

ELECTORAL REFORM BILL 2011

Explanatory Memorandum

1. This Bill, which is promoted by Mr David Callister MLC, provides for the election of members of the Legislative Council by public franchise on a constituency basis and for new constituencies to be drawn up to elect both Branches of Tynwald.
2. *Clause 1* names the Bill.
3. *Clause 2* amends the Representation of the People Act 1995. In addition to minor amendments applying the provisions of the 1995 Act concerning Keys elections to elections of the Legislative Council and a provision which prevents current members of the Council standing for the Keys, some new sections are inserted into the 1995 Act as follows.
4. A new Part 1A concerned with the Legislative Council is inserted. Section 10A provides for the term of office of elected members of the Council and for members to go out of office on the same days as members of the Keys but in different years. The members standing in a “designated constituency” (see paragraph 6 below) are to serve until 2 years after the last general election of the Keys and members standing in other constituencies until 4 years after that election. Section 10B provides for the President of Tynwald to report a casual vacancy in the Legislative Council to the Governor and mirrors section 5 of the 1995 Act which covers casual vacancies in the Keys. Section 10C applies provisions on sitting and voting in Tynwald to elected members of the Council.
5. Section 11 is substituted to make new provision about constituencies. In particular, a “Boundary Committee” appointed by the Governor in Council has to draw up 8 constituencies, subject to the approval of Tynwald and each of these constituencies is to return 3 members of the Keys and 1 member of the Council.
6. A new paragraph is inserted into Schedule 6, making provision prior to the 2016 general election. The President of Tynwald is required, within 1 month of the constituencies first being approved by Tynwald under section 11(1), to designate 4 constituencies that together represent a reasonable representation

of the whole Island in geographical terms, these being the ones elected first in accordance with section 10A(1). There is also provision to extend the office of Council members due to go out of office in February 2013 and 2015 to continue in office until the normal time for going out of office before an election (being a date in August).

7. Provision is also made for interim casual vacancies in both the Council and the Keys to be filled under the current electoral system; but if the constituencies have not been agreed within 3 months of the Council elections that would otherwise take place in 2013 and 2015 or the general election of the Keys in 2016, the existing systems will continue to apply here too. If there has been no approval by the date of the 2016 general election, this Bill is deemed never to have been enacted.

8. *Clause 3* makes consequential amendments to other legislation and in particular provides that a current member of the Keys may not stand for the Council. *Clause 4* introduces the Schedule which sets out the consequential repeals.

9. It is anticipated that the costs arising from the Bill in respect of the elections to the Council will be £170,000 in each five year term of the Keys.

10. In the view of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.

Arrangement of Sections

Section

1. Short title
2. Amendment of the Representation of the People Act 1995
3. Minor amendments to other enactments
4. Repeals

Schedule — Repealed provisions

A BILL

to provide for the election of Members of the Legislative Council by public franchise and to provide for the revision of House of Keys constituencies into eight Electoral Areas, to be determined by a Boundary Committee; 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:—

1. The short title of this Act is the Electoral Reform Act 2011. Short title

2. (1) The Representation of the People Act 1995 is amended as follows. Amendment of the Representation of the People Act 1995

(2) In section 1(1) after paragraph (c) insert —

5 “(ca) he is not a member of the Council; and”. [c.13]

(3) In section 4(1)(a) for “any member of the Council elected by the Keys” substitute “any elected member of the Council”.

(4) In section 6(6)(b) delete “the Council or of”.

10 (5) After Part 1 insert —

“PART 1A

THE LEGISLATIVE COUNCIL

Term of members of the Council	10A. (1) An elected member of the Council shall serve until the Thursday following the third Tuesday in August —	5
	(a) in the case of a member standing in a designated constituency, 2 years after the last general election of the Keys; and	
	(b) in the case of a member standing in any other constituency, 4 years after the last general election of the Keys.	10
	(2) In each year in which a member goes out of office in accordance with subsection (1) an election shall be held on the last Thursday of the September in those constituencies in which the member has gone out of office.	15
	(3) In this section “designated constituency” shall be construed in accordance with paragraph 8(1) of Schedule 6.	
Casual vacancy in office of elected member [X p.390]	10B. If a casual vacancy occurs in the office of elected member of the Council, whether by reason of death, resignation, disqualification by virtue of sections 12 to 18 of the Isle of Man Constitution Amendment Act 1919 or otherwise, the President of Tynwald shall report the vacancy in writing to the Governor, stating the name of the constituency by which the new member is to be returned.	20 25
Sitting and voting	10C. Sections 7 and 8 apply to elected members of the Council as they apply to members of the Keys.”.	
	(6) For section 11 substitute —	30
“Constituencies	11. (1) For the purposes of an election, the Island shall be divided into 8 constituencies, drawn up by the Boundary Committee subject to the approval of Tynwald, each of which shall return 3 members of the Keys and 1 member of the Council.	35
	(2) In drawing up the constituencies the Boundary Committee shall have regard to the desirability of having, as far as is reasonably practicable when taking	

into account population distribution, a similar number of voters in each constituency.

5 (3) The Treasury shall prepare a map of the Island showing the boundaries of each constituency and shall cause the map to be deposited in the General Registry.

10 (4) The Chief Registrar shall make the map prepared under subsection (3), or a copy of it, available for inspection by any person at the General Registry at all reasonable times and shall supply a copy of the map to any person on payment of such reasonable charge as the Treasury may determine.

(5) In this section “Boundary Committee” means a committee appointed by the Governor in Council of such persons as the Governor in Council thinks appropriate.”.

15 (7) In the following provisions after “Keys” insert “or the Council” —

(a) section 14(1)(g);

(b) section 15(a);

(c) in the definition of “candidate” in section 55;

20 (d) section 56(1);

(e) section 66(1) (in both places where it occurs), (2) (in the 3 places where it occurs) and (3);

(f) in the definitions of “election” and “member” in section 77.

25 (8) In Schedule 2 —

(a) in the table in paragraph 1, under “(1) Issue of writ” after paragraph(a) insert —

“(aa) Within 2 months of the date of an election to the Council.”;

30 (b) after paragraph 5(2)(a) insert —

“(aa) all the constituencies in which an election is to be held, in the case of an election to the Council;”;

35 (c) in paragraph 5(2)(a) and 47(5)(a) after “general election” insert “of the Keys”.

- (9) In Schedule 3 —
- (a) in paragraph 8(3) after “the Speaker” insert “or the President of Tynwald as the case may be”;
 - (b) in paragraph 8(3) and (4) (in both places where occurring) and in paragraph 17(1) and (2) (in both places where occurring) after “Keys” insert “or the Council as the case may be”;
 - (c) in paragraph 17(b) for “the Council” substitute “Tynwald”.
- (10) In Schedule 6, after paragraph 7 add —
- “Arrangements prior to 2016 general election*
- 8.** (1) Within one month of the constituencies first being approved by Tynwald under section 11(1), the President of Tynwald shall choose 4 constituencies that together represent a reasonable representation of the whole Island in geographical terms, to be designated as those in which elections to the Council are to be held in accordance with section 10A(1)(a). Elections in the other 4 constituencies are to be held in accordance with section 10A(1)(b).
- (2) The members of the Council due to go out of office in February 2013 and February 2015 shall continue in office until the Thursday following the third Tuesday in August of the year in which they were due to go out of office.
- (3) Any vacancy —
- (a) among the elected members of the Council arising earlier than 3 months before —
 - (i) the elections to Council due to be held in 2013 in the case of a member due to go out of office in 2013;
 - (ii) the elections to Council due to be held in 2015 in the case of a member due to go out of office in 2015;
 - (b) in the Keys arising earlier than 3 months before the Keys is dissolved in 2016; or
 - (c) to which sub-paragraph 5 applies,

shall be filled as if the Electoral Reform Act 2011 had not been enacted and sections 2(5), 3 and 4 of, and the Schedule to, that Act shall not apply to any such vacancy.

5 (4) Any vacancy arising after a date mentioned in sub-paragraph (3) but before the date on which the relevant member goes out of office in 2013 or 2015 or the Keys is dissolved in 2016, as the case may be, shall be filled at the election taking place in that year.

10 (5) This sub-paragraph applies if no constituencies have been drawn up and approved in accordance with section 11(1) within 3 months of —

(a) the elections to Council otherwise to be held in 2013 or 2015, as the case may be,

15 (b) the general election of the Keys to be held in 2016,

to the vacancies to be filled by that election

20 (6) If the constituencies have not been approved under section 11(1) by the date of the general election of the Keys to be held in 2016, the Electoral Reform Act 2011 shall be deemed never to have been enacted.”.

3. (1) In the Isle of Man Constitution Amendment Act 1919 —

Minor amendments to other enactments

(a) for section 7(2) substitute —

25 “(2) Eight members elected in accordance with the Representation of the People Act 1995 (in this Act referred to as the “elected members”).”;

[X p.390]
[c.13]

(b) in section 12 —

(i) for “A person to be qualified as an elected member” substitute “A person wishing to stand as an elected member”;

30 (ii) at the end of subsection (b) add —

“; and

(c) not be a member of the Keys.”.

35 (2) In the definition of “national election” in section 15(1) of the Registration of Electors Act 2006 after “Keys” add “or the Council”.

[c.12]

Repeals

4. The Schedule sets out the provisions of enactments repealed.

Section 4

SCHEDULE

REPEALED PROVISIONS

<i>Reference</i>	<i>Short title</i>	<i>Extent of repeal</i>
X p.390	Isle of Man Constitution Amendment Act 1919	Sections 8, 10, 20, 21, 22 and 23.
c.34	Isle of Man Constitution (Elections to Council) Act 1971	The whole Act.
c.12	Isle of Man Constitution (Amendment) Act 1975	Section 3.
c.6	Constitution Act 1990	Schedule 1 paragraph 3(2), (3), (7) and (8).
c. 13	Representation of the People Act 1995	Schedule 1.
c.9	Constitution (Amendment) Act 2008	The whole Act.

IN THE COUNCIL

Electoral Reform

A BILL

to provide for the election of Members of the Legislative Council by public franchise and to provide for the revision of House of Keys constituencies into eight Electoral Areas, to be determined by a Boundary Committee; and for connected purposes.

Leave to introduce given in the Legislative Council 27 April 2010.

MR. CALLISTER

JUNE 2011
