



# ELECTIONS (LOCAL AUTHORITIES) REGULATIONS 2022

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Statutory Document No. 2022/0230

*Elections (Keys and Local Authorities) Act 2020*

# ELECTIONS (LOCAL AUTHORITIES) REGULATIONS 2022<sup>1</sup>

*Approved by Tynwald:* 21 July 2022  
*Coming into Operation:* 1 August 2022

The Council of Ministers makes the following Regulations under section 22 of the Elections (Keys and Local Authorities) Act 2020.

## 1 Title

These Regulations are the Elections (Local Authorities) Regulations 2022.

## 2 Commencement

If approved by Tynwald, these Regulations come into operation on 1<sup>st</sup> August 2022.

## 3 Interpretation

(1) In these Regulations—

“**the Act**” means the Elections (Keys and Local Authorities) Act 2020 and a reference to a numbered section (without more) is a reference to the section of the Act so numbered;

“**casual vacancy**” has the meaning assigned by section 3 of the Act;

“**the Department**” means the Cabinet Office;

“**elector**” means an eligible elector as defined in the Registration of Electors Act 2020;

“**electoral area**” means the district of an authority or, where the district is divided into wards, a ward of the district.

“**electoral number**” means a person’s number in the register to be used at the election;

“**list of postal votes**” has the meaning assigned by paragraph 4(1) of Schedule 2;

“**list of tendered votes**” has the meaning assigned by regulation 39(3);

“**nomination day**” means the final day for the delivery of nomination papers (day 13);

“**Officer**” means the Electoral Registration Officer appointed under section 18(1) of the Registration of Electors Act 2020 or, where that person is unavailable, the Deputy Electoral Registration Officer appointed under section 18(2) of that Act;

“**postal vote**” means a vote cast by a person who is allowed to vote in advance under section 85 of the Act and postal voter shall be construed accordingly.

“**returning officer**” means—

- (a) where no deputy returning officer has been appointed, the Chief Secretary;
- (b) where a deputy returning officer has been appointed for an electoral area, the deputy returning officer for that electoral area; or
- (c) where more than one deputy returning officer has been appointed for an electoral area, the deputy returning officer so appointed first or, if he or she is off the Island or otherwise unable to act, another deputy returning officer for that electoral area.

“**spoilt ballot paper**” has the meaning assigned by regulation 40;

“**tendered ballot paper**” has the meaning assigned by regulation 39.

- (2) In these Regulations, references to polling agents and counting agents are references to agents—
  - (a) who have been duly appointed by candidates,
  - (b) the appointments of whom have been duly notified; and
  - (c) who are within the permitted number (but this subparagraph applies only if the number of agents is limited).
- (3) For the purposes of these Regulations “day 0” is the day on which the notice of election is issued and corresponding references to “day n” are references to the day which falls the corresponding number of days after that day.
- (4) For the purposes of these Regulations wherever a signature is required it permits the request for a signature waiver and if a signature waiver has already been granted the requirement for a signature on that form or document is not required.

#### 4 Forms specified under these Regulations

Any reference in these Regulations to a specified form is to the form specified, for that purpose, by the Chief Secretary.

## **5 Notice of election to fill a casual vacancy**

- (1) In the case of an election to fill a casual vacancy, the Returning Officer must publish, in the form specified—
  - (a) a notice for electors, containing information on postal and proxy voting; and
  - (b) a notice for potential and prospective candidates, containing information about the nomination process.
- (2) The notice mentioned in paragraph (1)(b) must contain—
  - (a) a warning as to corrupt practices; and
  - (b) advice on obtaining a copy of the Act, a copy of these Regulations, and a copy of the register of electors.
- (3) The notice shall be published by—
  - (a) insertion in one or more newspapers published and circulating on the Island, and
  - (b) by display on an appropriate website in an appropriate manner and may be published by placard posted up in some public and conspicuous situation in the electoral area to which the notice refers.

## **6 Notice of election pursuant to section 24 of the Act**

- (1) In the case of an election called pursuant to section 24 of the Act the Department must publish, in the form specified—
  - (a) a notice for electors, containing information on postal and proxy voting; and
  - (b) a notice for potential and prospective candidates, containing information about the nomination process.
- (2) The notice mentioned in paragraph (1)(b) must contain—
  - (a) a warning as to corrupt practices; and
  - (b) advice on obtaining a copy of the Act, a copy of these Regulations, and a copy of the register of electors.
- (3) The notice shall be published by—
  - (a) the Department by—
    - (i) insertion in one or more newspapers published and circulating in the Island, and
    - (ii) display on an appropriate website in an appropriate manner; and
  - (b) the Returning Officer by posting in one or more conspicuous places in the electoral area.

## 7 Nomination of candidates

- (1) Every candidate must be nominated by a separate nomination paper delivered in accordance with regulation 9.
- (2) The nomination paper must be in the form specified and must state—
  - (a) the full names, place of residence, telephone number (if any) and email address (if any) of the person named as the candidate; and
  - (b) whether the person named as the candidate meets the qualification requirements for membership of a Local Authority set out in section 19(1) of the Act.
- (3) Each person named as the candidate must produce (or cause to be produced) to the returning officer his or her passport, a certified copy of his or her passport or other evidence to the satisfaction of the returning officer as proof of compliance with section 19(1)(b) of the Act.

## 8 Subscription of nomination paper

- (1) A candidate's nomination paper must be subscribed by 2 electors for the electoral area as proposer and seconder, and by not fewer than 8 other electors for the electoral area assenting to the nomination.
- (2) Every person subscribing the nomination paper must include his or her electoral number.
- (3) The same elector may subscribe as many nomination papers as there are vacancies to be filled, but not more, and the elector's signature is invalid on any nomination paper duly delivered in excess of that number.

## 9 Delivery of nomination papers

- (1) Nomination papers and proof of compliance with section 19(1)(b) of the Act must be delivered to the returning officer—
  - (a) at a place specified by the returning officer;
  - (b) by the person named as a candidate personally or by his or her proposer or seconder; and
  - (c) at a time agreed between the returning officer and the person named as the candidate, being a time between 10.00am on day 6 and 1.00pm on nomination day (day 13).
- (2) The only persons who may attend at the delivery of a nomination paper are—
  - (a) the returning officer and any person assisting the returning officer;
  - (b) the person named as the candidate;
  - (c) the proposer or seconder of the person named as the candidate; and
  - (d) one other person selected by the person named as the candidate.



- (3) Where a person stands nominated by more than one nomination paper, only the person subscribing to, as proposer or seconder such one of those papers as he may select or, if none is selected, such one of those papers as it is first delivered, shall be entitled to attend as his proposer or seconder.

## **10 Consent to nomination**

If a nomination paper is not delivered personally by the person named as the candidate, the returning officer may not hold the person validly nominated unless that person's written consent to the nomination, attested by a witness is delivered at a place and time agreed with the returning officer within the time appointed for the delivery of the nomination papers in accordance with Regulation 9.

## **11 Objections to nominations**

- (1) The returning officer must attend and invite the persons standing nominated as a candidate to attend at a specified venue between 1.00pm and 2.00pm on nomination day (day 13) ("the period for objections").
- (2) The only persons who may attend the proceedings during the period for objections are —
  - (a) the returning officer and any person assisting the returning officer;
  - (b) a person standing nominated as a candidate;
  - (c) the proposer or seconder of a person standing nominated; and
  - (d) one other person selected by a person standing nominated.
- (3) The right to attend conferred by this regulation includes the right to inspect, and to object to the validity of, any nomination paper.

## **12 Decisions as to validity of nomination papers**

- (1) This regulation applies when a nomination paper, and consent to a nomination paper (if required), has been delivered to a returning officer in accordance with these Regulations.
- (2) The returning officer must determine as soon as practicable whether the nomination paper of a person named as the candidate is valid.
- (3) Where the returning officer determines that a nomination paper is valid, the returning officer must notify the person named as the candidate.
- (4) The returning officer may only hold a nomination paper invalid for one of the following reasons—
  - (a) the person named as the candidate is, on the face of the nomination paper, ineligible for election;
  - (b) the particulars of the person named as the candidate or the persons subscribing the paper are not as required by law;

- (c) the paper is not subscribed as so required;
  - (d) proof is given, to the satisfaction of the returning officer, of the death of the person named as the candidate; or
  - (e) the candidate withdraws in accordance with regulation 16.
- (5) The returning officer may hold a nomination paper invalid at any time before the close of the period for objections to nominations under regulation 11.
- (6) The returning officer must give a decision on any objection to a nomination paper as soon as practicable after it is made.
- (7) If the returning officer decides that a nomination paper is invalid, the returning officer must as soon as practicable—
- (a) notify the person named as the candidate in order to provide him or her with the opportunity to cure the invalidity, if appropriate; or
  - (b) endorse and sign on the paper the decision and the reasons for it and notify the person named as the candidate.
- (8) The returning officer's decision on the validity of a nomination paper may only be questioned in proceedings on an election petition. For the sake of clarity, this paragraph does not preclude the institution of proceedings for an offence under the Act.

### **13 Nomination for more than one ward**

A candidate who is validly nominated for more than one ward must duly withdraw from his or her candidature in all those wards except one, and if he or she does not withdraw that candidate shall be deemed to have withdrawn from his or her candidature in all those electoral wards.

### **14 Appointment of election agent**

- (1) The appointment of an election agent must be completed by the candidate in the form specified by the Chief Secretary and submitted to the returning officer.
- (2) The form of appointment must include the following particulars—
- (a) the full name and address of the election agent; or
  - (b) where the candidate is acting as his or her own election agent, a statement to that effect; and
  - (c) a declaration by the election agent that he or she consents to act as such.

### **15 Role of election agent**

The role and functions of the election agent include—

- (a) responsibility for the proper management of a candidate's election campaign; and
- (b) responsibility for the financial management of a candidate's election campaign.

## **16 Withdrawal of candidates**

- (1) A candidate may, at any time before the close of the period for objections to nominations under regulation 11, but not afterwards, withdraw from the candidature by giving notice in writing to that effect to the returning officer.
- (2) A notice under this regulation must be—
  - (a) signed by the candidate or, if the candidate is unable to do so, by his or her proposer;
  - (b) if signed by the proposer, accompanied by a signed declaration by the proposer as to the candidate's inability to sign; and
  - (c) if delivered by any person other than the candidate, attested by a witness.

## **17 Method of election**

- (1) If at the close of the period for objections to nominations under regulation 11, more candidates stand nominated than there are vacancies to be filled, a poll must be taken in accordance with Part 3.
- (2) If at that time no more candidates stand nominated than there are vacancies to be filled, the relevant provisions of Parts 4 and 5 apply.

# **PART 3 – CONTESTED ELECTIONS**

## **DIVISION 1 – GENERAL PROVISIONS**

### **18 Poll to be taken by ballot**

The votes at the poll are to be given by ballot, the votes given to each candidate counted and the result determined in accordance with the following provisions of this part.

### **19 The ballot papers**

- (1) The ballot of every voter is to consist of a ballot paper, and only the candidates standing nominated may have their names on the ballot paper.
- (2) Every ballot paper must—
  - (a) be in the form specified;
  - (b) be printed in accordance with the returning officer's directions;

- (c) contain the full names and place of residence as shown in their respective nomination papers;
  - (d) be capable of being folded up;
  - (e) have a number printed on the back; and
  - (f) have attached a counterfoil with the same number printed on the face.
- (3) The list of candidates on the ballot paper must be arranged alphabetically in the order of their surnames and, if there are 2 or more candidates of the same surname, in the order of their other names.

## **20 The official mark**

- (1) Every ballot paper must be marked with an official mark in the manner specified by the returning officer so as to preclude false ballot papers being included in the count.
- (2) The official mark must be kept secret and an interval of not fewer than 7 years must intervene before the use of the same official mark at elections for the same electoral area.

## **21 Prohibition of disclosure of votes**

A person who has voted at an election may not be required, in any legal proceedings in which the election or the return is being questioned, to state for whom he or she has voted.

### **DIVISION 2 – ACTION TO BE TAKEN BEFORE THE POLL**

## **22 Notice of poll**

The returning officer must, as soon as practicable after the close of the period for objections to nominations, give public notice of the poll in the form specified.

## **23 Death of a candidate**

- (1) This regulation applies if, after publication of the notice of the poll and before the result of the election is declared, proof is given to the satisfaction of the returning officer of the death of one of the candidates.
- (2) Where this regulation applies, the returning officer must countermand notice of the poll, or if the poll or the count has begun, direct that such proceedings be abandoned, and all proceedings with reference to the election must be commenced afresh in all respects as if the notice of election had been published on the day on which proof was given to the returning officer of the death.
- (3) No fresh nomination is necessary in the case of a person whose name has been published as a candidate.

- (4) If the poll is abandoned under this regulation and the proceedings at or consequent on that poll are interrupted, the presiding officer at each polling station for the relevant district or ward, as the case may be, must take like steps for delivery to the returning officer of ballot boxes, ballot papers and other documents as he or she is required to take on the close of the poll, and the returning officer must dispose of ballot papers and other documents in his or her possession as required on the completion of the counting of the votes.
- (5) However—
- (a) it is not necessary for any ballot paper account to be prepared or verified; and
  - (b) the returning officer, without taking any step or further step for the counting of the ballot papers or of the votes, must seal up all the ballot papers, whether the votes on them have been counted or not, but it is not necessary to seal up counted and rejected ballot papers in separate packets.
- (6) If a poll is abandoned or countermanded after postal voter ballot papers have been issued by reason of the death of a candidate, the returning officer—
- (a) must not take any step or further step to open covering envelopes or deal with the contents in accordance with Schedule 2; and
  - (b) must, despite paragraphs 16 and 17 of Schedule 2, treat all unopened covering envelopes and the contents of these that have been opened as if they were counted ballot papers.
- (7) The provisions of these Regulations as to the inspection, production, retention and destruction of ballot papers and other documents relating to a poll at an election apply to any such documents relating to a poll abandoned by reason of a candidate's death, with the following modifications—
- (a) ballot papers on which the votes were neither counted nor rejected are treated as counted ballot papers; and
  - (b) no order, except one made by a court in connection with a prosecution, may be made for—
    - (a) the production or inspection of any ballot papers; or
    - (b) the opening of a sealed packet of counterfoils or of certificates of appointment.

## 24 Applications to vote by post

Schedule 2 has effect in respect of applications to vote in advance by post.

**25 Proxy votes**

Schedule 3 has effect in respect of applications to vote by proxy.

**26 Provision of polling stations**

- (1) The returning officer must provide one or more polling stations for each polling district.
- (2) If two or more polling stations are provided for a polling district, the returning officer must allot the electors to the polling stations in such manner as the returning officer thinks most expedient.
- (3) Two or more polling stations may be provided in the same room.
- (4) A polling station must be within the polling district that it is intended to serve, unless it is determined by the returning officer that there is no such suitable accommodation available, in which case he or she must make every effort to secure a polling station as close as possible to the polling district that it is intended to serve.

**27 Appointment of presiding officers and clerks**

- (1) The returning officer must appoint in writing and in the form specified, and pay the following officers and clerks—
  - (a) not more than 2 presiding officers to attend at each polling station;
  - (b) a chief counting clerk; and
  - (c) such poll clerks and counting clerks as may be necessary for the purposes of the election.
- (2) But no person who has been employed by or on behalf of a candidate in or about the election may be appointed under paragraph (1).
- (3) The presiding officer must be in possession at the polling station of the document of appointment in respect of his or her appointment together with those of the poll clerks and the returning officer must retain the documents of appointment of the chief counting officer and counting clerks.
- (4) If 2 presiding officers are appointed to attend at the same polling station, the returning officer must ensure that only one of them is on duty at the polling station at any one time.
- (5) On making the appointments under paragraph (1), the returning officer must immediately administer to each of the persons where mentioned an oath in the form set out in Part 2 to Schedule 1, and the certificate of the oath must be attached to each appointment.
- (6) The returning officer may, if he or she thinks fit, preside at a polling station, in which case the provisions of these Regulations relating to a

presiding officer apply to the returning officer with any necessary modifications.

- (7) A presiding officer may delegate to any poll clerk any act (including the asking of questions) that the presiding officer is required or authorised by these Regulations to do at a polling station, except ordering—
- (a) the arrest of any person; or
  - (b) the exclusion or removal of any person from the polling station.

## **28 Issue of official poll cards**

- (1) As soon as is practicable the local authority must send an official poll card to each elector other than an elector whose application under section 85 of the Act to be treated as a postal voter has been allowed, by 5.00pm on day 28 according to the return delivered by the returning officer under paragraph 4(4) of Schedule 2.
- (2) An elector's official poll card must be sent or delivered to the elector's qualifying address.
- (3) The official poll card must be in the form specified and must set out—
- (a) the name of the electoral area;
  - (b) the elector's name, qualifying address and number on the register of electors;
  - (c) the date and hours of the poll; and
  - (d) the location of the elector's polling station.

## **29 Equipment at polling stations**

- (1) The returning officer must provide the presiding officer for each polling station with—
- (a) such number of ballot boxes as the returning officer considers necessary, which must be so constructed that the ballot papers can be put in it, but cannot be withdrawn from it without it being unlocked or the seal being broken;
  - (b) such number of ballot papers and tendered ballot papers as the returning officer considers necessary;
  - (c) sufficient compartments so that voters can mark their votes screened from observation; and
  - (d) materials to enable voters to mark the ballot papers.
- (2) The returning officer must provide the presiding officer for each polling station with—
- (a) copies of the register of electors, or such part of it as contains the names of the electors allotted to the station, but with the names

- ruled out of those electors whose applications to be treated as postal voters have been allowed; and
- (b) a copy of the list of proxies, or such part of the list as contains the names of electors allotted to the station.
- (3) A notice in the form specified, giving directions for the guidance of the voters in voting, must be printed in conspicuous characters and exhibited in every compartment of every polling station.

### **30 Appointment of polling and counting agents**

- (1) Each candidate may, before 5.00 p.m. on day 39, appoint —
  - (a) polling agents to attend at each polling station in the electoral area for the purpose of detecting personation, but not more than 2 may attend any one polling station at any one time, up to the maximum number permitted for each and every candidate by the returning officer.
  - (b) such other number of counting agents to attend at the counting of the votes as the candidate may wish, up to the maximum number permitted for each and every candidate by the returning officer.
- (2) The candidate must give notice in writing in the form specified of such appointments, stating the names and addresses of the persons appointed, to the returning officer before 5.00 p.m. on day 39.
- (3) If an agent dies, or becomes incapable of acting, the candidate may appoint another agent, and must as soon as practicable give notice in writing in the form specified of the name and address of the new agent appointed to the returning officer.
- (4) The returning officer must provide the presiding officer with a list of all polling agents appointed to attend the relevant polling station.
- (5) The returning officer must ensure a list of all counting agents appointed is available at the counting of the votes.
- (6) If no polling or counting agent has been appointed by a candidate, or such an agent is not present, that candidate may personally do any act or thing which the agent could have done under these Regulations.
- (7) Where by these Regulations any act or thing is required or authorised to be done in the presence of the polling or counting agents, the non-attendance of any agents or agent at the time and place appointed for the purposes does not, if the act or thing is otherwise duly done, invalidate the act or thing done.

### **31 Declaration of secrecy**

- (1) Before the opening of the poll, a declaration of secrecy in the form set out in Part 4 of Schedule 1 must be signed by —



- (a) every officer or clerk authorised to attend at a polling station;
  - (b) every accredited observer attending at a polling station;
  - (c) every candidate attending at a polling station; and
  - (d) every polling agent.
- (2) Before the counting of the votes, a declaration of secrecy in the form set out in Part 4 of Schedule 1 must be signed by —
- (a) every officer or clerk authorised to attend at a polling station;
  - (b) every accredited observer attending at a polling station;
  - (c) every candidate attending at the counting of the votes;
  - (d) every counting agent;
  - (e) the individual, if any, nominated by a candidate attending the count other than as a counting agent; and
  - (f) every other individual permitted by the returning officer to attend at the counting of the votes, unless that person has already signed a declaration of secrecy under paragraph 1.
- (3) The declaration of secrecy must be signed in the presence of either the returning officer, a justice of the peace or a commissioner for oaths.

### DIVISION 3 – THE POLL

#### **32 Admission to polling station**

The presiding officer must regulate the number of voters to be admitted to the polling station at the same time, and must exclude all other persons except —

- (a) the candidates;
- (b) the polling agents appointed to attend at the polling station;
- (c) the poll clerks;
- (d) the returning officer;
- (e) any constables on duty;
- (f) any accredited observer;
- (g) the companions of voters with disabilities at the discretion of the presiding officer; and
- (h) persons under the age of 16 who accompany voters at the discretion of the presiding officer.

#### **33 Keeping of order in polling station**

- (1) The presiding officer must keep order at the polling station.
- (2) If a person misconducts himself or herself in a polling station, or fails to obey the lawful orders of the presiding officer, the person may

immediately, by order of the presiding officer be removed from the polling station by a constable, and the person so removed may not re-enter the polling station during that day without the permission of the presiding officer.

- (3) Any person so removed may, if charged with the commission of an offence in the polling station, be dealt with as a person taken into custody by a constable for an offence without a warrant.
- (4) Unless the interests of good order require it, the powers conferred by this regulation may not be exercised so as to prevent a voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

### **34 Sealing of ballot boxes**

Immediately before the commencement of the poll, the presiding officer must —

- (a) show that the ballot box is empty to such persons, if any, as are present in the polling station;
- (b) lock it up or seal it and place his or her seal on it in such manner as to prevent it being opened without breaking the seal;
- (c) place it in his or her view for the receipt of ballot papers; and
- (d) keep it so locked and sealed.

### **35 Questions to be put to voters**

(1) The presiding officer may (or, if so required by a polling agent, must) put to any person applying for a ballot paper at the time of such application, but not afterwards, any of the following questions —

- (a) in the case of a person applying as an elector —
  - (i) “Are you the person registered in the register of electors for this election as follows [read the whole entry from the register]?”;
  - (ii) “Have you already voted, here or elsewhere, at this election for the electoral area of [name the electoral area], otherwise than as proxy for another person?”;
  - (iii) “What is your date of birth?”;
- (b) In the case of a person applying as a proxy —
  - (i) “Are you the person whose name appears as [name the proxy] in the list of proxies for this election as entitled to vote as proxy on behalf of [name the person who has appointed the proxy]?”;

- (ii) “Have you already voted, here or elsewhere, at this election for the electoral area of [name the electoral area] as proxy on behalf of [name the person who has appointed the proxy]?”.
- (2) In the case of a person applying as proxy, the presiding officer may and must if required by a polling agent, put the following additional questions –
  - (a) “Are you the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild of [name the person who has appointed the proxy]?”, and if that question is not answered in the affirmative –
  - (b) “Have you already voted, here or elsewhere, at this election for the electoral area of [name the electoral area] on behalf of 2 persons of whom you are not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild?”.
- (3) Subject to sub-paragraph (4), a ballot paper must not be delivered to any person required to answer the above questions, or any of them, unless the person has given a satisfactory answer to the question or questions.
- (4) Nothing in this regulation prevents a presiding officer, on reasonable grounds, from asking any person applying for a ballot paper in accordance with regulation 35(1) for further information as to their identity.
- (5) No inquiry may be made into a person’s right to vote except in accordance with this regulation.

### **36 Challenge of voter**

- (1) If, at the time or after a person applies for a ballot paper for the purpose of voting but before the person has left the polling station, a polling agent –
  - (a) declares to the presiding officer that he or she has reasonable cause to believe that the applicant has committed an offence of personation; and
  - (b) undertakes to substantiate the charge in a court of law, the presiding officer may order a constable to arrest the applicant, which order is sufficient authority for the constable to do so.
- (2) A person against whom a declaration is made under this regulation is not, by reason of that declaration, prevented from voting.
- (3) A person arrested under this regulation is to be dealt with as a person taken into custody by a constable for an offence without a warrant.

### **37 Voting procedure**

- (1) A ballot paper, marked with the official mark, must be delivered to a voter who applies for it, and immediately before delivery –

- (a) the number and name of the elector as stated in the copy of the register of electors must be called out;
  - (b) the number of the elector must be marked on the counterfoil; and
  - (c) a mark must be placed on the register of electors against the number of the elector to denote that a ballot paper has been received, but without showing the particular ballot paper which has been received.
- (2) Subject to regulation 38, the voter, on receiving the ballot paper, must proceed immediately and alone into one of the compartments in the polling station and there must –
  - (a) secretly mark the paper; and
  - (b) fold the paper so that the vote is concealed.
- (3) After leaving the compartment the voter must –
  - (a) return immediately to the presiding officer's table and show the back of the folded paper to the presiding officer so as to disclose the official mark; and
  - (b) put the folded ballot paper into the ballot box in the presence of the presiding officer.
- (4) The voter must leave the polling station immediately after putting the ballot paper into the ballot box.
- (5) The voter must not show the ballot paper after marking it to any person other than the presiding officer, and must show it to the presiding officer only if the voter wishes to prove that it has been spoiled.
- (6) In the case of a proxy voter, the procedure set out above is modified in accordance with paragraph 5 of Schedule 3.

### **38 Votes marked by a presiding officer**

- (1) The presiding officer, on the application of a voter who declares orally that he or she is –
  - (a) incapacitated by blindness or other physical cause from voting in the manner directed by these Regulations; or
  - (b) unable to read,must, in the presence of the polling agents, cause the vote of the voter to be marked on a ballot paper in the manner directed by the voter, and the ballot paper to be placed in the ballot box.
- (2) The name and number on the register of electors of every voter whose vote is marked in pursuance of this regulation and the reason why it is so marked must be entered on a list of votes marked by the presiding officer.
- (3) In the case of a person voting as proxy for an elector, the number to be entered together with the voter's name is the elector's number.

### **39 Tendered ballot papers**

- (1) If a person representing himself or herself to be —
  - (a) a particular elector named on the register, whose name has not been ruled out as a postal voter; or
  - (b) a particular person named in the list of proxies as proxy for an elector,

applies for a ballot paper after another person has voted either as the elector or as the elector’s proxy as the case may be, the applicant must, on satisfactorily answering the questions permitted by law to be asked at the poll, be entitled to mark a ballot paper (a “tendered ballot paper”) in the same manner as any other voter.
- (2) A tendered ballot paper must —
  - (a) be of a different colour from the other ballot papers; and
  - (b) instead of being put into the ballot box, be given to the presiding officer and endorsed by the presiding officer with the name of the voter and the voter’s number in the register of electors and set aside in a separate packet.
- (3) The name of the voter and his or her number on the register of electors must be entered on a list (the “list of tendered votes”).
- (4) In the case of a person voting as proxy for an elector, the number to be endorsed or entered together with the voter’s name is the elector’s number.

### **40 Spoilt ballot papers**

A voter who has inadvertently dealt with his or her ballot paper in such manner that it cannot conveniently be used as a ballot paper may, on delivering it to the presiding officer and proving to the presiding officer’s satisfaction the fact of the inadvertence, obtain another ballot paper in the place of the ballot paper so delivered (a “spoilt ballot paper”), and the spoilt ballot paper must be immediately endorsed “spoilt” by the presiding officer and set aside in a separate packet.

### **41 Adjournment of poll in case of riot**

- (1) If the proceedings at any polling station are interrupted or obstructed by riot or open violence, the presiding officer must adjourn the proceedings until the following day and must immediately give notice to the returning officer.
- (2) Where the poll is adjourned at any polling station —
  - (a) the hours of polling on the day to which it is adjourned must be the same as for the original day; and

- (b) references in these Regulations to the close of the poll are construed accordingly.

#### **42 Procedure on close of poll**

- (1) As soon as practicable after the close of the poll, the presiding officer must, in the presence of the polling agents (if any) –
  - (a) make up the items listed in paragraph (2) into separate packets, sealed with the presiding officer’s own seal and the seals of any polling agents who wish to affix their seals; and
  - (b) deliver them to the returning officer to take charge of.
- (2) The items are –
  - (a) each ballot box in use at the station, sealed so as to prevent the introduction of additional ballot papers and unopened but with the key (if any) attached;
  - (b) any postal voter ballot envelopes delivered by hand to a polling station in accordance with paragraph 14 of Schedule 2;
  - (c) the unused ballot papers;
  - (d) the spoiled ballot papers;
  - (e) the tendered ballot papers;
  - (f) the ballot paper account;
  - (g) the marked copies of the register of electors;
  - (h) the list of proxies;
  - (i) the counterfoils of the used ballot papers;
  - (j) the list of tendered votes;
  - (k) the list of votes marked by the presiding officer, including the number of votes so marked under the heads “physical incapacity” and “unable to read”; and
  - (l) the appointments and certificates of oaths of the presiding officer and poll clerks.

#### **DIVISION 4 – COUNTING OF VOTES**

#### **43 Attendance at count**

- (1) The returning officer must make arrangements for counting the votes as soon as practicable after the close of the poll.
- (2) Only the following may be present at the counting of the votes –
  - (a) the returning officer, presiding officer, chief counting officer, poll clerks and counting clerks;
  - (b) any accredited observer;

- (c) the candidates;
  - (d) the counting agents;
  - (e) one individual, if any, nominated by each candidate to attend; and
  - (f) any individual permitted by the returning officer to attend,
- and the returning officer must ensure that all such persons are informed of the arrangements for the counting of the votes.
- (3) The returning officer may impose conditions as to the conduct of persons permitted under paragraph (2) and may restrict the number of persons attending under sub-paragraph (e) of that paragraph.
  - (4) The returning officer must keep order at the counting of the votes.
  - (5) If a person misconducts himself or herself at the counting of the votes, or fails to obey the lawful orders of the returning officer, the person may immediately, by order of the returning officer, be removed from the place for the counting of the votes by a constable, and the person so removed may not re-enter the place for the counting of the votes during that day without the permission of the returning officer.
  - (6) Any person so removed may, if charged with the commission of an offence in the place for the counting of the votes, be dealt with as a person taken into custody by a constable for an offence without a warrant.
  - (7) The returning officer must give the counting agents –
    - (a) all such reasonable facilities for overseeing the proceedings (including, in particular, facilities for satisfying themselves that the ballot papers are correctly sorted); and
    - (b) all such information with respect to the proceedings as he or she can give them consistent with the orderly conduct of the proceedings and the discharge of his or her duties in connection with those proceedings.
  - (8) In particular, if the votes are counted by sorting the ballot papers according to the candidate for whom the vote is given and counting the number of ballot papers for each candidate, the counting agents are entitled to satisfy themselves that the ballot papers are correctly sorted.

#### **44 The count**

- (1) Before the returning officer proceeds to count the votes, the returning officer must –
  - (a) in the presence of the counting agents open each ballot box, take out the ballot papers in it, count and record them and verify each ballot paper account in accordance with paragraph (2).
  - (b) count and record such of the postal voter ballot papers as have been duly returned in accordance with paragraph (3); and
  - (c) merge the ballot papers mentioned in sub-paragraphs (a) and (b).

- (2) The returning officer must —
  - (a) verify each ballot paper account by comparing it with the number of ballot papers recorded and opening, counting the contents and resealing the packets containing the unused ballot papers, spoiled ballot papers and the list of tendered votes and adding all but the tendered ballot papers to the total; and
  - (b) draw up a statement as to the result of the verification, which any counting agent may copy.
- (3) A postal voter ballot paper is not to be taken to be duly returned unless it meets the requirements of Schedule 2.
- (4) While counting and recording the number of ballot papers and counting the votes the returning officer must keep the ballot papers face up and take all proper precautions to prevent any person seeing the numbers printed on the back.
- (5) The returning officer must, so far as practicable, proceed continuously with counting the votes.

#### 45 Re-count

- (1) When the count or any re-count of the votes is completed, a candidate, or in a candidate's absence, any of his or her counting agents, may request the returning officer to have the votes re-counted or again re-counted, and the returning officer may refuse to do so only if he or she considers the request unreasonable.
- (2) No step may be taken on the completion of the count or any re-count of votes until the candidates or, in a candidate's absence, any of his or her counting agents when present have been given a reasonable opportunity to exercise the right conferred by this regulation.

#### 46 Rejected ballot papers

- (1) Any ballot paper —
  - (a) not bearing the official mark;
  - (b) on which votes are given for more candidates than there are vacancies to be filled;
  - (c) on which anything is written or marked by which the voter can be identified except the printed number of the back; or
  - (d) that is unmarked or void for uncertainty,is void and must not be counted.
- (2) However, if the voter is entitled to vote for more than one candidate, a ballot paper is not void for reasons of uncertainty as respects any vote as to which no uncertainty arises and that vote must be counted.
- (3) A ballot paper on which the vote is marked —



- (a) elsewhere than in the proper place;
  - (b) otherwise than by means of a cross; or
  - (c) by more than one mark against the same candidate's name,  
is not for that reason void if it is clear that the vote is for a particular candidate and the way the paper is marked cannot identify the voter.
- (4) The returning officer must endorse the words "rejected" on any ballot paper which under this regulation is not to be counted, and if a counting agent objects to that decision must add to the endorsement the words "rejection objected to".
- (5) The returning officer must draw up a statement showing the number of ballot papers rejected under the following heads –
- (a) want of official mark;
  - (b) voting for more candidates than there are vacancies to be filled;
  - (c) writing or mark by which voter could be identified;
  - (d) unmarked or void for uncertainty,
- and any counting agent may copy the statement.

#### **47 Decisions on ballot papers**

The decision of the returning officer on any question arising in respect of a ballot paper is final, but is subject to review on an election petition.

#### **48 Equality of votes**

If, after the counting of the votes (including any re-count) is completed, an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the returning officer must immediately decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

### **PART 4 – FINAL PROCEEDINGS IN CONTESTED AND UNCONTESTED ELECTIONS**

#### **49 Declaration of result**

- (1) In an uncontested election the returning officer must immediately after the close of the period for objections to nominations –
- (a) declare the candidate or candidates nominated to be elected; and
  - (b) give public notice of the candidate or candidates elected.
- (2) In a contested election, when the result of the poll has been ascertained, the returning officer must immediately and in public –

- (a) declare inside, or if the returning officer considers it necessary or desirable to promote wider knowledge of the result, outside the place of the count the candidate or candidates to whom the majority of votes has been given to be elected; and
  - (b) give notice of —
    - (i) the candidate or candidates elected;
    - (ii) the total number of votes given for each candidate;
    - (iii) the total number of voters voting at the election (other than voters whose ballot papers have been rejected under regulation 46); and
    - (iv) the number of rejected ballot papers under each head shown in the statement of rejected ballot papers.
- (3) The returning officer shall forthwith send a copy of the notice under paragraph (1)(b) or (2)(b) to the Department.

## **PART 5 – DISPOSAL OF DOCUMENTS**

### **DIVISION 1 – UNCONTESTED ELECTIONS**

#### **50 Delivery of documents to Clerk of the Rolls**

- (1) The returning officer must as soon as practicable and, in any event, within 7 days of nomination day (day 13) —
  - (a) endorse on each of the packets of documents listed in paragraph (2), a description of its contents, the date of the election to which it relates and the name of the electoral area for which the election was held; and
  - (b) forward the packets to the Clerk of the Rolls.
- (2) The packets of documents are —
  - (a) the oath of the returning officer;
  - (b) the appointments attached to the oaths for each returning officer; and
  - (c) the nomination papers.
- (3) Any other documents in the returning officer's possession must be dealt with by the returning officer in a secure and appropriate manner.

## DIVISION 2 – CONTESTED ELECTIONS

**51 Sealing up of ballot papers**

- (1) On the completion of the counting of the votes the returning officer must seal up in separate packets the counted and rejected ballot papers.
- (2) The returning officer must not open the sealed packets of tendered ballot papers or of counterfoils, or of the marked copies of the register of electors.

**52 Delivery of documents to Clerk of the Rolls**

- (1) The returning officer must as soon as practicable and in any event within 7 days of declaring the result of the poll –
  - (a) endorse on each of the packets of documents listed in paragraph (2) a description of its contents, the date of the election to which it relates, the name of the electoral area for which the election was held and whether the documents are available for public inspection under these Regulations or not; and
  - (b) forward the packets to the Clerk of the Rolls.
- (2) The packets of documents are –
  - (a) documents present or generated at the count –
    - (i) the ballot papers (including the postal voter ballot papers which will have been mixed in with the other ballot papers accepted at the polling station);
    - (ii) the rejected ballot papers;
    - (iii) the electoral area ballot paper account;
    - (iv) the statements of rejected ballot papers;
    - (v) the statements of the result of the verification of the ballot paper accounts;
    - (vi) the oath of the returning officer;
    - (vii) the rejected postal votes under paragraph 21 of Schedule 2;
    - (viii) the rejected postal voting statements under paragraph 21 of Schedule 2;
    - (ix) the rejected ballot paper envelopes under paragraph 21 of Schedule 2;
    - (x) the lists of spoilt and lost postal voter ballot papers under paragraph 21 of Schedule 2;
    - (xi) valid postal voting statements under paragraph 21 of Schedule 2; and
    - (xii) the list of rejected postal voter ballot papers under paragraph 18 of Schedule 2;
  - (b) documents in the returning officer's possession –

- (i) the appointments attached to the oaths for each presiding officer, poll clerk, chief counting officer and counting clerk;
  - (ii) the nomination papers;
  - (iii) applications for a postal vote under paragraph 1 of Schedule 2;
  - (iv) counterfoils of issued postal voter ballot papers, unused postal voter ballot papers and list of postal voters under paragraph 13 of Schedule 2.
  - (v) the packet of spoilt postal voter ballot papers, postal voting statements and ballot paper envelopes under paragraph 11(7) of Schedule 2;
  - (vi) list of spoilt postal voter ballot papers under paragraph 11(9) of Schedule 2;
  - (vii) the postal voter ballot account;
  - (viii) the notifications of appointment of polling agents and counting agents; and
  - (ix) the declarations of secrecy.
- (c) documents from the presiding officers (keeping each item in a separate packet, but including all such items from all polling stations) –
- (i) the unused ballot papers;
  - (ii) the spoilt ballot papers;
  - (iii) the tendered ballot papers;
  - (iv) the polling station ballot accounts;
  - (v) the marked copies of the registers of electors;
  - (vi) the list of proxies;
  - (vii) the counterfoils of the used ballot papers;
  - (viii) the list of tendered votes; and
  - (ix) the list of votes marked by the presiding officer, including the number of votes so marked under the heads “physical incapacity” and “unable to read”.
- (3) If any covering envelopes are received by the returning officer after the close of the poll or any envelopes addressed to postal voters are returned as undelivered too late to be re-addressed, the returning officer must put them unopened into a separate packet, seal it up and forward it to the Clerk of the Rolls within 7 days of declaring the result of the poll or the receipt of the relevant envelope, whichever is later.

- (4) Any other documents in the returning officer's possession must be dealt with by the returning officer in a secure and appropriate manner.

### 53 Orders for production of documents

- (1) An order —
  - (a) for the inspection or production of any rejected ballot papers in the custody of the Clerk of the Rolls; or
  - (b) for the opening of a sealed packet of counterfoils or the inspection of any counted ballot papers in the custody of the Clerk of the Rolls,

may be made by the Keys, or if satisfied by evidence on oath that the order is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers or for the purpose of an election petition, by a Deemster.

- (2) An order under this regulation may be made subject to conditions as to persons, time, place and mode of inspection, production or opening as the Keys or the Deemster making the order thinks expedient.
- (3) In making and carrying into effect an order for the opening of a packet of counterfoils or for the inspection of counted ballot papers, care must be taken not to disclose the way in which the vote of any particular elector has been given until it has been proved that the vote was given and has been declared by a competent court to be invalid.
- (4) If an order is made for the production by the Clerk of the Rolls of any document in the possession of the Clerk of the Rolls relating to any specified election, the production of the document by the Clerk of the Rolls or an agent of the Clerk of the Rolls, in such manner as may be required by that order —
  - (a) is conclusive evidence that the document relates to the specified election; and
  - (b) any endorsement on a packet of ballot papers so produced is prima facie evidence that the ballot papers are what they are stated to be by the endorsement.
- (5) The production from proper custody of —
  - (a) a ballot paper purporting to have been used at an election, and
  - (b) a counterfoil marked with the same printed number and having a number marked on it in writing,

is prima facie evidence that the elector whose vote was given by that ballot paper was the person who at the time of the election had affixed to his or her name in the register of electors the same number as the number written on the counterfoil.

- (6) No person may –
- (a) inspect any rejected or counted ballot papers in the possession of the Clerk of the Rolls; or
  - (b) open any sealed packets of counterfoils, except as provided in accordance with this regulation.

#### **54 Retention and public inspection of documents**

- (1) The Clerk of the Rolls must retain for a year all documents relating to an election received under regulation 50 or regulation 52 from a returning officer, and then, unless otherwise directed by order of the Keys or a Deemster and subject to (3) below, must cause them to be destroyed.
- (2) The documents, apart from ballot papers and counterfoils, must be open to public inspection at such time and subject to such conditions as the Clerk of the Rolls may decide.
- (3) All documents should be offered to the Public Record Office for consideration for permanent preservation prior to any destruction of documents.

#### **55 Lower level complaints**

- (1) Subject to subparagraph (2) if a complainant wishes to make a complaint relating to an election, he or she must direct the complaint to the returning officer as soon as practicable after the event giving rise to the complaint.
- (2) A complainant cannot make a complaint under this regulation if it is complaining of either –
  - (a) an undue election;
  - (b) an undue return; or
  - (c) no return.
- (3) The returning officer, upon receiving any complaint in accordance with (1) above must endeavour to resolve the matter with the complainant and should the matter not be able to be resolved the returning officer must advise the complainant accordingly along with the reasons why the complaint cannot be resolved.

## **PART 6 - REVOCATION**

#### **56 Revocation**

The Elections (Keys and Local Authorities) Local Authorities Regulations 2022<sup>1</sup> are revoked.

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<sup>1</sup> SD 2022/0206

**MADE 1 JULY 2022**





## SCHEDULE 1

[Regulation 5 and 27(5)]

## OATHS OF OFFICE AND DECLARATION OF SECRECY

## PART 1 – OATH OF OFFICE OF RETURNING OFFICER

I, [full name] having been appointed Returning Officer for the electoral area of [electoral area] solemnly swear [or affirm] that I am qualified according to law to act as Returning Officer for the said electoral area and that I will act faithfully in that capacity, without partiality, fear, favour or affection.

Signature\_\_\_\_\_ Date\_\_\_\_\_

In the presence of \_\_\_\_\_(Justice of the Peace)[Commissioner for Oaths]) Date\_\_\_\_\_

## PART 2 – OATH OF OFFICE OF OTHER OFFICERS AND CLERKS

I, [full name] having been appointed \*[Presiding Officer][Poll Clerk][Chief Counting Clerk][Counting Clerk] for the electoral area of [electoral area] do solemnly swear [or affirm] that I am qualified according to law to act as such for the said electoral area and that I will act faithfully in that capacity, without partiality, fear, favour or affection.

Signature\_\_\_\_\_ Date\_\_\_\_\_

In the presence of \_\_\_\_\_(Returning Officer) Date\_\_\_\_\_

## PART 3 DECLARATION OF SECRECY OF RETURNING OFFICER

I, [full name] having been appointed Returning Officer for the electoral area of [electoral area] solemnly promise and declare that I will not, except for any purpose authorised by law, communicate to any person any information as to —

- (a) the name or number on the register of electors of any person who has or has not applied for a postal vote ballot paper;
- (b) the candidate to whom any postal voter has given his or her vote; or
- (c) The official mark for postal vote ballot papers,

and I will not do anything forbidden by section 107 of the Elections (Keys and Local Authorities) Act 2020, which reads —

**“107 Requirement of Secrecy**

- (1) This section applies equally to national elections and local elections.<sup>2</sup>

<sup>2</sup> For the purposes of clarity these regulations are not applicable to 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;
  - (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 who has voted, or as to the number of 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 standard scale, or to custody for a term not exceeding six 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.
- (8) If convinced of the necessity of doing so in the interest of ensuring a free and fair election, the presiding officer at a polling station may lawfully evict any of the following persons for failure to abide by any provision of a code of conduct prepared and issued in accordance with section 63(3)(c)—
- (e) a teller;
  - (f) a volunteer;
  - (g) a person casually in attendance at the polling station.
- (9) A teller who refuses or otherwise fails to depart from the polling station after having been lawfully evicted by the presiding officer in accordance with subsection (8) commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale, or to custody for a term not exceeding 6 months, or to both.”.

Signature \_\_\_\_\_ Date \_\_\_\_\_

In the presence of \_\_\_\_\_ ([Justice of the Peace][Commissioner for Oaths]) Date \_\_\_\_\_

#### PART 4 – DECLARATION OF SECRECY OF OTHERS

I, [name], as [insert description of category under which declaration is being made] solemnly promise and declare that I will not do anything forbidden by section 107 of the Elections (Keys and Local Authorities) Act 2020, which reads —

##### “107 Requirement of Secrecy

- (1) This section applies equally to national elections and local elections.<sup>3</sup>
- (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;

<sup>3</sup> For the purposes of clarity these regulations are not applicable to local elections.

- (b) a teller;
  - (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 who has voted, or as to the number of 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 standard scale, or to custody for a term not exceeding six 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.
- (8) If convinced of the necessity of doing so in the interest of ensuring a free and fair election, the presiding officer at a polling station may lawfully evict any of the following persons for failure to abide by any provision of a code of conduct prepared and issued in accordance with section 63(3)(c)—
- (e) a teller;
  - (f) a volunteer;
  - (g) a person casually in attendance at the polling station.
- (9) A teller who refuses or otherwise fails to depart from the polling station after having been lawfully evicted by the presiding officer in accordance with subsection (8) commits an offence and is liable on summary

conviction to a fine not exceeding level 4 on the standard scale, or to custody for a term not exceeding 6 months, or to both.”.

Signature \_\_\_\_\_ Date \_\_\_\_\_

In the presence of \_\_\_\_\_ ([Justice of the  
Peace][Commissioner for Oaths][Returning Officer])

Date \_\_\_\_\_

**SCHEDULE 2**

[Regulation 27]

**POSTAL VOTES****PART 1 – APPLICATIONS****1 General requirements for applications for a postal vote**

- (1) An application under section 85 must be made in writing on a form specified and be signed and dated by the elector, or if the elector has nominated one, the elector's proxy ("the applicant").
- (2) The application must include the following —
  - (a) the full name of the applicant, the applicant's date of birth and the address in respect of which the applicant is registered;
  - (b) an address to which a ballot paper is to be sent; and
  - (c) the elector's signature.

For the sake of clarity, this sub-paragraph does not prevent further information from being required.
- (3) The returning officer may take such steps as he or she deems necessary to ensure an application is from the person purporting to be that elector.

**2 Closing date for applications**

An application for a postal vote must be made to the returning officer so as to reach the returning officer —

- (a) where the postal voter's ballot paper is to be marked in the Island, by 5.00 p.m. on day 34; or
- (b) where the postal voter's ballot paper is to be marked in the British Islands but outside the Island, by 5.00 p.m. on day 28; or
- (c) where the postal voter's ballot paper is to be marked outside of the British Islands and outside the Island, by 5.00pm on day 19.

**3 Grant or refusal of applications**

- (1) Where the returning officer grants an application under section 85 to allow a postal vote, the returning officer must —
  - (a) enter the applicant's electoral number and name on the list of postal voters; and
  - (b) rule out, initial and place the letter "A" against the particulars of the elector on the register of electors to be used at the polling station.

- (2) When refusing an application, the returning officer must notify the applicant of the decision and of the reason for it.

#### **4 List of postal voters**

- (1) The returning officer must, in respect of each election, keep —
  - (a) a list of those whose applications to be postal voters have been granted (the “list of postal voters”); and
  - (b) a list of the addresses provided in their applications as the addresses to which their ballot papers are to be sent.
- (2) A record of all communications sent to or by the returning officer in respect of postal votes must be kept, together with all such particulars as will enable the sender of incoming communications and the recipient of outgoing communications to be identified and the date and time of receipt of despatch (as the case requires).
- (3) The lists under sub-paragraph (1) and the record under sub-paragraph (2) may —
  - (a) be held in electronic form; and
  - (b) in any event, be contained in a single document.
- (4) The returning officer must send a copy of the list of postal voters to the Local Authority by 5.00 pm on day 28.

### **PART 2 – ISSUE AND RECEIPT OF POSTAL VOTER BALLOT PAPERS**

#### **DIVISION 1 – ISSUE**

#### **5 Time when postal voter ballot papers are to be issued**

If a returning officer is satisfied that the applicant is entitled to be treated as a postal voter the returning officer must issue a postal voter ballot paper —

- (a) where it is to be marked in the Island, by 5.00 p.m. on day 35; or
- (b) where it is to be marked in the British Islands but outside the Island, by 5.00 p.m. on day 29; or
- (c) where it is to be marked outside the British Islands and outside the Island by 5.00 p.m. on day 20.

#### **6 Provision of postal voter ballot papers**

- (1) The returning officer must issue a ballot paper, a postal voting statement and envelopes in accordance with paragraphs 8, 9 and 10 and these documents will be collated into a packet and delivered to the postal voter.
- (2) For the delivery of the packet mentioned in sub-paragraph (1), the returning officer may use —

- (a) Isle of Man Post Office; or
  - (b) a person designated to do so by the returning officer.
- (3) The funding of the cost of delivery is payable by the Local Authority.

## **7 Procedure on issue of postal ballot paper**

- (1) No person may be present at the proceedings on the issue of postal voter ballot papers other than the returning officer and postal voter.
- (2) Every postal voter ballot paper issued must bear an official mark that is different from the official mark to be used in that electoral area on polling day.
- (3) The number of the elector as stated in the register must be marked on the counterfoil attached to the postal voter ballot paper.
- (4) A mark must be placed on the list of postal voters against the number of the elector to denote that a postal voter ballot paper has been issued to the elector, but without showing the particular ballot paper issued.
- (5) The number of a postal voter ballot paper must be marked on the postal voting statement issued with that paper.
- (6) The returning officer must take proper precautions for the security of the list of postal voters and the counterfoils of those ballot papers that have been issued until the packets containing them have been sealed.

## **8 Postal Voting Statement Form**

The postal voting statement form accompanying the ballot paper provided to a postal voter must include the postal voter ballot paper number, space for the postal voter's signature and their date of birth and must be in the form specified.

## **9 Envelopes**

- (1) For every postal vote, in addition to the ballot paper and postal voting statement, the returning officer must issue —
  - (a) an envelope for the ballot paper (a “ballot paper envelope”) marked with —
    - (i) the letter “A”;
    - (ii) the words “ballot paper envelope”; and
    - (iii) the number of the ballot paper;
  - (b) a larger “covering envelope” marked with the letter “B” for the postal voter's sealed ballot paper envelope and the postal voting statement.



- (2) The covering envelope must be marked “Postal Voter Ballot Paper” and addressed to the returning officer at such place as the returning officer thinks most convenient and expeditious.

## **10 Voting by postal voters**

- (1) Before marking the ballot paper, the postal voter must complete and sign the postal voting statement form.
- (2) The postal voter must then vote secretly by marking the ballot paper in private, and insert the ballot paper into the envelope marked “A”, seal the said envelope and place the said envelope and the postal voting statement in the envelope marked “B” and seal the envelope.
- (3) Once the postal voter ballot paper has been marked (whether in the Island or elsewhere) it may be delivered to the returning officer –
  - (a) at any time before 5.00pm on day 41 at an address specified by the returning officer; or
  - (b) on polling day (day 42) at any polling station in the postal voter’s electoral area at any time before 8.00 p.m.

## **11 Spoilt postal ballot paper or postal voting statement**

- (1) If a postal voter has inadvertently dealt with his or her ballot paper or postal voting statement in such a manner that it cannot be conveniently used as a ballot paper (a “spoilt postal voter ballot paper”) or, as the case may be, a postal voting statement (a “spoilt postal voting statement”) he or she may return (either by hand or by post) to the returning officer the spoilt postal voter ballot paper or, as the case may be, the spoilt postal voting statement.
- (2) Where a postal voter exercises the entitlement conferred by subparagraph (1), he or she must also return –
  - (a) the postal voter ballot paper or, as the case may be, the postal voting statement, whether spoilt or not; and
  - (b) any envelopes supplied for the return of the documents mentioned in sub-paragraph (1).
- (3) On receipt of the documents referred to in sub-paragraphs (1) and (2), the returning officer must issue a replacement postal voter ballot paper and postal voting statement.
- (4) However, if the returning officer considers that there is insufficient time to issue and re-send any replacement documents, the returning officer may issue another postal voter ballot paper and postal voting statement only if the postal voter returned the documents by hand.

- (5) The following apply to the issue of a replacement postal voter ballot paper under sub-paragraph (3) as they apply to the issue of a postal voter ballot paper –
  - (a) paragraph 7 (other than sub-paragraph 4);
  - (b) paragraph 9; and
  - (c) paragraph 6(2), but subject to sub-paragraph (8) of this paragraph.
- (6) The spoilt postal voter ballot paper, the postal voting statement and any ballot paper envelope must be immediately endorsed as spoilt.
- (7) As soon as practicable after endorsing the documents as mentioned in sub-paragraph (6) the returning officer must place them in a separate sealed packet and if on any subsequent occasion documents are cancelled as mentioned above, the returning officer must open the sealed packet and place the additional cancelled documents inside before re-sealing the packet.
- (8) If a postal voter applies in person, the returning officer may hand a replacement postal voter ballot paper to the voter instead of delivering it in accordance with 6(2).
- (9) The returning officer must enter on a list kept for the purposes of this paragraph (“list of spoilt postal votes”) –
  - (a) the name and number of the elector as stated in the register; and
  - (b) the number of the replacement postal voter ballot paper issue under this paragraph.

## **12 Lost postal voter ballot papers**

- (1) If a postal voter has not received or has lost his or her postal voter ballot he or she may request the returning officer to issue a replacement ballot paper. The request need not be made in person.
- (2) If the request is received by the returning officer before the deadline set in paragraph 2 and the returning officer –
  - (a) is satisfied as to the voter’s identity; and
  - (b) has no reason to doubt that the postal voter did not receive or has not lost the original postal voter ballot paper,the returning officer must issue a replacement postal voter ballot paper.
- (3) The returning officer may issue a replacement postal voter ballot paper after the time specified in sub-paragraph (2) if he or she is satisfied that it is still possible for the paper to be completed and returned to the returning officer before 8.00 p.m. on polling day (day 42);
- (4) The returning officer must enter on a list kept for the purposes of this paragraph (“list of lost postal votes”) –

- (a) the name and number of the elector as stated in the register; and
  - (b) the number of the replacement postal voter ballot paper issued.
- (5) The following apply to the issue of a replacement postal voter ballot paper under sub-paragraph (2) as they apply to the issue of a postal voter ballot paper —
- (a) paragraph 7 (other than sub-paragraph 4);
  - (b) paragraph 9; and
  - (c) paragraph 6(2), but subject to sub-paragraph (6) of this paragraph.
- (6) If a postal voter applies in person, the returning officer may hand a replacement postal voter ballot paper to the postal voter instead of delivering it in accordance with paragraph 6(2).

### **13 Sealing up of counterfoils and list of postal voters**

As soon as practicable after the issue of the last postal voter ballot paper the returning officer must —

- (a) note on the postal voter ballot paper account the total number of ballot papers issued to postal voters;
- (b) make up into separate packets —
  - (i) the counterfoils of those ballot papers that have been issued;
  - (ii) any unused ballot papers other than those to be used at a polling station; and
  - (iii) the list of postal voters, or a printed copy of the list if maintained electronically under paragraph 4(3)(a); and
- (c) seal the packets.

## **DIVISION 2 – RECEIPT**

### **14 Receipt of postal voter ballot papers**

- (1) The returning officer must provide separate ballot boxes for the receipt of covering envelopes returned by postal voters (marked “postal voters ballot box” and for the opened postal ballot papers marked “postal ballot box”). Each ballot box is to show the name of the electoral area or electoral area relating to the particular election.
- (2) Postal ballot paper envelopes may be returned either —
- (a) to the returning officer by post or by hand to the address shown on the return envelope until 5.00pm on day 41; or
  - (b) by hand to any polling station within the electoral area to which the ballot paper relates during the hours of poll.

- (3) Subject to sub-paragraph (5), as soon as practicable after the close of the poll the presiding officer of the polling station must deliver any postal voter ballot envelopes returned to that station to the returning officer in the same manner and at the same time as the presiding officer delivers the packets referred to in regulation 42(2).
- (4) The returning officer may collect any postal voter ballot paper which by virtue of sub-paragraph (3) the presiding officer of a polling station would otherwise be required to deliver to him or her.
- (5) Where the returning officer collects any postal voter ballot paper in accordance with sub-paragraph (4) the presiding officer must first make those documents up into separate sealed packets.
- (6) The returning officer must ensure that any covering envelopes, ballot papers or postal voting statements in his or her possession under this paragraph are stored securely until the returning officer deals with them in accordance with Part 3 of this Schedule.

### PART 3 – PROCESSING OF POSTAL VOTER BALLOT PAPERS AND POSTAL VOTING STATEMENT

#### **15 Presence at opening of postal voter ballot papers**

No person may be present at the opening of postal voter ballot papers other than those permitted to attend the counting of the votes under regulation 43(2).

#### **16 Procedure in relation to postal voting statement**

- (1) The returning officer must open the covering envelope for every postal voter ballot paper and, if no postal voting statement is included, mark the ballot paper envelope, or if there is no such envelope, the ballot paper “provisionally rejected” and, subject to sub-paragraph (4), place it in the receptacle for rejected votes.
- (2) The returning officer must then satisfy himself or herself that the postal voting statement has been duly completed by the voter (“a valid postal voting statement”).
- (3) If the returning officer is not so satisfied, the returning officer must mark the postal voting statement “rejected”, attach to it the ballot paper envelope, or if there is no such envelope, the ballot paper and, subject to sub-paragraph (5), place it in the receptacle for rejected votes.
- (4) Before placing the postal voting statement in the receptacle for rejected votes, the returning officer must show it to any agents present and, if any of them object to his or her decision, he or she must add the words “rejection objected to”.
- (5) The returning officer must then compare the number of the valid postal voting statement with the number on the ballot paper envelope and, if

they are the same, he or she must place the postal voting statement and the ballot paper envelope in the appropriate receptacles for those documents.

- (6) If there is a valid postal voting statement but no ballot paper envelope, the returning officer must place —
  - (a) in the receptacle for valid votes, any ballot paper the number on which is the same as the number on the postal voting statement;
  - (b) in the receptacle for rejected votes, any other ballot paper, to which must be attached the postal voting statement marked “provisionally rejected”; and
  - (c) in the receptacle for rejected postal voting statements, any postal voting statement not disposed of under head (a) or (b).
- (7) If the number on a valid postal voting statement does not match the number on the ballot paper envelope, or if that envelope has no number on it, the returning officer must open the envelope.
- (8) Where an envelope has been opened under sub-paragraph (1), the returning officer must —
  - (a) place in the receptacle for valid votes any ballot paper the number on which matches the number on the valid postal voting statement;
  - (b) place in the receptacle for valid postal voting statement any such statement relating to head (a);
  - (c) place in the receptacle for rejected ballot paper envelopes any postal voting statement marked “provisionally rejected” attached to a ballot paper envelope that does not contain a ballot paper.

## 17 Opening of ballot paper envelopes

The returning officer must open separately each ballot paper envelope placed in the receptacle for ballot paper envelopes and place —

- (a) in the receptacle for valid votes, any postal voter ballot paper the number on which matches the number of the ballot paper envelope;
- (b) in the receptacle for rejected votes, any other ballot paper which must be marked “provisionally rejected” and to which must be attached the ballot paper envelope; and
- (c) in the receptacle for rejected ballot paper envelopes, any ballot paper envelope which must be marked “provisionally rejected” because it does not contain a ballot paper.

## 18 Lists of rejected postal voter ballot papers

- (1) In respect of any election, the returning officer must keep a list of rejected postal voter ballot papers.

- (2) The list under sub-paragraph (1) must record the ballot paper number of any rejected postal voting statement or postal voter ballot paper and the reason for its rejection.

### **19 Checking of lists kept under paragraph 18**

The returning officer must make every effort to reconcile any postal voting statement, ballot paper envelopes or ballot papers that do not immediately correspond but which the returning officer determines may be deemed duly returned.

### **20 Completion of postal voter ballot paper account**

As soon as practicable after the completion of the procedure under paragraph 19, the returning officer must complete the postal voter ballot paper account by recording the number of returned voter ballot papers, rejected postal voter ballot papers and counted postal voter ballot papers.

### **21 Sealing of receptacles**

- (1) As soon as practicable after the completion of the procedure under paragraph 20, the returning officer must make up into separate sealed packets the —
- (a) rejected votes;
  - (b) valid postal voting statements;
  - (c) rejected postal voting statements;
  - (d) rejected ballot paper envelopes; and
  - (e) the lists of spoil and lost postal voter ballot papers.
- (2) Any document in those packets marked “provisionally rejected” is deemed to be marked “rejected”.

**SCHEDULE 3**

[Regulation 25]

**PROXY VOTES****1 Application for the appointment of a proxy**

- (1) An application under section 86 must comply with the requirements of this paragraph and such further requirements in this Schedule as are relevant.
- (2) The application must be made on a form specified and include —
  - (a) the full name of the applicant;
  - (b) the address in respect of which the applicant is registered or has applied to be (or is treated as having applied to be) registered in the register;
  - (c) the full name and address of the person whom the applicant wishes to appoint as proxy, together with the person's family relationship, if any, with the applicant;
  - (d) the date of the election for which it is made;
  - (e) a statement by the applicant that he or she has consulted the person so named and that that person is capable of being and willing to be appointed to vote as the applicant's proxy; and
  - (f) the applicant's signature and the date the application is signed.

For the sake of clarity, this sub-paragraph does not prevent further information from being required.

- (3) Subject to sub-paragraph (4) an application for the appointment of a proxy must be disregarded for the purposes of any particular election unless it is received by the Officer by 5.00 p.m. on day 41.
- (4) Where a poll has been adjourned pursuant to Regulation 41 any eligible elector who—
  - (a) has not already cast their vote; and
  - (b) is unable to cast their vote the following day due to—
    - (i) injury attributable to the riot; or
    - (ii) inability to attend at the polling station to cast a vote in person as a result of the adjournment,

can apply to the Officer for the appointment of a proxy up to 5.00pm on Day 42.

## 2 Determination of applications

- (1) Where the Officer allows an application for the appointment of a proxy, the Officer must —
  - (a) appoint the proxy in the manner specified by the Chief Secretary; and
  - (b) confirm in writing to the elector that the proxy has been appointed, the proxy's name and address, and the election for which the proxy has been so appointed.
- (2) The Officer must keep a list of the electors in respect of whom appointment of proxies have been made, together with the names and addresses of their proxies (the "list of proxies").
- (3) Where the Officer disallows an application the Officer must notify the applicant and the proxy of his or her decision and the reasons for it.

## 3 Revocation of the appointment of a proxy

- (1) Where the appointment of a proxy is revoked by notice given to the Officer, by either the elector or the proxy, the Officer must —
  - (a) notify the elector that the appointment as proxy has been revoked and, if appropriate, replaced;
  - (b) notify the person whose appointment as proxy has been revoked; and
  - (c) remove the proxy's name and if appropriate, the applicant's name from the list of proxies.
- (2) Where the elector applies for another person to be appointed as proxy and that application is approved by the Officer, the Officer must —
  - (a) appoint the proxy in the manner specified by the Chief Secretary;
  - (b) confirm in writing to the elector that the appointment of the original proxy has been removed, that the new proxy has been appointed, the new proxy's name and address and the election for which the proxy has been so appointed;
  - (c) notify the person whose appointment as proxy has been revoked; and
  - (d) replace the name of the person originally appointed as proxy with the new appointment in the list of proxies.
- (3) The revocation of a proxy by written request or by replacement must be disregarded for the purposes of a particular election unless it is received by the Officer by 5.00 p.m. on day 41.



#### **4 Issue of list of proxies**

The Officer must, by 6.00 p.m. on day 41, issue to the returning officer where there is to be a contested election a copy of the list of proxies for that election.

#### **5 Voting by proxy**

- (1) A person entitled to vote as proxy may do so in person at the polling station allotted to the elector on production to the presiding officer of the document of appointment issued by the Officer.
- (2) The procedure to be followed is that laid down in regulation 37 except that the presiding officer must also delete the proxy from the list of proxies on the issue to him or her of a ballot paper.
- (3) The presiding officer may require the proxy to provide satisfactory evidence of identity before issuing a ballot paper.
- (4) The production of any of the following documents shall be considered to be satisfactory evidence for the purposes of sub-paragraph (3) —
  - (a) a valid passport;
  - (b) a valid full or provisional driving licence granted under the law for the time being in force in the Island or the United Kingdom;
  - (c) a valid proof of age card or bus pass issued by the relevant using authority in the Island; or
  - (d) any other document or combination of documents acceptable to the presiding officer is establishing the proxy's identity.

## ENDNOTES

### Table of Endnote References

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<sup>1</sup> The format of this legislation has been changed as provided for under section 75 of, and paragraph 2 of Schedule 1 to, the Legislation Act 2015. The changes have been approved by the Attorney General after consultation with the Clerk of Tynwald as required by section 76 of the Legislation Act 2015.