



REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL 2015

EXPLANATORY NOTES

These notes are circulated for the information of Members with the approval of the Member in charge of the Bill, Hon J P Shimmin MHK

1. INTRODUCTION

These explanatory notes relate to the Representation of the People (Amendment) Bill 2015. They have been prepared by the Cabinet Office in order to assist readers of the Bill. They do not form part of the Bill.

These notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill.

2. SUMMARY AND BACKGROUND

The intention of this Bill is to ensure key reforms are undertaken and the election process is easily understood in the time available before the 2016 General Election in order to make an important step towards improving transparency and governance of the Island's election process.

The Representation of the People Act 1995 (the '1995 Act') and the associated rules and regulations do not include important electoral developments such as the requirement for declarations of candidates' expenditure and the registration of political parties.

In 2010, an Independent Review Panel was tasked with assessing the appropriateness of the current rules and transparency of processes applying to candidates standing for election with particular focus on funding, expenditure and donation issues. As a result, the Representation of the People (Amendment) Bill 2011 was drafted but later lapsed during its passage through the House of Keys. The 2015 Bill contains the recommendations made by this Panel as well as others not included in the 2011 Bill and is drafted further to the post 2011 election review by the Cabinet Office.

A public consultation has taken place for the Bill and the associated regulations and certain amendments have been made as a result of the responses which were received. The new regulations require Tynwald approval, which will be sought once the Act comes into force.

Whilst significant modernisation and improvement has been included in this Bill, it does not fully address the changes required to provide a complete overhaul of existing electoral legislation. The Council of Ministers has directed that a root and branch review of this legislation should take place after the 2016 General Election.

3. CONTENT OF BILL

Clause 1

Gives the short title – the Representation of the People (Amendment) Act 2015.

Clause 2

Provides that the Act will come into operation by Appointed Day Order or Orders. The provisions of the Act may be brought in together or at different times as the Council of Ministers may appoint.

Clause 3

Identifies that the Representation of the People Act 1995 is amended in accordance with this Bill and that this is referred to as “the Act” throughout the remaining content of the Bill.

Clause 4

Inserts Schedule 1 to make the 1995 Act gender-neutral.

Clause 5

The 1995 Act defines specific offences of corrupt or illegal practices connected with elections (set out in Part 4) and their punishments (set out in Part 5), which can include disqualification from being elected to the Keys. These are currently the only offences under which a candidate is prevented from being elected. The Council of Ministers considered it in the public interest to prevent persons having been convicted of offences concerning fraud, dishonesty and/or corruption from standing as candidates unless such offences are considered ‘spent’ under the Rehabilitation of Offenders Act 2001.

Clause 5 substitutes section 1 of the 1995 Act to provide a restructure of the qualifications and disqualifications for membership of the Keys by creating two subsections, (1) and (2).

Subsection 1(1) states each of the qualifications that must be met at the time of nomination in order to stand as a candidate and be elected a member of the Keys. This section includes an update to the terminology from full age to the age of majority and adds the provision that the candidate must appear on the Island’s Register of Electors.

Subsection 1(2) is an extended set of instances whereby an individual meeting any one of these criteria may not stand as a candidate for election. New disqualifications

contained in the section are conviction of a relevant offence (involving corruption, bribery or dishonesty or any other offence under this Act or another jurisdictions' equivalent), incapacity due to corrupt or illegal practice in relation to electoral offences, imprisonment following conviction for any offence, bankruptcy or any other incapacity.

Clause 5 also substitutes section 2 of the 1995 Act to specify that, beginning in 2016, a general election to the Keys must be held on the fourth Thursday in September every fifth year and that dissolution of the Keys will occur six weeks before this date. The Governor retains the power to dissolve the Keys and issue fresh writs for a general election of members to serve in the Keys, whenever he thinks it expedient, under Section 3 of the 1995 Act.

Clause 6

There are no current legislative provisions in respect of registering political parties in the Island. The Independent Review Panel found the issue of political party funding could be addressed if more information was available and so registration was recommended.

Clause 6 inserts a new Part 1A (sections 10A to 10N) specifying the requirements and processes for the registration of political parties.

Section 10A states that a political party must be registered in order to support or endorse any candidate for election to the Keys.

Section 10B details various requirements that must be met in order for a party to be registered. A party must have a name that is six words or less and the name, any abbreviation and any emblem must be considered appropriate and should not be too alike that of another organisation. Provisions regarding restrictions on party names, initials and emblems can be amended by regulations. Any party must also have named holders of three offices; leader, treasurer and secretary. The responsibility of these three posts must be shared between at least two people and officeholders must appear on the Register of Electors. In order to register, a party must also have a correspondence address in the Isle of Man, a written constitution (which must include an objective to support or endorse candidates for election to the Keys) and accounting records with a period of 12 months or less.

Section 10C provides that a political party may only use, be known by or be associated with the name, abbreviation and emblem it is registered with.

Section 10D states that, in order to register, a political party must make an application, signed by at least 20 registered electors, to the Electoral Registration Officer. Regulations may amend the number of people who must sign an application. The application must include the party's name, abbreviation (if any), emblem (if any), correspondence address and names of the officeholders. The application must be sent with a copy of the party's constitution, most recent accounts and any fee set by Treasury. The Electoral Registration Officer must provide the General Registry with a copy of these supporting documents.

Section 10E imposes conditions on the Electoral Registration Officer and Attorney General for their consideration of an application by a political party for registration.

The Electoral Registration Officer must provide the Attorney General with a copy of every application. The Attorney General must confirm whether or not an application is complete and whether or not the party complies with the conditions of registration. If both are in order, the Electoral Registration Officer must register the party but, if one or both are not confirmed by the Attorney General, the application must be refused by the Electoral Registration Officer.

Section 10F imposes the requirement upon the Electoral Registration Officer to uphold a register of political parties. The record must include the party's name and abbreviated version (if there is one), emblem (if there is one), correspondence address and full names of the holders of the three required positions. The Electoral Registration Officer must also keep a copy of each registered party's constitution and accounts submitted at the time of their application to register as well as a copy of any amendments to the registered party's constitution and a copy of accounts submitted on an annual basis.

Section 10G deals with changing the name or abbreviated name of a political party or adding or changing a party emblem. Applications for such additions or amendments can be made to the Electoral Registration Officer, along with any payment determined by Treasury. Any such application has to be signed by two registered officeholders of the party and evidence that the decision to make a change is in line with the party's constitution. If this criteria is not met or if the amended name, abbreviation or emblem is deemed unsuitable according to the Attorney General, the Electoral Registration Officer must refuse the amendment. The Electoral Registration Officer must update the register to reflect any approved changes.

Section 10H sets out circumstances and timescales in which political parties must notify the Electoral Registration Officer of other changes to their details. If a party changes its constitution, an officeholder or its correspondence address, the Electoral Registration Officer has to be notified in writing within 10 working days of the change (this period can be changed by regulations). The notification must be signed by two registered officeholders (after any change) and supplemented with evidence that the change has been made in line with the constitution. If the constitution is being changed, a copy of the new constitution must also be enclosed. If one or more registered officeholders should die or become incapacitated, the Electoral Registration Officer may accept other means of confirmation of any change of officeholder or refer the matter to the Attorney General. If the Electoral Registration Officer deems any amendment to be in breach of the conditions of registration, the case should be referred to the Attorney General. The Electoral Registration Officer must update the register to reflect any approved amendments.

Section 10I refers to the Charities Registration Act 1989 stating that section 5 and its associated regulations apply to political parties as it does charities in that Act. This means that every political party must have accounts prepared at least once per year. If the party has an annual income over £25,000 its accounts must be audited. This can be done by an accountant (or person approved to undertake such work by the First Deemster) or independent person with a relevant qualification unless the income is over £250,000, in which case the audit must be undertaken by an accountant (or person approved by the First Deemster). The accounts must be filed with the General Registry within six months of the end of the accounting period, along with the auditor's report if the income was over £25,000.

Section 10J confirms that a political party may not retain anonymous donations. It is the responsibility of the party's treasurer to send any anonymous donations to the Chief Financial Officer within 10 working days. The Chief Financial Officer will then arrange for it to be sent to the nominated charitable trust (currently the Manx Lottery Trust). Regulations may amend to whom the Chief Financial Officer forwards donations.

Section 10K details the occasions on which a political party will be removed from the register. It is the responsibility of the Electoral Registration Officer to remove a party which applies for removal. The application must be signed by two registered officeholders and accompanied by evidence that the decision is in line with the party's constitution. The Electoral Registration Officer must also remove a party which, in the opinion of the Attorney General, no longer complies with the conditions of registration or has breached rules in relation to name(s) the party is known by, the auditing and filing of accounts or changes in their particulars. The Electoral Registration Officer must also remove a party from the register if the party has not supported or endorsed a candidate for election to the Keys for three successive general elections from either its registration date or date of its last nomination, whichever is the most recent. The length of this period can be amended by regulations. Prior to removing a party, unless it no longer exists, the Electoral Registration Officer must notify the party of the intention to remove them and grounds for doing so two months beforehand.

The register of political parties is provided to the General Registry by the Electoral Registration Officer. Section 10L makes provision for any person who pays the relevant fee, if any, to inspect the register at the General Registry. The General Registry may sell a copy of a registered party's constitution or most recent accounts to any person, which is also subject to any fee set by Treasury.

Section 10M provides that a party officeholder who has signed an application to register their party or change its name, abbreviated name or emblem that has been refused may appeal to the High Court. A party may also appeal to the High Court against its removal from the register and, if this is made within two months of the Electoral Registration Officer's notification of the intention to remove the party, the party cannot be removed until the outcome is known. If the High Court decides in favour of the political party after an appeal, it must direct the Electoral Registration Officer to take any necessary action.

Section 10N details the meanings of titles and phrases used throughout new sections 10A to 10M, including Electoral Registration Officer (previously registration officer).

Clause 7

Part 2 of the 1995 Act – Organisation of Elections – has been separated into Divisions to provide improved structure and clarity. Clause 7 provides that the Divisions are made as follows:

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|------------|--|
| Division 1 | The Electoral Commission (consisting of section 11) |
| Division 2 | Electoral Areas (consisting of sections 11A Constituencies and 12 Polling districts) |

- Division 3 Returning Officers (consisting of sections 13 to 20 relating to returning officers' appointment, ability to stand or vote, taking an oath of office, powers to keep the peace, deputies, deputies' powers and payment of expenses)
- Division 4 Election Expenses (consisting of new sections 20A to 20G – see clause 12).

Clause 8

Substitutes section 12 of the 1995 Act to allow the Council of Ministers to set polling districts within a constituency by Order after suitable consultation subject to Tynwald approval. This power previously rested with Treasury with this amendment necessary given the transfer of responsibility for electoral registration to the Cabinet Office.

Clause 9

Section 16 of the 1995 Act states that a returning officer must take their oath of office before proceeding to any election. This is a vague timescale and has been amended by clause 9 to clarify that the oath must be taken before commencing any duties as returning officer.

Clause 10

Section 18(1) of the 1995 Act gave returning officers the option to appoint a deputy returning officer. As it was not a requirement, if a returning officer was incapacitated for any reason, there would not necessarily have been another person to provide cover. If this were to happen, it could have serious effects on the logistics and even possibility of an election in that constituency.

Clause 10 amends subsection 18(1) of the 1995 Act to make it a requirement that returning officers appoint at least one deputy and that, whether one or more deputy returning officers are appointed, the returning officer must ensure any of their functions can be discharged by their deputy or deputies combined. This also gives the returning officer the freedom to appoint as many deputies as they desire and authorise them to carry out any of their responsibilities, whilst ensuring that all their functions could be met by others should they be unable to do so.

Clause 11

Makes a minor amendment to section 20 of the 1995 Act by removing the requirement upon returning officers to submit a duplicate copy of claims for fees and expenses to Treasury, as the duplicate copy is deemed unnecessary.

Clause 11 also makes an addition to clarify that section 20 is in relation to the payment of official expenses to returning officers in particular.

Clause 12

The Independent Review Panel recommended that candidates publically declare donations to provide transparency and to respect the electorate's right to know if a candidate is receiving funding for their campaign. Also, there have previously been

no restrictions on the amount a candidate can spend during an election, which has been deemed to be an undesirable position.

The Independent Review Panel suggested expenses incurred and donations received should be captured for the entire build-up to an election and so suggested a timeframe of 12 months prior to an election; referring to this as the 'election window'. However, a person only becomes a candidate when their nomination paper is accepted by a returning officer, which cannot occur earlier than six weeks before polling day. In order to capture expenses and donations occurring throughout this 12 month period, which includes such a time before a person can officially be a candidate, the concept of a 'prospective candidate' is introduced in the Bill. A person becomes a prospective candidate when they announce they intend to stand, or someone else does so on their behalf (with their consent), within 12 months of an election.

Clause 12 inserts a new Division 4 into Part 2 entitled Election Donations and Expenses, which contains new sections 20A to 20G to regulate the treatment of expenses and campaign donations for candidates and prospective candidates.

Section 20A relates to donations received by candidates, stating that candidates must provide the Election Registration Officer with a written declaration of certain donations received during a specific period, i.e. the election window, including those received while they were a prospective candidate as well as a candidate. Candidates must declare donations received above £50 or with a value above £50 (these minimum amounts can be amended by Regulations) and state the donor's name, amount or value of the donation and whether the donation is of money, a loan of money, goods or the use of goods or services. Each donor's total contribution, including those from any connected person (see new section 20G), should be used when calculating if they reach the minimum amount. Candidates must also declare the amount of any anonymous donations, received as a candidate or a prospective candidate, and a statement confirming that any such donations have been forwarded to the Chief Financial Officer (as detailed in section 20B). A candidate must also declare if they have not received any donations, either from identified or anonymous donors.

Mirroring the situation for political parties, neither candidates nor prospective candidates may keep anonymous donations. Section 20B states that a candidate or prospective candidate must forward anonymous donations to the Chief Financial Officer within 10 working days of receipt. The Chief Financial Officer must then arrange for it to be sent to the nominated charitable trust (currently the Manx Lottery Trust). Regulations may amend the definition of the nominated charitable trust. If a prospective candidate does not, for any reason, become a candidate (and so cannot be voted for at an election), this is their only legal obligation under this Division.

Section 20C creates a maximum amount that candidates may spend on an election campaign from the time when they were a prospective candidate, if they were one, and details the process of a complaint concerning expenditure. The new section provides that expenses incurred over the 12 months before an election or since the vacancy in the House of Keys occurred (whichever is shorter) may not total more than £2,000 plus 50p per person registered as an elector in their constituency (this maximum amount can be amended by regulations). The new Schedule 3A (the text

of which is set out in Schedule 2) sets out what constitutes an election expense. Complaints regarding candidates spending over the maximum amount must be sent to the Electoral Registration Officer within three months of an election. The Electoral Registration Officer will then notify that candidate, requiring them to provide an itemised record of expenses within 15 working days.

Section 20D states that candidates' declarations of donations received and expenses incurred are to be made using a form supplied by the Electoral Registration Officer. The form must include a specific statement that the information is true, complete and accurate and be signed by the candidate. If the candidate later becomes aware of any variation or addition to the information provided, they must inform the Electoral Registration Officer by submitting a further declaration (under the same conditions) as soon as possible (at the latest 10 working days) after becoming aware of the variation or addition. The new section also imposes a requirement for the Electoral Registration Officer to record every declaration made by a candidate in a register and to make that register and any declaration received available for inspection by the public, subject to a fee (if any) set by Treasury, at the General Registry.

Section 20E states that, if a complaint is made alleging that a candidate has spent more than the maximum amount, the Electoral Registration Officer may, in writing, demand documentation (such as invoices and receipts) from the candidate to prove their expenses. The candidate must then supply this proof within 15 working days.

Section 20F relates to individuals who incur or pay election expenses on behalf of a candidate, stating that, in the event of a complaint having been received, they must provide the candidate with information and documentation regarding this expense as soon as possible after it is incurred, in order that the candidate can supply the information to the Electoral Registration Officer.

Section 20G provides two interpretations for this Division. The meaning of a connected person is specified as being the same as section 119C of the Income Tax Act 1970. Those detailed within this Act as a connected person include a spouse/civil partner, relative (sibling, ancestor or lineal descendant), relative's spouse, spouse's relative, settlor and person in partnership. The period of time relevant to declarations of donations and expenses is also defined and depends on the reason for the election in question. If the election is one held every fifth year starting with 2016 (under section 2(1)), the period is from 12 months before polling day and ends on polling day. If it is for any other election, the period also ends on polling day but commences when the vacancy is declared, for example when a by-election is announced or the House is dissolved early by the Lieutenant Governor.

Clause 13

Provides that Schedule 2 of the 1995 Act is repealed and section 22 is substituted. This is to allow the procedure for elections to be governed by regulations, rather than the election rules previously contained in Schedule 2 of the 1995 Act. However, the election rules will be transitionally preserved by the Appointed Day Order commencing this amendment until new regulations are made. The new section 22 identifies the areas which are to be covered by regulations, including:

- timetable for election proceedings
- delivery of the election writ to returning officers

- return of the election writ by returning officers
- publication of notices of election
- nominations (including the process for nominating candidates, publication, contents of nomination papers, conditions of validity and when an objection can be made)
- process for withdrawal/nullification/death of a candidate or cancellation of their nomination (due to them becoming disqualified under new subsection 1(2)) and the publication of these occurrences
- process of election (including notice of poll, issue of poll cards, polling stations and equipment, sealing of ballot boxes, particulars of ballot papers, handling spoilt ballots, ensuring voters' identity, challenging voters, manner of voting, availability of guidance notes and closure of poll)
- returning officers' responsibilities (including management of people at polling stations, appointing supporting officers, other responsibilities and pay)
- prevention of disclosing how a person has voted and declaration of secrecy
- candidates' appointment of polling and counting agents (including conditions)
- process for counting and re-counting votes (including who may be present at the count, the result and returning the elected candidates)
- process for disposing or retaining documents as necessary and making them available to the public.

Clause 13 also provides that references to the election rules throughout the Act be replaced with election regulations to correspond with this change.

Clause 14

Makes consequential amendments to section 23 of the 1995 Act to reflect the amendment to section 22 in terms of using election regulations instead of rules.

Clause 15

Adds a new subsection to section 24 to specify that a person entitled to vote may do so only in person or by proxy.

Clause 16

Substitutes section 25 of the 1995 Act to set out the manner in which an elector may exercise the right to vote at an election - in advance, in person at a polling station or by proxy. The 1995 Act makes reference to absent votes being cast by post but this would only be the case if the absent voter was outside the Island. In addition, the term "absent voting" has been replaced by "advance voting" for reasons explained in Clause 17.

Clause 17

There has been misunderstanding that absent voting was only available to those not on the Island on polling day. This type of voting is also available to those unable to, or choosing not to, attend the polling station on polling day who may opt to vote in advance of the election. Anyone absent from the poll, by circumstance or by choice, has always been able to exercise an absent vote.

Clause 17 amends section 26 of the 1995 Act to change the terminology from “absent voting” to “advance voting” in order to provide clarity regarding its use. It is hoped this may reduce the number of non-voters and/or proxy voters as the public may utilise this facility more once provided with a clearer understanding of who may use it. A requirement is also made for a person applying for an advance vote to have an address in the British Islands (previously any address) for the ballot paper to be sent to so that enough time is available for the form to be posted, completed and returned.

Clause 18

The prevention of election fraud is a key objective and there has been concern that proxy voting is open to abuse. However, it is also essential that no voter is disenfranchised and some individuals are not able to apply for advance vote, such as those serving in the Armed Forces abroad. Therefore, proxy voting should be retained but the detail of who may apply for a proxy vote should be made clearer.

Clause 18 amends section 27 to state that only those who cannot vote in person as an advance voter or at the poll may request a proxy vote. Electors must provide information as to why they cannot vote in advance or at a polling station. If satisfied, the Electoral Registration Officer may grant the application and can request further evidence from the elector in order to make a determination. The Electoral Registration Officer must also ensure that the person to be appointed proxy is willing and able to do so.

Clause 19

There have been great advances in technology and an increase in the different methods of accessing election information since the 1995 Act came into force. It is important that candidates reach the widest audience possible within their constituencies.

Clause 19 substitutes section 30 of the 1995 Act in order to modernise the processes for publicising an election and disseminating election manifestos to include publication on websites. The requirement to give public notice has been changed to require publication in one local newspaper and on an appropriate website with an option of further advertisement within the relevant constituency.

Section 31 of the 1995 Act is also substituted to add a new provision enabling candidates to forward their manifesto to the Chief Secretary for display on the Government website, which must be done within three working days of receipt and remain visible throughout the campaign period. The new section also brings the process of distributing manifestos up to date and states that the cost will be determined by regulations. The new section provides that regulations can make further provisions regarding the distribution of manifestos and it is anticipated that these will include that distribution will be by the most economic means possible.

Clause 20

The Government has been approached by representatives from other jurisdictions wishing to learn from our electoral process but there have been no provisions to allow persons other than voters and named individuals to attend polling stations.

Clause 20 inserts new sections 31A to 31C which allow for accredited election observers to attend proceedings at the poll and at the counting of votes as well as requirements to be met by observers.

Section 31A states that applications can be made to the Governor by a representative (who is over the age of 16) of a named body that has an interest in the outcome of the election. The Governor can accept or refuse an application, and may also revoke an approved application, but any refusal or revocation must be provided in writing with reasoning.

Section 31B provides that the number of observers at any one time can be limited by the presiding officer at the polling station, the returning officer at any other proceedings or anyone authorised by these individuals (a "relevant officer"), who may also cancel an observer's entitlement should there be a case of misconduct.

Section 31C states that a code of practice for attendance at proceedings by accredited observers must be made by the Governor. The new section details areas for inclusion in this code, which are:

- means of applying to be an observer
- criteria to be met for approval of an application
- guidelines to relevant officers for limiting numbers
- guidance for observers on attending election proceedings

The Governor is given the ability to make different provision for different purposes, determine how the code should be published and revise it accordingly. The new section also states that relevant officers must abide by the code when limiting the number of observers or cancelling entitlements.

Clause 21

Clause 21 inserts a consequential addition to section 32 of the 1995 Act to add to the list of offences/illegal practices any person who commits an offence which can be tried before the Court of General Gaol Delivery in connection with political parties and candidates' funding. These offences are detailed in clause 26.

Clause 22

Makes amendments to section 37 of the 1995 Act to address several issues and modernise the guidelines for election publications.

A restriction on publishing any anonymous document discouraging or preventing (as well as to promoting or procuring) the election of a candidate has been added.

The places where election publications cannot be displayed is expanded upon to prohibit exhibition on Department or Statutory Board buildings or surroundings of such buildings (except domestic premises sublet to a person other than a Department or Statutory Board).

Candidates who act in contravention of this section are no longer excluded from being guilty of an offence and the definitions for distributing and publishing election publications are widened to include by electronic means.

Clause 23

Section 40 of the 1995 Act is amended to provide a modernised provision to prohibit the use of premises from which alcohol is sold for electoral purposes. The new section includes restriction on the use of a building from any part of which alcohol is sold and also any premises where refreshment of any kind is normally sold for consumption.

There is a new provision to permit the use of part of a building separate to an area where alcohol/refreshments are sold as long as there is a separate entrance and no direct dealings with the other area.

Clause 24

Section 41 of the 1995 Act is an outdated provision prohibiting payments to music bands with a view to promoting or procuring the election of a candidate and is repealed.

Clause 25

Section 43 of the 1995 Act is amended to clarify voting offences as a consequence of the change in terminology from "absent" to "advance" voting.

Clause 26

Inserts new sections 44A and 44B to create offences in connection with political parties and funding, further to new sections 10A to 10N and 20A to 20G. All offences listed under these sections are punishable on conviction on information to a fine or on summary conviction to a fine up to £5,000.

Section 44A states that a candidate or prospective candidate who accepts the support or endorsement of an unregistered political party commits an offence. A person who knowingly or recklessly makes a false declaration or application in connection with the registration of a political party is also guilty of an offence.

Section 44B creates offences upon those who fail to meet the new requirements regarding funding for elections. Under this section, a treasurer of a political party, a candidate or a prospective candidate who fail to send an anonymous donation to the Chief Financial Officer is guilty of an offence. The new section also states that candidates who fall under any of the below criteria without justification are also guilty of an offence:

- expenses found to be over the maximum amount;
- failure to provide a declaration of donations or expenses as required;
- providing an inaccurate declaration of donations or expenses; or
- failure to provide evidence of their expenses, including those incurred by others on their behalf, within the time limit following a request.

In addition, any person who does not provide a candidate with details and proof of expenditure incurred on their behalf is guilty of an offence.

Clause 27

Interpretations for “candidate” and “prescribed” are now included in sections 55 and 75. Therefore, Clause 27 removes these interpretations from section 77 of the 1995 Act.

Clause 28

Following a court ruling there has been concern from returning officers on the facility of relief for an innocent act being available to them. Therefore, section 63 of the 1995 Act is amended to clarify that any person may apply and be granted relief under this section. The effect of this is that returning officers will not be subject to any court proceedings for reasonable actions in relation to the running of elections.

Clause 29

Interpretations are added to section 77 of the 1995 Act, mostly as a result of featured amendments. New/revised interpretations include the following:

- Accredited observer
- Advance voter
- Anonymous (in terms of a campaign donor of an unknown identity)
- Donation
- Election expenses
- Electoral Registration Officer (previously registration officer)
- Nominated charitable trust
- Political party
- Support (clarified to not be limited to financial support)
- Working day (amended to provide a more comprehensive description).

The new subsection also provides that donations and expenses are to be determined in accordance with Schedule 3A. A candidate is identified as a person who has their nomination accepted by a returning officer. It clarifies that a person becomes a prospective candidate on the day they declare themselves to be one or when they consent to being declared by another. However, no person can become a prospective candidate more than 12 months before the date of an election.

Clause 30

Section 80 of the 1995 Act is amended to reflect the change to the use of election regulations instead of rules and to provide that regulations can amend the time period regarding election donations and expenses.

Clause 31

Section 81 is amended to remove an expired transitional provision and to add a provision ensuring that, if it is the case that Royal Assent is announced less than 12 months before a general election, the time periods relating to becoming a prospective candidate and declaring election donations and expenses would commence when the relevant section comes into force.

Clause 32

Schedule 3 of the 1995 Act is amended to clarify the meaning of "prescribed".

Clause 33

Gives effect to the new Schedule 3A, the text of which is set out in Schedule 2.

Clause 34

Schedule 6 containing expired transitional arrangements is repealed.

Clause 35

Contains consequential amendments to the Local Elections Act 1986 to reflect changes to election regulations from rules and "advance voting" from "absent voting". The updated interpretations and modernised restrictions on use of premises where alcohol is sold or supplied are applied, as are the updated disqualifications for being elected to the House of Keys.

Clause 36

Contains consequential amendments to the Payment of Members' Expenses Act 1989 to reflect the change to election regulations from rules.

Clause 37

Contains consequential amendments to the Registration of Electors Act 2006 to identify that an individual can only be registered in one polling district for House of Keys elections and one for local authority elections. This is a result of the Boundary Review Committee's recommendations and reflects that the boundaries are no longer identical for both types of elections. The amendment confirms that the polling district a person is registered in does not need to be the same for both types of elections.

There are also amendments to update references to the Electoral Registration Officer, replacing references to the registration officer, amending the definition accordingly and clarifying that the Electoral Registration Officer is appointed by the Chief Secretary.

Schedule 1

As per clause 4, Schedule 1 is inserted to make the Act gender-neutral.

Schedule 2

Inserts new Schedule 3A as per clause 32, which defines "donation" and "election expense", including related concepts for the purposes of Division 4.

Part 1 of Schedule 3A deals with donations. It states that a gift or loan of money is determined to be made either when the money is given to the candidate or when the candidate is advised they will receive it, whichever is sooner. A gift or loan of money

qualifies as a donation if it is made during the relevant period to be used for election expenses or if it is made between when the candidate's nomination paper is accepted by the returning officer but before the poll either anonymously or without direction for its use. A loan of money is a donation if no interest is incurred or the amount of interest incurred is lower than the standard rate.

The Schedule states that a gift or loan of goods or supply of services counts as a donation if it is made without charge or at a discounted rate and if it is made during the relevant period to be used for election expenses or if it is made between when the candidate's nomination paper is accepted by the returning officer and the poll either anonymously or without direction for its use. It is clarified that such a gift is considered to be made when the goods or services are supplied.

The Schedule provides that a loan of money or donation of goods, services or use of goods should be valued at the difference between the cost to the candidate and the commercial cost.

Schedule 3A states that an individual may provide services in their own time without charge and that this is not a donation, but any goods used by or supplied by them are to be included as a donation. It is, however, clarified that individuals who use their own vehicle to transport electors to and from the polling station on polling day are not considered to be making a donation.

There is also an exception whereby an individual can publish anything relating to an election in a newspaper (including online), in a broadcast or on a website without this being deemed to be a donation. Such an act is only deemed to be considered a donation if a person provides or pays for an advertisement in a publication.

Part 2 of Schedule 3A relates to expenses and provides that expenses incurred any time during the relevant period by the candidate, or with the candidate's permission, for goods or services to promote them or prejudice the prospects of another candidate are classed as being a candidate's election expenses. There is also confirmation that a person who endorses a candidate is deemed to have permission to incur expenses on behalf of that candidate.

It is confirmed that direct expenses (the cost of goods or services to promote themselves or influence the likelihood of their opponents being elected) and notional expenses (the value of goods or services supplied free of charge or with a discount for the same purpose) are to be included. Notional expenses are also categorised as donations and should be treated accordingly.

There are various types of expenses that are to be disregarded when calculating a candidate's campaign expenses. These are excepted donations, expenses incurred by undergoing a legal requirement (such as posting a manifesto to each household with a registered elector, the cost of which is met by Treasury) and expenses reasonably incurred as an elected officer holder (such as a regular newsletter from a Member or a Commissioner to their constituents). The Council of Ministers is provided with the power to make an Order to allow for any other expenses incurred that should be disregarded when calculating the cost of an election campaign to be excluded.

Paragraph 9 deals with shared expenses, whereby costs incurred by more than one candidate will be divided between them equally, unless it is proven that the benefit was not shared equally.

Paragraph 10 confirms that the "relevant period" referenced within this schedule is the same as that relevant to donations and expenses i.e. if the election is held under section 2(1), the period is from 12 months before polling day and ends on polling day and if it is for any other election, the period also ends on polling day but commences when the vacancy is declared.

4. FINANCIAL EFFECTS OF THE BILL

It is anticipated that the Bill will be cost-neutral in respect of Government's income and expenditure.

5. HUMAN RIGHTS

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.