. A local authority may cancel a meeting without rearranging it or determine that a meeting that would otherwise be required to be held on a date or dates is instead to be held on such later date, or within such period, as it determines.”;

(d) for paragraph 6(2) (quorum) substitute —

“(2) Where more than one-third of the members of a local authority become disqualified at the same time or where there are casual vacancies for more than one-third of the members of a local authority, until the number of members in office is increased to not less than two-thirds of the whole number of members of the authority, the quorum of the authority shall be determined by reference to the number of members of the authority remaining qualified or in office instead of by reference to the whole number of members of the authority.”

15 Amendment of Schedule 3

In Schedule 3 (application of this Act to joint boards) in the column headed “*Provision applied*” after the entry “Section 10” insert “Section 10A”.

PART 4: AMENDMENT OF THE EMERGENCY POWERS (AMENDMENT) ACT 2020

16 The Emergency Powers (Amendment) Act 2020

The *Emergency Powers (Amendment) Act 2020* is amended as follows.

17 Amendment of section 6

In section 6(1) (local elections postponed) for “22 April 2021” substitute “22 July 2021”.

18 Amendment of Schedule

In the Schedule (postponement of local elections: consequential provisions) in paragraph 1 (continuation of tenure of office) —

- (a) in sub-paragraph (1) for “1 May 2021” substitute “1 August 2021”;
- (b) omit sub-paragraph (2).

PART 5: ORDERS ETC.

19 Orders

- (1) This section applies where under a relevant order —
 - (a) a person (P) who holds an office as a committee member, a board member, chairman or vice-chairman (however expressed) of a board and is due to go out of office,
 - (b) a replacement for P is due to be appointed at a meeting of the relevant committee or board, and
 - (c) for whatever reason that meeting, whether remotely or otherwise, does not take place.
- (2) Where subsection (1) applies, and despite any provision in a relevant order to the contrary, P is to remain in office until P's successor has been appointed.
- (3) For the purposes of this section, the relevant orders are —
 - (a) Peel and Western District Housing Order 1969 (GR 7/69);
 - (b) Ramsey and Northern Districts Housing Order 1976 (GC 141/76);
 - (c) Western Swimming Pool Board Order 1999 (SD 574/99);
 - (d) Southern Civic Amenity Board Order 2000 (SD 58/00);
 - (e) Southern Swimming Pool Board Order 2000 (SD 609/00);
 - (f) Northern Swimming Pool Board Order 2000 (SD 610/00);
 - (g) Northern Parishes Refuse Collection Board Order 2003 (SD 127/03);
 - (h) Western Civic Amenity Board Order 2013 (SD 0183/13);
 - (i) Southern Sheltered Housing Joint Board Order 2020 (SD 2020/0062).

20 Continuity of offices and appointments

- (1) Where a person (P) is to vacate office of a joint board on 1 May 2021 (or has already done so prior to that date) and a successor to that office has not been appointed, P is deemed to have been re-appointed and shall hold office until 1 August 2021 or such earlier time as the joint board may determine, unless P vacates that office earlier.
- (2) Where a person is to vacate office of a joint board on 1 May 2021 (or has already done so prior to that date) and a successor (S) to that office has been appointed, S is to continue in office until 1 August 2021 or such earlier time as the joint board may determine, unless S vacates that office earlier.
- (3) Where a local authority is required within a fixed number of days which fall before the date on which this section comes into operation to

nominate or appoint a person to a joint board to fill a casual vacancy and has not done so, that requirement is satisfied if the local authority makes such nomination or appointment as soon as reasonably practicable.

(4) Where —

(a) a local authority is required to —

(i) elect a member of a joint committee before the date this section comes into operation and has not done so, the person holding that office before that date continues to do so until the next meeting of the local authority, unless that person vacates that office earlier;

(ii) elect a member of a joint committee to fill a casual vacancy within a fixed number of days which fall before the date on which this section comes into operation and has not done so, that requirement is satisfied if the local authority fills the casual vacancy as soon as reasonably practicable;

(b) an appointment to an office falls to be made or would ordinarily be made at a meeting of a joint committee which is due to take place before the date on which this section comes into operation but has not done so, the person holding that office before that date continues to do so until the next meeting of the joint committee, unless the person vacates that office earlier.

21 **Schedule**

The Schedule, which makes consequential amendments to subordinate legislation, has effect.

SCHEDULE

CONSEQUENTIAL AMENDMENTS: SUBORDINATE LEGISLATION

[section 21]

1 Elections (Keys and Local Authorities)(Appointed Day) Order 2021

Article 3(2) of the Elections (Keys and Local Authorities)(Appointed Day) Order 2021 (SD 2021/0095) is omitted.

2 Douglas (Alteration of Wards and Number of Members) Order 2019

In article 4(3)(b) of the Douglas (Alteration of Wards and Number of Members) Order 2019 (SD 2019/0137) for “22 April 2021” substitute “22 July 2021”.

3 Port Erin (Number of Members) Order 2019

In article 4(3)(b) of the Port Erin (Number of Members) Order 2019 (SD 2019/0388) for “22 April 2021” substitute “22 July 2021”.

4 Port St Mary (Number of Members) Order 2019

In article 4(3)(b) of the Port St Mary (Number of Members) Order 2019 (SD 2019/0389) for “22 April 2021” substitute “22 July 2021”.

5 Arbory and Rushen (Local Government District) Order 2019

(1) The Arbory and Rushen (Local Government District) Order 2019 (SD 2019/0498) is amended as follows.

(2) In article 5 —

- (a) in paragraph (2) for “1 May 2021” substitute “1 August 2021”;
- (b) in paragraph (2A) for “1 May 2021” substitute “1 August 2021” and for “30 April 2021” substitute “31 July 2021” and for “1 May 2021” substitute “1 August 2021”;

- (c) in paragraph (4) for “a 1 year term” substitute “a term of 1 year and 3 months”;

- (d) for paragraph (5) substitute —

“(5) Commissioners for the Arbory and Rushen Parish District who take up office on or after 1 August 2021 shall hold office until 1 May 2025 (and their successors shall take up office in each fourth succeeding year, other than when filling a casual vacancy in their number).”

IN THE KEYS

**ELECTIONS AND MEETINGS (LOCAL AUTHORITIES)
BILL 2021**

A BILL to change the date on which local elections in 2021 are due to take place and to enable meetings of local authorities to take place remotely; and for connected purposes

Approved by the Council of Ministers
for introduction in the House of Keys.

MR BAKER MHK

MARCH 2021