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ELECTIONS (KEYS AND LOCAL AUTHORITIES) BILL 2020

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ELECTIONS (KEYS AND LOCAL AUTHORITIES) BILL 2020

A **BILL** to repeal and replace the Representation of the People Act 1995 and the Local Elections Act 1986; to consolidate in a single enactment provisions equivalent to those made by the two aforementioned Acts; and for connected purposes.

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

PART 1 – INTRODUCTORY

1 **Short title.**

The short title of this Act is the Elections (Keys and Local Authorities) Bill 2020.

2 **Commencement**

- (1) This Act (except this section and sections 1 and 3) will come into operation on such day or days as the Council of Ministers may by order appoint.
- (2) An order under subsection (1) may make such consequential, incidental, supplemental and transitional provisions as appear to the Council of Ministers to be necessary or expedient for the purposes of the order.

3 **Interpretation**

[1995/13/77, 1986/10/24, and drafting]

- (1) In this Act —
 - “**accredited observer**” means a person permitted to attend election proceedings as an observer in accordance with section 87;
 - “**advance voter**” means a person allowed to vote in advance under section 82;
 - “**anonymous**” – see subsection (2);

“**casual vacancy**” means a vacancy created by an incumbent’s demitting or being removed from office before the scheduled end of the incumbency;

“**donation**” – see subsection (3);

“**election**” means a national election or a local election, and includes a by-election;

“**election expenses**” – see subsection (4);

“**election petition**” means a petition presented in pursuance of Schedule 1;

“**Electoral Commissioners**” or “**Commissioners**” – see section 55(2);

“**Electoral Registration Officer**” has the same meaning as in the *Registration of Electors Act 2020*;

“**eligible elector**” has the same meaning as in the *Registration of Electors Act 2020*;

“**legal incapacity**” includes (in addition to any incapacity by virtue of any subsisting provision of the common law) any disqualification imposed by this Act or any other enactment;

“**local election**” means an election of a member or members of a local authority, and in relation to the borough of Douglas, means an election of a councillor or councillors of the borough;

“**member**” means, as the context may require –

- (a) a member of the Keys;
- (b) a member of a local authority; or
- (c) both (a) and (b);

“**national election**” means an election of a member or members of the Keys;

“**nominated charitable trust**” means the Manx Lottery Trust, an independent charitable trust established by a trust deed dated 21st May 2008;

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

“**prescribed**” means, except in Schedule 1, prescribed by regulations made by the Council of Ministers under this Act;

“**prospective candidate**” – see subsection (7);

“**register of electors**” has the same meaning as in the *Registration of Electors Act 2020*;

“**regulations**” means regulations made by the Council of Ministers under this Act;

“Returning Officer” means the person so designated by section 61 and, where a deputy returning officer appointed under section 62 is acting for the Returning Officer in accordance with his authority, includes a deputy returning officer;

“support” need not be financial support;

“voter” means a person voting at an election, and includes a person voting as an advance voter by post or as a proxy, and “vote” must be construed accordingly.

- (2) For the purposes of this Act a donor or donation is “anonymous” if the recipient is unable, despite taking all reasonable steps —
 - (a) in the case of a donation made by a person other than in the person’s capacity as a trustee, to ascertain the identity of the donor making the donation;
 - (b) in the case of a donation made by a trustee, to ascertain the identity of the settlor or other contributor to the trust providing the assent of the settlor or other contributor to the trust providing the asset from which the donation is derived.
- (3) Whether something constitutes a donation for the purposes of this Act, and if so the timing and amount of the donation, is to be determined in accordance with Part 1 of Schedule 2.
- (4) Whether or not something constitutes an election expense for the purposes of this Act and, if so, the timing and amount of the expense is to be determined in accordance with Part 2 of Schedule 2.
- (5) Regulations may amend the definition of “nominated charitable trust”.
- (6) For the purposes of this Act a person becomes a candidate for an election on the day on which, in accordance with election regulations, the person is nominated for election, and that nomination is accepted by a deputy returning officer.
- (7) For the purposes of this Act a person becomes a prospective candidate for the next election of the Keys when —
 - (a) that person (“C”) declares C’s intention to be a candidate at that election; or
 - (b) another person, with C’s consent, declares C’s intention to be such a candidate.
- (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.

PART 2 – NATIONAL ELECTIONS

Qualifications for membership of the Keys

4 **Qualifications for membership of the Keys**

[1995/13/1 and drafting]

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

- (a) has attained the age of 18 years;
- (b) is either a British citizen or has the right to remain in the Island;
- (c) is ordinarily resident in the Island and has been so resident for a period of, or for periods amounting in the aggregate to, 5 years or more; and
- (d) is registered on the register of electors for any electoral area in the Island,

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

(2) A person is disqualified for being a candidate for election for the Keys if at the time the person is nominated as a candidate the person –

- (a) is the holder of an office of profit under the government of any country or territory outside the Island;
- (b) has been convicted of a relevant offence, unless the conviction is spent for the purposes of the *Rehabilitation of Offenders Act 2001*;
- (c) is incapable of being elected to and sitting in the Keys by virtue of section 124 (incapacities on report or conviction of corrupt or illegal practice);
- (d) is serving a custodial sentence following conviction for any offence;
- (e) is an undischarged bankrupt; or
- (f) is subject to any incapacity by virtue of this or any other Act.

(3) For the purposes of subsection (1)(b), a person has the right to remain in the Island if the person –

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

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

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

Term of the Keys

5 Term of the Keys and date of election

[1995/13/2 and drafting]

- (1) A national election must be held on the fourth Thursday in September of every fifth year starting with 2021.
- (2) The Keys is dissolved (unless sooner dissolved under section 6) 6 weeks before the national election.

6 Summoning, prorogation and dissolution of the Keys

[1995/13/3 and drafting]

- (1) Whenever the Governor thinks it expedient, the Governor may —
- (a) by precept under the Governor’s hand —
- (i) summon the Keys when not in session, or when the Keys stand adjourned or prorogued though adjourned or prorogued to a more distant date or for a longer period; or
- (ii) prorogue the Keys; or
- (b) by proclamation dissolve the Keys and issue fresh writs for a national election of members to serve therein.
- (2) No proclamation under subsection (1)(b) is necessary on the dissolution of the Keys by virtue of section 5.
- (3) Unless it is impracticable to do so, the Governor must seek the advice of the Chief Minister before exercising any of the powers conferred by this section.

7 Extension of term of Keys in emergency

[1995/13/4 and drafting]

- (1) During any period of national emergency, the Governor in Council may by order —
- (a) extend the term of the Keys or the term of office of any member of the Legislative Council elected by the Keys, by a period of one year from the date when otherwise the term of the Keys would expire, or the member cease to hold office; and
- (b) declare that the register of electors in force at the time of the making of such order remains in force for a period of one year.

- (2) On any such order being made, the provisions of this and any other enactment relating to members of the Keys, or to elected members of the Council, must be construed as if they were modified in such a manner as to give effect to this section, and the order, or a subsequent order under subsection (1), may make such provision as is necessary to effect such modification.
- (3) Where an order under subsection (1) has been made, a further such order may not be made with respect to a subsequent year unless —
 - (a) a national election intervenes; or
 - (b) the making of the order is previously approved by Tynwald.
- (4) If any question arises as to any matter under this section, or the operation of this section, the question stands referred to the Deemsters, who must determine it summarily after hearing any parties they consider ought to be heard.
- (5) In this section, “national emergency” means any period which, in the opinion of the Governor in Council, constitutes a state of national emergency due to a state of war, or apprehended or threatened war, or international disturbance.

Vacancies in the Keys

8 Report of casual vacancies

[1995/13/5 and drafting]

The Speaker must, within 7 days of any casual vacancy in the Keys coming to the Speaker’s notice other than by reason of the Speaker’s own resignation under section 9(7), report the vacancy in writing to the Governor, stating the name of the constituency by which the new member is to be returned.

9 Vacancy in seat

[1995/13/6 and drafting]

- (1) If any sitting member of the Keys is punished with custody (whether or not suspended) for any offence triable on information, the date as of which the member’s seat is vacant (“the relevant date”) depends on whether or not the member appeals (or applies for leave to appeal) his or her conviction or sentence. Accordingly —
 - (a) if there is an appeal or an application for leave to appeal, the relevant date is (as the case may be) —
 - (i) the date on which the appeal is determined or withdrawn; or
 - (ii) the date on which leave to appeal is refused; or

- (b) if there is no appeal or application for leave to appeal, the relevant date is the date on which expires the period within which the appeal or application must be made.
- (2) The Keys may by resolution declare the seat of a member of the Keys to be vacant where he or she –
- (a) has been certified by the Clerk of the Rolls to the Speaker to be incapable by reason of mental disorder of taking care of himself or herself or managing his or her own affairs; or
- (b) fails to attend at least three-quarters of the total number of sittings of the Keys and Tynwald within any period of 12 months.
- (3) For the purpose of subsection (2)(b) a member of the Keys must not be treated as failing to attend any sitting of the Keys or of Tynwald in respect of which the member is granted leave of absence by the Speaker or the Keys, or by the President of Tynwald, as the case may be.
- (4) If the holder of any office of profit under the Government of the Island is elected as a member of the Keys, his or her seat becomes vacant unless within 7 days from the date of his or her election to the Keys, he or she gives such notice or takes such other step as is necessary to vacate that office on the earliest practicable day thereafter; and if he or she subsequently withdraws that notice or revokes that step, he or she must be treated for the purpose of subsection (6) as having accepted that office.
- (5) If any sitting member of the Keys is adjudicated bankrupt, the High Court must certify the fact to the Speaker; and if within 6 months of the date of the order of adjudication –
- (a) the adjudication is not annulled; and
- (b) the member does not obtain his or her discharge, with a certificate under section 16(2)(b) of the *Bankruptcy Code 1892* (bankruptcy caused by misfortune without misconduct),
- the High Court, on the expiry of that period, must certify the fact to the Speaker, and the seat of the member thereupon becomes vacant.
- (6) If any sitting member of the Keys –
- (a) accepts an office of profit under the Government of the Island or the government of any country or territory other than the Island; or
- (b) becomes a member of the Legislative Council or a local authority on the basis of accepting such an office by submitting his or her declaration to the Clerk,
- the member's seat thereupon becomes vacant.
- (7) For the purpose of subsection (6) –
- (a) a person must not be treated as accepting an office of profit by reason only –

- (i) of accepting any payment under the Payment of Members' Expenses Act 1989; or
 - (ii) during a national emergency, of enlisting in or being appointed to a commission in any of Her Majesty's forces;
 - (b) a person becomes a member of a local authority on making a declaration of acceptance of office as such pursuant to section 23.
- (8) A member of the Keys who accepts an office of profit is eligible for re-election to any constituency on vacating such office.
- (9) A sitting member of the Keys other than the Speaker may resign his or her seat on giving to the Speaker one month's previous notice in writing of his or her intention so to do, and at the expiry of such notice his or her seat thereupon becomes vacant.
- (10) The Speaker may resign his or her seat on giving to the Governor one month's previous notice in writing of his or her intention so to do, and at the expiry of such notice his or her seat thereupon becomes vacant.

10 Penalty for sitting or voting when seat vacant

[1995/13/7 and drafting]

If the seat of a member of the Keys has become vacant and the member sits or votes as a member of the Keys during the vacancy of the seat, the member commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale in respect of each occasion upon which the member so sits or votes.

Further provisions as to the Keys

11 Members to take oaths

[1995/13/8 and drafting]

No member of the Keys is permitted to sit and to vote in the Keys until the member has taken and subscribed the oaths set out in Schedule 5.

12 Election of Speaker

[1995/13/9 and drafting]

- (1) The members of the Keys must —
- (a) on their first assembling after every national election; and
 - (b) on the vacation of the office of Speaker under subsection (4)(a), (b) or (c),
- forthwith proceed to elect one of their number to be Speaker.
- (2) The members of the Keys must appoint an acting Speaker to preside over an election under subsection (1).

- (3) The office of acting Speaker terminates automatically upon the election of the Speaker under subsection (1).
- (4) The office of Speaker is vacated —
 - (a) on the death of the Speaker;
 - (b) by his or her seat becoming vacant under section 9;
 - (c) on his or her removal by a vote of the Keys; or
 - (d) by the dissolution of the Keys.

13 Election of Deputy Speaker

[1995/13/9A and drafting]

- (1) The members of the Keys must —
 - (a) on their first assembling, following the election of the Speaker under section 12(1); and
 - (b) on the vacation of the office of Deputy Speaker under subsection (2)(a), (b) or (c),forthwith proceed to elect one of their number to be Deputy Speaker.
- (2) The office of Deputy Speaker is vacated —
 - (a) on the death of the Deputy Speaker;
 - (b) on his or her resignation by notice in writing to the members of the Keys of his or her office, or by his or her seat becoming vacant under section 9;
 - (c) on his or her removal by a vote of the Keys; or
 - (d) by the dissolution of the Keys.
- (3) The Deputy Speaker must deputise in the absence of the Speaker and assume the powers of the Speaker when the Speaker is absent from the Island or is not present at any sitting of the Keys.

14 Disqualifications

[1995/13/9B and drafting]

- (1) Neither the Speaker nor an acting Speaker nor the Deputy Speaker is eligible for nomination or appointment as Chief Minister or as a Minister.
- (2) The Speaker is not eligible for nomination or appointment as a member of a Department or Statutory Board.
- (3) An acting Speaker and the Deputy Speaker are each eligible for nomination and appointment as a member of a Department or Statutory Board.
- (4) If the Chief Minister or a Minister is elected or appointed to be Speaker, he or she must go out of office as Chief Minister or Minister, as the case may be.

- (5) If a member of a Department or Statutory Board is elected to be Speaker, he or she must go out of office as member of that Department or Statutory Board, as the case may be.
- (6) The definition of “Speaker” in Part 1 of the Schedule to the *Interpretation Act 2015* does not apply to this section.

15 Office-based disqualifications

[P.1975/24/1(1) & (4) and drafting]

- (1) Subject to the provisions of this Act, a person is disqualified for membership of the Keys who for the time being holds any of the following judicial offices —
 - (a) Deemster;
 - (b) Judge of Appeal;
 - (c) High Bailiff; or
 - (d) Deputy High Bailiff.
- (2) Except as provided in this Act, a person is not disqualified —
 - (a) for membership of the Keys by reason of holding an office or place of profit under the Crown or any other office or place; or
 - (b) for appointment to or for holding any office or place by reason of his being a member of the Keys.

16 Saving for privileges of the Keys

[1995/13/10 and drafting]

- (1) Nothing in this Act affects the inherent powers heretofore exercised by the Keys as a legislative body.
- (2) The Keys and the members of the Keys have, exercise and perform the same power, authority and duties, and be subject to the like obligations (except where expressly otherwise provided by this Act), and be entitled to and enjoy the same rights and privileges, in as full and ample manner as the Keys and the members of the Keys had before the coming into operation of this Act, exercised and performed, and was or were entitled to and enjoyed.

PART 3 – LOCAL ELECTIONS

Conduct of local elections

17 Conduct of local elections

[1986/10/1 and drafting]

- (1) Local elections must be conducted in accordance with rules made by the Council of Ministers.
Tynwald procedure – approval required.
- (2) Rules under this section must provide for local elections to be conducted by secret ballot.

18 Day of election

[1986/10/3 and drafting]

A local election must be held on the fourth Thursday in April of every fourth year, commencing with 2024.

19 Tenure of office

[1986/10/5 and drafting]

Retiring members and sitting members who are not re-elected automatically go out of office on 1 May 2024 and 1 May in each fourth succeeding year.

Qualifications and disqualifications

20 Qualifications for election and holding office as member of local authority

[1986/10/6 and drafting]

- (1) A person may stand as a candidate for, and be elected a member of a local authority for any district if at the time of nomination as a candidate the person –
 - (a) has attained the age of 18 years;
 - (b) is either a British citizen or has the right to remain in the Island;
 - (c) is ordinarily resident in the Island and has been so resident for a period of, or for periods amounting in the aggregate to, 5 years or more; and
 - (d) is registered on the register of electors for any electoral area in the Island,provided that the person is not disqualified under subsection (2).
- (2) For the purposes of subsection (1)(b) a person has the right to remain in the Island if the person –

- (a) has indefinite leave to remain in the Island, within the meaning of the Immigration Act 1971 (of Parliament), as it has effect in the Island (the “1971 Act”); or
 - (b) does not under the 1971 Act require leave to enter or remain in the Island, by virtue of section 7(1) of the Immigration Act 1988 (of Parliament), as it has effect in the Island,
- and, in either case, the person is not liable to deportation under section 3(5) or (6) of the 1971 Act.

21 Disqualifications for election and holding office as member of local authority

[1986/10/7 and drafting]

- (1) A person is disqualified for being a candidate for election as a member of a local authority for any district if at the time the person is nominated as a candidate the person —
 - (a) is the holder of an office of profit under the government of any country or territory outside the Island;
 - (b) has been convicted of a relevant offence, unless the conviction is spent for the purposes of the *Rehabilitation of Offenders Act 2001*;
 - (c) is incapable of being elected to be a member of a local authority by virtue of section 124 (incapacities on report or conviction of corrupt or illegal practice);
 - (d) is serving a custodial sentence following conviction for any offence;
 - (e) is an undischarged bankrupt;
 - (f) is subject to any incapacity by virtue of this or any other Act;
 - (g) (subject to section 22) holds any paid office or employment (other than the office of mayor), appointments to which are or may be made or confirmed by the local authority or any committee or sub-committee of the authority or by a joint board or joint committee on which the authority are represented or by any person holding any such office or employment; or
 - (h) (subject to section 22) has within 5 years before the day of election or since his election been convicted in the Island, the United Kingdom, the Channel Island or the Republic of Ireland of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than 3 months without the option of a fine.
- (2) A paid officer of a local authority who is employed under the direction of a joint board or joint committee —
 - (a) on which the authority is represented; and

- (b) any member of which is appointed by or on the nomination of some other local authority,
is disqualified for being elected or being a member of that other local authority.
- (3) For the purposes of subsection (1)(h), —
- (a) the ordinary date on which the period allowed for making an appeal with respect to the conviction expires; or
- (b) if such an appeal is made, the date on which the appeal —
- (i) is finally disposed of;
- (ii) is abandoned; or
- (iii) fails by reason of the non-prosecution thereof,
is deemed to be the date of the conviction.
- (4) For the purposes of subsection (1)(b) a “relevant offence” is an offence (wherever committed) involving corruption, bribery or dishonesty or an offence (of any kind) under this Act or under the legislation of another country or territory equivalent to this Act.

22 Validity of acts done by unqualified persons

[1986/10/9 and drafting]

The acts and proceedings of any person elected to an office as chairperson or member of a local authority and acting in that office are as valid and effectual as if he or she had been qualified, notwithstanding his or her disqualification or want of qualification.

Acceptance of office etc.

23 Declaration of acceptance of office

[1986/10/10 and drafting]

- (1) The person elected to the office of chairperson, vice-chairperson or member of a local authority may not act in the office except for the purpose of taking such a declaration.
This is subject to subsection (2)
- (2) The prohibition in subsection (1) does not apply if —
- (a) the person has made a declaration of acceptance of office in such form as may be prescribed by the Department; and
- (b) the declaration has been delivered to the clerk of the authority within one month from the day of the election.

- (3) If such a declaration is not duly made and delivered within the appointed time, the office of the person elected becomes vacant at the expiration of that time.
- (4) The declaration must be made before either —
 - (a) two members of the authority to which the declarant is elected;
 - (b) the clerk to the authority;
 - (c) a justice of the peace or magistrate in the Island, the United Kingdom or the Channel Islands; or
 - (d) a commissioner for oaths.
- (5) Any person before whom a declaration is authorised to be made under this section may take the declaration.
- (6) Within 14 days after the expiration of the period of one month referred to in subsection (1), the authority must send to the Department a list of the names and addresses of the members of the authority.

24 Resignation

[1986/10/11 and drafting]

A person elected to any office referred to in section 23(1) may at any time resign his office by written notice delivered to the clerk of the authority and his resignation takes effect upon the receipt of the notice by the clerk.

25 Vacation of office by failure to attend meetings

[1986/10/12 and drafting]

- (1) Subject to subsections (2) and (3), if a member of a local authority fails throughout a period of 3 consecutive months from the date of his or her last attendance to attend any meeting of the authority, he or she ceases to be a member of the authority; unless the failure was due to some reason approved by the authority before the expiry of that period.
- (2) Attendance as a member at a meeting of any committee or sub-committee of the authority, or at a meeting of any joint committee, joint board or other body by whom for the time being any of the functions of the authority are being discharged, or who were appointed to advise the authority on any matter relating to the discharge of their functions, and attendance as a representative of the authority at a meeting of any body of persons, is deemed for the purposes of subsection (1) to be attendance at a meeting of the authority.
- (3) A member of any branch of Her Majesty's naval, military, reserve, or air forces when employed during war or any emergency on any naval, military or air force service, and a person whose employment in the service of Her Majesty in connection with war or any emergency is such as, in the opinion of the Department, to entitle him or her to relief from disqualification on account of absence, does not cease to be a member of

a local authority by reason only of a failure to attend meeting of the local authority if the failure is due to that employment.

26 **Members of Tynwald**

[1986/10/13 and drafting]

A member of a local authority who becomes a member of the Legislative Council or the House of Keys ceases to be a member of the authority.

27 **Bankruptcy**

[1986/10/13A and drafting]

If a member of a local authority is adjudged bankrupt, he ceases to be a member of the authority.

28 **Declaration of vacancy in office in certain cases**

[1986/10/14 and drafting]

Where a member of a local authority —

- (a) ceases to be qualified to be a member of the authority;
- (b) becomes disqualified for being a member of the authority otherwise than by virtue of —
 - (i) a conviction; or
 - (ii) a breach of any provision of this Act; or
- (c) ceases to be a member of the authority by reason of failure to attend meetings of the authority,

the authority must, except in any case in which declaration has been made by the High Court under this Act, forthwith declare his office to be vacant.

Casual vacancies

29 **Date of casual vacancies**

[1986/10/15 and drafting]

- (1) For the purpose of filling a casual vacancy in any office of chairperson, vice-chairperson or member of a local authority, the date on which the vacancy is to be deemed to have occurred is —
 - (a) in the case of non-acceptance of office by any person who is required to make and deliver a declaration of acceptance of office, on the expiration of the period appointed under section 23 for the delivery of the declaration;
 - (b) in the case of resignation, upon the receipt of the notice of resignation by the clerk of the authority;
 - (c) in the case of death, on the date of death;

- (d) in the case of a disqualification by virtue of a conviction, on the expiration of the ordinary period allowed for making an appeal with respect to the conviction or, if an appeal is made, on the date on which that appeal is finally disposed of or abandoned or fails by reason of non-prosecution thereof;
 - (e) in the case of an election being declared void by the High Court, on the date of the decision or order of the court; or
 - (f) in the case of a person ceasing to be qualified to be a member of a local authority, or becoming disqualified, for any reason other than one mentioned in paragraphs (a) to (e), or ceasing to be a member of a local authority by reason of failure to attend meetings, on the date on which his office is declared to have been vacated either by the High Court or by the local authority, as the case may be.
- (2) Where a seat is vacant as a result of a lack of candidates at a local election, that vacancy may be treated as a casual vacancy.

30 Filling of casual vacancy in case of chairperson, etc.

[1986/10/16 and drafting]

- (1) On a casual vacancy occurring in the office of chairperson or vice-chairperson of a local authority, an election to fill the vacancy must not be held any later than the next ordinary meeting of the authority held after the date on which the vacancy occurs, or if that meeting is held within 14 days after that date, then not later than the next following ordinary meeting of the authority, and must be conducted in the same manner as an ordinary election.
- (2) Where the office that is vacant is that of chairperson of the authority, a meeting of the authority for the election may be convened by the clerk of the authority.

31 Filling of casual vacancy in case of members

[1986/10/17 and drafting]

- (1) Subject to the provisions of this section, on a casual vacancy occurring in the office of member of a local authority an election to fill the vacancy must be held –
- (a) in a case in which the High Court or the authority has declared the office to be vacant, as soon as reasonably practicable after the date of the declaration; or
 - (b) in any other case, as soon as practicable after the date on which, by virtue of section 30(1), the vacancy is deemed to have arisen.
- (2) The day of election to fill a casual vacancy in any such office must be fixed by the Returning Officer.

- (3) Where a casual vacancy in any such office occurs within 6 months before the day on which the member whose office is vacant would regularly have retired, an election must not be held under subsection (1) unless on the occurrence of the vacancy (or in the case of a number of simultaneous vacancies, the occurrence of the vacancies) the total number of unfilled vacancies in the membership of the authority exceeds one third of the whole number of members; and where an election under subsection (1) is not held, the vacancy must be filled at the next local election.
- (4) Where more than one casual vacancy in any such office is filled at the same election, the person elected by the smallest number of votes is deemed to be elected in place of the member who would regularly have first retired, and the person elected by the next smallest number of votes is deemed to be elected in place of the member who would regularly have next retired and so with respect to the others; and if there has not been a contested election, or if any doubt arises, the order of retirement must be determined by lot.
- (5) Where under this section any question is required to be determined by lot –
 - (a) in the case of a contested election, the lot must be drawn by the Returning Officer immediately after the question has arisen; and
 - (b) in any other case, the lot must be drawn at the next meeting of the authority after the question has arisen, and the drawing must be conducted under the direction of the person presiding at the meeting.

32 Term of office of persons filling casual vacancies

[1986/10/18 and drafting]

A person elected under section 30 or 31 to fill any vacancy must hold office until the date upon which the person in whose place he is elected would regularly have gone out of office.

33 Temporary appointment

[1986/10/19 and drafting]

Where there are so many vacancies in the office of member of a local authority that the authority is unable to act, the Department may, after consultation with the members of the authority, by order appoint persons to fill all or any of the vacancies until other members are elected and take up office.

Tynwald procedure – laying only.

*Proceedings for disqualification***34 Proceedings for disqualification**

[1986/10/20 and drafting]

- (1) Proceedings against any person on the ground that he or she acted or claims to be entitled to act as a member of a local authority while disqualified for so acting within the meaning of this section may be instituted in the High Court by, and only by, an eligible elector (in respect of a local election) for the district of the authority, but proceedings under this section must not be instituted against any person on the ground that the person so acted after the expiration of more than 6 months from the date on which the person so acted.
- (2) Where, in proceedings instituted under this section, it is proved that the defendant has acted as a member of a local authority while disqualified for so acting, then the High Court may –
 - (a) make a declaration to that effect and declare that the office in which the defendant has acted is vacant;
 - (b) grant an injunction restraining the defendant from so acting; or
 - (c) order that the defendant forfeit to the General Revenue of the Island such sum as the court thinks fit, not exceeding level 1 on the standard scale for each occasion on which the defendant so acted while disqualified.

A sum ordered to be forfeited under paragraph (c) must be applied as a fine imposed by a court of summary jurisdiction.

- (3) Where in proceedings under this section it is proved that the defendant claims to act as a member of a local authority and is disqualified for so acting, the court may –
 - (a) make a declaration to that effect;
 - (b) declare that the office in which the defendant claims to be entitled to act is vacant; and
 - (c) grant an injunction restraining him or her from so acting.
- (4) Where a person has, while disqualified for acting as a member of a local authority, so acted or claimed to be entitled so to act, this section is the only statutory provision under which proceedings may be instituted against the person for so doing.
- (5) For the purposes of this section a person is deemed to be disqualified for acting as a member of a local authority –
 - (a) if the person is not qualified to be, or is disqualified for being, a member of the authority; or
 - (b) if by reason of failure to make and deliver a declaration of acceptance of office within the period required, or by reason of

resignation or failure to attend meetings of the local authority, he has ceased to be a member of the authority.

- (6) This section, so far as applicable, applies with respect to membership of or a claim to be entitled to act as a member of a committee of a local authority or a joint committee of two or more local authorities as it applies to membership of or a claim to be entitled to act as a member of a local authority.

Mayor, chairperson, etc.

35 Election of chairperson, etc.

[1986/10/21 and drafting]

- (1) The authority must, at its annual meeting, elect the chairperson of a local authority from among the members of the authority.
- (2) The election of the chairperson must be the first business transacted at the annual meeting of the local authority.
- (3) The term of office of the chairperson is one year, but he or she must continue in office until his or her successor has accepted such office.
- (4) A local authority may elect a member of the authority to be vice-chairperson of the authority, and such vice-chairperson, unless he resigns or becomes disqualified, holds office until immediately after the election of the chairperson at the next annual meeting of the authority.

36 Mayor and deputy mayor

[1986/10/22 and drafting]

- (1) Sections 20, 21, 22, 25, 26, 27, 28 and 34 apply to the office of mayor as they apply to the office of member of a local authority.
- (2) Sections 23, 24, 29, 30, 32 and 35(2) and (3) apply to the office of mayor as they apply to the office of chairperson of a local authority.
- (3) Schedule 3 has effect with respect to the election of a mayor and the appointment of a deputy mayor.

Supplemental

37 Fees and expenses

[1986/10/23 and drafting]

- (1) Deputy returning officers and other officials must be paid such fees and expenses in connection with local elections as may be prescribed by order of the Department.
- (2) All fees and expenses payable by virtue of this section must be defrayed out of the district fund of the local authority.

- (3) An order under subsection (1) may prescribe different fees and expenses as respects different local authorities.
- (4) An order under subsection (1) does not have effect unless it is approved by Tynwald.

38 Extension of term of local authorities in emergency

- (1) During any period of national emergency, the Governor in Council may by order —
 - (a) extend the term of local authorities, by a period of one year from the date when otherwise the term of the local authorities would expire, or the members cease to hold office; and
 - (b) declare that the register of electors in force at the time of the making of such order remains in force for a period of one year.
- (2) On any such order being made, the provisions of this and any other enactment relating to members of the local authorities must be construed as if they were modified in such a manner as to give effect to this section, and the order, or a subsequent order under subsection (1), may make such provision as is necessary to effect such modification.
- (3) Where an order under subsection (1) has been made, a further such order may not be made with respect to a subsequent year unless —
 - (a) a local election intervenes; or
 - (b) the making of the order is previously approved by Tynwald.
- (4) If any question arises as to any matter under this section, or the operation of this section, the question stands referred to the Deemsters, who must determine it summarily after hearing any parties they consider ought to be heard.
- (5) In this section, “national emergency” means any period which, in the opinion of the Governor in Council, constitutes a state of national emergency due to a state of war, or apprehended or threatened war, or international disturbance.

39 Interpretation

[1986/10/24 and drafting]

In this Part —

“**annual meeting**”, in relation to a local authority, means the meeting of the authority held in pursuance of paragraph 1 of Schedule 1 to the *Local Government Act 1985*;

“**the borough**” means the borough of Douglas;

“**commissioner for oaths**”, in relation to a declaration made in the United Kingdom or the Channel Islands, includes a person

authorised to administer oaths in a place in which the declaration is made;

“The Council” includes the mayor, and councillors;

(N.B. This term appears only in the definition of “member” – see below in this section.)

“councillor” means a councillor of the borough of Douglas, but does not include a mayor;

“the Department” means the Cabinet Office;

“joint board” has the meaning given by section 72 of the *Local Government Act*;

“joint committee” has the meaning given by section 72 of the *Local Government Act*;

“the local authority”, in relation to a local election, means the authority to which the election relates;

“mayor” means the mayor of the borough;

“member” means –

- (a) in relation to The Council, a councillor;
- (b) in relation to any other local authority, a commissioner.

PART 4 – REGISTRATION AND CONDUCT OF POLITICAL PARTIES

40 Requirements for political parties to be registered

[1995/13/10A and drafting]

A political party must not support or endorse any candidate in an election unless it is registered under this Part.

41 Conditions of registration

[1995/13/10B and drafting]

- (1) The party must have a name that does not exceed 6 words.
- (2) The name of the party, and any abbreviation of the name and any emblem of the party, must not be –
 - (a) offensive, obscene or otherwise inappropriate; or
 - (b) either identical to, or of sufficient similarity that it may be confused with, the name, abbreviation or emblem of any other organisation.
- (3) The party must have 3 officeholders, being the leader (however described), treasurer and secretary.
- (4) A person may hold 2 of those offices, but not all 3.

- (5) A person cannot hold any of those offices unless he or she is a registered person in accordance with the *Registration of Electors Act 2020*.
- (6) The party must have an address in the Island to which communications intended for the party may be sent.
- (7) The party must have a written constitution, one of the expressed objectives of which must be the support or endorsement of candidates for election to the Keys.
- (8) The party must keep accounts.
- (9) The party must have an accounting period that does not exceed 12 months.
- (10) Regulations may amend, or make provision in addition to, subsections (1) and (2) regarding the restrictions on the name of a political party.
Tynwald procedure – approval required.

42 Restrictions on name and emblem used by registered political party

[1995/13/10C and drafting]

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

43 Application for registration of political party

[1995/13/10D and drafting]

- (1) An application for registration of a political party must be made to the Electoral Registration Officer, in accordance with this section.
- (2) An application must contain –
 - (a) the name of the party and the abbreviation (if any) of that name;
 - (b) the emblem (if any) of the party;
 - (c) the address in the Island for the purposes of section 41(6); and
 - (d) the full names of the leader, treasurer and secretary of the party.
- (3) An application must be accompanied by –
 - (a) a copy of the party's constitution;
 - (b) a copy of the party's most recent accounts; and
 - (c) such fee, if any, as may be published by the Treasury as payable for the application.

The Electoral Registration Officer must file in the Central Registry a copy of any document received under this subsection.

- (4) The application must be signed by no fewer than 20 persons.
- (5) A person may sign an application only if he or she is an eligible elector.
- (6) Regulations may amend subsection (4) so as to vary the number of persons who must sign the application.
Tynwald procedure – approval required.

44 Consideration of application for registration of political party

[1995/13/10E and drafting]

- (1) The Electoral Registration Officer must deliver to the Attorney General a copy of an application for registration of a political party.
- (2) The Attorney General must inform the Electoral Registration Officer whether, in the Attorney General's opinion –
 - (a) the party complies with section 41 (insofar as that section is in operation); and
 - (b) the application complies with section 43.
- (3) If, in the opinion of the Attorney General –
 - (a) both those sections are complied with, the Electoral Registration Officer must register the political party; or
 - (b) at least one of those sections is not complied with, the Electoral Registration Officer must refuse the registration.

45 Registration of political party

[1995/13/10F and drafting]

- (1) The Electoral Registration Officer must maintain a register of political parties.
- (2) Where a political party is to be registered, the Electoral Registration Officer must enter the following particulars in the register –
 - (a) the name of the party and the abbreviation (if any) of that name;
 - (b) the emblem (if any) of the party;
 - (c) the address in the Island for the party for the purposes of section 41(6); and
 - (d) the full names of the leader, treasurer and secretary of the party.
- (3) The Electoral Registration Officer must keep, for each registered political party, a copy of its constitution submitted under section 41(3)(a) or 47(2)(c), and a copy of its accounts submitted under section 43(3)(b) or 48).

46 Application for change of name or emblem of registered political party

[1995/13/10G and drafting]

- (1) A registered political party may, on payment of such fee as may be determined 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 41(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.

47 Changes in particulars of registered party

[1995/13/10H and drafting]

- (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; or
 - (b) the identity of the person holding the office of leader, treasurer or secretary 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
 - (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.

- (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 –
 - (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.
- (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 41 (insofar as that section is in operation), the Electoral Registration Officer must refer the matter to the Attorney General.
- (5) Regulations may amend the period mentioned in subsection (2)(a).
Tynwald procedure – approval required.

48 Accounts to be audited and filed

[1989/11/5 and drafting]

- (1) Every registered political party must cause its accounts to be made up at least once in each calendar year.
- (2) A registered political party to which this subsection applies must cause the accounts to be audited by an accountant or an approved person.
- (3) Subsection (2) applies to a registered political party whose gross income in the accounting year in question exceeds £250,000.
- (4) A registered political party to which this subsection applies must cause the accounts, at its option, to be either –
 - (a) audited by an accountant or an approved person; or
 - (b) examined by an independent person (an “examiner”) who –
 - (i) is an accountant or an approved person; or
 - (ii) holds a qualification prescribed by regulations made by the Treasury under subsection (11).
- (5) Subsection (4) applies to a registered political party whose gross income in the accounting year in question exceeds £25,000 but does not exceed £250,000.
- (6) Every registered political party must, within 6 months of the end of each accounting year, file the accounts for that year in the Central Registry, together (in the case of a charity to which subsection (2) or (4) applies) with the report of the auditor or examiner on them.
- (7) If the provisions of this section are not complied with, the officeholders of the political party jointly and severally commit an offence and are

liable on summary conviction to a fine not exceeding level 5 on the standard scale.

- (8) Reference in this section to the accounts of a registered political party and the report of the auditor or examiner are to accounts and reports which comply with regulations under subsection (11)(b).
- (9) In this section, “approved”, in relation to any person, means approved by the Treasury for the purpose of auditing or examining (as the case may be) the accounts of the registered political party in question; and an approval under this subsection may be revoked at any time.
- (10) The Treasury may by order amend subsection (3) or (5) by substituting different amounts for the amounts specified therein (or the amounts for the time being substituted for them by a previous order under this subsection).

Tynwald procedure – approval required.

- (11) The Treasury may make such regulations as it considers are necessary or desirable to carry the provisions of this Part into effect and, without prejudice to the generality of that power, may make provision –
 - (a) requiring the keeping of records with respect to the transactions and financial position of registered political parties and for the keeping of records on the Island;
 - (b) as to the form and content of the annual accounts of registered charities and of the report of the auditor or examiner on them;
 - (c) prescribing the qualifications of examiners of such accounts; or
 - (d) defining the expressions “accounting year” and “gross income” for any purposes of this Part.

Tynwald procedure – approval required.

49 Anonymous donations

[1995/13/10J and drafting]

- (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.

50 Removal from the register

[1995/13/10K and drafting]

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

- (i) signed by 2 persons who are registered officeholders of the party; and
 - (ii) accompanied by evidence that the decision to apply for the removal of the party from the register was made in accordance with its constitution;
 - (b) if the Attorney General is satisfied —
 - (i) that the party no longer complies with section 41 (insofar as that section is in operation); or
 - (ii) that the party has not complied with sections 42, 47 or 48; or
 - (c) if the Electoral Registration Officer is satisfied that the political party has not, whilst being registered, at any of the three preceding national elections under section 2(1), supported or endorsed, in accordance with this Act, a person as a candidate for election to the Keys.
- (2) Not less than 2 months before removing a political party from the register, the Electoral Registration Officer must notify the party of his or her intention to do so, stating the grounds for so doing.
- But the Electoral Registration Officer need not notify the party if satisfied that it has ceased to exist.
- (3) Regulations may amend subsection (1)(c) so as to vary the length of time during which a party has not supported or endorsed a candidate.
- Tynwald procedure – approval required.

51 Inspection of register of political parties

[1995/13/10L and drafting]

- (1) A person may inspect the register, upon payment of such fee (if any) as the Treasury may determine, at the Central Registry during its normal working hours.
- (2) A person may, on payment of such fee as the Treasury may determine, obtain from the Central Registry a copy of any document kept by the Electoral Registration Officer under section 43(3).

52 Appeals

[1995/13/10M and drafting]

- (1) A signatory to an application to the Electoral Registration Officer under section 43 or 46 may appeal to the High Court against the refusal of the application.
- (2) A registered political party may appeal to the High Court against its removal from the register under section 50.

- (3) Where an appeal under subsection (2) is made within the period of 2 months beginning with the date on which notice of the intended removal from the register is given under section 50, 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.

53 Interpretation of Part 4

[1995/13/10N and drafting]

In this Part —

“**officeholder**” means, in relation to a party, one of the officeholders mentioned in section 41(3);

“**register**” means the register maintained under section 45;

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

PART 5 – ORGANISATION OF ELECTIONS

Constituencies etc.

DIVISION 1 – THE ELECTORAL COMMISSION

54 Scope of Division

This Division applies only to national elections.

55 The Electoral Commission

[1995/13/11 and drafting]

- (1) The Governor in Council must appoint a body, to be known as the Electoral Commission, within 12 months of the national election of 2021 and every second national election thereafter.

This is subject to subsection (2).

- (2) A sitting member of the Keys is ineligible to be appointed to the Electoral Commission. However, a former member of the Keys is eligible to be so appointed.

Persons appointed to and currently serving on the Electoral Commission are in this Act referred to as “Electoral Commissioners” or “Commissioners”.

- (3) Despite subsection (1) but subject to subsection (2), the Governor in Council may appoint an Electoral Commission at any other time if a resolution of Tynwald so directs.
- (4) The Electoral Commission must consist of a person appointed to chair the Commission and at least 3 other members.
- (5) The Electoral Commission must consider such matters relating to elections as a resolution of Tynwald directs.
- (6) An Electoral Commission appointed under subsection (1) must review the number and boundaries of constituencies and issue a report to Tynwald no later than 18 months after its appointment.
- (7) The Electoral Commission must issue such other reports to Tynwald as a resolution of Tynwald directs.
- (8) The Electoral Commission is taken to have been dissolved following the issue of what it declares to be its final report to Tynwald.

56 Remuneration of Electoral Commissioners

The Electoral Commissioners must be paid attendance allowances and travelling allowances in accordance with the *Payment of Members' Expenses Act 1989*.

DIVISION 2 – ELECTORAL AREAS

57 Scope of Division

This Division applies only to national elections.

58 Constituencies

[1995/13/11A and drafting]

- (1) For a national election, the Island is divided into 12 constituencies each returning 2 members as follows –
 - (a) Arbory, Castletown and Malew;
 - (b) Ayre and Michael
 - (c) Douglas Central;
 - (d) Douglas East;
 - (e) Douglas North;
 - (f) Douglas South;
 - (g) Garff;
 - (h) Glenfaba and Peel;
 - (i) Middle;
 - (j) Onchan;

- (k) Ramsey; and
 - (l) Rushen.
- (2) The Department of Infrastructure must prepare a series of maps marking the boundaries of each of those constituencies as approved by Tynwald, and the maps must be deposited at the Central Registry.
- (3) Any person who so desires may –
- (a) purchase a copy of the constituency map from the Department of Infrastructure; or
 - (b) inspect (free of charge) the election maps at the Central Registry, during normal business hours and subject to such reasonable conditions as the Central Registry may impose.
- (4) In keeping with subsection (3) –
- (a) the Department of Infrastructure must ensure that it has copies of the constituency map available for purchase; and
 - (b) the Central Registry must make the election maps available for inspection at its office by any person.

59 Polling districts

[1995/13/12 and drafting]

- (1) The Cabinet Office may by order divide any constituency into 2 or more polling districts specified in the order.
Tynwald procedure – approval required.
- (2) Before making an order under subsection (1), the Cabinet Office must consult such persons (including local authorities) as it considers appropriate.
- (3) Unless an order is made under subsection (1) in respect of a constituency, the whole constituency constitutes a single polling district.
- (4) The Returning Officer must ensure that there is a polling station for each polling district.
- (5) The Cabinet Office must conduct a review of polling districts two years before each scheduled national election.

DIVISION 3 – RETURNING OFFICER AND DEPUTIES

Scope of Division

60 Scope of Division

Except where otherwise specifically indicated, this Division applies to national elections and local elections.

*Returning officer***61 The Returning Officer**

- (1) The Chief Secretary is the Returning Officer for national elections and local elections.
- (2) It is the duty of a Returning Officer —
 - (a) to do everything at an election which is necessary for effectually conducting the election in accordance with election regulations; and
 - (b) to ensure —
 - (i) that suitable arrangements are made to hold one pre-election meeting per constituency for each national election; and
 - (ii) that the cost of such meetings is paid for out of money provided by the Treasury.

*Deputy returning officers***62 Appointment of deputy returning officers**

[1995/13/13 and drafting]

- (1) The Chief Secretary may by writing under the Chief Secretary's hand appoint one or more deputy returning officers in respect of each constituency, district or ward (as the case may be).
- (2) If the Chief Secretary appoints more than one deputy returning officer, the Chief Secretary —
 - (a) may authorise any of the deputies to perform any of all of the functions of the Returning Officer; and
 - (b) must secure that every function of the Returning Officer is capable of being exercised, in the Returning Officer's absence or unavailability, by at least one of the deputies.
- (3) A deputy returning officer may be appointed for more than one constituency, district or ward (as the case may be).
- (4) Subject to subsection (5), the appointment of a deputy returning officer must be for such term (not exceeding 5 years) as is specified in the instrument by which it is made.
- (5) The Chief Secretary may declare a deputy returning officer's office to be vacant (and consequently the deputy returning officer treated as having retired) if —
 - (a) the deputy returning officer has given the Chief Secretary notice of his or her intention to resign; or

- (b) the Chief Secretary thinks it is expedient that the deputy returning officer should resign.

63 Disqualification as deputy returning officer etc.

[1995/13/14 and drafting]

- (1) The following persons are disqualified for being appointed a deputy returning officer or to any other office concerned with the conduct of an election —
 - (a) any minister of religion who follows no secular occupation other than that of a teacher;
 - (b) any coroner;
 - (c) any constable or other person having the powers and privileges of a constable;
 - (d) any officer of an institution (within the meaning of the *Custody Act 1995*);
 - (e) the Chief Registrar, and any member of the staff of the General Registry;
 - (f) any member of a local authority;
 - (g) any member of the Council or the Keys; and
 - (h) any person who has served as a member of the Keys in the session immediately preceding the election, or in the current session in the case of a by-election.
- (2) If any such person acts as a deputy returning officer after failing to disclose that he or she is disqualified as a deputy returning officer, the person commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

64 Deputy returning officer may be elected and may vote

[1995/13/15 and drafting]

Nothing in this Act prevents any deputy returning officer —

- (a) from being elected a member —
 - (i) of the Keys for any constituency; or
 - (ii) of the local authority for any district or ward, other than that for which he or she acts as deputy returning officer; or
- (b) from exercising his or her vote at any election.

65 Deputy returning officer to accept appointment

[1995/13/16 and drafting]

A deputy returning officer, before taking any step in the discharge of the deputy returning officer's official duties, must accept the appointment.

66 Powers of deputy returning officer for maintenance of peace

[1995/13/17 and drafting]

- (1) A deputy returning officer must maintain order at an election.
- (2) Subject to subsection (3) and for the purpose of carrying out his or her function under subsection (1), a deputy returning officer has the powers of —
 - (a) arrest;
 - (b) detention or admission to bail; and
 - (c) trial and conviction,of any person who offends against any of the provisions of this Act.
- (3) The deputy returning officer has the powers conferred by subsection (2) —
 - (a) only to the same extent as that of identical powers of a justice of the peace; and
 - (b) only from the time of the issue of the writ for the election until the day next after the final closing of the election.
- (4) A deputy returning officer may —
 - (a) require the assistance of any constable or other person to aid him or her in the maintenance of the peace, and may swear in as many special constables as he or she thinks necessary for that purpose;
 - (b) arrest, or cause to be arrested by verbal order, any person disturbing the peace at an election;
 - (c) cause a person so arrested to be detained by any constable, or to be detained in custody under an order signed by him or her, until any time not later than the final closing of the election, but without prejudice to any further penalties to which that person may be liable; or
 - (d) demand and receive from any person at an election any offensive weapon with which that person is armed, or has in his or her hands or personal possession.

*Financial provisions***67 Payment of official expenses of deputy returning officer**

[1995/13/20 and drafting]

- (1) This section applies only to national elections.
- (2) The Treasury must pay out of money provided by Tynwald the fees and expenses of the deputy returning officers for the performance of their duties under this Act at the rates fixed by order under subsection (2).
- (3) The Treasury must by order fix the rates of fees and expenses payable under subsection (2), and in making such an order the Treasury must have regard to the increase in the cost of living since the making of the last order under this subsection.
- (4) An order under subsection (3) does not have effect unless it is approved by Tynwald.
- (5) The Treasury may, with the approval of Tynwald, pay out of money provided by Tynwald any expenses of deputy returning officers and other officials appointed under this Act which are not provided for by an order under subsection (3).
- (6) The accounts for all fees and expenses under the Act must be furnished to the Treasury, with all necessary particulars and vouchers, within 3 months of the final closing of the election.

DIVISION 4 – ELECTION DONATIONS AND EXPENSES

68 Scope of Division

This Division applies equally to national elections and local elections.

69 Donations received

[1995/13/20A and drafting]

- (1) A candidate must, not later than 5 working days before polling day, deliver to the Electoral Registration Officer a written declaration containing the information required by subsections (2) and (3).
- (2) The information required by this subsection is –
 - (a) a statement by the candidate of the sum or relevant donations received by him or her (as a candidate or a prospective candidate) during the relevant period together with the donor's name, the amount or value of the relevant donation, and whether the relevant donation is of –
 - (i) money;
 - (ii) a loan of money;

- (iii) goods or the use of goods; or
- (iv) services; or
- (b) a statement by the candidate that no such donations were reviewed by him or her (as a candidate or a prospective candidate) during that period.

Note: This subsection deals only with donations from identifiable donors (whether individual or corporate). For anonymous donations see subsection (3) below.

- (3) The information required by this subsection is —
 - (a) a statement by the candidate which identifies each anonymous donation received by him or her (as a candidate or a prospective candidate), during that period, together with its amount and that section 70 has been complied with in respect of every such donation; or
 - (b) a statement by the candidate that no such donations were received by him or her (as a candidate or a prospective candidate) during that period.
- (4) For the purpose of subsection (2) a donation is “relevant” if it is of or more than, or has a value more than, the minimum amount (and is not anonymous).
- (5) Except where the donor is anonymous, donations made by each person, including any connected person, must be aggregated for the purposes of determining whether they are of, or have a value of more, than the minimum amount (and hence whether they are relevant for the purposes of subsection (2)).
- (6) In this section “minimum amount” means £50.
- (7) Regulations may amend this section so as to vary the minimum amount.
Tynwald procedure – approval required.

70 Disposal of anonymous donations

[1995/13/20B and drafting]

- (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.

71 Election expenses

[1995/13/20C and drafting]

- (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.
- (2) If the Electoral Registration Officer receives, within 3 months of an election, a complaint made in such form and manner, and containing such particulars, as may be prescribed, 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.

Tynwald procedure – approval required.

- (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 eligible 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.
- Tynwald procedure – approval required.

72 Requirement in respect of declarations

[1995/13/20D and drafting]

- (1) The declarations required by sections 69(1) and 71(3) must –
 - (a) be made using a form supplied by the Electoral Registration Officer;
 - (b) include a statement that, to the best of the candidate's knowledge, information and belief, the information contained in it is true, complete and correct; and
 - (c) be signed by the candidate.
- (2) If, having made a declaration, a candidate becomes aware of any variation in or addition to the information required to be declared, the candidate must, as soon as possible and, in any event, no later than 10 working days after becoming so aware, deliver to the Electoral Registration Officer a further written declaration of the variation or addition.

- (3) A declaration delivered under subsection (2) must comply with subsection (1)(b) and (c).
- (4) The Electoral Registration Officer must —
 - (a) record the details of every declaration delivered under this section in a register (which may be maintained electronically); and
 - (b) file a copy of every such declaration in the Central Registry.
- (5) The register maintained under subsection (4)(a) and document filed under subsection (4)(b) are to be available for inspection by the general public, on payment of such fee (if any) as the Treasury may determine, at the Central Registry, during its normal working hours.

73 Declaration and verification of expenses

[1995/13/20E and drafting]

- (1) All candidates in the election, regardless of whether or not they have been successful, must submit —
 - (a) a declaration of donations, in accordance with section 69; and
 - (b) a declaration of expenses.
- (2) A declaration of expenses must be made before election day. A subsequent such declaration must be submitted within 35 days after the election.
- (3) Both declarations referred to in subsection (1) must be made available for public inspection.
- (4) The period covered by the declarations commences one year before the scheduled date of the election in question.
- (5) Where the Electoral Registration Officer has received a complaint under section 71(2), the Electoral Registration Officer may require the candidate who is the subject of the complaint to produce invoices, receipts and other proof of the candidate's election expenses.
- (6) A requirement under subsection (5) must be in writing.
- (7) A candidate must comply with a requirement under subsection (5) within 15 working days of its being made.

74 Declarations of donations by candidates

- (1) Every candidate for an election who makes, directly or indirectly, any financial donation to a person resident in the constituency, district or ward (as the case may be) in which the candidate has offered himself or herself for election must declare that donation in writing.
- (2) A declaration under subsection (1) must be separate from any declaration made under section 73.

75 Requirement to provide information and documents to candidate

[1995/13/20F and drafting]

A person who incurs or pays a candidate's election expenses must, as soon as is practicable, provide the candidate with such information and documents as the candidate requires so as to be able to comply with section 72.

76 Interpretation of Division 4

[1995/13/20G and drafting]

For the purposes of this Division —

- (a) whether a person is connected with a candidate is determined in the same way as it would be for income tax purposes by virtue of section 119C of the *Income Tax Act 1970*; and
- (b) “the relevant period” means —
 - (i) in the case of a national election under section 5(1) or a local election under section 18, the period beginning 12 months before polling day and ending on polling day; and
 - (ii) in the case of any other election, the period beginning with the date on which the vacancy occurs and ending on polling day.

PART 6 – HOLDING OF ELECTIONS*Writs of election***77 Writs of election**

[1995/13/21 and drafting]

- (1) This section applies only to national elections.
- (2) An election of a member or members to represent a constituency can take place only under and by authority of a writ issued by the Governor.

78 Proceedings

[1995/13/22 and drafting]

- (1) This section applies equally to national elections and local elections.
 - (2) The proceedings at an election must be conducted in accordance with regulations made under this section (“election regulations”).
 - (3) At an election a person must not vote otherwise than in accordance with election regulations.
 - (4) Election regulations may specify the procedures to be followed at elections. Such procedures may relate to, *inter alia*, the following matters
-

- (a) a timetable for the proceedings at an election, including provisions as to the computation of time;
- (b) the delivery of writs of election to and by deputy returning officers;
- (c) the publication of notices of election and their content;
- (d) a mechanism for the nomination of candidates, the publication of nominations, the delivery of nomination papers, the contents of nomination papers to be specified, the conditions of their validity and the criteria for objection to nominations;
- (e) a mechanism for —
 - (i) the withdrawal of candidates;
 - (ii) the cancellation of a candidate's nomination in the event that the candidate becomes disqualified after nomination day but before polling day (or before the close of the poll if there is one); or
 - (iii) the publication of withdrawal or cancellation of nomination;
- (f) the procedure in the event of a death of a candidate;
- (g) the method of electing candidates, including notice of poll, the issuing of poll cards in a form to be specified, provision of polling stations and the necessary equipment and means for secret voting, the sealing of ballot boxes, the content, form and appearance of ballot papers to be as prescribed or specified, procedures on spoilt ballot papers, verification of identity of voters and procedure on challenge of voters, the manner of voting, including by those needing assistance, the display of guidance notes for voters to be specified and the procedure on close of poll;
- (h) the responsibilities of deputy returning officers, including regulation of numbers of persons in polling stations and the conduct of such persons, and the appointment of presiding officers and other officers to assist with elections, their oath of office, their duties and responsibilities, including provision as to delegation to or by them, and for those persons and deputy returning officers to be paid by the Returning Officer;
- (i) the prohibition on disclosure of how a person has voted and for a declaration of secrecy to be made in such form and manner as by such persons as may be prescribed;
- (j) the appointment by candidates of polling and counting agents subject to conditions of or in accordance with election regulations and a procedure for the challenge of voters;
- (k) the procedure on counting and re-counting of votes, including presence at the count and the declaration of result and the procedure for the return of elected candidates; or

- (l) the retention, production, public inspection and disposal of documents.

Tynwald procedure – approval required.

79 Effect of non-compliance with election regulations

[1995/13/23 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) No election may be declared invalid by reason of any act or omission by the returning officers, or any other person, in breach of his or her official duty in connection with the election, or otherwise in breach of the election regulations, if it appears to the High Court –
 - (a) that the election was so conducted as to be substantially in accordance with the law as to elections; and
 - (b) that the act or omission did not affect the result.

Voting at election

80 Entitlement to vote at election

[1995/13/24 and drafting]

- (1) Subject to subsections (2) and (3), every person who is –
 - (a) an eligible elector for –
 - (i) a constituency (in the case of a national election); or
 - (ii) a district or ward (in the case of a local election); and
 - (b) entitled to vote,
is entitled to demand and receive a ballot paper and to vote in that constituency, district or ward (as the case may be).
- (2) In accordance with this Act, a person entitled to vote may do so in person, in advance by post, or by proxy.
- (3) A person is not entitled to demand or receive a ballot paper or to vote if it appears from the register of electors that he or she is under the age of 16 years on the date of the election.
- (4) Nothing in subsection (1) –
 - (a) entitles any person to vote who is prohibited from voting by any enactment or rule of law; or
 - (b) relieves any such person from any penalty to which he or she may be liable for voting.

81 Place and manner of voting

[1995/13/25 and drafting]

- (1) A person entitled to vote at a national election or a local election may do so —
 - (a) in person at the polling station allotted under election regulations;
 - (b) by proxy; or
 - (c) in advance by means of post, but only if the conditions set out in section 82 are met.
- (2) A person entitled to vote at a national election or a local election may do so by proxy if the person —
 - (a) has a medical emergency or urgent business necessitating overseas travel; and
 - (b) has applied under section 83.This is subject to subsection (3).
- (3) Subsection (2) does not apply if the person has already voted in person.

82 Advance votes

[1995/13/26 and drafting]

- (1) A person who is or will be entitled to vote at an election may apply to the deputy returning officer of —
 - (a) the appropriate constituency (in the case of a national election); or
 - (b) the appropriate district or ward (in the case of a local election),to vote, by post, in advance of the election in accordance with this section (whether in his or her own capacity or as a proxy on behalf of an eligible elector who meets the requirements of section 83(1)).
- (2) An application under subsection (1) must be allowed if the Returning Officer —
 - (a) is satisfied that the applicant is or will be entitled to vote at the election; and
 - (b) has no reason to doubt the identity of the applicant.
- (3) The application must include —
 - (a) an address to which a ballot paper is to be sent for the purpose of the election;
 - (b) such other particulars as are prescribed; and
 - (c) such evidence of identity as is required.
- (4) Regulations may make provision with respect to any matters incidental to this Act so far as it relates to advance voters.
Tynwald procedure – approval required.

83 Proxy votes

[1995/13/27 and drafting]

- (1) An eligible elector entitled to vote at an election who is unable to vote in person or by post may apply to the Electoral Registration Officer for the appointment of a person named in the application as a proxy to vote for the eligible elector at that election.
- (2) A person may not be appointed proxy to vote on behalf of an eligible elector in any constituency if that person —
 - (a) has not attained the age of 16 years; or
 - (b) is subject to any incapacity to vote at an election.
- (3) A person may not be appointed proxy to vote on behalf of more than 2 eligible electors in any constituency unless that person is the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild of each of those eligible electors.
- (4) The Electoral Registration Officer may grant an application under subsection (1) only if satisfied, on information provided by the eligible elector that —
 - (a) the eligible 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.
- (5) The Electoral Registration Officer may request the eligible elector to provide such further evidence as he or she considers necessary to determine the matter.
- (6) Not more than one person may be appointed as proxy to vote for any eligible elector at an election.
- (7) An appointment of persons as a proxy to vote for an eligible elector at an election may be revoked only —
 - (a) by notice by the eligible elector to the Electoral Registration Officer; or
 - (b) on the appointment of another person as a proxy to vote for the eligible elector.
- (8) Regulations may make provision with respect to any matters incidental to this Act so far as it relates to proxy votes.

Supplemental provisions as to elections

84 Effect of registers

[1995/13/29 and drafting]

- (1) Subsection (2) applies equally to national elections and local elections.

- (2) For the purposes of this Part, the register of electors is conclusive on the following questions –
- (a) whether or not a person registered in it was at the time of the making of the list resident at the address shown;
 - (b) whether or not any address is, as the case may be –
 - (i) in any constituency, district or ward; or
 - (ii) in any particular part of a constituency, district or ward.

85 Public notices

[1995/13/30 and drafting]

- (1) Subsection (2) applies equally to national elections and local elections.
- (2) Wherever public notice is required by this Act to be given, and no mode or place of publication is expressly provided for, publication may be effected –
 - (a) by insertion in a newspaper published and circulating within the Island;
 - (b) by display on an appropriate website in an appropriate manner; or
 - (c) by placard posted up in some public and conspicuous situation in the constituency, district or ward (as the case may be) to which the notice refers.

86 Distribution of election manifestos

[1995/13/31 and drafting]

- (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.
- (2) Regulations may make further provision regarding the distribution of manifestos of candidates for a national election, including provision for delivery of such manifestos by the Isle of Man Post Office to persons on the register of electors.

Tynwald procedure – approval required.

87 Election observers

[1995/13/31A and drafting]

- (1) An application may be made to the Returning Officer for any representative of a named body to be an accredited observer at any of the following proceedings relating to an election –
 - (a) proceedings at the election; or
 - (b) proceedings at the counting of votes.

- (2) Before granting an application under subsection (1) the Returning Officer must be satisfied that the body to which the representative belongs has a genuine interest in the outcome of the election.
- (3) An accredited observer must not be under the age of 16.
- (4) If the Returning Officer grants the application, the accredited observer may attend the proceedings in question.
- (5) An application under subsection (1) must be made in the manner specified in the code of practice issued under section 89.
- (6) The Returning Officer may at any time revoke the grant of an application under subsection (1).
- (7) If the Returning Officer —
 - (a) refuses an application under subsection (1); or
 - (b) revokes the grant of any such application,the Returning Officer must give the decision in writing and must at the same time give reasons in writing for the refusal or revocation.
- (8) This section is subject to any other provision of, or made under, this Act regulating attendance at the proceedings in question.

88 Attendance and conduct of observers

[1995/13/31B and drafting]

- (1) A relevant officer may limit the number of accredited observers who may be present at any proceedings at the same time.
- (2) If an accredited observer misconducts himself or herself while attending the proceedings, the relevant officers 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.

89 Code of practice on attendance of observers at elections etc.

[1995/13/31C and drafting]

- (1) The Returning Officer 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 87 are to be made;
 - (b) specify, subject to section 87(2), the criteria to be taken into account by the Returning Officer in determining such applications;
 - (c) give guidance to relevant officers as to the exercise of the power conferred by section 88(1);
 - (d) give guidance to such officers as to the exercise of power conferred by section 88(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 proceeding 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 87 and 88.
- (3) The code may make different provision for different purposes.
- (4) The Returning Officer must publish the code in such manner as the Returning Officer may determine.
- (5) A relevant officer must have regard to the code in exercising any function conferred by section 88.
- (6) The Returning Officer may at any time revise the code and subsections (4) and (5) apply in relation to a revision of the code as they apply in relation to the code.
- (7) In this section “relevant officer” has the same meaning as it had in section 88.

PART 7 – OFFENCES ETC. IN CONNECTION WITH ELECTIONS

Corrupt and illegal practices

90 Corrupt and illegal practices

[1995/13/32 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) Each of the following persons perpetrates a corrupt practice —
 - (a) a person who commits, or aids, abets, counsels or procures the commission of, personation;
 - (b) a person who perpetrates bribery;

- (c) a person who perpetrates treating;
 - (d) a person who perpetrates undue influence.
- (3) Each of the following persons perpetrates an illegal practice —
- (a) a person who knowingly makes a false statement concerning a candidate in a nomination paper;
 - (b) a candidate concerning whom, and with whose knowledge and consent, a false statement is made in connection with a nomination paper;
 - (c) a candidate who contravenes section 93;
 - (d) a person who contravenes section 95(1);
 - (e) a person who contravenes section 98(1);
 - (f) a person who commits an offence under any provision of section 100 or 101 which is triable on information;
 - (g) a person who, or any director of any body corporate which, before or during an election, for the purpose of affecting the return of any candidate at the election, makes or publishes any false statement of fact in relation to the personal character or conduct of the candidate, unless he or she shows that he or she had reasonable grounds for believing, and did believe, the statement to be true;
 - (h) a person who, before or during an election, knowingly publishes a false statement of the withdrawal of a candidate at the election for the purpose of promoting or procuring the election of another candidate;
 - (i) a candidate who makes an illegal payment or perpetrates an illegal hiring;
 - (j) a candidate with whose knowledge and consent an illegal payment or hiring is committed.
- (4) The court before whom a person is convicted of an offence referred to in subsection (3)(d) or (e) may, if it thinks it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of section 125.
- (5) A candidate is not liable, nor may his or her election be voided, for an illegal practice under subsection (3)(e) or (g) committed by an agent of the candidate's.
- (6) A candidate is not liable, nor may the election be voided, for any illegal practice under subsection (3)(f) committed by any agent of the candidate's, unless —
- (a) it is shown that the candidate authorised or consented to the committing of the illegal practice by the agent or paid for the circulation of the false statement in question; or

- (b) a court hearing an election petition finds and reports that the election of the candidate was procured or materially assisted in consequence of the making or publishing of the false statement.

Corrupt practices

91 Personation

[1995/13/33 and drafting]

- (1) Subsections (2) and (3) apply equally to national elections and local elections.
- (2) A person commits personation at an election if he or she votes as some other person, whether that other person is living or dead or is a fictitious person.
- (3) For the purposes of this section, a person must be treated as having voted if he or she —
- (a) has applied for a ballot paper for the purpose of voting; or
- (b) has marked, whether validly or not, and returned a ballot paper issued for the purpose of voting by an absent voter.

92 Bribery

[1995/13/34 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) A person is guilty of bribery if he or she directly or indirectly, by himself or herself, or by any other person on his or her behalf —
- (a) gives any money or procures any office to or from any voter, or to or for any other person on behalf of any voter, or to or for any other person, in order to induce any voter to vote or refrain from voting;
- (b) corruptly does any such act on account of any voter having voted or refrained from voting; or
- (c) makes any such gift or pronouncement to or for any person in order to induce that person to procure, or endeavour to procure, the return of any person at an election or the vote of any voter, or if upon or in consequence of any such gift or procurement he or she procures or engages, promised or endeavours to procure the return of any person at an election or the vote of any voter.
- (3) For the purposes of subsection (1) —
- (a) references to giving money include references to giving, lending, agreeing to give or lend, offering, promising, or promising to procure or endeavour to procure any money or valuable consideration; and

- (b) references to procuring any office include references to giving, procuring, agreeing to give or procure, offering, promising, or promising to procure or to endeavour to procure any office, place or employment.
- (4) A person is guilty of bribery if he or she —
 - (a) advances or pays or causes to be paid any money to or to the use of any other person with the intent that that money or any part thereof be expended in bribery at any election; or
 - (b) knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election.
- (5) Subsections (1) to (3) do not apply to any money paid or agreed to be paid for or on account of any legal expenses incurred in good faith at or concerning an election.
- (6) A voter is guilty of bribery if before or during an election he or she directly or indirectly, by himself or herself, or by any other person on his or her behalf, receives, agrees, or contracts for any money, gift, loan or valuable consideration, office, place or employment for himself or herself or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting.
- (7) A person is guilty of bribery if after an election he or she directly or indirectly, by himself or herself, or by any other person on his or her behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting.
- (8) In this section, “voter” includes any person who has or claims to have a right to vote.

93 Undue influence

[1995/13/36 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) A person commits the offence of undue influence if the person uses intimidation, deception or improper pressure with the intention of influencing the manner in which a person votes in a national election or a local election.
- (3) Pressure will be improper if —
 - (a) it involves the commission or threat of commission of an illegal act; or
 - (b) a reasonable person would regard it as improperly infringing the free exercise of a person’s right to vote.

*Illegal practices***94 Election publications**

[1995/13/37 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) A person must not —
 - (a) print or publish, or cause to be printed or published, any bill, placard or poster having reference to an election, or any printed document distributed for the purpose of promoting or procuring, or discouraging or preventing, the election of a candidate;
 - (b) post or cause to be posted any such bill, placard or poster; or
 - (c) distribute or cause to be distributed any printed document for the said purpose,unless the bill, placard, poster or document bears upon its face the name and address of the publisher.
- (3) A person must not post or cause to be posted any such bill, placard or poster —
 - (a) within any polling station, or any building of which a polling station forms part;
 - (b) within the curtilage of such a building; or
 - (c) on any building or within the curtilage of a building (other than domestic accommodation or building that is sublet to any person other than a Department or Statutory Board) that is owned or occupied by a Department or Statutory Board.
- (4) Subsection (3) does not apply to a bill, placard or poster exhibited on a motor vehicle which is engaged in delivering a voter to or collecting a voter from the polling station.
- (5) Any person who acts in contravention of this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (6) The Returning Officer must prepare a code of practice in respect of the production of election materials.
- (7) In this section —

“distribute” includes distributing by electronic means;

“print” includes any process for multiplying copies of a document, other than copying it by hand;

“publish” includes publishing by electronic means.

95 Imitation poll cards

[1995/13/38 and drafting]

- (1) A person must not, for the purpose of promoting or of procuring the election of any candidate at an election, issue any poll card or document so closely resembling an official poll card as to be calculated to deceive.
- (2) Where an act or omission of an association or body of persons, corporate or unincorporate, contravenes subsection (1), any person who at the time of the act or commission was a director, general manager, secretary or other similar officer of the association or body, or was purporting to act in any such capacity, must be treated as having contravened that subsection unless he or she proves —
 - (a) that the contravention took place without his or her consent or connivance; and
 - (b) that he or she exercised all such diligence to prevent the contravention as he or she ought to have exercised having regard to the nature of his or her functions in that capacity and to all the circumstances.

96 Corrupt withdrawal from candidature

[1995/13/39 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) Any person who corruptly induces or procures any other person to withdraw from being a candidate at an election, in consideration of any payment or promise of payment, and any person withdrawing in pursuance of the inducement or procurement, is guilty of an illegal payment.

97 Providing money for illegal purposes

[1995/13/42 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) Where a person knowingly provides money —
 - (a) for any payment which is contrary to the provisions of this Act;
or
 - (b) for replacing any money expended in any such payment,

then, except where the payment has been previously allowed in pursuance of section 123 to be an exception, that person is guilty of an illegal payment.

98 Voting offences in respect of elections

[1995/13/43 and drafting]

- (1) A person must not —

- (a) vote at an election, in any capacity or by any means provided for by this Act, knowing that he or she is subject to a legal incapacity to vote;
 - (b) apply for the person or another person to vote in advance of the election, knowing that he or she or that other person is subject to a legal incapacity to vote;
 - (c) apply for the appointment of a proxy to vote for him or her at any election knowing that he or she or the person to be appointed is subject to a legal incapacity to vote at the election;
 - (d) vote more than once (otherwise than as a proxy) in the same constituency at any election;
 - (e) vote as proxy for some other person at an election, knowing that that person is subject to a legal incapacity to vote;
 - (f) vote in person at an election, knowing that a person appointed to vote as his or her proxy at the election has already voted as his or her proxy at the election;
 - (g) vote more than once as proxy for the same eligible elector at the election;
 - (h) vote as proxy for an eligible elector at the election, knowing that the eligible elector has already voted in person at the election;
 - (i) vote at the election as proxy for more than 2 persons of whom he or she is no the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild;
 - (j) knowingly induce or procure some other person to do an act which is, or but for that other person's want of knowledge would be, an offence by that other person under this section; or
 - (k) knowingly make any false statement or representation for the purpose of obtaining an absent voter's ballot paper for himself or herself or for some other person, or of securing the appointment of himself or herself or some other person as a proxy.
- (2) For the purposes of this section a person must be treated as having voted if he or she —
- (a) has applied for a ballot paper for the purpose of voting; or
 - (b) has marked, whether validly or not, and returned a ballot paper issued for the purpose of voting by an advance voter.

Criminal offences

99 Offences of corrupt practices etc.

[1995/13/44 and drafting]

- (1) This section applies equally to national elections and local elections.

- (2) A person who engages in a corrupt practice commits an offence and is liable —
- (a) on conviction on information —
 - (i) in the case of personation of or aiding, abetting, counselling or procuring the commission of personation, to custody for a term not exceeding 2 years or to a fine, or to both; or
 - (ii) in any other case, to custody for a term not exceeding one year or to a fine, or to both;
 - (b) on summary conviction (including conviction under section 124 by the High Court) to custody for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale, or to both.
- (3) A person who engages in an illegal practice (other than an illegal payment or hiring) commits an offence and is liable on summary conviction (including conviction under section 123 by the High Court) to a fine not exceeding level 5 on the standard scale.

100 Offences in connection with political parties

[1995/13/44A and drafting]

- (1) A candidate or prospective candidate who accepts support or endorsement from a political party that is not registered under Part 4 (registration of political parties) commits an offence and is liable —
- (a) on conviction on information, to a fine; or
 - (b) on summary conviction, to a fine not exceeding level 5 on the standard scale.
- (2) A person who, knowingly or recklessly, makes any application or delivers any notice to the Electoral Registration Officer under Part 4 that is false in a material particular, commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

101 Offences in connection with funding

[1995/13/44B and drafting]

- (1) If the treasurer of a political party fails, without reasonable excuse, to comply with section 49(2) (treasurer to send anonymous donation to Chief Financial Officer), the treasurer commits an offence and is liable —
- (a) on conviction on information, to a fine; or
 - (b) on summary conviction, to a fine not exceeding level 5 on the standard scale.
- (2) A candidate or prospective candidate who fails, without reasonable excuse, to comply with section 71(2) (candidate to send anonymous donation to Chief Financial Officer) commits an offence and is liable —

- (a) on conviction on information, to a fine; or
 - (b) on summary conviction, to a fine not exceeding level 5 on the standard scale.
- (3) A candidate whose election expenses exceed, without reasonable excuse, the maximum amount permitted by section 70(1) (election expenses) commits an offence and is liable —
- (a) on conviction on information to a fine; or
 - (b) on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) A candidate who —
- (a) fails, without reasonable excuse, to deliver a declaration, or further declaration, in accordance with section 72 (requirements in respect of declarations); or
 - (b) delivers a declaration, or a further declaration, under section 72, knowing or believing it to be false in a material particular,
- commits an offence and is liable —
- (i) on conviction on information, to a fine; or
 - (ii) on summary conviction, to a fine not exceeding level 5 on the standard scale.
- (5) A person who fails, without reasonable excuse, to comply with —
- (a) section 74 (declarations of donations by candidates); or
 - (b) section 75 (person to provide details to candidate as to expenses incurred),
- commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

102 Breach of official duty

[1995/13/45 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) If —
 - (a) any person to whom this section applies; or
 - (b) any person who is for the time being under a duty to discharge as deputy or otherwise any of the functions of a person to whom this section applies,
 without reasonable cause and in breach of his or her official duty, either perpetrates or forbears any act, he or she commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) No action for damages or any penalty lies against a person to who this section applies for a breach of his or her official duty.

- (4) This section applies to —
 - (a) a deputy returning officer;
 - (b) a presiding officer; and
 - (c) a clerk or assistant employed by a deputy returning officer or presiding officer in connection with his or her official duties.
- (5) For the purposes of this section, “official duty” must be construed accordingly, but does not include duties imposed otherwise than by the law relating to elections.

103 Offences in respect of nomination papers etc.

[1995/13/46 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) Any person who —
 - (a) forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to the Returning Officer any nomination paper knowing the same to be forged;
 - (b) forges or counterfeits or fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper;
 - (c) without due authority supplies any ballot paper to any person;
 - (d) fraudulently puts into any ballot box any paper other than the ballot paper which he or she is authorised by law to put in;
 - (e) fraudulently takes out of the polling place any ballot paper; or
 - (f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purpose of the election,commits an offence.
- (3) A person who commits an offence under subsection (1) is liable —
 - (a) if he or she is a deputy returning officer or an officer or clerk in attendance at a polling station, on conviction on information to custody for a term not exceeding 2 years; and
 - (b) in any other case, on summary conviction to custody for a term not exceeding 6 months.
- (4) In any information or complaint relating to an offence in relation to the nomination papers, ballot boxes and ballot papers at an election, the property in such papers, boxes and instruments, and in any counterfoils, may be stated to be in the deputy returning officer at the election.
- (5) Every person who intentionally acts in contravention of the directions or orders for the guidance of voters in election regulations commits an offence and is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

104 Requirement of secrecy

[1995/13/47 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) Every person to whom this subsection applies must maintain and aid in maintaining the secrecy of voting and must not, except for some purpose authorised by law, communicate to any person before the poll is closed any information as to —
 - (a) the name of any eligible elector or proxy for an eligible elector who has or has not applied for a ballot paper or voted at a polling station;
 - (b) the number on the register of electors of any eligible elector who, or whose proxy, has or has not applied for a ballot paper or voted at a polling station; or
 - (c) the official mark.
- (3) Subsection (2) applies to —
 - (a) a deputy returning officer;
 - (b) a teller; (*see subsection (7)*)
 - (c) a presiding officer or clerk attending at a polling station; and
 - (d) every candidate or agent so attending.
- (4) A person attending at the counting of votes must maintain and aid in maintaining the secrecy of the voting and must not —
 - (a) ascertain at the counting of the votes the number on the back of any ballot paper; or
 - (b) communicate any information obtained at the counting of the votes as to the candidates for whom any vote is given in any particular ballot paper.
- (5) A person must not —
 - (a) interfere with a voter when recording his or her vote;
 - (b) otherwise obtain, or attempt to obtain, in a polling station information as to the candidate for whom a voter in that station is about to vote, or has voted;
 - (c) communicate at any time to any person any information obtained in any polling station as to the candidate for whom a voter in that station is about to vote or has voted, or as to the number on the back of the ballot paper given to a voter at that station; or
 - (d) directly or indirectly induce a voter to display his or her ballot paper after he or she has marked it so as to make known to any person the name of the candidate for whom he or she has or has not voted.

- (6) If any person acts in contravention of this section, he or she commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standards scale, or to custody for a term not exceeding 6 months, or to both.
- (7) In this section, a “teller” is a volunteer who, during an election, attends a polling station on behalf of a candidate to record the elector number of eligible electors who voted.

105 Refusal to obey lawful commands of deputy returning officers

[1995/13/48 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) Any person who intentionally refuses to obey or comply with any lawful order or direction given by a deputy returning officer in the execution of his or her duty under this Act commits an offence and liable on summary conviction to custody for a term not exceeding 3 months, or to a fine not exceeding level 4 on the standard scale, or to both, in addition to any other penalty to which he or she may be subject.

106 Defacing of notices

[1995/13/49 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) If any person without lawful authority destroys, mutilates, defaces or removes any notice published by the Returning Officer in connection with their respective duties under this Act, he or she commits an offence and is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

107 Display of lists showing how persons will vote

[1995/13/50 and drafting]

- (1) A candidate at an election must not, either by himself or herself or by any agent employed by him or her or any person authorised by him or her to assist in the election, display in any public place any list of eligible electors showing how or in what manner any such eligible electors will, or it is assumed will, vote in the election.
- (2) Any candidate exhibiting a list in contravention of this section commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

108 Issue etc. of certain election documents

[1995/13/51 and drafting]

- (1) A person must not, for the purpose of promoting or of procuring the election of any candidate at an election, publish, display or issue any

document setting out the names of all or any of the candidate or candidates at such election.

- (2) Subsection (1) does not apply to a document containing only the names of the particular candidate or candidates whose election such person is seeking to promote or procure, and the manner in which the vote or votes may be recorded in favour of such particular candidate or candidates.
- (3) A person who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

109 Officials not to act for candidates

[1995/13/52 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) If —
 - (a) any deputy returning officer at an election;
 - (b) any officer or clerk appointed under election regulations; or
 - (c) any partner or clerk of a person mentioned in paragraph (a) or (b),acts as an agent of a candidate in the conduct of the election, he or she commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

110 Canvassing by police officers

[1995/13/53 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) If any constable by word, message, writing or in any other manner endeavours to persuade any person to give, or dissuade any person from giving, his or her vote at an election, he or she commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) Nothing in this section subjects a constable to any penalty for anything done in the discharge of his or her duty as such.

Supplemental

111 Rights of creditors

[1995/13/54 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) Any provision of this Part prohibiting payments and contracts for payments, does not affect the right of any creditor, who, when the

contract was made or the expense was incurred, was ignorant of that contract or expense being in contravention of this Act.

112 Interpretation of Part 7

[1995/13/55 and drafting]

In this Part —

“**payment**” includes any pecuniary or other reward;

“**pecuniary reward**” and, save in section 92 (bribery), “**money**” include any office, place or employment, and any valuable security or other equivalent for money, and any valuable consideration; and expressions referring to money must be construed accordingly.

PART 8 – LEGAL PROCEEDINGS

The election agent

113 Appointment of election agent

- (1) Not later than the latest time for the delivery of notices of withdrawals, for an election, a person must be named by or on behalf of each candidate as the candidate's election agent, and the name and address of the candidate's election agent must be declared in writing by the candidate or some other person on his behalf to the appropriate officer not later than that time.
- (2) Where a registered political party submits a list of candidates, the requirements of subsection (1) above in relation to those candidates are that not later than the time there mentioned —
 - (a) a person must be named by or on behalf of the party as the election agent of all of those candidates; and
 - (b) the declaration required by that subsection must be made by or on behalf of the party.
- (3) A candidate may name himself or herself as election agent, and upon doing so must, so far as circumstances admit, be subject to the provisions, of this Act both as a candidate and as an election agent, and, except where the context otherwise requires, any reference in this Act to an election agent must be construed to refer to the candidate acting in his or her capacity of election agent.
- (4) Where a registered political party submits a list of candidates, a candidate included in the list —
 - (a) must not under subsection (3) name himself or herself as his or her own election agent; but

- (b) may be named by or on behalf of the party as the election agent of all the candidates included in the list,
- and the provisions which have effect by virtue of subsection (2) above in relation to a candidate upon his or her naming himself or herself as election agent also have effect in relation to a candidate upon his or her being named as election agent by virtue of paragraph (b).
- (5) One election agent only may be appointed for each candidate, but the appointment, whether the election agent appointed be the candidate himself or herself or not, may be revoked.
- (6) Where a registered political party submits a list of candidates —
- (a) the same person must be appointed as election agent for all the candidates included in the list; and
- (b) any such appointment may only be revoked by or on behalf of the party and in respect of all the candidates.
- (7) If whether before, during or after the election the appointment (or deemed appointment) of an election agent is revoked or an election agent dies, another election agent must be appointed forthwith and his or her name and address declared in writing to the appropriate officer.
- (8) The declaration as a candidate's election agent of a person other than the candidate is of no effect under this section unless it is made and signed by that person or is accompanied by a written declaration of acceptance signed by him or her.
- (9) Where a registered political party submits a list of candidates, subsection (5) above applies in relation to the candidates included in that list as if the reference to a person other than the candidate were a reference to a person other than the candidate whose name appears highest on the list.
- (10) Upon the name and address of an election agent being declared to the appropriate officer, the appropriate officer must forthwith give public notice of that name and address.
- (11) In this Part, “appropriate officer” means —
- (a) in relation to a national election, the Returning Officer;
- (b) in relation to a local election, the deputy returning officer for that election; or
- (c) in relation to any other local government election, the proper officer of the authority for which the election is held.

Questioning of an election

114 Election petition

[1995/13/56 and drafting]

- (1) This section applies equally to national elections and local elections.

- (2) Neither an election nor a return relating to an election may be questioned except by a petition presented in accordance with this Part (an “election petition”) complaining of —
 - (a) an undue election;
 - (b) an undue return; or
 - (c) no return.
- (3) On an election petition complaining of no return the High Court may either —
 - (a) make such order as it thinks expedient for compelling a return to be made; or
 - (b) allow the petition to be heard.
- (4) Schedule 1 has effect with respect to election petitions.

115 Report as to candidate guilty of corrupt or illegal practices

[1995/13/57 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) For the purposes of sections 116 and 124 —
 - (a) if it is reported that a corrupt practice (other than treating or undue influence) was committed with the knowledge and consent of a candidate, he or she must be treated as having been reported personally guilty of that corrupt practice; and
 - (b) if it is reported that an illegal practice was committed with the knowledge and consent of a candidate, he or she must be treated as having been reported to have perpetrated that illegal practice.
- (3) If a candidate is reported by his or her agents to have perpetrated treating, undue influence or any illegal practice, and the court further reports under paragraph 8 of Schedule 1 that the candidate has proved to the court —
 - (a) that no corrupt or illegal practice was committed in the election by the candidate or with his or her knowledge or consent and the offences mentioned in the said report were committed without the sanction or connivance of the candidate;
 - (b) that the candidate and his or her agents took all reasonable means for preventing the commission of corrupt and illegal practices at the election;
 - (c) that the offences mentioned in the report were of a trivial unimportant and limited character; and
 - (d) that in all other respects the election was free from any corrupt or illegal practice on the part of the candidate and of his or her agents,

then the candidate must not be treated for the purposes of sections 116 and 124 as having been reported by his or her agents to have committed the offences mentioned in the report.

Consequences of finding of corruption or illegal practice

116 Avoidance of election if candidate reported guilty

[1995/13/58 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) If a candidate who has been elected is reported by the High Court personally guilty or guilty by his or her agents of any corrupt or illegal practice his or her election is void.
- (3) This section is subject to section 90(5) and (6) and section 115(3).

117 Disciplinary action on report etc. of corrupt practice

[1995/13/59 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) Where a justice of the peace is reported by the High Court to have been guilty of any corrupt practice in reference to an election, whether he or she has obtained a certificate of indemnity or not, the High Court must report the case to the Governor with such evidence as may have been given of the corrupt practice.
- (3) Where an advocate, or any person who belongs to any profession the admission to which is regulated by law, is reported by the High Court to have been guilty of any corrupt practice in reference to an election, whether he or she has obtained a certificate of indemnity or not, the Attorney General must also cause that advocate or as the case may be, that person to be dealt with as if the corrupt practice were misconducted by him or her in his or her profession.
- (4) If it appears to the High Court that a person holding a licence under the *Licensing Act 1995* has knowingly suffered any bribery or treating in reference to any election to take place upon the licensed premises —
 - (a) the High Court must, after affording him or her such rights as are conferred on those about to be reported under paragraph 9(2) of Schedule 1, report the fact; and
 - (b) whether that person has obtained a certificate of indemnity or not —
 - (i) the Attorney General must bring the report before the Licensing Court; and
 - (ii) the report must be taken into consideration by the Licensing Court in determining whether to renew the

licence and may be a ground, if the Licensing Court thinks fit, for refusing the renewal.

- (5) If a person holding a licence under the *Licensing Act 1995* is convicted of bribery or treating committed on the licensed premises, the conviction must be taken into consideration by the Licensing Court in determining whether to renew the licence and may be a ground, if the Licensing Court think fit, for refusing the renewal.

Avoidance of elections etc.: further provisions

118 Avoidance of election for general corruption

[1995/13/60 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) Where on an election petition it is shown that corrupt or illegal practices or illegal payments or hirings committed in reference to the election for the purpose of promoting or procuring the election of any person at the election have so extensively prevailed that they may be reasonably supposed to have affected the result —
 - (a) the election of the person (if any), is void; and
 - (b) the person is incapable of being elected to fill the vacancy or any of the vacancies for which the election was held.
- (3) An election is not liable to be avoided otherwise than under this section by reason of general corruption, bribery, treating or intimidation.

119 Avoidance of election for employing corrupt agent

[1995/13/61 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) If at an election a candidate personally engages as a canvasser or agent for the conduct or management of the election any person whom the candidate knows or has reasonable grounds for supposing to be subject to an incapacity to vote at the election by reason of having been convicted or reported to have engaged in any corrupt practice or illegal practice, the candidate is incapable of being elected to fill the vacancy or any of the vacancies for which the election is held.

120 Votes to be struck off for corrupt or illegal practices

[1995/13/62 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) Where, on an election petition claiming the seat for any person, a candidate is proved to have engaged (by himself or herself or by any person on the candidate's behalf) in bribery, treating or undue influence

in respect of any person who voted at the election, there must, on a scrutiny, be struck off from the number of votes appearing to have been given to the candidate one vote for every person who voted at the election and is proved to have been so bribed, treated or unduly influenced.

- (3) If any person who engages in a corrupt or illegal practice or of an illegal payment or hiring at an election votes at the election, the vote is void.
- (4) If any person who, under any provision of this Act, is subject to an incapacity to vote at an election votes at that election, the person's vote is void.

121 Relief for innocent act

[1995/13/63 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) An application for relief under this section may be made to the High Court.
- (3) For the sake of clarity, under this section —
 - (a) an application may be made by a person; and
 - (b) relief may be granted under it to a person, even if the person is not entitled to present an election petition.
- (4) If it is shown to the High Court by such evidence as the court thinks sufficient —
 - (a) that any act or omission of any person would, apart from this section, by reason of being in contravention of this Act be an illegal practice, payment or hiring;
 - (b) that the act or omission arose from inadvertence or from accidental miscalculation or from such other reasonable cause of like nature, and in any case did not arise from any want of good faith; and
 - (c) that such notice of the application as the court thinks appropriate has been given in the constituency, district or ward (as the case may be) for which the election was held,

and under the circumstances the court thinks it just that either that or any other person should not be subject to any of the consequences under this Act of the act or omission, the High Court may make an order allowing the act or omission to be an exception from the provisions of this Act making it an illegal practice, payment or hiring; and thereupon a person must not be subject to any of the consequences under this Act of the said act or omission.

*Prosecution for corrupt practices etc.***122 Prosecution for corrupt practices etc.**

[1995/13/64 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) A person must not be prosecuted summarily for a corrupt practice where there may be occasion to exercise the powers conferred by section 125(2) and (3).
- (3) A person charged with personation must not be convicted by a court of summary jurisdiction or, save under section 123, committed for trial, except on the evidence of not less than 2 credible witnesses.
- (4) On a prosecution for an illegal practice it is sufficient to allege that the person charged was guilty of an illegal practice.
- (5) On a prosecution for an illegal payment or an illegal hiring it is sufficient to allege that the person charged was guilty of an illegal payment or an illegal hiring, as the case may be.
- (6) Any person charged with a corrupt practice may, if the circumstances warrant such finding, be found guilty of an illegal practice (which offence is for that purpose an offence triable on information).
- (7) Any person charged with an illegal practice may be found guilty of that offence even though the act constituting the offence amounted to a corrupt practice.
- (8) Any person charged with an illegal payment or hiring may be found guilty of that offence even though the act constituting the offence amounted to a corrupt or illegal practice.

123 Prosecution of offences disclosed on election petition

[1995/13/65 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) The Attorney General must obey any directions given by the High Court with respect to the prosecution of offenders, and if it appears to the Attorney General that any person who has not received a certificate of indemnity has engaged in a corrupt or illegal practice, the Attorney General must, without any such direction, prosecute that person for that offence before the High Court, or if the Attorney General thinks it expedient in the interests of justice, before any other competent court.
- (3) Where a person prosecuted before the High Court appears before the court, the court must proceed to try him or her summarily, unless —
 - (a) the court thinks it expedient in the interests of justice that the person prosecuted should be tried before some other court; and

- (b) in the case of an allegation of corrupt practice, the person prosecuted elects to be tried by a jury.
- (4) The *Summary Jurisdiction Act 1989*, so far as applicable, applies to the prosecution of an offence summarily before the High Court, in like manner as if it were an offence punishable only on summary conviction; and accordingly –
- (a) the attendance of any person may be enforced;
- (b) the case must be heard and determined;
- (c) any summary conviction by the High Court must be carried into effect and enforced;
- (d) the costs of the proceedings must be paid; and
- (e) the record of the proceedings must be dealt with under that Act, in like manner as if the High Court were a court of summary jurisdiction, except that there is no right of appeal against a conviction by the High Court.
- (5) Where –
- (a) the person prosecuted does not appear before the High Court;
- (b) the High Court thinks it expedient in the interests of justice that the person prosecuted should be tried before some other court; or
- (c) the person prosecuted elects under subsection (3) to be tried by a jury,
- and the High Court is of opinion that the evidence is sufficient to put that person on trial for the offence, the High Court must order that person to be prosecuted for the offence either on information or before a court of summary jurisdiction specified in the order, as the case may require, and thereupon must proceed as directed by subsection (7), (8) or (9).
- (6) Except where the accused has elected to be tried by a jury, a corrupt practice must not for the purposes of subsections (7) to (10) be treated as an offence triable on information, if the High Court thinks that it should be prosecuted summarily.
- (7) If the accused is present before the High Court and the offence is an offence triable on information, the provisions of the *Summary Jurisdiction Act 1989* relating to charges before justices against persons for such offences, apply, so far as applicable, and the High Court must commit the accused for trial.
- (8) If the accused is present before the High Court and the offence is not an offence triable on information, the High Court must –
- (a) order the accused to be brought before the court of summary jurisdiction before whom the accused is to be prosecuted; or
- (b) remand the accused on bail to appear before that court.

- (9) If the accused is not present before the High Court, the High Court must, as circumstances require, issue —
- (a) a summons for the accused's attendance before a court of summary jurisdiction; or
 - (b) a warrant to apprehend the accused and bring the accused before such a court.
- (10) The court of summary jurisdiction before whom the accused attends or is brought must —
- (a) if the offence is an offence triable on information, on proof only of the summons or warrant and the identity of the accused, commit the accused for trial; and
 - (b) if the offence is not an offence triable on information, proceed to hear the case.

Incapacities

124 Incapacities on report or conviction of corrupt or illegal practice

[1995/13/66 and drafting]

- (1) This section applies equally (except where a difference in application is expressly indicated) to national elections and local elections.
- (2) A candidate who is reported by the High Court guilty of a corrupt or illegal practice is incapable, from the date of the report, of being elected to and sitting in the Keys or of being a member of a local authority in the Island —
- (a) if reported to have perpetrated a corrupt practice, for 10 years;
 - (b) if reported by his or her agents to have perpetrated a corrupt practice, for 7 years;
 - (c) if reported to have personally engaged in an illegal practice, for 7 years; or
 - (d) if reported, by his or her agents, to have perpetrated an illegal practice —
 - (i) (in the case of a national election) during the term of the Keys for which the election was held; or
 - (ii) (in the case of a local election) for 3 years,and if at the date of the report he or she is a member of a local authority, then his or her seat is vacant as from that date.
- (3) Any person reported by the High Court personally guilty of a corrupt practice is for 5 years from the date of the report incapable —
- (a) (except in the case of a candidate) of being elected to and sitting in the Keys or of being a member of a local authority;

- (b) of being an eligible elector or voting at any election for the Keys or a local authority; or
 - (c) of holding any public or judicial office,
and if at the date of the report he or she is a member of the Keys or a local authority or holds such an office, then his or her seats or office is vacant as from that date.
- (4) Any person who is convicted in the High Court of personally having perpetrated an illegal practice is for 5 years from the date of the report incapable of being an eligible elector or voting at any election for the Keys or a local authority held for or within –
- (a) the constituency in respect of which the offence was committed; or
 - (b) any constituency wholly or partly within the area of that constituency as constituted for the purposes of the election.
- (5) A person convicted of a corrupt practice is subject to the incapacities imposed by this section as if at the date of the conviction he or she had been reported to have personally engaged in that corrupt practice.
- (6) A person convicted of an illegal practice is subject to the incapacities imposed by this section as if at the date of the conviction he or she had been reported to have personally engaged in that illegal practice.
- (7) This section is subject to section 90(5) and (6), section 115(3) and section 125.

125 Mitigation and remission of incapacities

[1995/13/67 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) Where any person is subject to any incapacity by virtue of the report of the High Court, and he or she or some other person in respect of whose acts the incapacity was imposed is on a prosecution acquitted of any of the matters in respect of which the incapacity was imposed, the High Court may order that the incapacity thenceforth cease so far as it is imposed in respect of those matters.
- (3) Where any person who is subject to any such incapacity is on a prosecution convicted of any such matters, no further incapacity is imposed by reason of the conviction, and the High Court has the like power (if any) to mitigate or remit for the future the incapacity so far as it is imposed by section 124 in respect of the matters of which he or she is convicted, as if the incapacity had been imposed by reason of the conviction.
- (4) The High Court exercising any of the powers conferred by subsections (2) and (3) must make an order declaring how far, if at all, the incapacities imposed by virtue of the relevant report remain unaffected

by the exercise of that power, and the order is conclusive for all purposes.

- (5) Where a person convicted of a corrupt or illegal practice is subsequently reported to have been guilty of it by the High Court, no further incapacity is imposed on him or her under section 124 by reason of the report.
- (6) Where any person is subject to any incapacity by virtue of a conviction or of the report of the High Court, and any witness who gave evidence against that person upon the proceeding for the conviction or report is convicted of perjury in respect of that evidence, the incapacitated person may apply to the High Court, and the court, if satisfied that the conviction or report so far as respects that person was based upon perjury, may order that the incapacity thenceforth cease.

General provisions as to prosecutions

126 Time limit for prosecutions

[1995/13/68 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) Proceedings against a person in respect of any offence to which this section applies must not be commenced more than one year after the offence was committed.
- (3) For the purposes of this section —
 - (a) where the service or execution of a summons, warrant or other process is prevented by the absconding, concealment or other act of the alleged offender, the issue of the process must be treated as the commencement of proceedings; or
 - (b) in any other case, the service of the summons, warrant or other process must be treated as the commencement of the proceedings.
- (4) This section applies to —
 - (a) any corrupt or illegal practice;
 - (b) any illegal payment or hiring; and
 - (c) any offence under section 94, 95 or 109.

127 Offences by corporations

[1195/13/69 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) Where —
 - (a) any corrupt or illegal practice;
 - (b) any illegal payment or hiring; or

(c) any offence under section 94,
is committed by an association or body or persons, corporate or unincorporate, the member of the association or body who have taken part in the commission of the offence is liable to any fine or punishment imposed for that offence by this Act.

128 Evidence by certificate of holding of elections

[1995/13/70 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) On any prosecution for a corrupt or illegal practice or for any illegal payment or hiring, the certificate of the Returning Officer at an election that the election mentioned in the certificate was duly held and that the person named in the certificate was a candidate at the election is sufficient evidence of the facts stated in it.

129 Functions of Attorney General

[1995/13/71 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) Where information is given to the Attorney General that any corrupt or illegal practice has occurred in reference to any election, the Attorney General must make such inquiries and institute such prosecutions as the circumstances of the case appear to the Attorney General to require.
- (3) The Attorney General must, either personally or by a representative, attend the trial of every election petition.
- (4) The court may order any party to the petition to pay all or part of the costs of the Attorney General in connection with the petition.

Supplemental

130 Injunction restraining false statement

[1995/13/72 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) A person making or publishing any such false statement of fact as is mentioned in section 90(3)(g) may be restrained by injunction by the High Court from any repetition of that false statement, or of a false statement of similar character, in relation to the candidate, and for the purpose of granting an interim injunction, prima facie proof of the falsity of the statement is sufficient.

131 Rules of court

[1995/13/73 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) Section 24 of the *High Court Act 1991* (power to make rules of court) applies to proceedings in the High Court under this Act.

132 Service of notices

[1995/13/74 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) Any summons, notice or document required to be served on any person with reference to any proceeding respecting an election for the purpose of causing the person to appear before the High Court, or otherwise, or of giving the person an opportunity of making a statement, or showing cause, or being heard by himself or herself before any court for any purpose of this Part, may be served —
 - (a) by delivering it to that person, or by leaving it at, or sending it by post by a registered letter or the recorded delivery service to, the person's last known place of abode in the constituency; or
 - (b) if the proceeding is before any court, in such other manner as the court may direct.
- (3) In proving service by post under this section, it is sufficient to prove that the letter was prepaid, properly addressed, and sent by registered post or the recorded delivery service.

133 Interpretation of Part 8

[1995/13/75 and drafting]

- (1) This section applies equally to national elections and local elections.
- (2) In this Part —
 - “**costs**” include charges and expenses;
 - “**judicial office**” includes the office of justice of the peace;
 - “**payment**” includes any pecuniary or other reward;
 - “**pecuniary reward**” and “**money**” include any office, place or employment, and any valuable security or, other equivalent for money, and any valuable consideration; and expressions referring to money must be construed accordingly;
 - “**public office**” means any office under the Crown or under any Department, Statutory Board or local authority.

PART 9 – RECALL OF MEMBERS

How a member becomes subject to a recall petition process

134 How a member becomes subject to a recall petition process

[P.2015/25/1 and drafting]

- (1) A member becomes subject to a recall petition process if —
 - (a) the first or second recall condition has been met in relation to the member; and
 - (b) the Speaker gives notice of that fact under section 138.
- (2) In this Act, “recall petition” means a petition calling —
 - (a) for a member of the Keys to lose his or her seat; and
 - (b) for a by-election to be held to decide who should be the member of the Keys for the constituency in question.
- (3) The first recall condition is that —
 - (a) the member has, after becoming a member of the Keys, been convicted of an offence and sentenced to custody; and
 - (b) the appeal period expires without the conviction, sentence or order having been overturned on appeal.

Sections 135 to 137 contain more about the first recall condition.

- (4) The second recall condition is that, following on from a report from the House of Keys Management and Members’ Standards in relation to the member, the Keys orders the suspension of the member from the service of the Keys for a specified period of the requisite length.
- (5) A specified period is “of the requisite length” for the purposes of subsection (4) if —
 - (a) where the period is expressed as a number of sitting days, the period specified is of at least 4 sitting days; or
 - (b) in any other case, the period specified (however expressed) is a period of at least 14 days.
- (6) For the purposes of subsection (4), it does not matter —
 - (a) when the period of suspension starts; and
 - (b) where that period is expressed as a number of sitting days, what provision (if any) is made by the Keys regarding what does, or does not, count as a sitting day for the purpose of calculating that period.
- (7) The reference in subsection (4) to the Committee on Standards is to any committee of the Keys concerned with the standards of conduct of individual members of the Keys.

- (8) Any question arising under subsection (7) is to be determined by the Speaker.
- (9) The provision made by or under this Act does not affect other ways in which a member's seat may be vacated, whether —
 - (a) by the member's disqualification; or
 - (b) by the member's death or otherwise.
- (10) The loss by a member of his or her seat under this Act as a result of a recall petition does not prevent the member standing in the resulting by-election.

135 The first recall condition: further provision

[P.2015/25/2 and drafting]

- (1) In section 134(3) and (9) (the first recall condition) —
 - (a) the reference to an offence includes an offence committed before the member became a member of the Keys and an offence committed before the day on which section 135 comes into operation; but
 - (b) the reference to a member being convicted of an offence is only to a member being convicted of an offence on or after the day on which section 134 comes into operation.
- (2) The reference in section 134(3) to an offence does not include an offence mentioned in section 134(9).
- (3) The reference in section 134(3) to a member being sentenced or ordered —
 - (a) includes the member being sentenced or ordered where the sentence of order is suspended;
 - (b) does not include the member being remanded in custody; and
 - (c) does not include the member being authorised to be detained under the *Mental Health Act 1998*,if there is no sentence or order for imprisonment or detention other than under that Act.
- (4) For the purposes of this Act, the time at which a person becomes a member is the beginning of the day after —
 - (a) the polling day for the national election at which the person is elected as a member; or
 - (b) where the person has been elected as a member more than once, the polling day for the national election at which the person was last so elected.

136 The first condition: expiry of appeal period

[P.2015/25/3 and drafting]

- (1) For the purposes of section 134(3) and (9) (the first condition), the appeal period expires at the earliest time at which —
 - (a) it is no longer possible for there to be a relevant appeal; and
 - (b) all relevant appeals have been determined or otherwise disposed of.
- (2) “Relevant appeal”, in relation to the first recall condition, means —
 - (a) an appeal that —
 - (i) is in respect of the conviction, sentence or order mentioned in section 134(3); and
 - (ii) is brought within the usual period; or
 - (b) an appeal that —
 - (i) is in respect of the determination of an appeal that was itself a relevant appeal; and
 - (ii) is brought within the period of 28 days beginning with the date of that determination or, if it ends earlier, the usual period.
- (3) References in this section to an appeal being brought within the usual period are to the appeal being brought within the period allowed for beginning an appeal of the kind in question, disregarding the possibility of an appeal out of time with permission.
- (4) References in this section to an appeal —
 - (a) are to an appeal to a court in the Island; and
 - (b) include an application (and accordingly references to an appeal being brought include an application being made).
- (5) References in this section to the determination of an appeal are, where the court to which the appeal is brought remits the matter to another court, to the disposal of the proceedings by that other court.

137 The first recall condition: courts to notify the Speaker

[P.2015/25/4 and drafting]

- (1) This section applies if a member, after becoming a member of the Keys —
 - (a) is convicted in the Island of an offence and sentenced or ordered to be imprisoned or detained within the meaning of section 134(3) (see section 135); or
 - (b) is convicted of an offence mentioned in section 134(9) within the meaning of that provision (see section 135).

- (2) The court that imposes the sentence or order in relation to the conviction must notify the Speaker —
 - (a) of the conviction and of the sentence or order; and
 - (b) whether an appeal may be brought in respect of the conviction, sentence or order.
- (3) Subsections (4) to (6) apply in a case in which an appeal is brought in respect of the conviction, sentence or order (including from a court that determines or otherwise disposes of such an appeal).
- (4) The court to which the appeal is brought must notify the Speaker that an appeal has been brought in respect of the conviction, sentence or order.
- (5) Where the appeal is determined or otherwise disposed of, the relevant court must notify the Speaker —
 - (a) that the appeal has been determined or otherwise disposed of;
 - (b) that —
 - (i) in a case within subsection (1)(a), the conviction, sentence or order has, or has not, been overturned on appeal; or
 - (ii) in a case within subsection (1)(b), the conviction has, or has not, been overturned on appeal; and
 - (c) whether any further appeal may be brought in respect of the conviction, sentence or order.
- (6) “The relevant court” means —
 - (a) the court to which the appeal is brought; or
 - (b) if that court remits the matter to another court, that other court.
- (7) Section 136(5) and (6) (interpretation of references to an appeal and to the determination of an appeal) apply in relation to this section as they apply in relation to section 136.
- (8) A court is not required under this section to notify the Speaker if, at any time since the application of the section, the member’s seat has been vacated (whether by the member’s disqualification or death, or otherwise).

138 Speaker’s notice that first or second recall condition has been met

[P.2015/25/5 and drafting]

- (1) As soon as reasonably practicable after becoming aware that the first or second recall condition has been met in relation to a member, the Speaker must give notice of that fact to the Returning Officer.
- (2) But subsection (1) does not apply if it would require the Speaker to give notice at a time —
 - (a) within the period of 6 months ending with the polling day for the next national election;

- (b) when the member is already subject to a recall petition process; or
 - (c) when the member's seat has already been vacated (whether by the member's disqualification or death, or otherwise).
- (3) For the purposes of subsection (2)(a), the possibility that, after the time mentioned in that subsection, the polling day for a national election will be altered by virtue of section 6 or 7 is to be disregarded.
- (4) For the purposes of subsection (2)(b), a member is "subject to a recall petition process" during the period beginning with the giving of a notice under this section in relation to the member and ending with —
- (a) the receipt by the petition officer of a notice under section 146(6) (early determination of recall petition process) in relation to the recall petition in question; or
 - (b) the giving by the petition officer of a notice under section 147(2)(b) (determination of whether recall petition successful) of the outcome of that recall petition.
- (5) A notice under this section —
- (a) must specify the day on which it is given;
 - (b) must specify which of the recall conditions has been met in relation to the member; and
 - (c) in a case in which the first recall condition has been met, must specify the offence of which the member has been convicted.
- (6) For the purposes of this Act, a notice under this section —
- (a) is to be treated as given on the day specified in it under subsection (5)(a); and
 - (b) is to be treated as received by the petition officer on the first working day after the day on which it is given.
- (7) References in this Act to a "Speaker's notice" are to a notice under this section.

139 Petition officers

[P.2015/25/6 and drafting]

- (1) There is to be a petition officer in relation to a recall petition for each constituency.
- (2) The petition officer is the person who is the deputy returning officer in relation to the constituency by virtue of section 62.
- (3) References in this Act to a petition officer are to a petition officer under this section.
- (4) Schedule 4 contains more about petition officers.

140 Where and from when the recall petition may be signed

[P.2015/25/7 and drafting]

- (1) Where the petition officer for a constituency receives a Speaker's notice from the Returning Officer, the petition officer must, as soon as reasonably practicable, designate —
 - (a) a place, or places, at which a recall petition is to be made available for signing; and
 - (b) a day from which the petition is to be made available for signing.
- (2) A maximum of 6 places may be designated under subsection (1)(a).
- (3) The petition officer must, in determining which place or places to designate under subsection (1)(a), seek to ensure that all persons entitled to sign the recall petition have such reasonable facilities for signing it as are practicable in the circumstances.
- (4) The petition officer must designate under subsection (1)(b) —
 - (a) the day which is the 10th working day after the day on which the officer received the Speaker's notice; or
 - (b) if it is not reasonably practicable to designate that day, the first subsequent working day that is reasonably practicable to designate.
- (5) In this Part —

“the designated place or places” means the place or places designated under subsection (1)(a);

“the designated day” means the day designated under subsection (1)(b).

141 Notice of petition to be sent to eligible electors

[P.2015/25/8 and drafting]

- (1) As soon as reasonably practicable after determining the designated place or places and the designated day under section 140, the petition officer must send a notice of petition in accordance with regulations under section 149 —
 - (a) to such descriptions of eligible electors for the constituency as are to be specified in such regulations; and
 - (b) to such other descriptions of persons as may be specified in such regulations.
- (2) Regulations under section 149 must require the notice to contain information relating to the recall condition which has been met in relation to the member.

142 Recall petition to be made available for signing

[P.2015/25/9 and drafting]

- (1) The petition officer must ensure that the recall petition is made available for signing throughout the signing period at the designated place or places, and by post, in accordance with regulations under section 149.
- (2) In this Act, “the signing period” means the period of 6 weeks beginning with the designated day.
- (3) The recall petition is made available for signing at the designated place or places, or by post, by a separate petition signing sheet being made available for signing by each person entitled to sign the petition at that place, or by post, in accordance with regulations under section 149.
- (4) The wording of a petition signing sheet must include the following —

By signing in the box below, you are signing a petition for [name of member], the member for [name of constituency], to lose [his/her] seat in the House of Keys.

If at least 10% of eligible people in the constituency sign the petition, [name of member] MHK will lose [his/her] seat in the House of Keys and a by-election will be held. The loss of [his/her] seat does not prevent [name of member] standing in this by-election.

If less than 10% of eligible people in the constituency sign the petition, [name of member] MHK will not lose [his/her] seat and therefore no by-election will be held.
- (5) The Cabinet Office may by regulations amend subsection (4).

Tynwald procedure – affirmative

143 Persons entitled to sign a recall petition

[P.2015/25/10 and drafting]

- (1) A person is entitled to sign a recall petition on a day during the signing period if, on that day —
 - (a) the person is registered in the register of electors for the constituency;
 - (b) the person is aged 16 or over, or the date of his or her 16th birthday is before the end of the signing period; and
 - (c) the person would be an eligible elector at a national election in the constituency.
- (2) Any alteration made to the register of electors for the constituency which takes effect —
 - (a) after the day on which the Speaker’s notice is given; and
 - (b) on or before the cut-off day,

does not have effect for the purposes of subsection (1)(a) if it results from a late application for registration.

- (3) Any alteration made to the register of electors for the constituency which takes effect after the cut-off day does not have effect for the purposes of subsection (1)(a).
- (4) For the purposes of this Act —
 - (a) “the cut-off day” means the 3rd working day before the beginning of the signing period; and
 - (b) “late applications for registration” means an application for registration that is made after the day on which the Speaker’s notice is given.

144 How entitlement to sign a recall petition is to be exercised

[P.2015/25/11 and drafting]

- (1) A person who is entitled to sign a recall petition may sign it —
 - (a) in person;
 - (b) by post; or
 - (c) by proxy,subject to meeting the requirements of regulation under section 18 about signing it by that method.
- (2) A person who is entitled to sign a recall petition may sign it only once.
- (3) Once a recall petition has been signed, the signature cannot be withdrawn.
- (4) Unless stated otherwise, references in this Act (however expressed) to the signing of a recall petition by a person are to the person signing it by any of the methods mentioned in subsection (1) otherwise than as a proxy for another person.

145 Double signing

[P.2015/25/12 and drafting]

- (1) A person commits an offence if the person signs the same recall petition, otherwise than by proxy, more than once.
- (2) A person commits an offence if the person signs a recall petition in person or by post knowing that a person appointed to sign the petition as his or her proxy —
 - (a) has already signed the petition in person as his or her proxy; or
 - (b) in accordance with provision made by regulations under section 149, is entitled to sign the petition as his or her proxy by post.
- (3) A person commits an offence if the person signs the same recall petition as proxy for the same person more than once.

- (4) A person commits an offence if the person signs a recall petition as proxy for another person knowing that the other person has already signed the petition in person or by post.
- (5) An offence under this section is treated —
 - (a) for the purposes of sections 90 and 122, as an illegal practice;
 - (b) for the purposes of section 98, as a voting offence; and
 - (c) for the purposes of section 124, as an offence conviction of which gives rise to an incapacity.
- (6) The court before which a person is convicted of an offence under this section may (in accordance with section 125), if it thinks it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of section 124.

Early termination of recall petition process

146 Early termination of recall petition process

[P.2015/25/13 and drafting]

- (1) This section applies where any of the following conditions is met at any time after the Speaker's notice is given but before notice of the outcome of the recall petition has been given under section 147(2)(b).
- (2) The first condition is that —
 - (a) the polling day for the next national election is brought forward by virtue of section 6; and
 - (b) the new day is within the period of 6 months beginning with the day on which the Speaker's notice was given.
- (3) The second condition is that the member's seat is vacated (whether by the member's disqualification or death, or otherwise).
- (4) As soon as reasonably practicable after becoming aware that this section applies, the Speaker must notify the petition officer that the section applies, specifying which of the conditions above has been met.
- (5) On the petition officer receiving a notice under subsection (6) —
 - (a) sections 140 to 144 cease to apply in relation to the recall petition; and
 - (b) no further action is to be taken under or by virtue of this Act in relation to the process relating to the signing of the recall petition except —
 - (i) the action required under subsection (8); and
 - (ii) any action which may be required or permitted by regulations under section 149 in relation to the termination of that process.

- (6) As soon as reasonably practicable after receiving a notice under subsection (6), the petition officer must –
 - (a) take such steps as the officer considers necessary to terminate the process relating to the signing of the recall petition; and
 - (b) give a public notice of the termination of that process in accordance with regulations under section 149.
- (7) The Speaker must lay before the Keys any notice given under subsection (6).

Outcome of recall petition

147 Determination of whether recall petition successful

[P.2015/25/14 and drafting]

- (1) This section applies unless the petition officer has received a notice under section 146(6) (early termination of recall petition process).
- (2) As soon as reasonably practicable after the end of the signing period, the petition officer must –
 - (a) determine whether the recall petition was successful;
 - (b) notify the Speaker that the recall petition was successful or unsuccessful, as the case may be; and
 - (c) having done that, give a public notice of the outcome of the recall petition in accordance with regulations under section 146.
- (3) For the purposes of this Act, a recall petition is successful if the number of persons who validly sign the petition is at least 10% of the number of eligible electors.

“The number of eligible electors” is the number of persons registered in the register of electors for the constituency on the last day of the signing period excluding those who, according to their entry in the register, are aged under 16 on that day.
- (4) Any alteration made to the register of electors for the constituency which takes effect –
 - (a) after the day on which the Speaker’s notice is given; and
 - (b) on or before the cut-off day,

does not have effect for the purposes of subsection (3) if it results from a late application for registration.
- (5) Any alteration made to the register of electors for the constituency which takes effect after the cut-off day does not have effect for the purposes of subsection (3), unless it takes effect pursuant to an authorised alteration.
- (6) For the purposes of subsection (3), a person validly signs a recall petition if –

- (a) the person signs the petition on a day during the signing period on which the person is entitled to do so under section 143;
 - (b) the person has not previously signed the petition;
 - (c) each condition (if any) imposed by regulations under section 149 of the kind mentioned in section 149(3)(d)(i) (conditions for the exercise of entitlement to sign) applicable to the method of signing used is met;
 - (d) the person's signing of the petition is not invalid for the purposes of this Act under regulations under section 149 of the kind mentioned in section 149(3)(d)(iv); and
 - (e) the person is not within subsection (7).
- (7) A person is within this subsection if, on the last day of the signing period, the person is not registered in the register of electors for the constituency because the person's entry has been removed by an authorised alteration.
- (8) The Speaker must lay before the Keys any notice received under subsection (2)(b).
- (9) In this section, an "authorised alteration" means an alteration pursuant to a recall petition under this Act.

148 Effect of successful petition

[P.2015/25/15 and drafting]

- (1) If the petition officer notifies the Speaker under section 147(2)(b) that the recall petition was successful, the member's seat becomes vacant on the giving of that notice.
- (2) That does not apply if the seat has already been vacated (whether by the member's disqualification or death, or otherwise).
- (3) Subsection (1) is subject to regulations under section 149 about the questioning of the outcome of the recall petition.

149 Power to make further provision about conduct of a recall petition etc.

[P.2015/25/18 and drafting]

- (1) The Cabinet Office may by regulations —
 - (a) make further provision about the conduct of a recall petition;
 - (b) make provision about the questioning of the outcome of a recall petition and the consequences of irregularities; or
 - (c) make further provision about the giving, sending, delivery or receipt of notices or other documents under this Act.

Tynwald procedure – affirmative

- (2) Regulations under subsection (1) may —

- (a) apply or incorporate any provision of electoral legislation (with or without modifications or exceptions);
 - (b) amend any form contained in a provision of electoral legislation for use in relation to recall petitions;
 - (c) make provision conferring a discretion on any person;
 - (d) make provision creating a criminal offence;
 - (e) make further provision about criminal offences under this Act;
 - (f) regulate expenditure in relation to recall petitions;
 - (g) regulate donations in relation to recall petitions; or
 - (h) impose reporting requirements in connection with the financial control of petitions.
- (3) The provision that may be made under subsection (1)(a) includes, in particular –
- (a) provision about the notice of petition under section 145, the petition signing sheet under section 146 or the public notice required under section 146(8)(b) or 147(2)(c);
 - (b) provision permitting or requiring the petition officer not to make the recall petition available for signing at the designated place or places at particular times of the day or on particular days;
 - (c) provision allocating persons registered in the register of electors for a constituency to a particular designated place and limiting the availability of the petition for signing at that place to signing by persons so allocated who are entitled to sign it;
 - (d) provisions about signing a recall petition in person, by post or by proxy, and in particular –
 - (i) provision under which an entitlement to sign a recall petition in person, by post or by proxy may be exercised only where conditions specified in the regulations are met;
 - (ii) provision about what a person must do in order to be regarded as having signed a recall petition for the purposes of this Act;
 - (iii) provision about when a person who signs a recall petition by post is treated as signing it for the purposes of this Act; or
 - (iv) provision about when a person's signing of a recall petition is invalid for the purposes of this Act;
 - (e) provision permitting or requiring the petition officer, in determining under section 147(2)(a) whether a recall petition was successful, to treat a person who signed the petition as having validly signed it for the purposes of section 147(3);

- (f) provision about access to, or the supply of copies of, the register of electors for a constituency or documents produced in relation to a recall petition;
 - (g) provision about the retention or disposal of documents or other information in relation to a recall petition; or
 - (h) further provision about the regulation of campaigning in relation to a recall petition.
- (4) Provision made as mentioned in subsection (3)(e) does not affect —
- (a) the question of whether, for the purposes of provisions made under subsection (1)(b), a person validly signed a recall petition for the purposes of section 147(3) (determination of whether recall petition successful); or
 - (b) liability to any penalty arising from a person signing a recall petition but failing to validly sign it for the purposes of section 147(3).
- (5) The outcome of a recall petition may be questioned only in accordance with provision made under subsection (1)(b).
- (6) The provision that may be made under subsection (1)(c) includes —
- (a) provision about how a notice or other document authorised or required under this Act to be given, sent or delivered is given, sent or delivered; or
 - (b) provision about the circumstances in which, and the time at which, a notice or other document is (or is to be treated as having been) given, sent, delivered or received.
- (7) For the purposes of this section, “a provision of electoral legislation” means a provision of this Act or the *Registration of Electors Act 2020*.

MISCELLANEOUS AND SUPPLEMENTAL

150 Regulations in respect of national elections

[1995/13/80 and drafting]

- (1) The Governor in Council may make regulations prescribing anything which by this Act (except Schedule 1) may be prescribed in respect of national elections.
- Tynwald procedure – approval required
- (2) Regulations under this section may amend this Act so as to vary any reference to any period of time mentioned in sections 70 to 77.

151 Regulations in respect of local elections

- (1) The Cabinet Office may make regulations prescribing anything which by this Act (except Schedule 1 may be prescribed in respect of local elections.

Tynwald procedure – approval required

- (2) Regulations under this section may amend this Act so as to vary any reference to any period of time mentioned in sections 70 to 77.

152 Lower level complaints

- (1) This section applies to both national elections and local elections.

- (2) The Council of Ministers may by regulations make provision for the making, hearing and resolution of complaints relating to an election that the Council of Ministers considers to be of insufficient gravity to be resolved by means of an election petition.

Tynwald procedure – approval required.

- (3) Without limiting subsection (2), regulations such regulations may prescribe the threshold for matters to be considered of insufficient gravity as aforesaid.

153 Amendments to The Isle of Man Constitution Amendment Act 1919

Omit section 12 of The Isle of Man Constitution Amendment Act 1919.

154 Repeals

The *Representation of the People Act 1995* and the *Local Elections Act 1986* are repealed.

SCHEDULE 1**PROCEDURE ON ELECTION PETITION**

Sections 3(1), 114(4), 115(3), 117(4)(a), 150(1) & 151(1)

[1995/13/Sch. 3 and drafting]

1 Interpretation

In this Schedule —

“**petition**” means an election petition;

“**prescribed**” means prescribed by rules of court;

“**the court**” means the High Court.

2 Presentation and service of petition

- (1) A petition may be presented by one or more of the following persons —
 - (a) a person who voted at the election or who had a right so to vote;
 - (b) a person claiming to have had a right to be elected or returned at the election; or
 - (c) a person alleging himself or herself to have been a candidate at the election.
- (2) The respondent to a petition is —
 - (a) if the petition complains of the conduct of a deputy returning officer, the deputy returning officer;
 - (b) in any other case, the member whose election or return is complained of.
- (3) The petition must —
 - (a) be addressed to the court;
 - (b) be in the prescribed form;
 - (c) state the prescribed matters;
 - (d) be signed by the petitioner, or all the petitioners (if more than one);
 - (e) be filed at the General Registry; and
 - (f) be served in the prescribed manner.
- (4) The Chief Registrar must cause a copy of the petition to be sent to the deputy returning officer of the constituency to which the petition relates, who must forthwith publish it in that constituency.

3 Time for presentation or amendment of petition

- (1) Subject to this paragraph, a petition must be presented within 28 days after the return has been made to the Clerk of the Rolls of the member to whose election the petition relates.
- (2) If the matter complained of in the petition is an alleged illegal payment, or any payment of money or other act made or done since the return has been made, by the member to whose election the petition relates or any agent of the member's or with the privity of the member, in pursuance or furtherance of the matter complained of, the petition may so far as respects such matter be filed within 28 days after the date of the payment or other act.
- (3) If the petition is one complaining of no return, it must be filed within 56 days of the issue of the writ of election.
- (4) For the purposes of this paragraph, an allegation that an election is avoided under section 119 must be treated as an allegation of corrupt practices, notwithstanding that the offences alleged are, or include, offences other than corrupt practices.

4 Security for costs

- (1) The petitioner must, in accordance with rules of court, give security (in such amount (not exceeding the prescribed amount)) as the Clerk of the Rolls directs, for all costs which may become payable by the petitioner in connection with the petition.
- (2) Within the prescribed time, the petitioner must serve on the respondent —
 - (a) a notice of presentation of the petition, and of the nature of the proposed security; and
 - (b) a copy of the petition.
- (3) The respondent may, in accordance with rules of court, object to any security given by the petitioner on the ground that —
 - (a) any surety is insufficient or dead, or cannot be found or identified; or
 - (b) a person named as surety has not duly acknowledged the recognisance,and the objection must be decided by the court.
- (4) If no security is given as required by this paragraph, or any objection is allowed and not removed, further proceedings on the petition are prohibited.

5 **Petition at issue**

On the expiration of the time limited for objections, or, after objection made, on the objection being disallowed or removed, whichever last happens, the petition is at issue.

6 **Trial of petition**

- (1) A petition must be tried in open court and without a jury, and notice of the time and place of trial must be given in the prescribed manner, not less than 14 days before the day of trial.
- (2) The trial of a petition must be proceeded with notwithstanding the acceptance by the respondent of an office of profit under the Crown or under the Government of the Island, and notwithstanding the prorogation of the Keys.
- (3) On the trial of a petition, unless the court otherwise directs, any charge of a corrupt or illegal practice may be gone into, and evidence in relation thereto received, before any proof has been given of agency on behalf of any candidate in respect of corrupt or illegal practice.
- (4) On the trial of a petition complaining of undue election and claiming the seat of office for some person, the respondent may give evidence to prove that that person was not duly elected, in the same manner as if he or she had presented a petition against the election of that person.
- (5) If it appears during the hearing of petition that there is an equality of votes between any candidates at the election, and that the addition of a vote would have entitled any of these candidates to be declared elected, then —
 - (a) any decision under the provisions as to equality of votes in election regulations is, in so far as it determines the question between those candidates, effective also for the purposes of the petition; and
 - (b) in so far as that question is not determined by such a decision, the court must decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote.

7 **Witness**

- (1) The Attorney General must obey any direction given by the court with respect to the summoning and examination of any witness to give evidence at the trial.
- (2) The Attorney General must, without any direction from the court, cause any person appearing to the Attorney General to be able to give material evidence as to the subject of the trial to attend the trial and must, with the leave of the court, examine him or her as a witness.

- (3) A person called as a witness respecting an election before the court must not excused from answering any question relating to any offence at, or connected with, the election, on the ground that the answer thereto may criminate or tend to criminate that person or the spouse or civil partner of that person, or on the ground of privilege; but —
- (a) a witness who answers truly all question which he or she is required by the court to answer is entitled to receive a certificate of indemnity under the hand of the Deemster presiding at the court stating that the witness has so answered; and
- (b) an answer by a person to a question put by, or before, the court is not admissible in evidence against that person or the spouse or civil partner of that person.

Head (b) applies to both civil and criminal proceedings, but does not apply to criminal proceedings for perjury in respect of the evidence.

- (4) The giving or refusal to give a certificate of indemnity to a witness by a court is final and conclusive.
- (5) Where a person has received a certificate of indemnity in relation to an election, and any legal proceeding is at any time instituted against the person for any corrupt or illegal practice committed by the person previously to the date of the certificate at or in relation to the election, or any illegal payment or hiring or contravention of section 96 as committed, the court having cognizance of the case must on production of the certificate stay the proceedings, and may in its discretion award to the said person such costs as he or she may have been put to in the proceeding.
- (6) Nothing in this paragraph relieves a person receiving a certificate of indemnity from any incapacity under this Act or from any proceedings to enforce that incapacity (other than a criminal prosecution).

8 Conclusion of trial of petition

- (1) At the conclusion of the trial of a petition the court must determine whether the member whose petition, election or return is complained of, or any, and what, other person was duly returned and elected, or whether the election was void, and must forthwith certify in writing the determination to the Speaker, and the determination so certified is final.
- (2) Where any charge is made in the petition of any corrupt or illegal practice having been committed at the election, the court must, in addition to giving a certificate, and at the same time, make a report to the Speaker as required by paragraph 9 and also stating whether corrupt or illegal practices have, or whether there is reason to believe that corrupt or illegal practices have, extensively prevailed at the election.

- (3) The court may at the same time make a special report to the Speaker as to matters arising in the course of the trial an account of which in the judgment of the court ought to be submitted to the Keys.
- (4) The Keys on being informed of a certificate and any report of the court, must order the certificate and report (if any) to be entered in their proceedings or minutes and must give the necessary direction for confirming or altering the return, or for reporting to the Governor the vacancy in pursuance of section 8 with a view to issuing a writ for a new election, or for carrying the determination into execution as the circumstances may require; and where the court makes a special report, the Keys may make such order in respect of that report as they think proper.

9 Further provisions as to report under paragraph 8

- (1) The report of the court under paragraph 8 must state —
 - (a) whether any corrupt or illegal practice has or has not been proved to have been committed by or with the knowledge and consent of any candidate at the election, and the nature of the corrupt or illegal practice;
 - (b) whether any of the candidates has been guilty by his or her agents of any corrupt or illegal practice in reference to the election; and
 - (c) the names of all persons (if any) who have been proved at trial to have been guilty of any corrupt or illegal practice and whether they have been furnished with certificates of indemnity.
- (2) Before any report is made against a person who is neither a party to the petition nor a candidate on behalf of whom the seat is claimed by the petition, the court must first —
 - (a) cause notice to be given to the person; and
 - (b) if the person appears in pursuance of the notice, give the person an opportunity of being heard in person and of calling evidence in his or her defence to show why he or she should not be so reported.
- (3) The report must be laid before the Attorney General with a view to the Attorney General's instituting or directing a prosecution against such persons as have not received certificates of indemnity, if the evidence should, in the Attorney General's opinion, be sufficient to support a prosecution.
- (4) This paragraph is subject to section 90(4) and (5).

10 Withdrawal of petition

- (1) A petitioner must not withdraw a petition without the leave of the court on special application, made in the prescribed manner.
- (2) The application must not be made until the prescribed notice of the intention to make it has been given in the constituency to which the petition relates.
- (3) Where there are more petitioners than one, the application must not be made except with the consent of all the petitioners.
- (4) If a petition is withdrawn the petitioner is liable to pay the costs of the respondent.

11 Evidence required for withdrawal of petition

- (1) Before leave for the withdrawal of a petition is granted, there must be produced affidavits by all the parties to the petition and their advocates, but the court may on cause shown dispense with the affidavits of any particular person if it seems to the court on special grounds to be just so to do.
- (2) Each affidavit must state that, to the best of the deponent's knowledge and belief, no agreement or terms of any kind whatsoever has or have been made, and no undertaking has been entered into, in relation to the withdrawal of the petition; but if any lawful agreement has been made with respect to the withdrawal of the petition, the affidavit must set forth that agreement, and must make the foregoing statement subject to what appears from the affidavit.
- (3) The affidavits of the applicants and the applicant's advocate must further state the ground on which the petition is sought to be withdrawn.
- (4) Copies of the said affidavits must be delivered to the Attorney General a reasonable time before the application for the withdrawal is heard, and the court may hear the Attorney General or the Attorney General's assistant, or other representative, in opposition to the allowance of the withdrawal of the petition, and may receive the evidence on oath of any person or persons whose evidence the Attorney General or the Attorney General's assistant or other representative may consider material.
- (5) Where more than one advocate is concerned for the petitioner or respondent, whether as agent for another advocate or otherwise, the affidavit must be made by all such advocates.

12 Corrupt withdrawal

If any person makes any agreement or enters into any undertaking in relation to the withdrawal of a petition, and the agreement or undertaking is for the withdrawal of the petition in consideration —

- (a) of any payment;
- (b) that the seat or office will at any time be vacated; or
- (c) of the withdrawal of any other petition,

or is (whether lawful or unlawful) not mentioned in the said affidavits, he commits an offence and is liable on conviction on information to custody for a term not exceeding 12 months or to a fine, or to both.

13 Substitution of new petitioner

- (1) On the hearing of the application for leave to withdraw, any person who might have been a petitioner in respect of the election may apply to the court to be substituted as a petitioner, and the court may, if it thinks fit, substitute the person accordingly.
- (2) If the proposed withdrawal is in the opinion of the court the result of any agreement or undertaking prohibited by section 96 or induced by any corrupt bargain or consideration, the court may by order direct that the security given on behalf of the original petitioner must remain as security for any costs that may be incurred by the substituted petitioner, and that, to the extent of the sum named in the security, the original petitioner and his or her sureties are liable to pay the costs of the substituted petitioner.
- (3) If the court does not so direct, then security to the same amount as would be required in the case of a new petitioner and subject to the like conditions must be given on behalf of the substituted petitioner before he or she proceeds with his or her petition and within the prescribed time after the order or substitution.
- (4) Subject as aforesaid, a substituted petitioner stands, as nearly as may be, in the same position and is subject to the same liabilities as the original petitioner.

14 Report on withdrawal

If a petition is withdrawn, the court must make a report to the Speaker stating whether in the opinion of the court the withdrawal of the petition was —

- (a) the result of any agreement or undertaking; or
- (b) in consideration of any matter specified in paragraph 12 or for any other consideration,

and, if so, must state the circumstances attending the withdrawal.

15 Withdrawal after double return

- (1) Where —
 - (a) a petition complains of a double return to a writ for an election;

- (b) the respondent has given notice to the court that he or she does not intend to oppose the petition;
- (c) no party has been admitted under the following provisions to defend the petition; and
- (d) there is no petition complaining of the other member returned on the double return,

the petitioner may withdraw by notice addressed to the court, who upon receipt of the notice must report the fact of the withdrawal to the Speaker.

- (2) The Keys must thereupon give the necessary directions for amending the double return by striking out the certificate by which the respondent declining to oppose the petition was returned, or otherwise as the case may require.

16 Abatement of petition

- (1) A petition is abated by the death of a sole petitioner or of the survivor of several petitioners.
- (2) The abatement does not affect the liability of the petitioner or any other person to the payment of costs previously incurred.
- (3) On the abatement the prescribed notice thereof must be given in the constituency to which the petition relates; and within the prescribed time after the notice is given, any person who might have been a petitioner in respect of the election may apply to the court in the prescribed manner and at the prescribed time to be substituted as a petitioner; and the court may, if it thinks fit, substitute him or her accordingly.
- (4) Security must be given on behalf of a petitioner so substituted, as in the case of a new petition.

17 Withdrawal and substitution of respondents before trial

- (1) If before the trial of a petition the Keys resolve that the seat of a respondent is vacant or that respondent (not being a deputy returning officer) —
 - (a) dies;
 - (b) becomes a member of the Council; or
 - (c) gives the prescribed notice that he or she does not intend to oppose the petition,

the prescribed notice of those events must be given in the constituency to which the petition relates.

- (2) Within the prescribed time after the notice is given any person who might be a petitioner in respect of the election may apply to the court to

be admitted as a respondent to oppose the petition, and must be so admitted save that no more than 3 persons may be admitted in total.

- (3) A respondent who has given the prescribed notice that he or she does not intend to oppose the petition must not be allowed to appear or act as a party against the petition in any proceedings thereon, and he or she must not sit or vote in the Keys until the Keys have been informed of the report on the petition.
- (4) Where a respondent to a petition has given the prescribed notice in the prescribed time and manner, the court must report that fact to the Speaker.

18 Cost of petition

- (1) All costs of an incidental to the presentation of a petition and the proceedings consequent thereon, except as otherwise provided for, must be defrayed by the parties to the petition in such manner and in such proportions as the court may determine; and in particular any costs which in the opinion of the court have been caused by vexatious conduct, unfounded allegations or unfounded objections on the part of either of the petitioner or of the respondent, and any needless expense incurred or caused on the part of the petitioner or respondent, may be ordered to be defrayed by the parties by whom it has been incurred or caused, whether or not they are on the whole successful.
- (2) If a petitioner neglects or refuses for 3 months after demand to pay to any person summoned as a witness on his or her behalf or to the respondent any sum certified to be due to him or her for his or her costs, and the neglect or refusal is within one year after the demand proved to the satisfaction of the court, every person who under this Act entered into a recognisance relating to the petition must be held to have made a default in the recognisance, and the court must thereupon certify the recognisances to be forfeited and grant execution against every such person in favour of the witness or respondent, as the case may be, in respect of the sum due to him or her.

19 Further provision as to costs

- (1) Where upon the trial of a petition it appears to the court —
 - (a) that a corrupt practice has not been proved to have been committed in reference to the election by or with the knowledge and consent of the respondent to the petition; and
 - (b) that the respondent took all reasonable means to prevent corrupt practices being committed on his or her behalf,

the court may make one or more orders with respect to the payment either of the whole or such part of the costs of the petition as the court may think right as provided by sub-paragraph (2).

- (2) If it appears to the court that any person or persons is or are proved, whether by providing money or otherwise, to have been extensively engaged in corrupt practices, or to have encouraged or promoted extensive corrupt practices in reference to the election, the court may, after giving that person, or those persons, an opportunity of being heard by an advocate and examining and cross-examining witnesses to show cause why the order should not be made, order the whole or part of the costs to be paid by that person or those persons or any of them; and may order that if the costs cannot be recovered from one or more of those persons, they must be paid by some or other of those persons or by either of the parties to the petition.
- (3) Where any person appears to the court to have been guilty of a corrupt or illegal practice, the court may, after giving that person an opportunity of making a statement to show why the order should not be made, order the whole or any part of the costs of, or incidental to, any proceeding before the court in relation to the said person to such persons as the court may direct.

20 Appeals and jurisdiction

- (1) No appeal will lie without the special leave of the court from the decision of the court on any question of law, whether on appeal or otherwise, under the foregoing provisions of this Schedule, and if leave to appeal is granted the decision of the court on the appeal is final and conclusive.
- (2) Subject to the provisions of this Act and of rules of court, the court must, in so far as may be, observe the principles, practices and rules on which select committees of the Keys use to act in dealing with election petitions.
- (3) The court, subject to the provisions of this Act, has the same powers, jurisdiction and authority with respect to a petition and the proceedings thereon as if the petition were an ordinary action within its jurisdiction.

SCHEDULE 2

DONATIONS AND ELECTION EXPENSES

Section 3((3) and (4)

[1995/13/Sch. 3A and drafting]

PART 1 – MEANING OF “DONATION”

1 Money

- (1) A gift of money is a donation if —
 - (a) it is made at any time during the relevant period to a candidate or prospective candidate and the giver signifies, either expressly or by implication, that the money is intended for use to pay the candidate’s election expenses; or
 - (b) it is made after the candidate’s nomination is accepted by the deputy returning officer but before the poll, and the giver does not signify the intended use of the money.
- (2) A loan of money is a donation if —
 - (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
 - (b) the loan is made —
 - (i) at any time during the relevant period, to the candidate or prospective candidate 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
 - (ii) after the candidate’s nomination is accepted by the deputy returning officer but before the poll, and the lender does not signify the intended use of the loan.
- (3) A gift or loan of money is made at the time when the money is given to the candidate or prospective candidate or, if earlier, the time when the giver or lender informs the candidate or prospective candidate of his or her intention to make the gift or loan.

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, to the candidate or prospective candidate 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 6(1)(b); or
 - (ii) after the candidate's nomination is accepted by the deputy returning officer but before the poll, and 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.

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

5 Exception for newspapers and broadcasters

- (1) A person does not make a donation by publishing any matter relating to an election —
- (a) in a newspaper or periodical;
 - (b) in a programme broadcast by a television or radio service provider (including such programme as it may be accessed on, or downloaded from, a website); or
 - (c) on a website as part of the news service of a television or radio service provider or news agency.
- (2) Despite sub-paragraph (1), a person does make a donation if the person provides an advertisement, or pays for the inclusion of an advertisement, in a newspaper or a periodical.
- (3) In this paragraph —
- (a) references to a newspaper or a periodical include references to a web-based edition of that newspaper or periodical; and
 - (b) reference to a programme broadcast by a television or radio service include references to such a programme being made available for viewing or listening on, or downloading from, a website.

PART 2 – MEANING OF “ELECTION EXPENSES”

6 Election expenses of a candidate

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

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

7 Direct or notional expenses

- (1) The election expenses of a candidate or prospective candidate may be direct expenses or notional expenses.
- (2) A direct expense is the amount of any liability incurred for the supply or use of goods or the provision of services used as described in paragraph 6(1)(b).
- (3) A notional expense is incurred when goods or services supplied either free of charge or at a discount are used as described in paragraph 6(1)(b).
- (4) A notional expense is also a donation. Accordingly, its value and timing must be determined in accordance with paragraph 3.
- (5) This paragraph is subject to paragraph 8.

8 Sums to be disregarded in computing expenses

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

- (a) any expense that, by virtue of paragraph 4 and 5, is not a donation;
- (b) any expense incurred by a person in discharging a legal obligation (such as that of the Treasury under section 86(1) in respect of posting election addresses);
- (c) any expense incurred in connection with the proper performance of a person's duties as a member of the Keys or the holder of any other elected office; and
- (d) any expense of a description specified in an order made by the Cabinet Office.

9 Shared expenses

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

10 Meaning of "relevant period"

In this Schedule, "relevant period" has the same meaning as it has in section 76 (interpretation).

SCHEDULE 3**MAYOR AND DEPUTY MAYOR**

Section 36(3)

[1986/10/Sch. 2 and drafting]

1. The mayor must be elected by the council from among the councillors or persons qualified to be councillors.
2.
 - (1) At an election of the mayor, in the case of equality of votes, the person presiding at the meeting must give a casting vote, whether or not he or she voted or was entitled to vote in the first instance.
 - (2) If an election of the mayor is not held at the annual meeting, it may be held on the day following, or the High Court may, on the petition of the Attorney General or of the Corporation or any burgess, order that the election be held on a day appointed by the Council.
 - (3) An election of the mayor not called into question within 2 months of the date of the election is deemed to be a valid election.
3.
 - (1) The mayor may appoint a councillor to act as deputy mayor during the illness or absence of the mayor.
 - (2) Any such appointment must be signified to the council in writing and recorded in the minutes.
 - (3) The deputy mayor may, while acting as such, do all acts which the mayor as such might do, except that he or she may not —
 - (a) preside at a meeting of the council unless appointed by the meeting to do so; or
 - (b) unless he or she is a justice of the peace, act as such or in any such capacity.

SCHEDULE 4**PETITION OFFICERS**

Section 139(4)

[P.2015/25/Sch. 1 and drafting]

1 Petition officer's general duty

It is the petition officer's general duty to do anything necessary for effectually conducting a recall petition in accordance with Part 9 of this Act and regulations made under this Act in respect of Part 9.

2 Performance of petition officer's functions: delegation, assistance etc.

- (1) The petition officer may appoint one or more deputies to perform any or all of the officer's functions under or by virtue of Part 9 of this Act.
- (2) Each local authority whose area falls wholly or partly within the constituency must place the services of its officers at the disposal of the petition officer for the purpose of assisting the petition officer in the performance of the officer's functions under or by virtue of Part 9 of this Act.

3 Expenditure

- (1) A petition officer may recover from the Treasury charges in respect of services rendered, or expenses incurred, by the officer for or in connection with the performances of the officer's functions or under or by virtue of Part 9 of this Act if —
 - (a) the services were necessarily rendered, or the expenses were necessarily incurred, for the efficient and effective performance of those functions; and
 - (b) the total of the officer's charges does not exceed the amount ("the overall maximum recoverable amount") specified in, or determined in accordance with, regulations made by the Cabinet Office, with the consent of the Treasury, for the purpose of this sub-paragraph.
- (2) Regulations under sub-paragraph (1) may specify, or make provision for determining in accordance with the regulations, a maximum recoverable amount for services or expenses of any specified description.
- (3) The petition officer may not recover more than the specified maximum recoverable amount in respect of any specified services or expenses.

- (4) But in a particular case the Cabinet Office may, if satisfied that the conditions in sub-paragraph (5) are met, and with the consent of the Treasury, authorise the payment of —
 - (a) more than the overall maximum recoverable amount; or
 - (b) more than the specified maximum recoverable amount for any specified services or expenses.
- (5) Those conditions are —
 - (a) that it was reasonable for the petition officer to render the services or incur the expenses; and
 - (b) that the charges in question are reasonable.
- (6) The amount of any charges recoverable in accordance with this paragraph is to be paid by the Cabinet Office on account of being submitted to the Cabinet Office.
- (7) But the Cabinet Office may, before payment, apply for the account to be taxed under paragraph 4.
- (8) On the request of a petition officer for an advance on account of the officer's charges, the Cabinet Office may make an advance on such terms as it thinks fit.
- (9) The Cabinet Office may by regulations make provision as to —
 - (a) the time when accounts are to be rendered to the Minister for the purposes of the payment of a petition officer's charges; and
 - (b) the manner and form in which such accounts are to be so rendered.
- (10) Any sums required by the Cabinet Office for making payments under this paragraph are to be charged on, and paid out of, the General Revenue of the Island.
- (11) In sub-paragraphs (2) to (4), "specified" means specified in, or determined in accordance with, regulations under sub-paragraph (1).

SCHEDULE 5

OATHS TO BE TAKEN BY NEW MEMBERS OF THE KEYS

Section 11

No member of the Keys is permitted to sit and to vote in the Keys until he or she has taken and subscribed the oaths specified in this Schedule. At the first gathering of the new House of Keys following a national election, the First Deemster and Clerk of the Rolls, and the Second Deemster must administer oaths to each member.

The oaths are:

I, (full name), do swear by Almighty God that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, her heirs and successors.

So help me God.

Her Majesty's counsel, your fellows, and your own, you shall not reveal; you shall use your best endeavours to maintain the ancient laws and customs of this Isle.

You shall justly and truly deliver your opinion and do right in all matters which shall be put unto you, without favour or affection, affinity or consanguinity, love or fear, reward or gain, or for any hope thereof; but in all things you shall deal uprightly and justly and do wrong to no man.

So help you God, and by the contents of this Book.

The oaths may also be taken in Manx:

Ta mish loo liorish Jee Ooillee-nyartal dy bee'm firrinagh as dy feer ammyssagh da e Hooashley Reeoil y nah Ven-rein Elizabeth, chairn Vannin.

As ayns shoh dy gooin Jee lhiam.

Coyrle y Ven-rein, coyrlle dty Cho-olteynyn, as dty choyrle hene cha jean oo y hoilshaghey; gys rere dty phooar nee oo cummal seose Shenn Leighyn as Cliaghtaghyn yn Ellan shoh.

Nee oo dy cairagh as dy firrinagh dty vriwnys y livrey, as cairys y yannoo ayns dy chooilley nhee hed er soiaaghey kiongoyrt rhyt, gyn foayr ny kenjallys, gyn cleunys ny mooinjerys, gyn graih ny aggle, gyn leagh ny cosney ny jerkal erbee rish lheid y red shen, agh ayns dy chooilley nhee nee oo dellal dy ynrick as dy cairagh, gyn aggair y yannoo da dooinney erbee.

The Chief Registrar must attend and bring the Liber Juramentorum, or Book of Oaths, which each member must sign. The Deemsters must also sign to attest that the oaths have been administered and the signatures added.