



Isle of Man

Ellan Vannin

**REPRESENTATION OF THE PEOPLE
(AMENDMENT) BILL 2015**

REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL 2015

Explanatory Memorandum

1. This Bill is promoted by Mr Shimmin MHK on behalf of the Council of Ministers.
2. *Clauses 1 and 2* deal with the title of the Act resulting from the Bill, and empower the Council of Ministers to bring the other provisions of the resulting Act into operation by means of one or more appointed day orders. An appointed day order may include consequential, incidental, saving, transitional and transitory provisions. References below to sections are to sections (existing or new) of the Representation of the People Act 1995 (“the 1995 Act”)
3. *Clause 3* introduces the amendments to the 1995 Act.
4. *Clause 4* and its associated Schedule (*Schedule 1* to the Bill) make amendments to the 1995 Act to make its provisions gender-neutral.
5. *Clause 5* substitutes new provisions for sections 1 and 2. The new section 1 extends the range of circumstances in which a person is disqualified for election to the Keys. A new qualification is that a candidate must be registered as an elector for an electoral area (new section 1(1)(d)). A person will be disqualified for election if the person –
 - a. has been convicted of an offence involving dishonesty, bribery or fraud anywhere in the world, or been convicted of an electoral offence under the 1995 Act, a previous corresponding Manx enactment or a corresponding enactment elsewhere (spent convictions within the meaning of the *Rehabilitation of Offenders Act 2001* being disregarded) (new section 1(2)(b));
 - b. is subject to an incapacity to serve as a member of the Keys by virtue of section 66 (which concerns findings of corrupt or illegal practice by an election court) (new section 1(2)(c));
 - c. is currently serving a custodial sentence (new section 1(2)(d)); or
 - d. is an undischarged bankrupt (new section 1(2)(e)).
6. The new section 2 provides not only for the dissolution of the Keys but also specifies the day on which the general election of the Keys is to take place.
7. *Clause 6* includes a new Part 1A (inserting sections 10A to 10N) specifying a process for the registration of political parties, prohibiting the acceptance of anonymous donations and imposing connected requirements.

8. *Clause 7* restructures Part 2, dividing it into a series of Divisions, in order better to accommodate the additional material inserted by clause 12.
9. *Clause 8* substitutes a new section 12 dealing with the division of a constituency into polling districts. The function will now rest with the Council of Ministers (rather than the Treasury), and the consultation requirement is varied so that the Council of Ministers must consult such persons as appear appropriate.
10. *Clause 9* amends section 16 to clarify the time at which a returning officer has to take the oath of office.
11. *Clause 10* requires a returning officer to appoint one or more deputy returning officers. If only one deputy is appointed, that officer must be empowered to discharge all of the functions of the returning officer in that officer's absence or unavailability. If more than one is appointed, the deputies may be empowered to perform different functions, but the returning officer must secure that, in relation to every function of the returning officer, there is at least one deputy empowered to discharge it.
12. *Clause 11* makes a minor amendment to section 20, removing the requirement to submit duplicate copies of claims for fees and expenses.
13. *Clause 12* inserts a new Division 4 into Part 2 comprising 7 sections (20A to 20G) which, together with the new Schedule 3A regulate the treatment of candidates' expenses and campaign donations.
14. *Clause 13* substitutes a new section 22. This brings together material previously found in section 22 of, and Schedule 2 to, the 1995 Act, governing the conduct of elections. The procedure for elections will in future be governed by regulations, rather than rules set out in that Schedule. The clause makes some amendments and repeals that are consequential upon this change.
15. *Clause 14* makes a consequential change to the wording in section 23 reflecting the change made to section 22.
16. *Clause 15* amends section 24 to put beyond doubt the methods by which an elector may participate in an election.
17. *Clause 16* substitutes a new section 25 setting 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).
18. *Clause 17* amends section 26 to reflect the change from "absent voting" to "advance voting".
19. *Clause 18* amends section 27 to impose restrictions on the right to request a proxy vote and imposes an obligation on the Electoral Registration Officer to satisfy himself or herself that —
 - a. the voter will be unable to vote in person or as an advance voter at the election; and
 - b. the proposed proxy is not a person disqualified for acting as such.

20. *Clause 19* substitutes new sections for the existing sections 30 and 31 in order to modernise the processes for publicising an election and disseminating election manifestos to include publication on websites.
21. *Clause 20* inserts three new sections (31A to 31C) dealing with election observers and their conduct.
22. *Clause 21* amends section 32 to add to the list of illegal practices the commission of those offences under sections 44A and 44B which are triable on information (i.e. they can be heard by the Court of General Gaol Delivery).
23. *Clause 22* amends section 37 so as to prohibit—
 - a. negative as well as positive publicity on behalf of an election candidate unless it gives the name and address of the publisher; and
 - b. to prohibit the display of publicity material on premises occupied by a Department or Statutory Board (except domestic premises sublet to a person other than a Department or a Statutory Board).
24. *Clause 23* substitutes a modernised version of section 40 dealing with the prohibition on the use of premises, on or from which alcohol is sold, for electoral purposes.
25. *Clause 24* repeals section 41 which prohibits payments on account of musical bands with a view to promoting or procuring the election of a candidate.
26. *Clause 25* consequentially amends section 43 (voting offences) to reflect the new possibilities for voting under the Act in consequence of the introduction of advance voting and the abolition of absent votes.
27. *Clause 26* inserts two new sections, 44A and 44B. The former creates offences on the part of a candidate who stands at an election for an unregistered political party or knowingly or recklessly makes a false declaration in connection with the registration of political party. The latter creates offences in connection with the requirements in the new sections 10J and 20A to 20F dealing with funding of political parties and elections.
28. *Clauses 27 and 29* both make consequential adjustments to various interpretation provisions in the 1995 Act.
29. *Clause 28* amends section 63 which deals with the High Court granting relief from the consequences of the 1995 Act's provisions on the commission of a corrupt or illegal practice. The amendment clarifies the existing law, indicating that relief may be granted whether or not the person seeking it is entitled to lodge an election petition.
30. *Clause 30* amends section 80 to reflect the changes in nomenclature for subordinate legislation under the 1995 Act.
31. *Clause 31* amends section 81 in consequence of the repeal of Schedule 6, and to add a fresh provision making it clear that, in computing periods of time in connection with any provision which will be added by the Act resulting from

this Bill time before the provision in question comes into operation is to be disregarded.

32. *Clause 32* amends the definition of “prescribed” for the purposes of Schedule 3 to the 1995 Act.
33. *Clause 33* inserts new Schedule 3A (the text of which is set out in Schedule 2 to the Bill) which defines “donation”, “election expenses” and related concepts for the purposes of sections 20A to 20G.
34. *Clause 34* repeals Schedule 6 to the 1995 Act, which contains transitional provisions all of which are now spent.
35. *Clauses 35 to 37* contain consequential amendments to other legislation.
36. An impact assessment has been prepared in connection with the Bill: it is anticipated that the Bill will be cost-neutral in respect of the Government’s income and expenditure.
37. 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*.



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REPRESENTATION OF THE PEOPLE (AMENDMENT) BILL 2015

1 A **BILL** to amend further the Representation of the People Act 1995; and for
2 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:—

3 1 Short title

4 The short title of this Act is the Representation of the People (Amendment) Act
5 2015.

6 2 Commencement and expiry

7 (1) This Act (apart from this section and section 1) comes into operation on
8 such day or days as the Council of Ministers may by order appoint and
9 different days may be appointed for different purposes of this Act.

10 (2) An order under subsection (1) may make such consequential, incidental,
11 saving, transitional and transitory provisions as the Council of Ministers
12 considers necessary or expedient.

13 (3) This Act expires on the day following its promulgation or, if its
14 provisions are not then in operation, on the day following that on which
15 the last of its provisions comes into operation.

16 (4) However, the expiry does not affect the continuing effect of any
17 amendment made by this Act or revive any enactment repealed by it.

18 3 Amendment of Representation of the People Act 1995

19 The *Representation of the People Act 1995* (referred to below as "**the Act**") is
20 amended in accordance with this Act.

21 4 Gender-neutrality

22 Schedule 1 has effect for amending the Act so as to make it gender-neutral.

1 **5 Membership and term of the Keys: ss. 1 and 2 substituted**

2 For sections 1 and 2 substitute —

3 **“1 Qualifications for membership of the Keys**

4 (1) A person may stand as a candidate for, and be elected a member
5 of, the Keys for a constituency if at the time of nomination as a
6 candidate the person —

- 7 (a) has reached the age of majority,
8 (b) is either a British citizen or has the right to remain in the
9 Island,
10 (c) is ordinarily resident in the Island and has been so resident
11 for a period of, or for periods amounting in the aggregate
12 to, 5 years or more, and
13 (d) is registered on the register of electors for any electoral
14 area in the Island,

15 provided that the person is not disqualified under subsection (2).

16 (2) A person is disqualified for being a candidate for election for the
17 Keys if at the time the person is nominated as a candidate the
18 person —

- 19 (a) is the holder of an office of profit under the government of
20 any country or territory outside the Island;
21 (b) has been convicted of a relevant offence, unless the
22 conviction is spent for the purposes of the *Rehabilitation of*
23 *Offenders Act 2001*;
24 (c) is incapable of being elected to and sitting in the Keys by
25 virtue of section 66 (incapacities on report or conviction of
26 corrupt or illegal practice);
27 (d) is serving a custodial sentence following conviction for any
28 offence;
29 (e) is an undischarged bankrupt; or
30 (f) is subject to any incapacity by virtue of this or any other
31 Act.

32 (3) For the purpose of subsection (1)(b) a person has the right to
33 remain in the Island if the person —

- 34 (a) has indefinite leave to remain in the Island, within the
35 meaning of the Immigration Act 1971 (of Parliament), as it
36 has effect in the Island (the “1971 Act”); or
37 (b) does not under the 1971 Act require leave to enter or
38 remain in the Island, by virtue of section 7(1) of the
39 Immigration Act 1988 (of Parliament), as it has effect in the
40 Island;

1 and, in either case, the person is not liable to deportation under
2 section 3(5) or (6) of the 1971 Act.

3 (4) For the purposes of subsection (2)(b) a relevant offence is an
4 offence (wherever committed) involving corruption, bribery or
5 dishonesty or an offence (of any kind) under this Act or under the
6 legislation of another country or territory equivalent to this Act.

7 **2 Term of the Keys and date of election**

8 (1) A general election must be held on the fourth Thursday in
9 September of every fifth year starting with 2016.

10 (2) The Keys is dissolved (unless sooner dissolved under section 3) 6
11 weeks before the general election.”

12 **6 Registration and conduct of political parties: Part 1A inserted**

13 After Part 1 insert —

14 **“PART 1A — REGISTRATION AND CONDUCT OF**
15 **POLITICAL PARTIES**

16 **10A Requirements for political parties to be registered**

17 A political party must not support or endorse any candidate for election
18 to the Keys unless it is registered under this Part.

19 **10B Conditions of registration**

20 (1) The party must have a name that does not exceed 6 words.

21 (2) The name of the party, and any abbreviation of the name and any
22 emblem of the party, must not be —

23 (a) offensive, obscene or otherwise inappropriate; or

24 (b) either identical to, or of sufficient similarity that it may be
25 confused with, the name, abbreviation or emblem of any
26 other organisation.

27 (3) The party must have 3 officeholders, being the leader (however
28 described), treasurer and secretary.

29 (4) A person may hold 2 of those offices, but not all 3.

30 (5) A person cannot hold any of those offices unless he or she is
31 registered in a register of electors in accordance with the
32 *Registration of Electors Act 2006*.

33 (6) The party must have an address in the Island to which
34 communications intended for the party may be sent.

- 1 (7) The party must have a written constitution, one of the expressed
2 objectives of which must be the support or endorsement of
3 candidates for election to the Keys.
- 4 (8) The party must keep accounts.
- 5 (9) The party must have an accounting period that does not exceed 12
6 months.
- 7 (10) Regulations may amend, or make provision in addition to,
8 subsections (1) and (2) regarding the restrictions on the name of a
9 political party.

10 **10C Restriction on name and emblem used by registered political
11 party**

- 12 (1) A registered political party must not use or otherwise hold itself
13 out as known by any name, or abbreviation of its name, other
14 than the name or abbreviation (if any) that is registered for it.
- 15 (2) A registered political party must not use or otherwise hold itself
16 out as associated with any emblem other than the emblem (if any)
17 that is registered for it.

18 **10D Application for registration of political party**

- 19 (1) An application for registration of a political party must be made
20 to the Electoral Registration Officer, in accordance with this
21 section.
- 22 (2) An application must contain —
- 23 (a) the name of the party and the abbreviation (if any) of that
24 name;
- 25 (b) the emblem (if any) of the party;
- 26 (c) the address in the Island for the purposes of section 10B(6);
27 and
- 28 (d) the full names of the leader, treasurer and secretary of the
29 party.
- 30 (3) An application must be accompanied by —
- 31 (a) a copy of the party's constitution;
- 32 (b) a copy of the party's most recent accounts; and
- 33 (c) such fee, if any, as may be published by the Treasury as
34 payable for the application.
- 35 The Electoral Registration Officer must file in the General Registry
36 a copy of any document received under this subsection.
- 37 (4) The application must be signed by no fewer than 20 persons.

- 1 (5) A person may sign an application only if he or she is registered in
2 a register of electors in accordance with the *Registration of Electors*
3 *Act 2006*.
- 4 (6) Regulations may amend subsection (4) so as to vary the number
5 of persons who must sign the application.

6 **10E Consideration of application for registration of political party**

- 7 (1) The Electoral Registration Officer must deliver to the Attorney
8 General a copy of an application for registration of a political
9 party.
- 10 (2) The Attorney General must inform the Electoral Registration
11 Officer whether, in the Attorney General's opinion —
- 12 (a) the party complies with section 10B; and
13 (b) the application complies with section 10D.
- 14 (3) If, in the opinion of the Attorney General —
- 15 (a) both those sections are complied with, the Electoral
16 Registration Officer must register the political party;
17 (b) at least one of those sections is not complied with, the
18 Electoral Registration Officer must refuse the registration.

19 **10F Registration of political party**

- 20 (1) The Electoral Registration Officer must maintain a register of
21 political parties.
- 22 (2) Where a political party is to be registered the Electoral
23 Registration Officer must enter the following particulars in the
24 register —
- 25 (a) the name of the party and the abbreviation (if any) of that
26 name;
27 (b) the emblem (if any) of the party;
28 (c) the address in the Island for the party for the purposes of
29 section 10B(6);
30 (d) the full names of the leader, treasurer and secretary of the
31 party.
- 32 (3) The Electoral Registration Officer must keep, for each registered
33 political party, a copy of its constitution submitted under section
34 10D(3)(a) or 10H(2)(c), and a copy of its accounts submitted under
35 section 10D(3)(b) or 10I.

10G Application for change of name or emblem of registered political party

- (1) A registered political party may, on payment of such fee as may be published by the Treasury, apply to the Electoral Registration Officer for the name and any abbreviation of the name registered for it to be altered or substituted.
- (2) A registered political party may, on payment of such fee as the Treasury may determine, apply to register an emblem or to substitute the emblem registered for it.
- (3) An application under this section must be —
 - (a) signed by 2 persons who are registered officeholders of the party; and
 - (b) accompanied by evidence that the decision to make the alteration, substitution or addition was made in accordance with the party's constitution.
- (4) The Electoral Registration Officer must refuse to order the alteration of or addition to the register if, in the opinion of the Attorney General —
 - (a) the name, abbreviation or emblem does not comply with section 10B(1) and (2); or
 - (b) the application does not comply with subsection (3) of this section.
- (5) If the Electoral Registration Officer orders the alteration of or any addition to the register under this section, the Electoral Registration Officer must enter the particulars of the change in the register.

10H Changes in particulars of registered party

- (1) The Electoral Registration Officer must be notified, in writing, of a change in any of the following—
 - (a) the constitution of a registered political party;
 - (b) the identity of the person holding the office of leader, treasurer or secretary of a registered political party;
 - (c) the address, in the Island, of a registered political party.
- (2) A notice required by subsection (1) must be —
 - (a) delivered to the Electoral Registration Officer within the period of 10 working days following the change;
 - (b) signed by 2 persons who (after the change) are registered officeholders of the party; and

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(c) accompanied by evidence that the decision to make the change was made in accordance with the party's constitution and, in the case of notice of a change in the constitution of a registered political party, by a copy of the constitution as changed.

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(3) If, by reason of death or incapacity of one or more registered officeholders or other cause, it is not possible to comply with subsection (2)(b) when notice is given of a change described in subsection (1)(b), the Electoral Registration Officer may —

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(a) accept an alternative means of verification of the notice; or
(b) refer the matter to the Attorney General, in order for the Attorney General to advise on the matter.

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(4) The Electoral Registration Officer must enter in the register the particulars of any change notified in accordance with this section, unless it appears to him or her that the change has the effect that the party no longer complies with section 10B.

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(5) If it appears to the Electoral Registration Officer that the change notified has the effect that the party no longer complies with section 10B, the Electoral Registration Officer must refer the matter to the Attorney General.

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(6) Regulations may amend the period mentioned in subsection (2)(a).

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10I Accounts to be audited and filed

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Section 5 of the *Charities Registration Act 1989* (along with any regulation-making powers necessary for that section and the penalty provided for in section 14(2) of that Act) applies for the purposes of this Part as if for “charity” there were substituted “political party”.

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10J Anonymous donations

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(1) A political party must not keep an anonymous donation.
(2) The treasurer of a political party which has received an anonymous donation must, within 10 working days of its receipt, send it to the Chief Financial Officer who must make arrangements for its distribution to the nominated charitable trust for distribution as the trustees think fit.

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10K Removal from the register

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(1) The Electoral Registration Officer must remove a registered political party from the register —
(a) upon an application —

- 1 (i) signed by 2 persons who are registered
2 officeholders of the party; and
- 3 (ii) accompanied by evidence that the decision to apply
4 for the removal of the party from the register was
5 made in accordance with its constitution;
- 6 (b) if the Attorney General is satisfied —
- 7 (i) that the party no longer complies with section 10B;
8 (ii) that the party has not complied with sections 10C,
9 10H or 10I; or
- 10 (c) if the Electoral Registration Officer is satisfied that the
11 party has not, whilst a registered party, at any of the three
12 preceding general elections of the Keys under section 2(1),
13 supported or endorsed, in accordance with this Act, a
14 person as a candidate for election to the Keys.

- 15 (2) Not less than 2 months before removing a political party from the
16 register, the Electoral Registration Officer must notify the party of
17 his or her intention to do so, stating the grounds for so doing.

18 But the Electoral Registration Officer need not notify the party if
19 satisfied that it has ceased to exist.

- 20 (3) Regulations may amend subsection (1)(c) so as to vary the length
21 of time during which a party has not supported or endorsed a
22 candidate.

23 10L Inspection of register of political parties

- 24 (1) A person may inspect the register, upon payment of such fee (if
25 any) as the Treasury may determine, at the General Registry
26 during its normal working hours.
- 27 (2) A person may, on payment of such fee as the Treasury may
28 determine, obtain from the General Registry a copy of any
29 document kept by the Electoral Registration Officer under section
30 10D(3).

31 10M Appeals

- 32 (1) A signatory to an application to the Electoral Registration Officer
33 under section 10D or 10G may appeal to the High Court against
34 the refusal of the application.
- 35 (2) A registered political party may appeal to the High Court against
36 its removal from the register under section 10K.
- 37 (3) Where an appeal under subsection (2) is made within the period
38 of 2 months beginning with the date on which notice of the
39 intended removal from the register is given under section 10K(2),

the Electoral Registration Officer must not remove the registration until the appeal is determined or abandoned.

- (4) On an appeal under this section the High Court, if it is satisfied that the registration should have been made or amended, or should not be removed, as the case may be, must declare accordingly and give any necessary directions to the Electoral Registration Officer.

10N Interpretation of Part 1A

In this Part —

“**Electoral Registration Officer**” means the officer appointed under section 4(1) of the *Registration of Electors Act 2006*;

“**officeholder**” means, in relation to a party, one of the officeholders mentioned in section 10B(3);

“**register**” means the register maintained under section 10F;

“**registered**” means for the time being entered in the register.”.

7 Division of Part 2

- (1) Part 2 is divided into Divisions as follows—
- (a) Division 1 — The Electoral Commission, comprising section 11;
 - (b) Division 2 — Electoral Areas, comprising sections 11A and 12;
 - (c) Division 3 — Returning Officers, comprising sections 13 to 20; and
 - (d) Division 4 — Election Expenses, comprising sections 20A to 20G (inserted by section 12 below).
- (2) Accordingly, before the section or section first mentioned in each of paragraphs (a) to (c) of subsection (1), insert the relevant Division heading and description given in that paragraph.

8 Polling districts: s. 12 substituted

For section 12 substitute —

“12 Polling districts

- (1) The Council of Ministers may by order divide any constituency into 2 or more polling districts specified in the order.
- (2) Before making an order under subsection (1) the Council of Ministers must consult such persons (including local authorities) as it considers appropriate.

- 1 (3) Unless an order is made under subsection (1) in respect of a
 2 constituency, the whole constituency constitutes a single polling
 3 district.
- 4 (4) An order under subsection (1) must be approved by Tynwald
 5 before it comes into operation.”.

6 **9 Returning officer to take oath of office: s. 16 amended**

7 In section 16(1) for “proceeding to any election” substitute “taking any step in
 8 the discharge of the returning officer’s official duties”.

9 **10 Deputy returning officers: s. 18 amended**

10 For section 18(1) substitute —

- 11 “(1) A returning officer must, by writing under that officer’s hand, and
 12 in the form specified by the Chief Secretary —
- 13 (a) appoint a fit and proper person as deputy returning officer
 14 for all of the purposes of the election; or
- 15 (b) appoint two or more fit and proper persons as deputy
 16 returning officers.
- 17 (1A) If the returning officer appoints more than one deputy returning
 18 officer, he or she —
- 19 (a) may authorise any of the deputies to perform any or all of
 20 the returning officer’s functions, and
- 21 (b) must secure that every function of the returning officer is
 22 capable of being exercised, in the returning officer’s
 23 absence or unavailability, by at least one of the deputies.”.

24 **11 Payment of official expenses: s. 20 amended**

- 25 (1) Section 20 is amended as follows.
- 26 (2) In subsection (5) delete “in duplicate”.
- 27 (3) In the marginal note at the end add “**of returning officers**”.

28 **12 Donations and expenses: Part 2, Division 4 inserted**

29 After section 20 insert —

30 “DIVISION 4 — ELECTION DONATIONS AND EXPENSES

31 **20A Donations received**

- 32 (1) A candidate must, no later than 5 working days before polling
 33 day, deliver to the Electoral Registration Officer a written

- 1 | declaration containing the information required by subsections (2)
2 | and (3).
- 3 | (2) The information required by this subsection is—
- 4 | (a) a statement by the candidate of the sum of relevant
5 | donations received by him or her (as a candidate or a
6 | prospective candidate) during the relevant period together
7 | with the donor's name, the amount or value of the relevant
8 | donation, and whether the relevant donation is of —
- 9 | (i) money;
- 10 | (ii) a loan of money;
- 11 | (iii) goods or the use of goods; or
- 12 | (iv) services; or
- 13 | (b) a statement by the candidate that no such donations were
14 | received by him or her (as a candidate or a prospective
15 | candidate) during that period.
- 16 | *Note: This subsection deals only with donations from identifiable donors*
17 | *(whether individual or corporate). For anonymous donations see*
18 | *subsection (3) below.*
- 19 | (3) The information required by this subsection is —
- 20 | (a) a statement by the candidate which identifies each
21 | anonymous donation received by him or her (as a
22 | candidate or a prospective candidate), during that period,
23 | together with its amount and that section 20B has been
24 | complied with in respect of every such donation; or
- 25 | (b) a statement by the candidate that no such donations were
26 | received by him or her (as a candidate or a prospective
27 | candidate) during that period.
- 28 | (4) For the purpose of subsection (2) a donation is “relevant” if it is of
29 | or more than, or has a value of or more than, the minimum
30 | amount (and is not anonymous).
- 31 | (5) Except where the donor is anonymous, donations made by each
32 | person, including any connected person, must be aggregated for
33 | the purposes of determining whether they are of, or have a value
34 | of more, than the minimum amount (and hence whether they are
35 | relevant for the purposes of subsection (2)).
- 36 | (6) In this section “minimum amount” means £50.
- 37 | (7) Regulations may amend this section so as to vary the minimum
38 | amount.

20B Disposal of anonymous donations

- (1) A candidate or prospective candidate must not keep an anonymous donation.
- (2) A candidate or prospective candidate who receives an anonymous donation must, within 10 working days of receiving it, send it to the Chief Financial Officer who must make arrangements for its distribution to the nominated charitable trust for distribution as the trustees think fit.

20C Election expenses

- (1) A candidate's total election expenses incurred during the relevant period (as a candidate and (if appropriate) as a prospective candidate) must not exceed the maximum amount.

Note: What constitutes an election expense, and when it is to be treated as incurred is to be determined in accordance with Schedule 3A.

- (2) If the Electoral Registration Officer receives, within 3 months of an election, a complaint alleging that a candidate's election expenses have exceeded the maximum amount, the Electoral Registration Officer must give notice to the candidate as soon as reasonably practicable.
- (3) The notice must require the candidate to deliver to the Electoral Registration Officer within 15 working days a written declaration of his or her election expenses falling within subsection (1), itemising the amounts expended (whether direct or notional) and the goods and services to which those amounts relate.
- (4) For the purposes of this section the "maximum amount" is the total of £2,000 plus 50 pence for each person registered as an elector on the relevant register for the constituency in which the candidate is standing for election.
- (5) For the purposes of this section "relevant register" means the register most recently prepared prior to 6 weeks before polling day.
- (6) Regulations may amend this section so as to vary the maximum amount.

20D Requirements in respect of declarations

- (1) The declarations required by sections 20A(1) and 20C(3) must —
 - (a) be made using a form supplied by the Electoral Registration Officer;

- 1 (b) include a statement that, to the best of the candidate's
 2 knowledge, information and belief, the information
 3 contained in it is true, complete and correct; and
 4 (c) be signed by the candidate.
- 5 (2) If, having made a declaration, a candidate becomes aware of any
 6 variation in or addition to the information required to be declared,
 7 the candidate must, as soon as possible and, in any event, no later
 8 than 10 working days after becoming so aware, deliver to the
 9 Electoral Registration Officer a further written declaration of the
 10 variation or addition.
- 11 (3) A declaration delivered under subsection (2) must comply with
 12 subsection (1)(b) and (c).
- 13 (4) The Electoral Registration Officer must —
 14 (a) record the details of every declaration delivered under this
 15 section in a register (which may be maintained
 16 electronically); and
 17 (b) file a copy of every such declaration in the General
 18 Registry.
- 19 (5) The register maintained under subsection (4)(a) and document
 20 filed under subsection (4)(b) are to be available for inspection by
 21 the general public, on payment of such fee (if any) as the Treasury
 22 may determine, at the General Registry, during its normal
 23 working hours.

24 **20E Verification of expenses**

- 25 (1) Where the Electoral Registration Officer has received a complaint
 26 under section 20C(2), the Electoral Registration Officer may
 27 require the candidate who is the subject of the complaint to
 28 produce invoices, receipts and other proof of the candidate's
 29 election expenses.
- 30 (2) A requirement under subsection (1) must be in writing.
- 31 (3) A candidate must comply with a requirement under subsection
 32 (1) within 15 working days of its being made.

33 **20F Requirement to provide information and documents to candidate**

34 A person who incurs or pays a candidate's election expenses must, as
 35 soon as is practicable, provide the candidate with such information and
 36 documents as the candidate requires to comply with sections 20D and
 37 20E.

1 **20G Interpretation**

2 | For the purposes of this Division –

- 3 (a) whether a person is connected with a candidate is
 4 determined in the same way as it would be for income tax
 5 purposes by virtue of section 119C of the *Income Tax Act*
 6 *1970*; and
- 7 (b) “the relevant period” means –
- 8 (i) in the case of an election of the Keys under section
 9 2(1), the period beginning 12 months before polling
 10 day and ending on polling day; and
- 11 (ii) in the case of any other election to the Keys, the
 12 period beginning with the date on which the
 13 vacancy occurs and ending on polling day. **22**

14 **13 Election proceedings: s. 22 substituted, Schedule 2 repealed, etc.**

15 (1) For section 22 substitute –

16 **“22 Proceedings**

- 17 (1) The proceedings at an election shall be conducted in accordance
 18 with regulations made under this section (“**election regulations**”).
- 19 (2) At an election a person must not vote otherwise than in
 20 accordance with election regulations.
- 21 (3) Election regulations may provide for the procedures to be
 22 followed at elections including in particular the following –
- 23 (a) a timetable for the proceedings at an election, including
 24 provisions as to the computation of time;
- 25 (b) the delivery of writs of election to and by returning
 26 officers;
- 27 (c) the publication of notices of election and their content;
- 28 (d) a mechanism for the nomination of candidates, the
 29 publication of nominations, the delivery of nomination
 30 papers, the contents of nomination papers to be specified,
 31 the conditions of their validity and the criteria for objection
 32 to nominations;
- 33 (e) a mechanism for –
- 34 (i) the withdrawal of candidates;
- 35 (ii) the cancellation of a candidate’s nomination in the
 36 event that the candidate becomes disqualified after
 37 nomination day but before polling day (or before
 38 the close of the poll if there is one);

- 1 (iii) the publication of withdrawal or cancellation of
2 nomination;
- 3 (f) the procedure in the event of a death of a candidate;
- 4 (g) the method of electing candidates, including notice of poll,
5 the issuing of poll cards in a form to be specified, provision
6 of polling stations and the necessary equipment and means
7 for secret voting, the sealing of ballot boxes, the content,
8 form and appearance of ballot papers to be as prescribed or
9 specified, procedure on spoilt ballot papers, verification of
10 identity of voters and procedure on challenge of voters, the
11 manner of voting, including by those needing assistance,
12 the display of guidance notes for voters to be specified and
13 the procedure on close of poll;
- 14 (h) the responsibilities of returning officers, including
15 regulation of numbers of persons in polling stations and
16 the conduct of such persons, and the appointment of
17 presiding officers and other officers to assist with elections,
18 their oaths of office, their duties and responsibilities
19 including provision as to delegation to or by them, and for
20 those persons and deputy returning officers to be paid by
21 returning officers;
- 22 (i) the prohibition on disclosure of how a person has voted
23 and for a declaration of secrecy to be made in such form
24 and manner and by such persons as may be prescribed;
- 25 (j) the appointment by candidates of polling and counting
26 agents subject to conditions of or in accordance with
27 election regulations and a procedure for the challenge of
28 voters;
- 29 (k) the procedure on counting and re-counting of votes,
30 including presence at the count and the declaration of
31 result and the procedure for the return of elected
32 candidates; and
- 33 (l) the retention, production, public inspection and disposal of
34 documents.”.
- 35 (2) Schedule 2 (which was dependent upon section 22 as originally enacted)
36 is repealed.
- 37 (3) In the following provisions for “the election rules” substitute “election
38 regulations” —
- 39 (a) section 13(3);
- 40 (b) section 46(4);
- 41 (c) section 52(b);
- 42 (d) Schedule 3, paragraph 6(5)(a).

1 **14 Effect of non-compliance with election regulations: s. 23 amended**

2 In section 23 —

- 3 (a) in the marginal note for “rules” substitute “election regulations”;
- 4 (b) for “election rules” substitute “election regulations”.

5 **15 Entitlement to vote at an election: s. 24 amended**

6 After section 24(1) insert —

7 “(1A) A person entitled to vote may do so only in person or by proxy in
8 accordance with this Act.”.

9 **16 Place and manner of voting: s. 25 substituted**

10 For section 25 substitute —

11 **“25 Place and manner of voting**

12 A person entitled to vote at an election —

- 13 (a) may do so in person at the polling station allotted under
14 election regulations (unless he or she is an advance voter or
15 a person appointed as the person’s proxy has already
16 voted on his or her behalf);
- 17 (b) may do so in advance if the conditions set out in section 26
18 are met; or
- 19 (c) may do so by proxy if he or she has applied under section
20 27 (unless he or she has already voted in person).”.

21 **17 Advance votes: s. 26 amended**

22 In section 26 —

23 (a) for subsection (1) substitute —

24 “(1) A person who is or will be entitled to vote at an election may
25 apply to the returning officer of the appropriate constituency to
26 vote in advance of the election in accordance with this section
27 (whether in his or her own capacity or as a proxy on behalf of an
28 elector who meets the requirements of section 27(1)).”;

- 29 (b) in subsection (3) for “An application to be treated as an absent
30 voter” substitute “The application” and in paragraph (a) for
31 “Island or elsewhere” substitute “British Islands”;
- 32 (c) in subsection (4) for “absent” substitute “advance”;
- 33 (d) accordingly, for the marginal note substitute “Advance votes”.

18 Proxy votes: s. 27 amended

In section 27 —

(a) for subsection (1) substitute —

“(1) An elector entitled to vote at an election who is unable to vote in person or as an advance voter may apply to the Electoral Registration Officer for the appointment of a person named in the application as a proxy to vote for the elector at that election.”;

(b) for subsection (4) substitute —

“(4) The Electoral Registration Officer may grant an application under subsection (1) only if satisfied, on information provided by the elector that —

(a) the elector is entitled to make an application under that subsection; and

(b) the person to be appointed as the proxy is willing to act in that capacity, and is not disqualified under this section.

(4A) The Electoral Registration Officer may request the elector to provide such further evidence as he or she considers necessary to determine the matter.”.

19 Public notices and distribution of manifestos: ss. 30 and 31 substituted

For sections 30 and 31 substitute —

“30 Public notices

Wherever public notice is required by this Act to be given, and no mode or place of publication is expressly provided for, publication —

(a) must be effected —

(i) by insertion in a newspaper published and circulating within the Island; and

(ii) by display on an appropriate website in an appropriate manner;

(b) may be effected by placard posted up in some public and conspicuous situation in the constituency to which the notice refers.

31 Distribution of election manifestos

(1) Every candidate may forward an electronic version of his or her manifesto to the Chief Secretary who must arrange for it to be displayed on an appropriate website within 3 working days and for the duration of the election campaign.

- 1 (2) Every candidate is entitled to have his or her manifesto delivered
 2 by Isle of Man Post Office to each household containing one or
 3 more persons on the electoral register for the constituency in
 4 which the candidate is standing for election and the cost of such
 5 delivery subject to regulations must be paid out of money
 6 provided by Tynwald.
- 7 (3) Regulations may make further provision regarding the
 8 distribution of manifestos.”.

9 20 Election observers: ss. 31A to 31C inserted

10 After section 31 insert —

11 “31A Election observers

- 12 (1) An application may be made to the Governor for any
 13 representative of a named body to be an accredited observer at
 14 any of the following proceedings relating to an election —
- 15 (a) proceedings at the poll;
 16 (b) proceedings at the counting of votes.
- 17 (2) Before granting an application under subsection (1) the Governor
 18 must be satisfied that the body to which the representative
 19 belongs has a genuine interest in the outcome of the election.
- 20 (3) An accredited observer must not be under the age of 16.
- 21 (4) If the Governor grants the application, the accredited observer
 22 may attend the proceedings in question.
- 23 (5) An application under subsection (1) must be made in the manner
 24 specified in the code of practice issued under section 31C.
- 25 (6) The Governor may at any time revoke the grant of an application
 26 under subsection (1).
- 27 (7) If the Governor —
- 28 (a) refuses an application under subsection (1); or
 29 (b) revokes the grant of any such application,
 30 the Governor must give the decision in writing and must at the
 31 same time give reasons in writing for the refusal or revocation.
- 32 (8) This section is subject to any other provision of, or made under,
 33 this Act regulating attendance at the proceedings in question.

34 31B Attendance and conduct of observers

- 35 (1) A relevant officer may limit the number of accredited observers
 36 who may be present at any proceedings at the same time.

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- (2) If an accredited observer misconducts himself or herself while attending the proceedings, the relevant officer may cancel the person's entitlement.
 - (3) Subsection (2) does not affect any power a relevant officer has by virtue of any enactment or rule of law to remove a person from any place.
 - (4) In this section "relevant officer" means—
 - (a) in the case of proceedings at a polling station, the presiding officer;
 - (b) in the case of any other proceedings at an election, the returning officer; and
 - (c) such other person as a person mentioned in paragraph (a) or (b) authorises for the purposes of the proceedings mentioned in that paragraph.

15 **31C Code of practice on attendance of observers at elections etc.**

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- (1) The Governor must prepare a code of practice on the attendance of accredited observers at elections.
 - (2) The code must in particular —
 - (a) specify the manner in which applications under section 31A are to be made;
 - (b) specify, subject to section 31A(2), the criteria to be taken into account by the Governor in determining such applications;
 - (c) give guidance to relevant officers as to the exercise of the power conferred by section 31B(1);
 - (d) give guidance to such officers as to the exercise of the power conferred by section 31B(2) as it relates to accredited observers;
 - (e) give guidance to such officers as to the exercise of any power under any enactment to control the number of persons present at any proceedings relating to an election as it relates to accredited observers; and
 - (f) give guidance to accredited observers on the exercise of the rights conferred by sections 31A and 31B.
 - (3) The code may make different provision for different purposes.
 - (4) The Governor must publish the code in such manner as the Governor may determine.
 - (5) A relevant officer must have regard to the code in exercising any function conferred by section 31B.

- 1 (6) The Governor may at any time revise the code and subsections (4)
 2 and (5) apply in relation to a revision of the code as they apply in
 3 relation to the code.
- 4 (7) In this section “relevant officer” has the same meaning as it has in
 5 section 31B.”.

6 **21 Corrupt and illegal practices: s. 32 amended**

7 In section 32(2) after paragraph (e) insert —

- 8 “(ea) a person who commits an offence under any provision of
 9 section 44A or 44B which is triable on information;”.

10 **22 Election publications: s. 37 amended**

11 In section 37 —

- 12 (a) in subsection (1)(a) after “procuring” insert “, or discouraging or
 13 preventing;”;
- 14 (b) at the end of subsection (2) insert —
 15 “; or
 16 (c) on any building or within the curtilage of a building (other
 17 than domestic accommodation or building that is sublet to
 18 any person other than a Department or Statutory Board)
 19 that is owned or occupied by a Department or Statutory
 20 Board.”;
- 21 (c) in subsection (4) delete “other than a candidate”;
- 22 (d) for subsection (6) substitute —
 23 “(6) In this section —
 24 “distribute” includes distributing by electronic means;
 25 “print” includes any process for multiplying copies of a document, other
 26 than copying it by hand;
 27 “publish” includes publishing by electronic means.”.

28 **23 S. 40 substituted**

29 For section 40 substitute —

30 **“40 Premises where alcohol sold or supplied not to be used for 31 election purposes**

- 32 (1) Any person who —
 33 (a) hires or uses any premises to which this section applies for
 34 any purposes in connection with an election; or

- 1 (b) lets any premises to which this section applies knowing
2 that it was intended to use it for any such purposes,
3 is guilty of an illegal hiring.
- 4 (2) This section applies to any premises (or any part of any
5 premises) —
6 (a) that are licensed for the sale of any liquor for consumption
7 on or off the premises or on which refreshment of any kind
8 (whether food or drink) is normally sold for consumption
9 on the premises; or
10 (b) where any liquor is supplied to members of a club, society
11 or association, other than a permanent political club,
12 other than any part of premises used as office accommodation or
13 for public meetings or arbitrations that have a separate entrance
14 and no direct communication with any part of the premises on
15 which any liquor or refreshment is sold or supplied as mentioned
16 above.
- 17 (3) In this section “liquor” has the same meaning as in the *Licensing*
18 *Act 1995*.”.

19 **24 S. 41 repealed**

20 Section 41 (bands of music) is repealed.

21 **25 Voting offences: s. 43 amended**

- 22 (1) Section 43 is amended as follows.
- 23 (2) In subsection (1) —
24 (a) in paragraph (a) for “whether as an elector or by proxy, and
25 whether in person or by post” substitute “in any capacity or by
26 any means provided for by this Act”;
27 (b) in paragraph (b) for “an absent voter’s ballot for himself or for
28 some other person” substitute “the person or another person to
29 vote in advance of the election”;
30 (c) delete paragraph (e).
- 31 (3) In subsection (2)(b) for “absent voter” substitute “advance voter”.

32 **26 Ss. 44A and 44B inserted**

33 After section 44 insert —

34 **“44A Offences in connection with political parties**

- 35 (1) A candidate or prospective candidate who accepts support or
36 endorsement from a political party that is not registered under

Part 1A (registration of political parties) is guilty of an offence and liable —

- (a) on conviction on information to a fine;
- (b) on summary conviction to a fine not exceeding £5,000.

- (2) A person who, knowingly or recklessly, makes any application or delivers any notice to the Electoral Registration Officer under Part 1A that is false in a material particular, is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.

44B Offences in connection with funding

- (1) If the treasurer of a political party fails, without reasonable excuse, to comply with section 10J(2) (treasurer to send anonymous donation to Chief Financial Officer) the treasurer is guilty of an offence and liable —

- (a) on conviction on information to a fine;
- (b) on summary conviction to a fine not exceeding £5,000.

- (2) A candidate or prospective candidate who fails, without reasonable excuse, to comply with section 20B(2) (candidate to send anonymous donation to Chief Financial Officer) is guilty of an offence and liable —

- (a) on conviction on information to a fine;
- (b) on summary conviction to a fine not exceeding £5,000.

- (3) A candidate whose election expenses exceed, without reasonable excuse, the maximum amount permitted by section 20C(1) (election expenses) is guilty of an offence and liable —

- (a) on conviction on information to a fine;
- (b) on summary conviction to a fine not exceeding £5,000.

- (4) A candidate who —

- (a) fails, without reasonable excuse, to deliver a declaration, or further declaration, in accordance with section 20D (requirements in respect of declarations); or
- (b) delivers a declaration, or a further declaration, under section 20D, knowing or believing it to be false in a material particular,

is guilty of an offence and liable —

- (i) on conviction on information to a fine;
- (ii) on summary conviction to a fine not exceeding £5,000.

- (5) A person who fails, without reasonable excuse, to comply with —

- 1 (a) section 20E (candidate must within 15 days provide proof
2 of expenses incurred on request); or
3 (b) section 20F (person to provide details to candidate as to
4 expenses incurred),
5 is guilty of an offence and liable on summary conviction to a fine
6 not exceeding £5,000.”.

7 **27 Interpretation: ss. 55 and 75 amended**

- 8 (1) In sections 55 and 75 omit the definition of “candidate”.
9 (2) In section 75 omit the definition of “prescribed”.

10 **28 Relief for innocent act: s. 63 amended**

11 After section 63(1) insert —

- 12 “(1A) For the sake of clarity, under this section—
13 (a) an application may be made by a person, and
14 (b) relief may be granted under it to a person,
15 even if the person is not entitled to present an election petition.”.

16 **29 Interpretation: s. 77 amended**

- 17 (1) Section 77 is amended as follows.
18 (2) Renumber the existing text as subsection (1) and in that subsection—
19 (a) at the appropriate points in the alphabetical list of definitions
20 insert the following —
21 “**accredited observer**” means a person permitted to attend election
22 proceedings as an observer in accordance with section 31A;
23 “**advance voter**” means a person allowed to vote in advance under
24 section 26;
25 “**anonymous**” – see subsection (2);
26 “**candidate**” — see subsection (6);
27 “**donation**” — see subsection (3);
28 “**election expenses**” — see subsection (4);
29 “**Electoral Registration Officer**” means the officer for the time being
30 appointed under section 4(1) of the *Registration of Electors Act*
31 *2006*;
32 “**nominated charitable trust**” means the Manx Lottery Trust, an
33 independent charitable trust established by a trust deed dated
34 21st May 2008;

1 “**political party**” means an organisation, howsoever called, one of whose
 2 fundamental purposes is to participate in the public affairs of the
 3 Island by supporting or otherwise endorsing a candidate at an
 4 election of the Keys;

5 “**prospective candidate**” — see subsection (7);

6 “**support**” need not be financial support;

7 “**working day**” means any day other than Christmas Day, Good Friday,
 8 a Saturday, a Sunday or a day prescribed as a bank holiday under
 9 section 1 of the *Bank Holidays Act 1989*.”;

10 (b) delete the definition of “election rules”;

11 (c) in the definition of “**prescribed**” for “Part 5” substitute “Schedule
 12 3”.

13 (3) After subsection (1) (as renumbered above) insert —

14 “(2) For the purposes of this Act a donor or donation is “**anonymous**”
 15 if the recipient is unable, despite taking all reasonable steps —

16 (a) in the case of a donation made by a person other than in
 17 the person’s capacity as a trustee, to ascertain the identity
 18 of the donor making the donation;

19 (b) in the case of a donation made by a trustee, to ascertain the
 20 identity of the settlor or other contributor to the trust
 21 providing the asset from which the donation is derived.

22 (3) Whether something constitutes a donation for the purposes of this
 23 Act, and if so the timing and amount of the donation, is to be
 24 determined in accordance with Part 1 of Schedule 3A.

25 (4) Whether or not something constitutes an election expense for the
 26 purposes of this Act and, if so, the timing and amount of the
 27 expense is to be determined in accordance with Part 2 of Schedule
 28 3A.

29 (5) Regulations may amend the definition of “nominated charitable
 30 trust”.

31 (6) For the purposes of this Act a person becomes a candidate for an
 32 election on the day on which, in accordance with election
 33 regulations, a person is nominated for election to the Keys, and
 34 that nomination is accepted by a returning officer.

35 (7) For the purposes of this Act a person becomes a prospective
 36 candidate for the next election of the Keys when —

37 (a) that person (“C”) declares C’s intention to be a candidate at
 38 that election; or

39 (b) another person, with C’s consent, declares C’s intention to
 40 be such a candidate.

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- (8) But if the declaration referred to in subsection (7) occurs more than 12 months before the day of the election, C becomes a prospective candidate on the day that is 12 months before election day. **22**.

5 **30 Regulations under the Act: s. 80 amended**

6 In section 80 —

- 7 (a) in subsection (1) for “Part 5” substitute “Schedule 3”;
- 8 (b) after subsection (1) insert —
- 9 **23**(1A) Regulations may amend this Act so as to vary any reference to
- 10 any period of time mentioned in sections 20A to 20G. **22**.

11 **31 Transitional provisions, etc: s.81 amended**

12 In section 81 (transitional provisions, amendments, repeals and revocations) —

- 13 (a) omit subsection (1); and
- 14 (b) at the end insert —
- 15 **23**(4) In applying any provision of this Act inserted by the
- 16 Representation of the People (Amendment) Act 2015, in reckoning
- 17 any period of time, disregard any time before the provision so
- 18 inserted comes into operation. **22**.

19 **32 Schedule 3, paragraph 1 amended: definitions for Schedule**

20 In paragraph 1 of Schedule 3 after the definition of “petition” insert —

21 “ “prescribed” means prescribed by rules of court;”.

22 **33 Schedule 3A inserted**

23 After Schedule 3 insert (as Schedule 3A) the Schedule set out in Schedule 2 to

24 this Act.

25 **34 Repeal of Schedule 6: transitional provisions**

26 Schedule 6, which contains spent transitional provisions, is repealed.

27 **35 Consequential amendments: Local Elections Act 1986**

- 28 (1) The *Local Elections Act 1986* is amended as follows.
- 29 (2) In section 1(2) for “Election Rules contained in Schedule 2 to” substitute
- 30 “election regulations made under”.
- 31 (3) In section 7(1)(disqualification for election and holding office as member
- 32 of a local authority) for everything following paragraph (a) substitute —
- 33 **23** or

(b) is disqualified for election to, or for being a member of, the House of Keys by section 1(2) of the *Representation of the People Act 1995*. **22**.

(4) In Schedule 1 (which lists provisions of the Representation of the People Act 1995 applying for the purposes of local elections and modifications for those purposes) —

(a) in the entry for section 23 for “rules” substitute “election regulations”;

(b) in the entry for section 24 in the text in column 3 after ““district or ward””, add **23** and in subsection (1A) omit the words “or by proxy” **22**;

(c) in the entry for section 25 for the text in column 3 substitute —

24 In paragraph (a) omit the words “or a person appointed as the person’s proxy has already voted on his or her behalf”, and omit paragraph (c). **22**;

(d) in the entry for section 26 —

(i) for the text in column 2 substitute “Advance votes”; and

(ii) at the end of the text in column 3 add **25** and omit the words “or as a proxy on behalf of an elector who meets the requirements of section 27(1)”. **22**;

(e) in the entry for section 30 in column 3 insert —

26 In paragraph (b) for “constituency” substitute “district or ward”. **22**;

(f) in the entry for section 32 in column 3 insert **27** Omit subsection (2)(ea). **22**;

(g) in the entry for section 40 for “Premises not to be used as committee rooms” substitute **28** Premises where alcohol sold or supplied not to be used for election purposes **22**;

(h) delete the entry for section 41;

(i) in the entry for section 43 omit “in paragraph (a), omit ‘whether as an elector or by proxy,’”;

(j) in the entry for section 55 omit the text in column 3;

(k) in the entry for section 77 for the text in column 3 substitute —

29 In subsection (1) —

(a) omit the definitions of “anonymous”, “accredited observer” “donation”, “election expenses”, “nominated charitable trust”, “political party”, “prospective candidate” and “support”; and

(b) insert in the correct alphabetical order the following definitions —

“**the Department**” means the Department of Infrastructure;

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“**election**” means a local election (within the meaning of the *Local Elections Act 1986*);

“**regulations**” means rules under section 1 of the *Local Elections Act 1986*.

Omit subsections (2) to (5).

In subsection (6) for “the Keys” substitute “the local authority”.

Omit subsections (7) and (8). **■**

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36 Consequential amendment: Payment of Members’ Expenses Act 1989

In section 6A(3) of the *Payment of Members Expenses Act 1989* for “the election rules in Schedule 2 to” substitute “election regulations made under”

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37 Consequential amendments: Registration of Electors Act 2006

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(1) The *Registration of Electors Act 2006* is amended as follows.

(2) For section 3(3) substitute —

“ (3) A person may only be registered —

(a) in one polling district for elections to the Keys; and

(b) in one polling district for all elections to local authorities in the Island.

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For the sake of clarity, the polling district in which a person is registered under paragraph (a) need not be the same as that in paragraph (b).”.

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(3) In section 4 —

(a) for subsection (1) substitute —

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“ (1) The Chief Secretary must appoint a person employed in the Cabinet Office as the Electoral Registration Officer to perform the functions in subsection (2) and to perform such other functions in connection with elections as may be imposed by any other enactment.”;

27
28

(b) in subsection (2) for the words preceding paragraph (a) substitute —

29
30

“ (2) The functions of the Electoral Registration Officer under this Act are — ”;

31

(c) in subsection (3) omit “the registration officer, or”.

32
33
34

(4) In consequence of the amendment made by subsection (2)(a) —

(a) for “registration officer” wherever occurring in the Act, except section 4, substitute “Electoral Registration Officer; and

35
36
37

(b) in section 15(1) relocate the definition of “registration officer” (as amended in accordance with paragraph (a)) to the appropriate point in the alphabetical list.

1



1

SCHEDULE 1

2

[Section 4]

3

GENDER-NEUTRALITY

4

1 Section 3 amended

5

In section 3 for the opening words of subsection (1) and the words in paragraph (a) preceding sub-paragraph (i) substitute —

6

7

“(1) Whenever the Governor thinks it expedient the Governor may —

8

(a) by precept under the Governor’s hand —”.

9

2 Section 5 amended

10

In section 5 for “his notice otherwise than by reason of his own resignation” substitute “the Speaker’s notice otherwise than by reason of the Speaker’s own resignation”.

11

12

13

3 Section 6 amended

14

In section 6 —

15

(a) in subsection (1) —

16

(i) for “his seat” substitute “the member’s seat”;

17

(ii) in paragraphs (a) and (b) after “he” insert “or she”;

18

(iii) in paragraph (a) after “his” insert “or her”;

19

(b) in subsection (2) —

20

(i) after “he” insert “or she”;

21

(ii) in paragraph (a) after himself insert “or herself” and after “his” insert “or her”;

22

23

(c) in subsection (3) for “he” substitute “the member”;

24

(d) in subsection (4) —

25

(i) after “his” in both places insert “or her”;

26

(ii) after “he” wherever occurring insert “or she”;

27

(e) in subsection (5)(b) after “his” insert “or her”;

28

(f) in subsection (6) for “his” substitute “the member’s”;

29

(g) in subsection (7)(b) and subsection (8) delete “his”;

30

(h) in subsections (9) and (10) after “his” wherever occurring insert “or her”.

31

32

4 Sections 7 and 8 amended

33

In sections 7 and 8 for “he” wherever occurring substitute “the member”.

1 **5 Section 9 amended**

2 In section 9(2)(b) and (c) after “his” wherever occurring insert “or her”.

3 **6 Section 13 amended**

4 In section 13 —

5 (a) in subsection (1) for “his” substitute “the Governor’s”;

6 (b) for subsection (5) substitute —

7 “(5) The Governor may declare a returning officer’s office to be vacant
8 (and consequently the returning officer treated as having retired)
9 if —

10 (a) the returning officer has given the Governor notice of his
11 or her intention to retire; or

12 (b) the Governor thinks it is expedient that the returning
13 officer should retire.”.

14 **7 Section 14 amended**

15 In section 14(2) after “he” insert “or she”.

16 **8 Section 15 amended**

17 In section 15 —

18 (a) in paragraph (a) after “he” insert “or she”;

19 (b) in paragraph (b) after “his” insert “or her”.

20 **9 Section 16 amended**

21 In section 16(2) —

22 (a) after “his” insert “or her”;

23 (b) for “he fails to do so he” substitute “the returning officer fails to
24 do so he or she”.

25 **10 Section 17 amended**

26 In section 17(2) —

27 (a) in paragraphs (a) and (c) after “him” insert “or her”;

28 (b) in paragraph (a) after “he” insert “or she”;

29 (c) in paragraph (d) after “his” insert “or her”.

30 **11 Section 18 amended**

31 In section 18(3) after “him” insert “or her”.

- 12 Section 19 amended**
In section 19(2) after “he” insert “or she” and after “his” insert “or her”.
- 13 Section 23 amended**
In section 23 after “his” insert “or her”.
- 14 Section 24 amended**
In section 24(2) and (3)(b) after “he” insert “or she”.
- 15 Section 32 amended**
In section 32 —
- (a) in subsection (2)(f) after “he” in both places insert “or she”;
 - (b) in subsection (4) for “his election” substitute “his or her election”;
 - (c) in subsections (4) and (5) for “of his” substitute “of the candidate’s”.
- 16 Section 33 amended**
In section 33(1) and (2) after “he” insert “or she”.
- 17 Section 34 amended**
In section 34 —
- (a) in subsections (1), (5) and (6) for “he directly or indirectly, by himself, or by any other person on his behalf” substitute “he or she directly or indirectly, by himself or herself, or by any other person on his or her behalf”;
 - (b) in subsection (1) for “he procures” substitute “he or she procures”;
 - (c) in subsection (3) after “he” insert “or she”;
 - (d) in subsection (5) after “himself” insert “or herself”.
- 18 Section 35 amended**
In section 35 —
- (a) in subsection (1) for “he corruptly, by himself” substitute “he or she corruptly, by himself or herself”;
 - (b) in subsection (3) after “his” insert “or her”.
- 19 Section 36 amended**
In section 36 —

- 1 (a) in subsection (1) after “if” insert “the person”;
- 2 (b) in subsection (1)(a) and (b) and (2)(a) and (b) delete the first
- 3 reference to “he”;
- 4 (c) in subsection (1)(a) and (b) after “himself” insert “or herself”;
- 5 (d) in subsection (1) after “his” insert “or her”;
- 6 (e) in subsection (2) after “contrivance” insert “, the person”.

7 **20 Section 38 amended**

8 In section 38(2), wherever occurring after “he” insert “or she” and after “his”

9 insert “or her”.

10 **21 Section 43 amended**

11 In section 43 —

- 12 (a) in subsection (1)(a), (b), (c), (j) and subsection (2) after “he” insert
- 13 “or she”;
- 14 (b) in subsection (1)(c) after “him” insert “or her”;
- 15 (c) in subsection (1)(g) after “his” insert “or her”;
- 16 (d) in subsection (1)(l), in both places after “himself” insert “or
- 17 herself”.

18 **22 Section 45 amended**

19 In section 45 —

- 20 (a) in subsections (1), (2) and (3)(c) after “his” insert “or her”;
- 21 (b) in subsection (1) after “he” insert “or she”.

22 **23 Section 46 amended**

23 In subsection (1)(d) and (2)(a) after “he” insert “or she”.

24 **24 Section 47 amended**

25 In section 47 —

- 26 (a) in subsection (4)(a) and (d) after “his” insert “or her”;
- 27 (b) in subsection (4)(d) and (5), wherever occurring after “he” insert
- 28 “or she”.

29 **25 Section 48 amended**

30 In section 48 after “his” insert “or her” and after “he” insert “or she”.

1 **26 Section 49 amended**

2 In section 49 after “he” insert “or she”.

3 **27 Section 50 amended**

4 In section 50(1) after “himself” insert “or herself” and after “him” in both places
5 insert “or her”.

6 **28 Section 52 amended**

7 In section 52 after “he” insert “or she”.

8 **29 Section 53 amended**

9 In section 53 —

- 10 (a) in subsection (1) for “his vote at an election, he” substitute “his or
11 her vote at an election, he or she”;
- 12 (b) in subsection (2) after “his” insert “or her”.

13 **30 Section 57 amended**

14 In section 57 —

- 15 (a) in subsection (1)(a) and (b) after “he” insert “or she”;
- 16 (b) in subsection (2) wherever occurring after “his” insert “or her”.

17 **31 Section 58 amended**

18 In section 58(1) after “his” in both places insert “or her”.

19 **32 Section 59 amended**

20 In section 59 —

- 21 (a) in subsections (1) and (2) after “he” insert “or she”;
- 22 (b) in subsection (2) for “him in his” substitute “him or her in his or
23 her”;
- 24 (c) in subsection (3)(a) after “him” insert “or her”.

25 **33 Section 60 amended**

26 In section 60(1) —

- 27 (a) in paragraph (a) for “his election, if he has been elected”
28 substitute “the election of the person (if any)”;
- 29 (b) in paragraph (b) for “he” substitute “the person”.

1 **34 Section 61 amended**

2 In section 61 —

- 3 (a) for “he” in both places substitute “the candidate”;
- 4 (b) delete “his”.

5 **35 Section 62 amended**

6 In section 62 —

- 7 (a) in subsection (1) for “himself or by any person on his behalf”
- 8 substitute “himself or herself or by any person on the candidate’s
- 9 behalf”;
- 10 (b) in subsections (2) and (3) for “his” substitute “the person’s”.

11 **36 Section 65 amended**

12 In section 65 —

- 13 (a) in subsection (1) —
- 14 (i) delete “to him” where first occurring and “by him”;
- 15 (ii) for “to him” where it occurs for the second time substitute
- 16 “to the Attorney General”;
- 17 (iii) for “he” in both places substitute “the Attorney General”;
- 18 (b) in subsection (2) after “him” insert “or her”;
- 19 (c) in subsections (2)(a) and (b) and (4)(b) for “he” substitute “the
- 20 person prosecuted”;
- 21 (d) in subsection (4) for “upon his” substitute “on”;
- 22 (e) in subsections (6), (7)(a) and (b), 8(b) in both places and (9)(a) for
- 23 “him” substitute “the accused”;
- 24 (f) in subsections (7)(a) and (9) for “he” substitute “the accused”;
- 25 (g) in subsection (8)(a) for “his” substitute “the accused’s”.

26 **37 Section 66 amended**

27 In section 66 —

- 28 (a) in subsection (1) wherever occurring and in subsection (2) after
- 29 “his” insert “or her”;
- 30 (b) in subsections (1), (2), (4) and (5) after “he” insert “or she”.

31 **38 Section 67 amended**

32 In section 67 —

- 33 (a) in subsections (1) and (2) after “he” insert “or she”;
- 34 (b) in subsection (4) after “him” insert “or her”.

1 **39 Section 71 amended****2** In section 71 —

- 3** (a) in subsection (1) for “he” and “him” substitute “the Attorney
4 General”;
- 5** (b) in subsection (2) for “by himself” substitute “either personally”.

6 **40 Section 74 amended****7** In section 74(1) —

- 8** (a) for “him” in both places substitute “the person”;
- 9** (b) after “himself” insert “or herself”;
- 10** (c) in paragraph (a) for “his” substitute “the person’s”.

11 **41 Schedule 3 amended**

- 12** (1) Schedule 3 is amended as follows.
- 13** (2) In paragraph 2(1)(c) after “himself” insert “or herself”.
- 14** (3) In paragraph 3(2) for “his” substitute “the member’s”.
- 15** (4) In paragraph 4(1) for “him” substitute “the petitioner”.
- 16** (5) In paragraph 6(4) after “he” insert “or she”.
- 17** (6) In paragraph 7 —
- 18** (a) in sub-paragraph (1) delete “him”;
- 19** (b) in sub-paragraph (2) for the first “him” substitute “the Attorney
20 General” and after the second “him” insert “or her”;
- 21** (c) in sub-paragraph (3)(a) after “he” insert “or she”;
- 22** (d) in sub-paragraph (5) for “him” in both places substitute “the
23 person” and after “he” insert “or she”.
- 24** (7) In paragraph 9 —
- 25** (a) in sub-paragraph (1)(b) after “his” insert “or her”;
- 26** (b) In sub-paragraph (2) —
- 27** (i) in head (a) for “him” substitute “the person”;
- 28** (ii) for head (b) substitute —
- 29** “(b) if the person appears in pursuance of the notice, give the
30 person an opportunity of being heard in person and of
31 calling evidence in his or her defence to show why he or
32 she should not be so reported.”;
- 33** (c) in sub-paragraph (3) for “his” substitute “the Attorney General’s”.
- 34** (8) In paragraph 11 —
- 35** (a) in sub-paragraph (3) for “his” substitute “the applicant’s”;

- 1 (b) in sub-paragraph (4) for “his” in both places substitute “the
2 Attorney General’s”.
- 3 (9) In paragraph 13 —
- 4 (a) in sub-paragraph (1) for “him” substitute “the person”;
- 5 (b) in sub-paragraph (2) after “his” insert “or her”;
- 6 (c) in sub-paragraph (3) for “he proceeds with his petition” substitute
7 “he or she proceeds with his or her petition”.
- 8 (10) In paragraph 15(1)(b) after “he” insert “or she”.
- 9 (11) In paragraph 16(3) after “him” insert “or her”.
- 10 (12) In paragraph 17 —
- 11 (a) for sub-paragraph (1) substitute —
- 12 “(1) If before the trial of a petition the Keys resolve that the seat of a
13 respondent is vacant or that respondent (not being a returning
14 officer) —
- 15 (a) dies;
- 16 (b) becomes a member of the Council; or
- 17 (c) gives the prescribed notice that he or she does not intend to
18 oppose the petition,
- 19 the prescribed notice of those events must be given in the
20 constituency to which the petition relates.
- 21 (1A) Within the prescribed time after the notice is given any person
22 who might be a petitioner in respect of the election may apply to
23 the court to be admitted as a respondent to oppose the petition,
24 and must so admitted save that no more than 3 persons may be
25 admitted in total.”;
- 26 (b) in sub-paragraph (2) after “he” in both places insert “or she”.
- 27 (13) In paragraph 18(2) after “his” insert “or her” and after “him” in both
28 places insert “or her”.
- 29 (14) In paragraph 19(1)(b) after “his” insert “or her”.
- 30

1

SCHEDULE 2

2

[Section 33]

3

SCHEDULE 3A INSERTED

4

☒ SCHEDULE 3A

5

[Section 77]

6

DONATIONS AND ELECTION EXPENSES

7

PART 1 — MEANING OF “DONATION”

8

1 Money

9

(1) A gift of money is a donation if —

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(a) it is made at any time during the relevant period and the giver signifies, either expressly or by implication, that the money is intended for use to pay the candidate’s election expenses; or

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(b) it is made after the candidate’s nomination is accepted by the returning officer but before the poll, and the gift is either made anonymously or the giver does not signify the intended use of the money.

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(2) A loan of money is a donation if —

18

(a) the loan is made either at no cost to the candidate or prospective candidate or on terms by which the cost to the candidate or prospective candidate is below the commercial rate for the loan; and

19

20

21

22

(b) the loan is made —

23

(i) at any time during the relevant period, and the lender signifies, either expressly or by implication, that the loan is intended for use to pay the election expenses of the candidate or prospective candidate; or

24

25

26

27

(ii) after the candidate’s nomination is accepted by the returning officer but before the poll, and is either made anonymously or the lender does not signify the intended use of the loan.

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30

31

(3) A gift or loan of money is made at the time when the money is given to the candidate or, if earlier, the time when the giver or lender informs the candidate of his or her intention to make the gift or loan.

32

33

2 Goods and services

- (1) A gift or loan of goods, the supply of goods for use or the supply of services is a donation if —
- (a) the gift or loan is made free of charge or at a discount to the open market value of or rate for the goods or services; and
 - (b) the gift or loan is made —
 - (i) during the relevant period, and the giver or lender signifies, either expressly or by implication, that the goods or services are intended for use by the candidate or prospective candidate, for the purposes described in paragraph 7(1)(b); or
 - (ii) after the candidate's nomination is accepted by the returning officer but before the poll, and is either made anonymously or the giver or lender does not signify the intended use of the goods or services.
- (2) A gift, loan of goods or supply of goods or services, is made at the time when the goods or services are supplied.

3 Value attributable to donation of loans, goods or services

- (1) The value of a donation that is a loan of money is the amount equal to the difference between the cost, to the candidate or prospective candidate, of the loan if it had been made on commercial terms and the actual cost to the candidate or prospective candidate.
- (2) The value of a donation of goods is the amount equal to the difference between the open market value of the goods and actual cost to the candidate or prospective candidate.
- (3) The value of a donation of the use of goods is the amount equal to the difference between the open market rate for the provision of the goods and the actual cost to the candidate or prospective candidate.
- (4) The value of a donation of the supply of services is the amount equal to the difference between the open market rate for their supply and the actual cost to the candidate or prospective candidate.

4 Exception for services of an individual provided without charge

- (1) The provision by an individual of his or her own services which he or she provides voluntarily, in his or her own time and without charge, is not a donation.
- (2) The exception in sub-paragraph (1) does not extend to any goods used by or supplied by the individual in the course of the provision of the individual's own services.

- 1 (3) However, the provision without charge of a motor vehicle by an
2 individual which the individual drives for the purposes of conveying
3 voters to or from a polling station on polling day does not constitute a
4 donation.

5 **5 Exception for newspapers and broadcasts**

- 6 (1) A person does not make a donation by publishing any matter relating to
7 an election —
8 (a) in a newspaper or periodical (including a web-based edition of
9 the newspaper or periodical);
10 (b) in a programme broadcast by a television or radio service
11 provider (including such a programme as it may be accessed on,
12 or downloaded from, a website); or
13 (c) on a website as part of the news service of a television or radio
14 service provider or news agency.
15 (2) Despite sub-paragraph (1), a person does make a donation if the person
16 provides an advertisement, or pays for the inclusion of an advertisement,
17 in a newspaper or a periodical.
18 (3) In this paragraph —
19 (a) references to a newspaper or a periodical include references to a
20 web-based edition of that newspaper or periodical; and
21 (b) references to a programme broadcast by a television or radio
22 service include references to such a programme being made
23 available for viewing or listening on, or downloading from, a
24 website.

25 **PART 2 — MEANING OF “ELECTION EXPENSES”**

26 **6 Election expenses of a candidate**

- 27 (1) Expenses are a candidate’s election expenses if they are incurred, or are
28 treated as being incurred at any time during the relevant period —
29 (a) by the candidate or prospective candidate or with that person’s
30 express or implied consent; and
31 (b) for the supply or use of goods or the provision of services used —
32 (i) to promote or procure the election of the candidate or the
33 prospective candidate at the election; or
34 (ii) to prejudice the electoral prospects of another candidate or
35 prospective candidate in the same election.
36 (2) If a candidate or prospective candidate is endorsed by any other person,
37 the candidate or prospective candidate is taken, for the purposes of sub-

1 paragraph (1)(a), to have consented to the person's incurring expenses on
2 his or her behalf.

3 **7 Direct or notional expenses**

4 (1) The election expenses of a candidate or prospective candidate may be
5 direct expenses or notional expenses.

6 (2) A direct expense is the amount of any liability incurred for the supply or
7 use of goods or the provision of services used as described in paragraph
8 6(1)(b).

9 (3) A notional expense is incurred when goods or services supplied either
10 free of charge or at a discount are used as described in paragraph 6(1)(b).

11 (4) A notional expense is also a donation and, accordingly determine its
12 value and timing in accordance with paragraph 3.

13 (5) This paragraph is subject to paragraph 8.

14 **8 Sums to be disregarded in computing expenses**

15 In computing expenses for the purposes of this Schedule disregard —

16 (a) any expense that, by virtue of paragraph 4 or 5, is not a donation;

17 (b) any expense incurred by a person in discharging a legal obligation
18 (such as that of the Treasury under section 31(1) in respect of
19 posting election addresses);

20 (c) any expense incurred in connection with the proper performance
21 of a person's duties as a member of the Keys or the holder of any
22 other elected office; and

23 (d) any expense of a description specified in an order made by the
24 Council of Ministers.

25 **9 Shared expenses**

26 If election expenses are incurred by, or with the express or implied consent of, 2
27 or more candidates or prospective candidates, it shall be presumed, unless the
28 contrary is proved by them, that the expenses relate to goods and services
29 which are of equal benefit to them and, accordingly, that those expenses are to
30 be apportioned equally between them.

31 **10 Meaning of "relevant period"**

32 In this Schedule "**the relevant period**" has the same meaning as it has in section
33 20G.

34 **11.**

IN THE KEYS

**REPRESENTATION OF THE PEOPLE (AMENDMENT)
BILL 2015**

A **BILL** to amend further the
Representation of the People
Act 1995; and for connected
purposes.

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

MR SHIMMIN

MARCH 2015