

# EXECUTIVE COUNCIL

## CONFIDENTIAL

**Title of Report:** Electoral (Amendment) Bill 2013  
**Paper No:** 142/13  
**Date:** 24 July 2013  
**Report of:** Attorney General

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### 1.0 Purpose

The purpose of this paper is to seek approval of amendments to the Electoral Ordinance.

### 2.0 Recommendations

It is recommended that Honourable Members:

- (a) approve the draft Electoral (Amendment) Bill 2013 for publication in the Gazette and submission to the Legislative Assembly in August;
- (b) approve the drafting of supplementary regulation for submission to Executive Council in August as set out in paragraphs 6.2(b) and 6.2(e).

### 3.0 Summary of Financial Implications

None.

### 4.0 Summary of issues

4.1 This paper deals with the proposed scope of amendments to be made to the Electoral Ordinance between now and the forthcoming General Election.

4.2 It also makes a number of proposals within that scope.

4.3 Finally, attached to this paper is a draft Bill that would implement those proposals (or, in some cases, prepare for implementation of them).

4.4 Further work is proposed in some areas on regulations to be presented to Executive Council in August.

## **5.0 Background**

5.1 Prior to the General Election, which is provisionally scheduled for 7th November 2013, consideration needs to be given to any legislative amendments required, or desirable, in relation to that election.

5.2 There are a number of sources indicating that amendment may be required:

- (a) Executive Council paper 171/11, which proposed various amendments to the Electoral Ordinance before the single constituency referendum took place in November 2011, highlighted that a wider review of the legislation was required in due course due to a number of apparent inadequacies in the legislation;
- (b) Executive Council paper 207/12, which considered whether any amendments to the Electoral Ordinance were necessary before the political status referendum took place in March 2013, identified a number of those inadequacies in more detail, but concluded that amendments were not necessary nor appropriate immediately before the referendum;
- (c) Executive Council paper 105/13 presented the MIOR Referendum Observers' final report, and endorsed a number of the Observers' recommendations, some of which require legislative amendment to implement;
- (d) A number of different electoral practices were introduced for the March 2013 referendum by way of arrangements made under the Referendum Ordinance 2012, which it may be sensible to implement for the forthcoming general election; and
- (e) Executive Council paper 100/13, which presented the findings of the Legislative Assembly Pay Review Panel, noted that if the post of MLA is to become full time, the question of disqualification of public servants for election will have to be reviewed.

5.3 However, as identified in Executive Council paper 100/13, the relatively short period between the political status referendum earlier in the year and the general election mean that an "essential only" approach really has to be taken to amendments which can properly be introduced in the timeframe, and further work to improve and update the Electoral Ordinance will have to continue into the next term.

## **6.0 Potential amendments to the Ordinance**

### *Amendments regarding registration process*

6.1 ExCo paper 107/12 identified that in terms of inadequacies in the existing Ordinance, the most significant area requiring amendment to the Ordinance centred around the provisions for registration of electors. However, amendments to this area are not proposed at this stage because:

- (a) time has not allowed the detailed work involved in preparation for the potential amendments to be carried out; and
- (b) the general election falls before the next annual canvas of the electorate, so most amendments of this nature would not be effective for the purposes of the general election in any event.

*Amendments arising from MIOR Referendum Observers' final report*

6.2 The following recommendations, which were accepted by Executive Council in April 2013 in connection with the MIOR Referendum Observers' final report, would require legislative change for implementation:

- (a) Recommendation 5: FIG should consider requiring photo identification of voters which will avoid the need to ask the required questions about identity;

FIG has only agreed that consideration be given to the introduction of photo identification in connection with elections. Considerable preparatory work is required. Implementation is not recommended at this stage.

- (b) Recommendation 7: Provide an "emergency" vote option for people that become sick and are unable to attend to vote on the day of the ballot;

An empowering provision has been inserted into the attached Bill (*clause 13*) which prepares the way for this recommendation, but further work is required on regulations to provide the detail for any such scheme.

The provision is also intended to allow for the possibility of dealing with situations in which people who are proxies for other voters cannot vote for those other voters.

Detailed regulations will be submitted to Executive Council in August.

- (c) Recommendation 9: The observers witnessed some confusion about what mark to place on ballot papers. FIG should adopt a standard mark and educate voters on the proper use of this mark;

Existing provisions in the Electoral Ordinance do not specify a particular mark. In the Electoral Forms Regulations, provision is made for voters to use a cross (X).

During the political status referendum this was broadened to a cross or a tick, but it will not require any legislative change to revert to the previous practice of only using a cross, which is contained in existing legislation. It is recommended that publicity and guidance surrounding the general election address the MIOR recommendation in this regard.

However, it is worth noting that, even if voters do use marks other than crosses (or even rank candidates in order of preference), sections 113(2A), 124(2) and 124(3) of the Electoral Ordinance provide that votes must still be counted to the extent that voters' intentions are clear (and as long as the voters cannot be identified).

- (d) Recommendation 11: The various voter lists used should be consolidated into one document to simplify the process of locating the voter's name;

An amendment is proposed to the Electoral Ordinance in the attached Bill (*clause 21*), which would allow this to happen.

A number of consequential amendments would also have to be made to reflect this change (various clauses).

- (e) Recommendation 12: FIG should formally adopt the measure to remove the serial number from the ballot papers and the measure of allocated polling stations.

Amendments to the Electoral Ordinance are proposed in the attached Bill that would:

(i) implement the recommendation to remove the serial number from the ballot paper (various clauses); and

(ii) pave the way for allocated polling places to be used in the future by allowing more detailed regulations to be made in that regard (*clause 14*) – however, on the assumption that allocated polling places will not be used for the forthcoming General Election, draft regulations will not be drafted at this time.

A consequential amendment is also included in *clause 21*.

*Amendments arising from the adoption of other new electoral practices introduced at the political status referendum (and not already covered above)*

6.3 The following new electoral practices were introduced at the political status referendum through arrangements made under the Referendum Ordinance, and which would require amendment to the Electoral Ordinance if they are to be similarly adopted for the General Election:

- (a) provision was made for independent observers;

Amendments to the Electoral Ordinance are proposed in the attached Bill (*clauses 10 and 26*) which would pave the way for this to happen in terms of providing for appointment of observers and allowing them into polling places.

If the type of observation is to require more detailed access to the election process, more detailed regulations would be required to allow that. It is not anticipated that, in the time available before August Executive Council, it would be possible to put such regulations in place.

- (b) provision was made for applications for registration, and for proxy, postal and proxy postal votes to be receivable by fax or e-mail, and for the categories of witnesses to relevant applications to be broadened;

Amendments to the Electoral Ordinance are proposed in the attached Bill to implement this recommendation (*clauses 5, 6, 7, 8, and 37*).

- (c) voters for both constituencies were permitted to vote at a mobile polling place (Stanley voters being previously restricted to voting only at static polling places);

An amendment to the Electoral Ordinance is proposed in the attached Bill (*clause 13*) which would provide for this to happen at all future elections which involve both constituencies.

The opportunity has also been taken to amend the provisions relating to polling hours for Camp Constituencies to allow polling hours to be different from Stanley polling hours (*clause 10*). This would allow polling hours to be closed in Camp slightly earlier in Stanley, giving a better chance of getting the ballot boxes back for a count on the same day.

- (d) health service staff were permitted to use the mobile polling services at the hospital and sheltered accommodation in any circumstances (removing restrictions on the circumstances in which staff could use the mobile polling service);

An amendment to the Voting in Institution Regulations is proposed in the attached Bill (*Clause 29*).

- (e) polling was conducted over two days;

An amendment to the legislation to implement this provision would be time consuming to put in place. That work has not been done on the basis that it was considered that other proposed amendments should have greater priority. Amendment is not recommended on this basis.

If Members are nonetheless very keen to see this amendment put in place, the work could be prioritised in terms of a government amendment to the Bill, but that would obviously have an impact on other matters due to be presented to August Executive Council.

- (f) provision was made for the media to enter polling places (with the approval of the Chief Referendum Officer);

Amendment to the Electoral Ordinance is proposed in the attached Bill (*clause 17*) which would provide for members of the press approved by the Returning Officer to enter polling places (including mobile polling places).

- (g) voting took place at Stanley prison (for those prisoners who were not disqualified from voting);

There are currently several prisoners who remain eligible to vote.

Power already exists under the Ordinance for regulations to be made which would allow for voting in the prison (section 60 – voting in by inmates and staff of

institutions) and, if that is an agreed priority, regulations could be made under this section and presented to Executive Council in August.

The alternatives to provision being made for prisoners to vote in the prison would be either —

(i) for the prisoners to be accompanied to a polling place by a prison officer (which may have happened in the past, and could reasonably be arranged with minimal risk to the public; there would be a small risk of a prisoner encountering a victim or a member of their family during that process, which would potentially be very distressing); or

(ii) for them to vote by post, proxy or postal proxy.

In the circumstances, amendment is not considered a priority for the time being, so is not recommended.

(h) specific rules were made for campaigning;

Formulating the policy to draft campaign rules (which would necessarily be quite different from the policy underpinning the referendum campaign rules) would be a time consuming process, and is not practicable in advance of the general election.

*Amendments arising from Executive Council's implementation of the recommendations of the report of the Legislative Assembly Pay Review Panel*

6.4 One of the terms of reference of the Legislative Assembly Pay Review Panel was as follows “to review whether the current list of politically restricted posts was appropriate”. The only entries in relation to it in the report are as follows:

“If the post of MLA is to become full time, the issue of politically restricted posts will be removed. It is proposed that anybody who has an occupation which requires him or her to work during the period that MLAs are expected to be available will have to resign that occupation”; and

“Members who have an occupation or business that requires them to work during the established Assembly business hours should have to resign this occupation”.

6.5 It is not entirely clear what work the Panel have undertaken in connection with this particular term of reference, but the conclusions *appear* to be to the effect that existing exceptions to the principle that public service employment disqualifies an elector from taking up office as an MLA, should be removed; ie if a public servant wishes to take up office as an MLA, they should resign upon becoming elected.

6.6 The report also seems to suggest that there should be some sort of statutory prohibition on private sector employment/occupation, but it is understood from informal discussions between officers and Members that there is no appetite to extend the public service/MLA disqualification into the private sector (and it is questionable whether this would be practicable in any event).

6.7 Given the lack of detail and clarity in the report on the matter, it would be highly desirable that the options and implications in this matter be properly explored and consulted upon before steps are taken to implement any change to existing provisions regarding public service/MLA disqualification.

6.8 However, in the event that is not possible, and on the basis it is informally understood that Members wish to simply extend the existing public service/MLA disqualification across all public service offices, an amendment to that effect is included in the attached Bill (*clause 12*).

6.9 In terms of the detail of that amendment, there are a number of examples of public service employment, using the phrase in its widest sense, which seem to raise particular questions about inclusion/exception from the prohibition: reserve police officers, FIDF volunteers (ie those who are not full time employees); Fire Service volunteers (ie those who are not full time employees); other part time public servants whose posts may not conflict with the proposed MLA working times (ie part time employees); and employees of FIDC, FLH (and any other statutory corporations which might be established in future).

6.10 It is difficult, without the more detailed work mentioned above being carried out, to gauge where the line should be drawn in relation to these categories; at least not without real risk of arbitrariness/unfairness. Nonetheless, with that caveat, it is suggested that they might be dealt with as follows:

- (a) Reserve police officers: disqualify because of inherent conflict in being both a law maker and a law enforcer;
- (b) FIDF volunteers: do not disqualify because minimal commitment required does not appear to conflict with proposed MLA working times;
- (c) Fire Service volunteers: do not disqualify because minimal commitment required does not appear to conflict with proposed MLA working times;
- (d) Other part time public servants: disqualify because of inherent difficulty in identifying (in a very short timeframe) where to draw the line in relation to a wide variety of part time service which exists in FIG;
- (e) Employees of FIDC, FLH, and any other statutory corporations: apart from the existing provision to disqualify the General Manager of FIDC, do not disqualify because to do so would extend the reach of disqualification too far; however, in practice, it would not be possible for someone to maintain a full time job with any of these bodies at the same time as being a full time MLA.

6.11 To allow individuals to stand and only have to resign if elected, provision (which is allowed for in the Constitution) has been included allowing them to stand for election on the basis of an undertaking that they will relinquish office (or cease to act in it) if elected (*new section 53(7) to (9) in clause 12*). The Constitution allows for a period to be specified within which a seat is vacated if an undertaking is not fulfilled: the period suggested for this is 100 days, which would give a newly elected MLA time (just over a week) to give 3 months' notice.

## **7. Financial Implications**

None

## **8. Legal Implications**

The legal implications are set out in the body of the paper.

## **9. Human Resources Implications**

The Human Resources implications are set out at paragraphs 6.4 to 6.11 of this paper.



**ExCo DRAFT: 15.7.2013**

**Electoral (Amendment) Bill 2013**

(No: of 2013)

**ARRANGEMENT OF PROVISIONS**

Clause

**PART 1 - INTRODUCTION**

1. Title
2. Commencement
3. Amendment of Electoral Ordinance and Regulations

**PART 2 – AMENDMENT OF ELECTORAL ORDINANCE**

4. Amendment of Electoral Ordinance
5. Section 2 amended – Interpretation
6. Section 11 amended – Maintenance of the Registers: registration of electors
7. New section 11A – Application for registration
8. Section 23 amended – Application for postal vote
9. Section 27 amended – Application for proxy vote
10. Section 34 amended – Application for postal proxy vote
11. New section 47A – Independent observation
12. Section 51 amended – Notice of election
13. Section 53 amended – Disqualification from election
14. New section 60A inserted - Emergency voting
15. Section 61 amended – Mobile polling teams in the Camp Constituency
16. New section 61A inserted – Allocated polling places
17. Section 74B amended – Ballot papers: general requirements

18. Section 79 amended – Postal ballot papers
19. Section 83 amended – Marking of postal ballot paper
20. Section 91 amended – Opening of covering envelopes
21. Section 93 amended – Opening of ballot paper envelopes
22. Section 96 amended – Certified copies of Register and lists
23. Section 97 replaced – Effect of registers, etc
24. New section 97A inserted – Effect of registers, etc: supplementary
25. Section 98 amended – Requirement of secrecy
26. Section 99 replaced – Marking of register and lists
27. Section 104 amended – Admission to polling place, etc
28. Section 110A amended – Persons registered to vote by post attending to vote in person
29. Section 111 amended – Persons registered to vote by proxy attending to vote in person
30. Section 112 amended – Proxy voters registered to vote by post attending to vote in person
31. Section 113 amended – Voting procedure
32. Section 119 amended – Procedure on close of poll
33. Section 121A amended – Postal votes in United Kingdom to be incorporated in count
34. Section 122 amended – The count
35. Section 124 amended – Rejected ballot papers
36. Section 131 amended – Orders for production

### **PART 3 –AMENDMENT OF ELECTORAL FORMS REGULATIONS**

37. Amendment of Electoral Forms Regulations
38. Electoral Forms repealed and replaced

**PART 4 – AMENDMENT OF VOTING IN INSTITUTIONS REGULATIONS**

39. Amendment of Voting in Institutions Regulations

**PART 5 – AMENDMENT OF ELECTORAL (POSTAL VOTING)(UNITED KINGDOM) ORDER**

40. Amendment of Electoral (Postal Voting) (United Kingdom) Order

**PART 6 – CONSEQUENTIAL, TRANSITIONAL AND SAVING PROVISION**

41. Power for Governor to make consequential provision by order

42. Power for Governor to make transitional and saving provision by order

**SCHEDULE - NEW ELECTORAL FORMS**

# ELECTORAL (AMENDMENT) BILL 2013

(No: of 2013)

(assented to: 2013)

(commencement: see section 2)

(published: 2013)

A BILL

for

AN ORDINANCE

To amend the Electoral Ordinance (Title 30.1).

BE IT ENACTED by the Legislature of the Falkland Islands —

## PART 1 INTRODUCTION

### 1. Title

This Ordinance is the Electoral (Amendment) Ordinance.

### 2. Commencement

This Ordinance comes into force on publication in the *Gazette*.

### 3. Amendment of Electoral Ordinance and Regulations

This Ordinance amends —

- (a) the Electoral Ordinance;
- (b) the Electoral Forms Regulations (Title 30.1.2);
- (c) the Voting in Institutions Regulations (SR&O No 2 of 1993); and
- (d) the Electoral (Postal Voting)(United Kingdom) Order (SR&O No 17 of 2005).

## PART 2 AMENDMENT OF ELECTORAL ORDINANCE

### 4. Amendment of Electoral Ordinance

This Part amends the Electoral Ordinance.

### 5. Section 2 amended – Interpretation

(1) This section amends section 2.

(2) The definition of “application for a postal proxy vote” is amended by replacing “section 34” with “section 34(1)”.

(3) The definition of “receptacle for ballot paper envelopes” is amended by replacing “section 91(4)” with “section 91(11)(b)”.

(4) The definition of “receptacle for declarations of identity” is amended by replacing “section 91(4)” with “section 91(11)(a)”.

**6. Section 11 amended – Maintenance of the Registers: registration of electors**

Section 11(1)(a) is omitted and replaced with the following paragraph —

“(a) made in accordance with section 11A;”

**7. New section 11A – Application for registration**

The following section is inserted after section 11 —

**“11A. Application for registration**

(1) An application for registration made under section 10 or 11 may be made by one of the following methods —

(a) handing it personally to the Registration Officer (or leaving it at the office of the Registration Officer);

(b) sending it by post to the Registration Officer;

(c) sending it by fax to the Registration Officer; or

(d) sending it by e-mail to the Registration Officer.

(2) An application must be received in legible form.

(3) If an application is made by e-mail, it must consist of a scanned image of a signed application form.

(4) An applicant’s signature must be witnessed by —

(i) a bank manager;

(ii) a commissioner for oaths;

(iii) an elector;

(iv) a justice of the peace;

(v) a police officer;

(vi) a teacher of (or tutor to) the applicant; or

(vii) another person approved by the Registration Officer.”

**8. Section 23 amended – Application for postal vote**

(1) This section amends section 23.

(2) The following subsections are inserted after subsection (1) —

“(1A) For the purposes of this section, “delivered” means —

(a) handed personally to the Registration Officer (or left at the office of the Registration Officer);

(b) sent by post to the Registration Officer;

(c) sent by fax to the Registration Officer; or

(d) sent by e-mail to the Registration Officer.

(1B) An application must be received in legible form.

(1C) If an application is delivered by e-mail, it must consist of a scanned image of a signed application form.”

(3) Subsection (3)(b) is omitted and replaced with the following paragraph —

“(b) the applicant’s signature is witnessed by —

(i) a bank manager;

(ii) a commissioner for oaths;

(iii) an elector;

(iv) a justice of the peace;

(v) a police officer;

(vi) a teacher of (or tutor to) the applicant; or

(vii) another person approved by the Registration Officer.”

(4) The following subsections are inserted after subsection (4) —

“(4A) Subsection (4B) applies in relation to an application for a postal vote if —

(a) it was made in accordance with an arrangement made under the Referendum (Falkland Islands Political Status) Ordinance (No 16 of 2012);

(b) either —

(i) it was made in respect of all referenda or elections within a period specified in that application; or

(ii) it was made (or deemed to have been made) in respect of referenda and elections generally.

(4B) If this subsection applies to an application for a postal vote, it is to be treated as if it had validly been made in accordance with subsection (1) and will continue to apply.”

(5) Subsection (8) is amended by omitting “unless he satisfies the presiding officer at that polling place that he has not received a postal ballot paper in respect of that election”

**9. Section 27 amended – Application for proxy vote**

(1) This section amends section 27.

(2) The following subsections are inserted after subsection (1) —

“(1A) An application must be —

(a) handed personally to the Registration Officer (or left at the office of the Registration Officer);

(b) sent by post to the Registration Officer;

(c) sent by fax to the Registration Officer; or

(d) sent by e-mail to the Registration Officer.

(1B) An application must be received in legible form.

(1C) If an application is made by e-mail, it must consist of a scanned image of a signed application form.”

(3) Subsection (2) is repealed and replaced with the following subsection —

“(2) An application to be permitted to vote by proxy (“an application for a proxy vote”) may be made —

(a) in respect of a specified referendum or election or in respect of referenda or elections held within a period stated in the application; or

(b) in respect of referenda and elections generally.”

(4) The following subsection is inserted after subsection (2) —

“(2A) An application to be permitted to vote by proxy (“an application for a proxy vote”) is invalid unless —

(a) it states the full name and address of the person whom the applicant wishes to appoint as proxy;

(b) it is signed by the elector personally; and

(c) the applicant's signature is witnessed by —

(i) a bank manager;

(ii) a commissioner for oaths;

(iii) an elector;

(iv) a justice of the peace;

(v) a police officer;

(vi) a teacher of (or tutor to) the applicant; or

(vii) another person approved by the Registration Officer.”

(5) Subsection (3) is amended by replacing “paragraph (b) of subsection (2)” with “subsection (2A)(a)”.

(6) Subsection (4) is amended by replacing “paragraph (b) thereof” with “subsection (2A)(a)”.

(7) The following subsections are inserted after subsection (5) —

“(5A) Subsection (5B) applies to an application for a proxy vote if it does not specify whether it is made —

(a) in respect of a specified referendum or election or all referenda or elections held within a period specified in the application; or

(b) in respect of referenda and elections generally,

(5B) If this subsection applies to an application for a proxy vote, it will be deemed to have been made in respect of referenda and elections generally.

(5C) Subsection (5D) applies in relation to an application for a proxy vote if —

(a) it was made in accordance with an arrangement made under the Referendum (Falkland Islands Political Status) Ordinance;

(b) either —

(i) it was made in respect of all referenda or elections within a period specified in that application; or



(ii) it was made (or deemed to have been made) in respect of referenda and elections generally.

(5D) If this subsection applies to an application for a proxy vote, it is to be treated as if it had validly been made in accordance with subsection (1) and will continue to apply.”

(8) Subsection (7) is amended by —

(a) replacing “subsections (1) to (3) inclusive” with “subsections (1) to (4)”; and

(b) replacing “subsection (2)(b)” with “subsection (2A)(a)”.

**10. Section 34 amended – Application for postal proxy vote**

(1) This section amends section 34.

(3) The following subsections are inserted after subsection (1) —

“(1A) For the purposes of this section, “delivered” means —

(a) handed personally to the Registration Officer (or left at the office of the Registration Officer);

(b) sent by post to the Registration Officer;

(c) sent by fax to the Registration Officer; or

(d) sent by e-mail to the Registration Officer.

(1B) An application must be received in legible form.

(1C) If an application is delivered by e-mail, it must consist of a scanned image of a signed application form.”

(3) Subsection (3)(b) is omitted and replaced with the following paragraph —

“(b) the applicant’s signature is witnessed by —

(i) a bank manager;

(ii) a commissioner for oaths;

(iii) an elector;

(iv) a justice of the peace;

(v) a police officer;

(vi) a teacher of (or tutor to) the applicant; or

(vii) another person approved by the Registration Officer.”

(4) Subsection (4) is amended by replacing “(4), (5), (6) and (7)” with “(4) to (8)”.

#### **11. New section 47A – Independent observation**

The following new section is inserted after section 47 —

##### **“47A. Independent observation**

(1) The Returning Officer may appoint individuals (from inside or outside the Falkland Islands) to act as independent observers of the electoral or referendum process.

(2) The Governor may make regulations providing for individuals appointed under subsection (1) to have (for observation purposes) access to restricted elements of the electoral or referendum process.”

#### **12. Section 51 amended – Notice of election**

(1) This section amends section 51.

(2) Subsection (6) is repealed and replaced with the following subsection —

“(6) Polling hours must constitute a period of at least six consecutive hours falling between 7am and 8pm.”

(3) The following subsection is added —

“(7) Polling hours for polling places in the Camp Constituency and polling hours for polling places in the Stanley Constituency may be different.”

#### **13. Section 53 replaced – Disqualification from election**

Section 53 is repealed and replaced with the following section —

##### **“53. Disqualification from election (with power for Governor to amend by order)**

(1) A person is qualified to be elected as a member of the Legislative Assembly if the person —

(a) is qualified under section 28 of the Constitution (qualifications for election); and

(b) is not disqualified under section 29 of the Constitution (disqualifications for election).

(2) Section 29(1) of the Constitution lists a number of disqualifications from election as a member of the Legislative Assembly.

(3) Section 29(1)(c) provides that a person is disqualified from election as a member of the Legislative Assembly if the person holds (or is acting in) a public office, except as may be specified (either individually or by reference to a class of office or otherwise) by Ordinance.

(4) For the purposes of section 29(1)(c), the following public offices are specified as offices that do not disqualify the holders of them (or persons acting in them), from election as members of the Legislative Assembly —

(a) an office in (or membership of) the Falkland Islands Defence Force, except in the following posts (and the holders of those posts and persons acting in them are disqualified from election as members of the Legislative Assembly) —

- (i) Commanding Officer;
- (ii) Permanent Staff Assistant; and
- (iii) Training Sergeant;

(b) office in (or membership of) the Falkland Islands Fire and Rescue Service as a Retained Firefighter.

(5) In accordance with section 29(4)(b) of the Constitution, the office of General Manager in the Falkland Islands Development Corporation is prescribed as one that is deemed to be a public office (and the holder of that post or a person acting in it is disqualified from election as a member of the Legislative Assembly).

(6) Subsection (7) applies to a person who would be disqualified from election as a member of the Legislative Assembly because that person holds (or is acting in) a public office (“the disqualifying office”) which has not been specified in subsection (4).

(7) A person to whom this subsection applies may still stand as a candidate for election as a member of the Legislative but only if that person undertakes in writing to relinquish the disqualifying office (or to cease to act in it) if elected as a member of the Legislative Assembly.

(8) Subsection (9) applies to a person who —

- (a) has given an undertaking under subsection (7); and
- (b) is elected as a member of the Legislative Assembly.

(9) A person to whom this subsection applies —

(a) will be incapable of taking a seat in the Legislative Assembly until the undertaking has been fulfilled; and

(b) is to be treated as having vacated the seat if the undertaking has not been fulfilled within [100 days] after the date on which the person was elected as a member of the Legislative Assembly.

(10) The Governor may amend this section by order.

**14. New section 60A inserted - Emergency voting**

The following new section is inserted after section 60 —

**“60A. Emergency voting**

(1) The Governor may make regulations to allow for emergency voting by persons who would otherwise be unable to vote (for themselves or as proxy for others) —

- (a) in person at a polling place or with a mobile polling team;
- (b) being an inmate or member of staff at an institution, at that institution;
- (c) by post;
- (d) by proxy; or
- (e) by postal proxy vote.”

(2) Regulations made under subsection (1) may include provisions allowing for emergency voting by persons whose proxies are unable to vote as set out in subsection (1).”

**15. Section 61 amended – Mobile polling teams in the Camp Constituency**

Section 61 is amended by inserting the following subsection after subsection (1) —

“(1A) If voting is taking place in both the Stanley and Camp Constituencies in the same poll, voters from both constituencies may vote with a mobile polling team.”

**16. New section 61A inserted – Allocated polling places**

The following new section is inserted after section 61 —

**“61A. Allocated polling places**

(1) The Governor may make regulations under this section to allow for a system allocating polling stations to individual voters.

(2) The principal purpose of a system of allocating polling stations to individual voters must be to seek to minimise the risk of an elector voting twice in the same election.”

**17. Section 74B amended – Ballot papers: general requirements**

Section 74B(1) is amended by —

- (a) omitting paragraph (d); and
- (b) omitting paragraph (e) and replacing it with the following paragraph —

“(e) they must each have a counterfoil attached which has a serial number printed on its face;”.

**18. Section 79 amended – Postal ballot papers**

Section 79(1) is amended by omitting “bearing the number of the ballot paper”.

**19. Section 83 amended – Marking of postal ballot paper**

Section 83(2) is repealed.

**20. Section 91 amended – Opening of covering envelopes**

Section 91 is repealed and replaced with the following section —

**“91. Opening of covering envelopes**

(1) When a postal voters’ ballot box has been opened, the returning officer (or the Recording Officer) —

- (a) must count and note the number of covering envelopes; and
- (b) must then open each covering envelope separately.

(2) Subsection (3) applies to a covering envelope if it does not contain —

- (a) a declaration of identity and a ballot paper envelope;
- (b) a declaration of identity and a ballot paper; or
- (c) a ballot paper envelope.

(3) If this subsection applies to a covering envelope, the officer must —

- (a) mark it “Rejected”;
- (b) if it contains anything, attach those contents to it; and
- (c) place it in a receptacle for rejected votes.

(4) Subsection (5) applies to a covering envelope if it contains only a ballot paper envelope.

(5) If this subsection applies to a covering envelope, the officer must open the ballot paper envelope to check whether or not the declaration is inside.

(6) If, on opening the ballot paper envelope, there is no declaration of identity inside, the officer must —

- (a) mark the ballot paper envelope “Rejected”;
- (b) if it contains anything, attach those contents to it; and
- (c) place it in the receptacle for rejected votes.

(7) On opening a covering envelope, other than one to which subsection (3) or subsection (5) applies, the officer must first check whether or not the declaration of identity has been duly signed and dated.

(8) If it has not, the officer must —

- (a) mark the declaration “Rejected”;
- (b) attach it to the ballot paper envelope (or, if there is no such envelope, to the ballot paper); and
- (c) place it in the receptacle for rejected votes.

(9) If one or more election agents are present, the officer must (before rejecting a covering envelope or a declaration) show it to them.

(10) If one or more of the election agents object to a covering envelope or declaration being rejected, the officer must add the words “Rejection objected to” to it.

(11) If the declaration has been duly signed and dated, the officer must —

- (a) place the declaration in a receptacle for declarations of identity; and
- (b) the ballot paper envelope (or the ballot paper) in a receptacle for ballot paper envelopes.

(12) Subsection (13) applies if —

- (a) either —
  - (i) there is no ballot paper envelope in a covering envelope; or
  - (ii) the ballot paper envelope has been opened in accordance with subsection (5); and
- (b) the declaration of identity has been signed and dated.

(13) If this subsection applies, the officer must —

- (a) place the declaration in the receptacle for declarations of identity; and
- (b) place the ballot paper in a ballot box which has previously been —
  - (i) shown as empty to the election agents present (if there were any);
  - (ii) locked by the officer; and
  - (iii) sealed with the officer’s seal and the seal of any election agent who wishes to place a seal on the ballot box.

(14) Unless it is opened in accordance with subsection (5), the officer must not open a ballot paper envelope until it is opened under section 93.”

**21. Section 93 amended – Opening of ballot paper envelopes**

Section 93 is repealed and replaced with the following section —

**“93. Opening of ballot paper envelopes**

(1) After sealing up the packets referred to in section 92, the returning officer (or the Recording Officer) must separately open each ballot paper envelope which is in the receptacle for ballot paper envelopes.

(2) If the ballot paper envelope does not contain a ballot paper, the officer must mark the envelope “Rejected”.

(3) If the ballot paper envelope does contain a ballot paper, the officer must place the ballot paper in the ballot box referred to in section 91(13)(b).

(4) The officer must —

(a) put the envelopes and the ballot papers marked “Rejected” under this section into a separate packet; and

(b) seal that packet.”

**22. Section 96 amended – Certified copies of Register and lists**

Section 96 is repealed and replaced with the following section —

**“96. Certified copies of Register and lists**

(1) As soon as possible after the start of the closed period for an election or referendum, the registration officer must certify at least 6 copies of each of the following —

(a) the Register;

(b) the postal voters’ list;

(c) the proxy list; and

(d) the postal proxy voters’ list.

(2) Subject to subsection (3), the copies of the Register certified under subsection (1)(a) must contain the same entries as the version of the register published under section 14A(1).

(3) For the purpose of making the voting process more efficient —

(a) the certified copies of the Register and lists may be combined into a single document;

- (b) entries in that document may be rearranged into a different order; and
- (c) those entries may be supplemented by —
  - (i) marks for the purposes of section 99; and
  - (ii) additional information in connection with a system of allocation of polling stations provided for in regulations made under section 61A.

(4) The registration officer must forward the certified copies made under subsection (1) to the returning officer as soon as possible as they have been made.”

### **23. Section 97 replaced – Effect of registers, etc**

Section 97 is repealed and replaced with the following section —

#### **“97. Effect of registers, etc**

(1) Subject to section 97A, the certified copies of the Register forwarded to the returning officer under section 96(4) are conclusive as to the following matters for the purposes of this Part (but only in relation to the referendum or the election for which those copies were produced) —

- (a) that every person registered was resident at the address shown on the qualifying date;
- (b) that the person’s address is in the constituency to which the register relates;
- (c) that, if a person’s name appears in it, that person is an elector;
- (d) that, if a person’s name does not appear in it, that person is not an elector.

(2) Subject to section 97A, the certified copies of the postal voters' list forwarded to the returning officer under section 96(4) are be conclusive for the purposes of this Part as to whether or not a person's right to vote at the referendum or the election is exercisable by post (but only in relation to the referendum or the election for which those copies were produced).

(3) Subject to section 97A, the certified copies of the proxy list forwarded to the returning officer under section 96(4) are be conclusive for the purposes of this Part as to whether or not there is in force an appointment of a proxy to vote for a person and, if so, who is appointed (but only in relation to the referendum or the election for which those copies were produced).

(4) Subject to section 97A, the certified copies of the postal proxy voters’ list forwarded to the returning officer under section 96(4) are be conclusive for the purposes of this Part as to whether or not a proxy voter's right to vote as proxy is exercisable by post (but only in relation to the referendum or the election for which those copies were produced).



**24. New section 97A inserted – Effect of registers, etc: supplementary**

The following new section is inserted after section 97 —

**“97A. Effect of registers, etc: supplementary**

(1) If a single document has been produced under section 96(3), references in section 97 to the Register (or to a list) refer to the entries in the single document that relate to entries in the Register (or the list).

(2) Subsection (3) applies to a person who is either —

- (a) registered as an elector; or
- (b) entered into the list of proxies.

(3) A person to whom this subsection applies may not be excluded from voting on the ground that either —

- (a) the person is not qualified under section 32(1) of the Constitution; or
- (b) that the person is disqualified from voting under section 32(2) of the Constitution.

(4) Subsection (3) does not do either of the following things —

- (a) preventing a vote from being rejected under scrutiny; or
- (b) affecting a person's liability to a penalty for voting when either —
  - (i) not qualified to vote; or
  - (ii) disqualified from voting.

(5) Subsection (6) applies to each of the following documents —

- (a) the Register;
- (b) the postal voters' list;
- (c) the proxy list;
- (d) the postal proxy voters' list;
- (e) a single document produced under section 96(3);
- (f) every proxy paper;
- (g) every nomination paper;
- (h) every ballot paper;

(i) every notice or other document required for the purposes of this Part.

(6) No inaccuracy in the name or description of a person (or the description of a place) in a document to which this subsection applies affects the validity or operation of that document if the name or description of the person (or the description of the place) is such that it can still commonly be understood.”

**25. Section 98 amended – Requirement of secrecy**

(1) This section amends section 98.

(2) Subsection (2) is amended by omitting paragraph (a).

(3) Subsection (3)(c) is amended omitting “, or as to the number on the back of the ballot paper given to that voter”.

(4) Subsection (4) is amended by omitting paragraphs (b) and (c).

(5) Subsection (5) is amended by omitting “, or as to the number on the back of the ballot paper given for the use of that voter”

**26. Section 99 replaced – Marking of register and lists**

Section 99 is repealed and replaced with the following section —

**“99. Marking of register and lists**

(1) The certified copies forwarded to the returning officer under section 96(4) must be marked as follows —

(a) the entries relating to elector who are postal voters must be marked with the letter “M”;

(b) the entries relating to electors who have appointed proxies must be marked with the letters “PXY”;

(c) the entries relating to electors who are postal voters registered to vote at addresses in the United Kingdom must be marked with the letters “UKM”; and

(d) the entries relating to proxies who are postal proxy voters must be marked with the letters “PM”.

(2) Subsection (3) applies if a single document has been produced under section 96(3).

(3) If this subsection applies, the returning officer must (as soon as practicable after receiving the certified copies of the single document) —

(a) check whether the marks required by subsection (1) have been made on them (and, if they have, that they have been made correctly); and

(b) make or correct the necessary marks as necessary.”

(4) Subsection (5) applies if a single document has not been produced under section 96(3).

(5) If this subsection applies, the returning officer must (as soon as practicable after receiving the certified copies forwarded under section 96(4) make the necessary marks on the Register and Part 1 of the proxy list.”

**27. Section 104 amended – Admission to polling place, etc**

Section 104 is amended by inserting the following paragraphs after paragraph (d) —

“(da) members of the press approved by the Returning Officer;

(db) independent observers appointed under section 47A;”.

**28. Section 110A amended – Persons registered to vote by post attending to vote in person**

Section 110A(1)(b) is omitted and replaced with the following paragraph —

“(b) the entry relating to that person has been marked “M” or “UKM” in accordance with section 99.”

**29. Section 111 amended – Persons registered to vote by proxy attending to vote in person**

Section 111(1)(b) is omitted and replaced with the following paragraph —

“(b) the entry relating to that person has been marked “PXY” in accordance with section 99.”

**30. Section 112 amended – Proxy voters registered to vote by post attending to vote in person**

Section 112(1)(b) is omitted and replaced with the following paragraph —

“(b) the entry relating to that person has been marked “PM” in accordance with section 99.”

**31. Section 113 amended – Voting procedure**

(1) This section amends section 113.

(2) Subsection (1) is amended by —

(a) replacing paragraph (b) with the following paragraph —

“(b) the number, name and address of the elector as stated in the copy of the register (or the single document produced under section 96(3)) must be called out;”;

(b) amending paragraph (c) by adding “; and”;

(c) replacing paragraph (d) with the following paragraph —

“(d) a mark shall be placed against the entry relating to that voter (in the Register or the single document) to denote that a ballot paper has been received by that voter (but without showing the particular ballot paper that has been received).”; and

(d) omitting paragraph (e).

(2) The following subsections are inserted after subsection (1) —

“(1A) Subsection (1B) applies if —

(a) the person is applying for a ballot paper as a proxy; and

(b) a single document has not been produced under section 96(3).

(1B) If this subsection applies, a mark must also be placed against the entry relating to that person in the proxy voters’ list.”

**32. Section 119 amended – Procedure on close of poll**

(1) This section amends section 119.

(2) Subsection (1)(e) is omitted and the following paragraph substituted —

“(e) either —

(i) the marked copies of the register of electors and of the list of proxies; or

(ii) if single document has been produced under section 96(3), the marked copy of that single document.”

(2) Subsection (2) is repealed and replaced with the following subsection —

“(2) Subsection (2A) applies if a single document has not been produced under section 96(3).”

(3) The following subsections are inserted after subsection (2) —

“(2A) If this subsection applies, the marked copies of the register of electors and of the list of proxies must be placed in the same packet.

(2B) The counterfoils of the used ballot papers are placed in a separate packet from the one in which the marked copies of the register of electors and of the list of proxies (or the marked copy of the single document) are placed.”

**33. Section 121A amended – Postal votes in United Kingdom to be incorporated in count**

Section 121A(1)(b) is amended by omitting “and number”.

**34. Section 122 amended – The count**

Section 122(4) is repealed.

**35. Section 124 amended – Rejected ballot papers**

Section 124(1)(c) is amended by omitting “except the printed number on the back”.

**36. Section 131 amended – Orders for production**

(1) This section amends section 131.

(2) The proviso to subsection (2) is repealed.

(3) Subsection (6) is repealed.

**PART 3  
AMENDMENT OF ELECTORAL FORMS REGULATIONS**

**37. Amendment of Electoral Forms Regulations**

This Part amends the Electoral Forms Regulations.

**38. Electoral Forms revoked and replaced**

The following forms are revoked and replaced with the forms set out in the Schedule —

- VII – Form of application for a postal vote
- XI – Form of application for a proxy vote
- XII – Form of consent to act as proxy
- XVII – Form of application for a postal proxy vote
- XXVIII – Form of ballot paper

**PART 4  
AMENDMENT OF VOTING IN INSTITUTIONS REGULATIONS**

**39. Regulation 9 of Voting in Institutions Regulations replaced – Voting by Members of staff**

Regulation 9 of the Voting in Institutions Regulations is revoked and replaced with the following regulation —

**“9. Voting by members of staff**

A member of staff is entitled to vote under these regulations if that member of staff has not previously voted in the election.”

**PART 5  
AMENDMENT OF ELECTORAL (POSTAL VOTING) (UNITED KINGDOM)  
ORDER**

**40. Article 6 of Electoral (Postal Voting) (United Kingdom) Order amended – Issue of ballot papers for postal voters at a United Kingdom address**

Article 6 of the Electoral (Postal Voting) (United Kingdom) Order is amended by omitting “bearing the number of the ballot paper”.

**PART 6**

## CONSEQUENTIAL, TRANSITIONAL AND SAVING PROVISION

### **41. Power for Governor to make consequential provision by order**

(1) The Governor may by order make provision consequential on this Ordinance (or one or more of its provisions).

(2) An order made under subsection (1) may do one or more of the following things —

- (a) amend or repeal written laws of the Falkland Islands;
- (b) provide for United Kingdom legislation to apply in the Falkland Islands (with or without modifications);
- (c) modify the application in the Falkland Islands of United Kingdom legislation that already applies in the Falkland Islands;
- (d) provide that specific provisions of United Kingdom legislation no longer apply in the Falkland Islands.

### **42. Power for Governor to make transitional and saving provision by order**

The Governor may by order make transitional or saving provision (or both) in connection with this Ordinance (or one or more of its provisions).

**SCHEDULE  
NEW ELECTORAL FORMS**

(S23)

**ELECTORAL FORM VII  
FORM OF APPLICATION FOR A POSTAL VOTE  
(Please read the Notes attached to this Form before completing)**

TO: The Registration Officer \*Camp/Stanley Constituency.

I .....of.....  
**(full name)** **(address)**

Hereby apply to be allowed to vote at an election or at a referendum by post (1)

1. I wish to be allowed to vote by post in respect of (3):

(a) the election/referendum to be held on

.....

(b) all elections and referenda held within the period

from.....to.....

OR

(c) elections generally

(d) referenda generally

2. Postal ballot papers may be sent to me at (the address must be in the Falkland Islands, or in the United Kingdom): (4)

.....

.....

Dated.....

(5)

Signed .....

(5)

Witness .....

**\*Delete whichever is inapplicable.**

## NOTES TO FORM VII

1. The Registration Officer shall not grant an application for a postal vote between 12 noon on the day proceeding the last day for nominations for an election and the return of the writ in respect of that election. This period is known as “the closed period” and further information of its duration may be obtained by contacting the Registration Officer for your constituency.
2. The closed period for a referendum normally begins at 12 noon 14 days before the election date.
3. An elector should choose (and indicate by striking out on the Form those options which he does not wish to select) in respect of which election or elections he wishes to hold a postal vote. If the elector’s Application Form does not specify his choice, it shall be deemed to have been made in respect of elections generally.
4. The Application Form must contain the full address to which postal ballot papers are to be sent. Failure to specify a full address will render the application invalid.
5. The Application Form must be signed by the elector personally, whose signature must be witnessed by one of the following:
  - a Falkland Islands registered elector;
  - a justice of the peace;
  - a bank manager;
  - a commissioner for oaths;
  - a teacher of, or tutor to, the applicant; or
  - any other person approved by the Registration Officer
6. The completed Application Form may be submitted by handing it personally to the Registration Officer or left at the office of the Registration Officer; sent by post to the Registration Officer; sent by fax to the Registration Officer; or sent by e-mail to the Registration Officer. If submitted by fax or e-mail an application form must be received in legible form. If submitted by e-mail, an application must consist of a scanned image of a signed application form.



**ELECTORAL FORM XI  
FORM OF APPLICATION FOR A PROXY VOTE**

(Please read the Notes attached to this Form before completing)

TO: The Registration Officer \*Camp/\*Stanley Constituency

I.....of.....  
**(full name)** **(address)**

(1)

hereby apply to be permitted to vote by proxy

(3)

1. My application is made in respect of:

(a) the election/referendum to be held on

.....

(b) elections and referenda held within the period

from .....to .....

OR

(c) elections generally

(d) referenda generally

(4)

2. The name and address of the person whom I wish to appoint as proxy are:

.....of.....  
**(full name of proxy)** **(address)**

(5)

3. I enclose the written consent of the person named in 2 above to act as my proxy

Dated.....

(6)

Signed .....

(6)

Witness .....

\* Delete whichever is inapplicable.

## NOTES TO FORM XI

1. The Registration Officer shall not grant an application for permission to vote by proxy between 12 noon on the day proceeding the last day for nominations for an election and the return of the writ in respect of that election. This period is known as “the closed period” and further information of its duration may be obtained by contacting the Registration Officer for your constituency.
2. The closed period for a referendum normally begins at 12 noon 14 days before the election date.
3. An elector should choose (and indicate by striking out on the form those options which he/she does not wish to select) in respect of which election or elections, and/or referendum or referenda, he/she wishes his/her proxy to hold a proxy vote.
4. Your proxy must be someone who is an elector in respect of the same constituency as you and he/she may not be appointed the proxy of more than two electors.
5. Please obtain **ELECTORAL FORM XII** indicate his/her consent to act for you.
6. The Application Form must be signed by the elector personally, whose signature must be witnessed by one of the following:
  - a Falkland Islands registered elector;
  - a justice of the peace;
  - a bank manager;
  - a commissioner for oaths;
  - a teacher of, or tutor to, the applicant; or
  - any other person approved by the Registration Officer
7. The completed Application Form may be submitted by handing it personally to the Registration Officer or left at the office of the Registration Officer; sent by post to the Registration Officer; sent by fax to the Registration Officer; or sent by e-mail to the Registration Officer. If submitted by fax or e-mail, the application form must be received in legible form. If submitted by e-mail, an application must consist of a scanned image of a signed application form.

ELECTORAL FORM XII

**FORM OF CONSENT TO ACT AS PROXY**

TO: The Registration Officer \*Camp/\*Stanley Constituency

I  
.....of.....  
**(full name)** **(address)**

refer to the application  
of.....  
**(full name of applicant)**

of.....  
**(address of applicant)**

**dated.....for permission to vote by proxy and hereby  
consent to act as proxy for that person.**

Dated.....

Signed.....

**\* Delete whichever is inapplicable.**

**NOTE: YOU MAY ONLY BE APPOINTED AS SOMEONE'S PROXY IF YOU ARE  
AN ELECTOR IN RESPECT OF THE SAME CONSTITUENCY AND YOU MAY  
NOT BE APPOINTED THE PROXY OF MORE THAN TWO ELECTORS**

**ELECTORAL FORM XVII**  
**FORM OF APPLICATION FOR A POSTAL PROXY VOTE**  
**(Please read the Notes attached to this Form before completing)**

TO: The Registration Officer \*Camp/Stanley Constituency.

I  
.....of.....  
.....  
**(full name)**                      **(address)**

hereby confirm that \* I am the proxy of/\* I am the proxy named in an application  
submitted to appoint me the proxy of

.....of.....  
.....  
**(full name of elector)**                      **(address)**

and I apply to be allowed to vote as proxy by post (1) & (2)

1. My application is made in respect of (4):

(a) the election/referendum to be held on

.....

(b) all elections and referenda held within the period

from.....to.....

OR

(c) elections generally

(d) referenda generally

2. Postal ballot papers for completion by me as proxy for the above elector may be  
sent to me in the Falkland Islands, or in the United Kingdom at (5):

.....  
.....  
.....  
.....

Dated.....

(6)

Signed .....

(6)

Witness .....

**\*Delete whichever is inapplicable.**

**NOTES TO FORM VII**

1. An application for a postal proxy shall not be granted unless:
  - (a) Electoral Form XVII is completed in full, and
  - (b) the applicant is already a postal voter in respect of his right to vote (otherwise than as proxy for another) or an application by him for a postal vote in respect of his right to vote is allowed at the same time.
2. The Registration Officer shall not grant an application for a postal vote between 12 noon on the day proceeding the last day for nominations for an election and the return of the writ in respect of that election. This period is known as “the closed period” and further information of its duration may be obtained by contacting the Registration Officer for your constituency.
3. The closed period for a referendum normally begins at 12 noon 14 days before the election date.
4. An elector should choose (and indicate by striking out on the Form those options which he does not wish to select) in respect of which election or elections he wishes to hold a postal vote. If the elector’s Application Form does not specify his choice, it shall be deemed to have been made in respect of elections generally.
5. The Application Form must contain the full address to which postal ballot papers are to be sent. Failure to specify a full address will render the application invalid.
6. The Application Form must be signed by the elector personally, whose signature must be witnessed by one of the following:
  - a Falkland Islands registered elector;
  - a justice of the peace;
  - a bank manager;
  - a commissioner for oaths;
  - a teacher of, or tutor to, the applicant; or
  - any other person approved by the Registration Officer
7. The completed Application Form may be submitted by handing it personally to the Registration Officer or left at the office of the Registration Officer; sent by post to the Registration Officer; sent by fax to the Registration Officer; or sent by e-mail to the Registration Officer. If submitted by fax or e-mail an application form must be received in legible form. If submitted by e-mail, an application must consist of a scanned image of a signed application form.

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## OBJECTS AND REASONS

This Bill would make a number of amendments to the Electoral Ordinance (Title 30.1).

It reflects some of the recommendations made by the MIOR Referendum Observers' Report on the referendum held in March 2013 on the political status of the Falkland Islands.

It also adopts for future elections and referenda some of the practices that were implemented under arrangements made under the Referendum (Political Status) Ordinance (No 16 of 2012) but which would need to be provided for in the Electoral Ordinance in order to continue.

It reflects the recommendation of the Legislative Assembly Pay Review Panel that, if the post of MLA is to become full time (which is separately proposed in the Members' Remuneration (Amendment) Bill), the question of disqualification of public servants for election would have to be reviewed.

Finally, it makes a number of changes to the Electoral Ordinance that have been identified as being necessary in the course of other work.

The Bill is divided into 6 Parts and there is also a Schedule to the Bill:

- Part 1 contains introductory provisions.
- Part 2 would make a number of amendments to the Electoral Ordinance.
- Part 3 (and the Schedule) would amend the Electoral Forms Regulations (Title 30.1.2).
- Part 4 would amend the Voting in Institutions Regulations (SR&O No 2 of 1993).
- Part 5 would amend the Electoral (Postal Voting) (United Kingdom) Order (SR&O No 17 of 2005).
- Part 6 would allow the Governor (who would, normally, have to act on the advice of Executive Council) to make consequential, transitional and saving provision by order.
- The Schedule contains new forms that would replace old forms in the Electoral Forms Regulations.

***Part 1 contains introductory provisions.***

*Clause 2* would provide for the Ordinance to come into force as soon as it is published in the *Gazette* (if it is passed). It is intended that the amendments would come into force in time for the forthcoming General Election.

***Part 2 would make a number of amendments to the Electoral Ordinance.***

*Clause 5* would update a number of cross-references in section 3 (the interpretation section of the Electoral Ordinance).

*Clause 6* would update a cross-reference in section 11, which deals with applications to register as an elector.

*Clause 7* would insert a new section 11A to allow for applications to register as an elector by fax or by e-mail (as well as by hand or by post, as at present) The new section would also extend the categories of persons who may witness signatures on applications for registration.

*Clause 8* would make similar changes to section 23 in relation to applications for postal votes by:

- allowing for applications to be made by fax or by e-mail; and
- extending the categories of persons who may witness signatures on applications.

It would also provide that applications for postal votes that were made by fax or e-mail in the run up to the political status referendum would remain valid. Finally, it would reflect a previous change to electoral legislation in the information to be given to electors who are granted postal votes.

*Clause 9* would make similar changes to section 27 in relation to applications for proxy votes by:

- allowing for applications to be made by fax or by e-mail;
- extending the categories of persons who may witness signatures on applications; and
- providing for applications for proxy votes made by fax or e-mail in the run up to the political status referendum to remain valid.

It would also:

- make it clear that applications for proxy votes can be made for all referenda and elections held within a specified period or for referenda and elections generally; and
- update various cross-references.

*Clause 10* would make similar changes to section 34 in relation to applications for postal proxy votes by

- allowing for applications to be made by fax or by e-mail;

- extending the categories of persons who may witness signatures on applications; and
- indirectly providing for applications for postal proxy votes made by fax or e-mail in the run up to the political status referendum to remain valid.

It would also update the cross-reference to section 23 (part of which applies to postal proxy votes in modified form).

*Clause 11* would insert a new section 47A allowing the returning officer to appoint independent observers at an election or referendum. It would also allow the Governor (who would, normally, have to act on the advice of Executive Council) to make regulations dealing with the access to be granted to independent observers. (An amendment to be made to section 104 by *clause 27* would allow independent observers to enter polling places.)

*Clause 12* would make two changes to section 51:

- it would allow for polling to start at 7am (instead of 8am); and
- it would allow for different polling hours at polling places in Camp and Stanley.

*Clause 13* would completely replace the existing provisions in section 53 about the disqualification of public officers from election as members of the Legislative Assembly:

- Section 29(1) of the Constitution provides for a number of disqualifications from election. In particular, section 29(1)(c) provides that anyone holding (or acting in) public office in the Falkland Islands is disqualified from election, unless the office is one specified in an Ordinance as one that does not disqualify the person holding it (or acting in it).
- At present, the effect of section 53 is that there is a list of offices that disqualify from election but that other public offices do not.
- The proposed new version of section 53 (which would be introduced by *clause 13*) would reverse that and provide that, apart from a number of specific exemptions, all other public offices would be disqualifying ones.
- The exceptions would cover:
  - members of the Falkland Islands Defence Force (but not those in staff posts); and
  - retained firefighters.
- The General Manager of the Falkland Islands Development Corporation would also be disqualified from election.



- However, those holding (or acting in) public office to stand for election would still be allowed to stand for election, provided that they give undertakings to stand down from that office if elected.
- Anyone who stands on that basis and is elected would not be able to take a seat in the Legislative Assembly until the undertaking is fulfilled and there would be a 100 day time limit (which is intended to allow time for the person to resign with a notice period of up to 3 months) – after that, the seat would be vacated.

*Clause 14* would introduce a new section 60A allowing the Governor (who would, normally, have to act on the advice of Executive Council) to make regulations providing for emergency voting where a person would otherwise be unable to vote in any other way (or where a proxy is unable to vote on behalf of another person).

*Clause 15* would amend section 61 to allow voters in the Stanley constituency to vote with mobile polling teams – this is currently restricted to voters in the Camp constituency.

*Clause 16* would introduce a new section 61A allowing the Governor (who would, normally, have to act on the advice of Executive Council) to make regulations allowing for a system of allocated polling stations (similar to the one that was operated for the political status referendum).

*Clauses 17 to 19* would make a number of amendments implementing the recommendation that there should no longer be a serial number on the back of every ballot paper.

*Clauses 20 and 21* also involve implementing that recommendation. However, the amendments required to sections 91 and 93 were more extensive, so these sections are replaced entirely (and the opportunity has been taken to try and make them clearer).

*Clause 22* would replace section 96 to allow for the implementation of a recommendation that the polling process should be made more efficient by providing for a single document to be used at polling stations and by mobile polling teams (instead of the Register and the various lists being kept separate). It would also allow for the possibility that there will be a system of allocated polling stations.

*Clauses 23 and 24* would replace the existing section 97 with two new sections: 97 and 97A. These reflect consequential amendments that are necessary to deal with the possibility that a single document will be used at polling places and by mobile polling teams (instead of the separate register and lists).

*Clause 25* would make a number of consequential amendments to section 98, dealing with the removal of serial numbers from the back of ballot papers.

*Clause 26* would replace section 99 to allow for the possibility that a single document will be used at polling places and by mobile polling teams (instead of the separate register and lists).

*Clause 27* would allow members of the press and independent observers (see *clause 10*) to be present inside polling places and alongside mobile polling teams (as happened during the political status referendum).

*Clauses 28 to 32* would make consequential amendments to sections 110A, 111, 112, 113 and 119 to deal with the possibility that a single document will be used at polling places and by mobile polling teams (instead of the separate register and lists).

*Clauses 33 to 36* would make consequential amendments to sections 121A, 122, 124 and 131 to deal with the removal of serial numbers from the back of ballot papers.

***Part 3 (and the Schedule) would amend the Electoral Forms Regulations.***

*Clause 38* provides for a number of the forms in the Electoral Forms Regulations to be replaced with the new forms that appear in the *Schedule*.

***Part 4 would amend the Voting in Institutions Regulations.***

*Clause 39* would amend the Voting in Institutions Regulations to allow all members of the staff of the institutions that a mobile polling team is visiting to vote with the mobile polling team (provided they are entitled to vote and have not already voted). At present, staff can only vote with the mobile polling team in certain limited circumstances.

***Part 5 would amend the Electoral (Postal Voting) (United Kingdom) Order.***

*Clause 40* would make a consequential amendment to the Electoral (Postal Voting) (United Kingdom) Order, dealing with the removal of serial numbers from the back of ballot papers.

***Part 6 would allow the Governor to make consequential, transitional and saving provision by order.***

*Clause 41* would allow the Governor to make consequential provision and *clause 42* would allow the Governor to make transitional and/or saving provision. In both cases, the Governor would, normally, have to act on the advice of Executive Council.

***The Schedule contains the new forms that would replace old forms in the Electoral Forms Regulations.***