



REGISTRATION OF ELECTORS ACT

REGISTRATION OF ELECTORS REGULATIONS, 2023

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The Terms of Reference as outlined by the Government of the Commonwealth of Dominica is presented below:

Terms of Reference — Electoral Reform

Since Independence in 1978 elections in the Commonwealth of Dominica have been governed by the House of Assembly (Elections) Act Chap. 2:01 and the Registration of Elector's Act Chap. 2:03 respectively, of the Revised Laws of Dominica. These laws have not been substantively revised. From 2004, the Government of Dominica has invited election observers to participate in Dominica's electoral process. They along with the Electoral Office have submitted reports over the years with the goal of strengthening the electoral process. The main political parties in Dominica accepted the recommendations for the introduction of ID cards for voting and the revision of the electoral register. However, the opposition parties have disagreed with the means of achieving these reforms, at times violently, and have not accepted the draft legislation put forward by the Government to achieve them. This led to a particularly contentious pre-general election process in December 2019. with two (2) key issues being highlighted, namely identification cards, and the need to update the voters list. The elections themselves were found to be free and fair by all election observer missions.

In keeping with the commitment of the Prime Minister to the People of Dominica, to have these issues examined and recommendations presented for implementation of reform, by a neutral third party of high repute, Sir Dennis Byron, former President of the Caribbean Court of Justice, is being engaged to achieve the following:

Objectives

- Review existing legislation, reports from the various Chief Election Officers, Election Observers, and experts, including the Addendum by the Commonwealth expert Pauline Welsh
- Conduct and review the results of, public consultations and advise on changes to improve the electoral process;
- Review and advise on the provisions for eligibility to vote including the use of identification cards for the purposes of voting and whether the law ought to also provide for other or additional methods of identification in keeping with the constitutional right to vote;
- Advise on the best process for maintaining the updated electoral register that will not result in the repudiation of the right to vote, and/ or disenfranchisement of legitimate, qualified voters, including the process recommended in the aforementioned Addendum and/ or any submissions or recommendations made by stakeholders during the public consultations;

Required action

- Conduct consultations with stakeholders to include the government, political parties, civil society, civic groups, NGOs and other interested persons, individuals, organisations or groupings, and invite written and oral submissions from stakeholders;
- Review electoral laws, draft electoral amendment and submissions written and oral and conduct research if necessary or required;
- Provide a report that advises on the way forward including, but not limited to, any recommended legislative reforms to achieve the above-stated objectives.

Structure of Report

The issues that have been identified can be categorized under two general headings:

- i) the cleaning up of the electoral lists with emphasis on voter identification; and
- ii) the electoral process with emphasis on campaign financing.

I have been mindful that my engagement carries the expectation of bridging the sharp divisions of opinion that have hindered the completion of this reform exercise over several years. In light of this background, legislative support is required to give effect to a substantial part of the recommended reforms. The existing legislation regarding the registration of electors as well as the electoral process was initially passed before independence and has been a flashpoint for political disagreement and community dissatisfaction. Merely amending the existing laws would not satisfy the goals of the reform exercise. New legislation is required to modernise the electoral system and to bring it to conformity with international best practices.

I have decided to complete the presentation, and subsequently solicit acceptance of the legislative framework for the registration of electors before engaging in consultations on the electoral process. This was partly motivated by the fact that the results of the reforms on the registration of electors will require immediate implementation by the Electoral Office which can commence while the work on the electoral process is being completed. I have therefore decided to submit the report in two phases. Phase 1, being the registration of electors and Phase 2, being the electoral process. In Phase 1, the report will address the preliminary issues and the proposed legislation for the registration of electors. Subsequently, in phase 2, the report will address some institutional matters regarding the Electoral Commission and the proposed legislation for the improvement of the electoral process.

This approach was discussed with and approved by the Electoral Commission. The approval of the Government was obtained for the modification of my mandate in this manner. The service of Dr. Beverley Pereira, a Legislative Drafting Specialist, was retained to perform the required legislative drafting work.

The Registration of Electors Bill and the Registration of Electors Regulations were drafted. Extensive Consultations were held with the Electoral Commission on those drafts. The consultation took longer than expected as it was characterized by robust discussions which resulted in several modifications of the draft documents. Eventually consensus was reached on almost all issues, and I decided to engage the Government and Opposition in consultation with a view to reaching consensus with them before formally presenting my report at the end of November 2022.

However, General Elections were unexpectedly called before this process was completed. I have decided to continue with my engagement and this Phase 1 report is being presented in accordance with the timetable I provided.

Background

For several years, the issue of electoral reform has been highly controversial and has dominated public discourse in the Commonwealth of Dominica. Since about 2009, the Government of the Commonwealth of Dominica, under the leadership of Prime Minister Roosevelt Skerrit has been considering methods of addressing this controversial issue. The Government has invited election observers to observe the electoral process of its general elections. From 2009 to 2019, various election observers participating in the three (3) general elections held during this period submitted reports with suggestions for improving the electoral process in the Commonwealth of Dominica. However, it does not appear that the recommendations from various reports and consultations were implemented prior to the last general election.

The Dominica Labour Party (DLP) was victorious in the December 6th, 2019, general elections winning 18 of the 21 electoral seats. During that election the call for electoral reform was widespread. Consequently, Prime Minister Honourable Roosevelt Skerrit, during his victory speech on election night, 2019, committed to continue the pursuit of electoral reform. He stated that the matter would be addressed in a manner that satisfied the national interest and disclosed the government's plans to prioritize electoral reform on its national agenda.

The Commonwealth-OAS Special Mission Observers to the December 2019 general elections, through its report noted "that the participation of members of the opposition, as well as other stakeholders, will be crucial for the success of the reform initiative, for finding solutions to the political and electoral challenges that affected the 2019 elections and in re-establishing an environment for respectful and constructive political dialogue in Dominica."

On 1st September 2020, the Government of the Commonwealth of Dominica appointed Sir Dennis Byron, former President of the Caribbean Court of Justice, to examine and review the electoral processes in the Commonwealth of Dominica, to make recommendations for electoral reform and provide a report that advises on the way forward including, but not limited to, any recommended legislative reforms to improve the electoral process.

In the recent Dominica Elections Case which the Caribbean Court of Justice dismissed, the importance of these electoral reforms was emphasized by President Saunders in these terms: "We would hope that the relevant authorities would seriously reflect on the allegations made in these proceedings and consider whether there are steps that can or should be taken to improve the elections machinery so that, as far as possible, the occasion for the making of such allegations as were made here would not arise in the future."

I trust that the reforms proposed in this Report will achieve the expectations of all who are interested in improving the electoral process.

Scope of Work and Methodology

In keeping with the plan to formally report in two phases, this first report will address matters relating to the Registration of Electors. As noted in the Commonwealth Secretariat, Election Management – Compendium of Commonwealth Good Practice (2016), “no country has a perfect electoral or democratic system. And no election management body is beyond review criticism. Democracy, and the efforts to realize this ideal through elections, are always a work in progress.”

Electoral reforms should improve the participation of citizens in electoral practices and strengthen the management and framework of National and Local Government elections. There has been much public discourse in the Commonwealth of Dominica on the question of electoral reform which significantly intensified leading up to and during the last general elections held in December 2019.

There were several efforts at reform including proposed changes to the relevant legislation which were published, however, regrettably not one recommendation was accepted by Parliament. At least part of the reason has been the very sharp divisions of opinion on this aspect of the governance of the Commonwealth of Dominica. During consultation with the Electoral Commission, we took a decision that I should expand my mandate by drafting consequential legislation. Most importantly, the Commission considered, and I agreed, that bearing in mind its composition it would be important to obtain its approval of the proposed legislation with the expectation that gaining its consensus would increase the probability of speedy enactment.

This report is aimed at gaining the consensus of the people of the Commonwealth of Dominica as a whole.

Scope of Work

Mindful of the mandate to effectively review the election process and legislation, to identify challenges which impede the voting rights of eligible citizens, and expanded to present Parliament-ready legislation, this review was conducted with the goal of achieving the following objectives:

- Review existing legislation and reports from various past consultants, Chief Elections Officers, and experts
- Review and advise on the provisions for voter eligibility including the use of identification cards for the purposes of voting and whether the law ought to also provide for other or additional methods of identification
- Advise on best practices for maintaining the updated electoral register that will not result in the repudiation of the right to vote and or disenfranchisement of legitimate, qualified voters
- Present a Registration of Electors Bill, and Registration of Electors Regulations.

The review exercise commenced following the description of the Required Action outlined in the terms of reference. Consultations were conducted with key stakeholders which included the political parties, civil society, general public and the Electoral Commission. A schedule of consultation meetings is attached as Annex 1.

The modality of the consultations included meetings, written submissions and an elections survey which was made available on the website of the Electoral Office for completion by any eligible voter in the Commonwealth of Dominica. Further information on the findings of the consultations is presented in the Stakeholder Engagement section of this report.

Additionally, in-depth research and review of the existing electoral laws and electoral amendment bills was conducted as well as, a review and analysis of past reports -to examine similarities in findings and to confirm whether any of the recommendations from the past reports had been implemented.

Review of relevant constitutional and legislative framework

The constitutional provision and legislation of direct relevance to the registration of electors are:

- The Constitution of the Commonwealth of Dominica: sections 38 and 56.
- The Registration of Electors Act;
- The Registration of Electors Regulations

Review of existing reports

These recommendations were presented to the Commonwealth of Dominica over the years on the matter of Electoral Reform. I can report that the various recommendations all point in the same direction. The challenges identified are consistent with the various general election observer reports as well as the Pauline Welsh consultant report of 2017 and its addendum, which recommended several legislative amendments to the Registration of Electors Act and the Registration of Electors Regulations to improve the voter registration procedures and to provide for a full reverification exercise of the voters list. The reports also provided recommendations to improve the administrative structure of the Electoral Commission.

Without intending to minimize the value of other reports, but with the objective of brevity, I have selected the two reports which together include most of the proposals made in the various reports. Please see below, a matrix of the main recommendations from the Pauline Welsh report of 2017 and its addendum, and the OAS Final Report on the December 2019 elections. This matrix includes proposals relating to the Electoral Office, campaign finance and the House of Assembly (Elections) Act which will be addressed in the Phase II Report.

Table 1 – Summary of issues highlighted in previous reports

Report	Electoral Office	Electoral Technology	Voter Identification/ Registration of Electors	Campaign Finance Reform	Legislative electoral Reforms
<p>Consultant Report by Pauline Welsh (2017)</p>	<p>Appoint additional staff to assist the Chief Electoral Officer</p> <p>Appoint staff to manage the production of the voters register and identification cards</p> <p>Appoint a public education and training officer</p> <p>Develop guidelines for Registering Officers on the application of the law</p> <p>Conduct a Constituency boundary definition exercise</p> <p>Public education on the claims and objection in the election process</p> <p>Review the voter registration procedures and compile the forms of registration of electors complete with their particulars to ensure a backup source of identification is available on election day.</p> <p>Establish mechanisms to invite feedback from the public and stakeholder groups</p>	<p>Implementation of a new voter registration system that allows for biometrics of the elector</p>	<p>Full verification exercise to confirm status of electors on the list</p>	<p>Did not form a part of the consultancy</p>	<p>Amend the Elector Registration Act to allow for review of the list every 10 years</p> <p>Amend the Registration of Electors Act to allow for the quarterly production of lists to be done at 6-month intervals</p> <p>Amend the Registration of Electors Act to require the use of identification cards</p> <p>Amend the House of Assembly Act to require the elector to present a valid identification card at the polling station and to allow for alternative procedure for persons who have lost/misplaced or do not have an identification card</p>
<p>OAS Election Observation</p>	<p>Establish a system to effectively manage and control the delivery of electoral materials, monitor,</p>	<p>A computerized transmission system, which collects,</p>	<p>Coordination and data-sharing between the Offices of the Chief</p>	<p>Consider the introduction of legislation to regulate</p>	<p>Amend the legislation to provide the Electoral Commission with the</p>

Report	Electoral Office	Electoral Technology	Voter Identification/Registration of Electors	Campaign Finance Reform	Legislative electoral Reforms
<p>Mission Report (2019)</p>	<p>and control the opening and closing of the polls and manage the delivery of information and support to electoral workers.</p> <p>Training sessions with all workers on proceedings at the polls</p> <p>Ensure Presiding Officers examine the fingers of all registered voters for the presence of electoral ink before exiting voting room</p> <p>Reviewing and discussing a suitable timeline that is adequate to update and publish the Preliminary Voters' List and conduct the Claims and Objection Process.</p> <p>Convene the constituency Boundaries Commission to review and adjust the existing constituency boundaries. To ensure greater accuracy and precision, the Commission should consider incorporating the use of Geographic Information Technology in mapping constituency boundaries.</p>	<p>processes, tabulates and transmits election results to the central electoral office.</p> <p>A central, computerized system where summaries of election results are periodically sent from the various constituencies across the country, along with a live graphic display of the results.</p> <p>Improvement of the publication of election results online, through the official web site of the Electoral Commission timeline relates particularly to years in which General Elections are announced and the Writ of Elections issued by the President. Once the timeline is agreed</p>	<p>Elections Officer, the Registrar General and the Chief Immigration Officer, to better coordinate the information required to update the Voters' List, including formats for submission, the use of a unique identifier (i.e., birth registration number), and the frequency and method of submission.</p> <p>Exploring options for a voting abroad mechanism to allow citizens residing overseas an equal opportunity to participate in the political life of their country, while reducing the risk of inducements.</p>	<p>political party and campaign financing</p>	<p>authority to collect and use electors' biometric data.</p> <p>Amend the Registration of Electors Act to provide for a full enumeration exercise to be conducted to replace the Voters' List in existence and thereafter allow for periodic verification of the voters' list.</p> <p>Amend elector's registration regulations and deceased elector confirmation procedures to ensure their identification and removal from the list.</p> <p>Amend the House of Assembly (Elections Act) and Regulations to allow for personal demographic information, including a photograph, to be collected from electors and utilized to verify voter identity at polling stations, including through the use of a</p>

Report	Electoral Office	Electoral Technology	Voter Identification/ Registration of Electors	Campaign Finance Reform	Legislative electoral Reforms
					<p>Picture Voters' List.</p> <p>Amend the Registration of Electors and House of Assembly (Elections) Actsto provide the CEO with the timeline required to fulfill all statutoryrequirements in the publication of the Final Voters' List.</p> <p>Amend the existing election petition legislation and rules to allow the administrative review and determination of appropriate elections challenges before the holding of elections.</p> <p>Amend the House of Assembly (Elections Act) to create constituency-based election offices that are open during regular working hours</p>

Stakeholder Engagements

To gain better understanding and for the purpose of inclusivity, stakeholder consultations (using the modalities indicated below) were conducted to obtain feedback.

Meetings

Key political Parties

- Dominica Labor Party
- United Workers Party

Other organisation

- Dominica Business Forum

Written Submissions

In an effort to obtain feedback from other key stakeholder groups/organisation, 34 local organisations were invited to provide written submissions on challenges and recommendations for electoral reform in the Commonwealth of Dominica. The list of the organisations invited to provide written submissions is attached as Annex 2. Submissions were made by 27 organisations. Of the 27 participants, 6 people were affiliated with political parties (ruling and opposition), another 10 with non-governmental organizations and 12 persons listed as other (although not stated). The report of the findings of the written submissions is attached as Annex 3.

Elections Survey

The general elections survey was open to all eligible voters in the Commonwealth of Dominica with online access to collect their opinions/attitudes on matters related to the electoral process and ideas for reform. A total of 824 people participated in the online survey with 25 people not completing all questions which resulted in their removal for the analysis of the responses. The electronic survey which was conducted through the period of April 27th to June 15th 2021, collected feedback on the satisfaction levels of the electoral process and provided an opportunity for the respondents to recommend changes to be considered in the electoral reform process. The report with the findings of the elections survey is attached as Annex 4.

Summary of feedback from Key Stakeholder Meetings

Stakeholders	Challenges/Issues	Recommendations
<i>Dominica Electoral Commission</i>	Updated voters list	Extend time allotted for verification of names on the voters list.
	Residency of voters	Clarification on the issue of residency as it pertains to voting.
	Campaign Financing Reform	Implement campaign finance reform in accordance with best standards.
	Diaspora voting	Explore the option of selecting a location for Dominicans in the diaspora to vote while off-island.
	Autonomy of the Electoral Office: funding, staffing and technical capacity	Establish autonomy of the Electoral Office with a dedicated budget, sufficient staff complement and required technical equipment.
<i>Dominica Business Forum</i>	Updated voters register	Revision of legislation guiding the completion of the voters register and for elections to be more reflective of the wishes of residents in the Commonwealth of Dominica.
	Voter registration verification is required	Photo verification exercise, going from house to house to conduct a verification is perhaps the most efficient method. Reassigning voters to their respective polling station will also be required.
	Absence of campaign finance regulations and lack of transparency on financing	Implement campaign finance restriction and management strategies. Research for the precedent that has been set in terms of best practice, in countries such as Jamaica on campaign financing
	Previously submitted recommendations for electoral reform have never been implemented	Obtain formal commitment from Government to implement recommendations from current electoral reform initiative.
	Calling of general elections without consideration for time required for preparatory work.	Establish boundaries on the calling of general elections with consideration of the time stipulated for the all the preparatory work that must be undertaken
	Composition, financing independence and powers of the Electoral Commission	Administrative reform of Electoral Commission Electoral Office and constituency boundaries Commission

Stakeholders	Challenges/Issues	Recommendations
	Dissemination of false news to mislead the public	Stricter rules be implemented to mitigate the dissemination of fake news.
<i>Dominica Labor Party</i>	Electoral Register and voter eligibility	Update the Electoral Register to ensure that only eligible persons are included therein.
	Voter Identification	<p>A National Identification card system has already been purchased (in excess of 1.5 million) and installed at the Electoral Commission to allow for the issuance of ID cards for the purposes of voting, the required amendment to legislation should be done to allow it to be brought into operation</p> <p>With the new ID card system biometric information will be captured which includes photos and fingerprints allowing for clear identification of voters. Eliminates any possibility of voter fraud or personation where persons may seek to register in multiple constituencies or to register under the name of persons who reside elsewhere or overseas.</p>
	Bribery and treating	Clarification and update of and/ or exceptions to the law on bribery and treating
	Eligibility to vote for citizens outside of the Commonwealth of Dominica	Need to remove or increase the time period when Dominicans residing overseas are no longer eligible to vote/remain on the register, 5 years is too short.
	Parties tend not to file objections.	There ought to be consequences if they do not file objections before an election. Clarification of the law in respect of dealing with objections filed after a writ is issued and publication of the final list for an election.
	Polling Stations regulations need to be established	Guidelines for persons allowed to remain within the polling stations
	False statements made during the campaign	Stricter penalties for misinformation of political parties and others
<i>Dominica United Workers Party</i>	Lack of accurate voters list	Updating the voters list
	The method of registration is inadequate and not impartial.	Implementation of legislation to remove partisanship in voter registration process.

Stakeholders	Challenges/Issues	Recommendations
	Voter identification	Implementation of a credible method for voter identification, to verify identity and prevent double voting.
	Lack of effective Legislation	Implementation of effective and strengthening of current legislation to help prevent issues bribery and treating must be strengthened.
	Maintain rights of Dominicans overseas to vote	Clarification of the law governing voting by Dominicans living overseas. Regulations to be established.
	Campaign Financing Reform	Establishment of legislation to guide campaign financing
	Misuse of the media	Stricter penalties for misuse of the media
	Electoral Commission	Reform and ensure the autonomy of the electoral commission with a dedicated budget.
	Economic Citizenship	Clarify whether economic citizen can participate in elections

The stakeholder engagement meetings and submissions identified the following key challenges with the current electoral system:

Verification of eligible voters

There has been no re-verification exercise of the Register of Electors to confirm its status and accuracy. The Commonwealth of Dominica is one of the few remaining countries in the Caribbean that does not employ the use of a voter identification card system.

Residency of voters

The current electoral system does not provide mechanisms to verify the residency of voters. Feedback from the Commission is that the legislation does not include any definition of residency and consequently this impedes the authenticity and credibility of the current electoral system.

Campaign Financing Reform

While there has been concern expressed on the matter of financing of political parties and campaigns, and the level of influence this may have on the electoral process, there are no regulations on the limits for campaign expenses or donations (cash or in-kind) or on disclosure of sources of funding.

Autonomy of the Electoral Office

The electoral management organization should operate with a level of independence from the Executive of the government and should be equipped with the requisite human resources and capacity. Additionally, the office should optimize technology to strengthen the transparency and accountability of the electoral process.

The Common Ground

Consultation with the Commission

From the time of my appointment, it was clear that one of the most important stakeholders was the Electoral Commission. My appointment was made before the appointment process of the Commission was complete. My decision to wait on the Commission was rewarded with their agreement to work closely with me. There are five Commissioners. Two are appointed by the Governing Party, two by the Official Opposition Party and the Chairman is appointed by the President. It would only be fair for me to report, that during the course of our sessions, each member of the Commission declared that despite the manner of selection they considered their role once appointed to be independent and with responsibility to the people of the Commonwealth of Dominica.

Consultation with the Electoral Commission was very important to the development of my recommendations. Commissioners participated in the stakeholder consultations and were available for consultation on demand.

By the time my recommendations were initially formulated, in conjunction with the Commission, I decided that merely presenting a report or advice was not likely to achieve the objective of having the reforms actually implemented. Past experience suggested that the process of translating any advice given into legislation was likely to be tied up in prolonged debate, in a similar fashion to all earlier efforts at reform. We decided that I should seek to eliminate that possibility by presenting Parliament-ready legislation, addressing the Registration of Electors first. The Commission, having informed the Government and Opposition stakeholders of this decision, engaged Dr. Beverley Pereira, a legislative drafting expert. She joined in the consultation process in February 2022. Her contributions were critical to the exercise.

Drafts were prepared and discussed in detail with the Commission. The discussions were very robust and time-consuming. However, attitudes of maturity and willingness to compromise developed and achieved the desired objective and most controversial issues were eventually resolved and where necessary or desirable the draft legislative instruments were modified.

It was on 4th November 2022 that Dr Pereira declared the drafting completed. I circulated the proposed legislation to the Commission with draft correspondence to be sent to the Prime Minister, the Leader of the Opposition, and the Leader of the UWP who at that time was a different person. The purpose was to seek consensus with the Commission on a final round of consultation with the Government and main Opposition stakeholders and a proposed legislative timetable. The timetable was to be:

- Formal Delivery of the 1st Phase of my Report by the end of November 2022.

- The Government would lay the Registration of Electors Bill, and the Registration of Electors Regulations before Parliament during the month of December with a view for enactment in January 2023.
- Formal delivery of the remaining legislation February/March 2023 with a view to having the legislation enacted March/April 2023.

Subsequently, I arranged for the correspondence to be sent to the said stakeholders. This coincided with the unexpected Dissolution of Parliament and calling of elections to take place on 6th December 2022. I remained in contact with the Commission and completed this report to be formally presented with the proposed legislation.

Current Process relating to the Registering of Electors

Constitutional and legislative framework

The Commonwealth of Dominica gained its independence from Britain on November 3rd, 1978 and uses the Westminster parliamentary system. As a republic, its Head of State is the President. The legislature is a unicameral parliament called the House of Assembly established under Chapter 3 of the Constitution which consists of twenty-one (21) elected representatives, nine (9) senators and the Attorney General as an *ex-officio* member. The Speaker of the House is the 32nd member of the House who is elected by the House from outside its membership.

The current system for electing individual members of the House of Assembly is by simple majority of votes in each constituency in a general election; the first past the post system is employed, with the candidate who receives the most votes in each constituency declared the representative for that constituency in the Assembly. National elections are constitutionally due every five (5) years and local elections are held every three (3) years.

Elections are managed by the Electoral Commission, created under the Constitution at Section 38(1) which states, “The electoral commission shall be responsible for the registration of voters for the purpose of electing Representatives and for the conduct of elections of Representatives and Senators, and shall have such powers and other functions relating to such registration and elections as may be prescribed by law”. The Constitution provides for a Chief Elections Officer to assist the Commission in discharging its functions by providing directions to the registering officers regarding voter registration and the conduct of elections.

In addition to the Constitution, the other pertinent pieces of legislations and regulations used to govern the electoral process are:

- the House of Assembly (Elections) Act (the Elections Act)
- the Registration of Electors Act
- the House of Assembly (Disqualification) Act
- the House of Assembly (Election Petition Rules) and
- the House of Assembly (Election) Regulations.

National Governance and General Elections

Registration and Verification Process

Currently voter registration is done through Assistant Registering Officers (ARO) appointed by the Commission. An ARO is appointed for each Polling District. In addition, the Commission appoints a Registering Officer for each constituency; the ARO's work is done under the supervision of the Registering Officer. The Chief Elections Officer is the Chief Registering Officer.

To get registered, the intended voter would visit the home of an ARO and complete the required form – Notice of Claim (Form 3). In addition to producing ID, a witness is required to certify that the residency requirement is met. Once the necessary forms have been completed, the voter is given a certificate of application (which bears the voter registration number). The ARO verifies the accuracy of the information, including the residency requirement. Following this, the documents are transmitted to the Electoral Office through the Registering Officer.

Eligibility to vote

In Dominica, the Register of Electors is the official list of persons who are eligible to vote in elections. The Constitution provides that every “Commonwealth citizen” of the age of eighteen years or upwards with relevant qualifications relating to residence or domicile shall, unless disqualified by Parliament, be entitled to be registered as a voter. It is to be noted that persons eligible to vote include persons who are not citizens of Dominica.

Residence qualification

The legislation defined the qualifications relating to residence or domicile: A person is qualified to register to vote in a polling district if that person is a citizen of Dominica or is a Commonwealth citizen who has resided in Dominica for a period of twelve (12) months immediately before the qualifying date, is a minimum of 18 years of age and has resided in that polling district for a continuous period of at least three months immediately preceding the date of registration; but in the case of a person who has attained the age of eighteen years within the period of three months immediately preceding the date of his registration, no such residence qualification shall be required.

Disqualification

The persons with residence qualification who are disqualified to vote are persons of unsound mind, undergoing any sentence of imprisonment in Dominica of more than one year, is under sentence of death imposed by any court in the Commonwealth, is disqualified by any written law.

Becoming Registered as Elector

The statutory scheme to be registered as an elector was designed to foster integrity in the registration process by allowing an applicant to make a claim and then requiring verifications and revisions by the Electoral Authorities. A person can apply under section 11 (4) through the assistant registering officer (ARO) in a polling district, by completing the application form and providing documentary identification, and a witness must attest the person's eligibility for registration. The ARO submits information to the registering officer (RO) who decides whether to allow or disallow the

application. If the application is disallowed, it must be referred to the CRO for verification. An appeal lies to the Commission on the decision of the CRO whose decision shall be final. If the application is allowed, after checks against duplicate records, the CRO completes process.

Liability to removal from the Register

A person can be removed from the register if the person has died, an objection to a person’s resignation has been allowed, if the person has been absent from Dominica for a period exceeding five (5) years and if the person has become disqualified for registration under any law that imposes such disqualification as a registered elector.

Verifying and Updating the Register

Inevitably, the number of Dominicans who meet the criteria for voting eligibility is in continual evolution, as new Dominicans reach the age of majority, registered voters pass away, Dominican citizens disestablish residence in Dominica, among other things. The number of Registered Voters has in fact increased. From 1980, when there was a total of 38,452, to 2014, when there was a total of 72,533. One can juxtapose the fact that the percentage of votes cast has declined during the same period. From 1980 when the percentage was 80.21% to 2014 when there was 57.31%¹⁰. In 2019 the figures were:

Number of electors	74,895
Number of ballots cast	40,762

This continual change in electors’ eligibility necessitates mechanisms to maintain an accurate Register of Electors. These mechanisms are:

- the statutory requirements of periodic review of information and publication of updated lists and registers by the Commission. These include publication of update preliminary registers not later than 30th September every year, and corrected annual lists of electors before the 30th of November each year 12 and other related lists, and
- the statutory principle of continuous registration with inputs from the electors

The statutory scheme to ensure accuracy and integrity of the Register of Electors is based on the publication of various lists created by the Electoral Commission. These are:

- A supplemental Register of Electors published quarterly
- Corrupt and illegal practices list published at least 14 days before the preliminary electors register - persons convicted of a corrupt or illegal practice
- The Preliminary Register of Electors published once per calendar year, not later than 15th September 16 - list prepared by enumerators in accordance with Act

- Claims and objections period - CRO must publish notice stating that claims may be made to the omission and objections may be made to the inclusion of any person's name on the preliminary register, and claims and objections must be made within 7 days following publication of preliminary register
- The Revised Final Annual List published on or before 30th November each year
- Final List of Electors¹⁹ published within 7 days of the writ of elections.

The lists are updated at several intervals each calendar year, and electors are given the ability to claim registration or object to the registration of others appearing on the preliminary lists. The culmination of these processes occurs when an election is called, and the Chief Elections Officer puts together a final list of electors based on the revised annual list plus a supplementary list that is created for persons that have become eligible since the publication of the last revised annual list of electors. The lists and mechanisms used in the maintenance of the Register of Electors.

The Weakness of the Current Process

This is an objective assessment, while incorporating complaints and opinions of others.

Data Issues

- Elector's identity data is held at the Commission in a central database and cannot be easily shared with other government ministries or agencies. This current configuration also poses risks to data
- Poor data sharing methods
- Potential data privacy breaches

Time consuming process

- The process is highly manual with inputs from elector, and heavy personnel requirements including, ARO, RO, CRO, and other officials.

Management override

- Management override of controls is a perceived risk due to the discretion which members of the Electoral Commission have over the data that is inputted. Electoral Commission officials are wholly responsible for verifying the accuracy and integrity of additions to the Register of Electors, so the controls in place to verify and audit registrants could easily be overridden by a bad actor. For example, the registering officer reviews a registrant's Form 3, and decides whether to allow or disallow a claim, using their discretion and knowledge of the polling district. This leaves the registering officer with substantial discretion in determining eligibility.

However digital onboarding systems can automate many of the verification controls, preventing officials from overlooking errors or willfully entering forged/inaccurate information.

Lack of Biometric Data

- Verifying identity against biometric information, such as fingerprints or face scans, has a much higher accuracy rate for identifying duplicates.
- Dominican individuals could register under a second name and forged documents, for example, and the current process is not geared to mitigate this risk.
- This problem can be rectified by incorporating digital onboarding software and capturing citizens' biometric data.

Periodic v Real-time Updates

- The Electoral Commission's database is not updated in real-time as electors are registered and verified, meaning that Electoral Commission officials have access to outdated information until the next iteration of the list is released. This lag in registry updates stems from (a) the numerous manual verification processes which take time to feed into final lists, and (b) the periodic (and infrequent) release of elector lists. The implementation of a digital onboarding system can reduce the verification control time, and auto populate a final Register of Electors which is updated in real-time. The Electoral Commission can thereby view, audit, and use the finalised Register at any time, with assured accuracy.

Paper-based administration of Elections

- The voting process is entirely paper-based and manual, from the qualification of electors to the final count. This means that it is slower, more labour intensive and difficult to prevent fraud and inaccuracies.

Transparency Challenges

- One of the issues identified by civil society is a general sense of disenfranchisement, which comes despite the fact that there have been several reviews of the electoral list.

Technology in the Voter Identification and Registration Process

Discussions on technology in the electoral process concentrate on two aspects. The first is the issue of voter identification and registration, and the second is the voting and counting of votes. In this first phase report, we are focusing on the issue of technology as it relates to voter identification and registration.

The current system does not use identification cards or biometric data as part of the process. Earlier proposals for electoral reform addressed this but no legislation to give effect to it has been passed. Notwithstanding this, the Dominica Electoral Commission purchased a high-tech digital identity software from the Belgian firm SEMLEX, called SEMLEX BNS, with the intention of introducing a biometrics-based voter identification system and creating accurate and verifiable data to feed into the Register of Electors. The SEMLEX software has not yet been implemented by the Electoral Commission because the legislative amendments relating to biometrics were not passed and,

therefore, precluded its use. The Chief Elections Officer is concerned about its current effectiveness.

The consulting firm Abed eGovern undertook a review of the existing system and made recommendations for the next steps in achieving the objectives of the Commission. Their study was very comprehensive as it elaborated on issues with great clarity and proficiency.

In its report, Abed eGovern recommended connecting voter ID to broader identity initiatives, more specifically the OECS Multipurpose Identification System (MPID) initiative, and the proposed regional identity network. They opined that this would form the basis for a coordinated effort and optimal strategy to lead Dominica into the forefront of efficient and democratic identity solutions. Abed report is attached as Annex 5.

During this exercise the Commission expressed interest in the use of electoral technology and has recommended the use of the Votrust voter management system.

Electoral technology refers to the use of technology in various aspects of the electoral process such as voter registration, counting and result tabulation. It includes hardware, software and other digital tools and systems that are used to enhance the accuracy, transparency, efficiency, and accessibility of elections. It can be used for some or all of those aspects. This Report is dealing with its application to the voter registration process. The introduction of technology- aided systems creates new and additional opportunities for reform, modernization, and improvements.

Votrust is a technology-enabled solution designed by the Caribbean Agency for Justice Solutions (CAJS) to provide an innovative, full-featured, voter record management platform to facilitate trustworthy voter information management. It supports critical aspects of voter administration, including voter registration, voter analytics, voter reporting, as well as other essential back-office functions. Votrust combines technology software and hardware with innovative methodologies for electronic voter registration, optimized for Caribbean environments. Votrust incorporates key trends and emerging best practices in online voter registration, including:

- a. Optimization for use by voters on their mobile devices and people with disabilities.
- b. Integration of systems with local election offices and other public data sources.
- c. Increased convenience and efficiency for voters and administrators.
- d. Reduced reliance on paper in certain administrative processes.
- e. Reliable safeguards for protecting personal information and preventing fraud.

The Government has fully supported this interest and given a commitment to deploy such technology.

The Commission has been able to commit to the use of a card for authentic voter identification strengthened by biometric data technology. The Leader of the Opposition and his Team in consultations with me supported this development. At the time, it was

proposed that there would be a voter identification card and that the biometric methodology would be based on fingerprinting. During my consultations with the Government, they also supported the use of biometric data to strengthen the process of personal identification but proposed that the use of facial recognition was sufficient and that to include the requirement of fingerprinting might generate pushback, especially from those sections of the community which associated the taking of fingerprints with criminal investigation.

Since the objective of using biometric data is to guarantee the identity of the card holder, any form of biometric data that achieves that objective should be acceptable.

I have been advised by the CAJS that the Votrust system, which the Government has undertaken to implement, supports facial recognition and has the technological capability of matching a human face from a digital image or a video frame against a database of faces. Such a system is typically employed to authenticate people through ID verification services and works by pinpointing and measuring facial characteristics. This system is not just taking a photograph and using the natural eye to compare it. It is based on matching a human face from a digital image or video frame against a database. The technology is becoming increasingly advanced and accurate, making it a reliable method of identification. It is non-intrusive, in the sense that it does not require physical contact with the person.

Any system that provides such a guarantee would satisfy the objective of improving the integrity of the electoral process. I am satisfied that this could be achieved by either or both facial recognition or fingerprinting or other recognized methods of unique identification, including a combination of methodologies.

A word on the concern expressed that there would likely be pushback if fingerprints were required as part of the registration process.

I am not persuaded that there would be widespread resistance to fingerprinting. Many countries require fingerprinting as part of the application process for visas and Caribbean nationals readily provide their fingerprints to foreign countries as part of that process. Further, research shows that for decades, fingerprints have been a basic, standard type of biometric information collected by many countries as a part of their voter registration process. Of course, advances in technology have allowed other types of biometric information such as facial image, voiceprint, retina, and iris scans to be collected, thereby providing additional information that can help to establish the true identity of persons.

Although I am still of the view that fingerprinting is a valuable biometric in this context, I also appreciate that facial recognition is an effective biometric tool to be used to verify a person's identity. The draft legislation contains provisions for facial images to be taken as part of the registration process. The question is whether a facial image as the primary biometric would be sufficient to provide certainty of identity in all cases, or whether this biometric should be only one element of the biometric data needed for this purpose.

The Votrust system would have the capability to capture and manage facial images and other biometric data.

With regards to the implementation of an identification card (ID card), there appeared to be general agreement that the law should make provision for the issue of an ID card to registered electors and that such a card should be presented at the time of voting. On this matter, most of the persons surveyed expressed preference for a card that could serve to identify the holder not only at the time of voting but for other purposes - in other words, a “multi-purpose card” that could be used not only for voting but for identifying persons at hospitals and for social security, immigration, banking and other purposes.

The Registration of Electors (Amendment) Bill, 2019 which was tabled in Parliament (but not passed) had proposed a **national** identification card. In as much as the 2019 Bill reflects Government policy, the legislation I have proposed reflects, in the main, the provisions of that Bill relating to a national ID card. However, I would be remiss if I did not highlight the following concerns:

1. By definition, a national ID card should be accessible by all nationals. A card issued as part of the voter registration process will not be available to everyone. For example, a person who does not apply for registration as a voter, whether because he or she is not of voting age or for any other reason, would not be issued the card. This means that the non-registered segment of the population will be excluded from the national ID system. Consequently, the Government would have to enact separate legislation to fill that gap.
2. The introduction of a national ID card will require additional measures. For the purposes of identification, accessing the biometric information (facial image) on the card will require special equipment to read the card. In the context of voting, this equipment would have to be at every polling station. It would also be necessary for the institutions and businesses that would use the national ID card, to verify identity, to have this equipment.
3. Some stakeholders who would accept the national ID card as a means of verifying identification will likely have their own specifications as to the types of biometric data, they will accept to establish the identity of persons accessing the services they offer. For example, some service providers may require particular types of biometric information or more than one type. It is therefore advisable that there should be consultation with both public and private sector service providers and other stakeholders to ensure that the national ID card contains the features that meet their specifications. Otherwise, a national ID card would be of limited use and the objective to be served by a multi-purpose card would be undermined.
4. Finally, a question arises whether the issue of a card for purposes unrelated to the registration of voters and elections would be consistent with the constitutional remit of the Electoral Commission. Section 38(1) of the Constitution states as follows:

“The Electoral Commission shall be responsible for the registration of voters for the purpose of electing Representatives and for the conduct of elections of Representatives and Senators and shall have such powers and other functions **relating to such registration and elections** as may be prescribed by law.” **(emphasis added)**

The question is whether the promulgation of an Act which provides for the issuance and management by the Electoral Commission of a National ID card to persons outside of the electoral system and for purposes which are, in the main, unrelated to voting and elections, would be consistent with this provision of the Constitution. This needs to be explored. It may well be that new legislation dedicated to a National ID system may be required.

In addition to these considerations, I am aware that there is already a World Bank-supported programme being implemented by the OECS for the development of a regional system of identification under which persons will have a unique identifier from birth. This would be an important development that supports the objective of e-governance to which the Government of Dominica is already committed. Given the breadth of what is envisaged, implementation of the programme will likely require new legislation and reconfigured institutional structures as well as a high level of inter-agency co-operation.

The new legislation relating to the Registration of Voters

Introduction

1. This report introduces The DRAFT REGISTRATION OF ELECTORS Bill, 2023 which repeals the Registration of Electors Act, Chap. 2:03 and the consequential Draft Registration of Electors Regulations, 2023.
2. They provide a modern and updated legislative framework for the registration of electors that conforms to international best practice. Their substance is a combination of the existing legislation, the proposed, but unimplemented, amendments of 2017 and 2019 and the additional reforms proposed during my consultancy. The language is gender neutral and avoids references that are exclusively masculine. It is easy to read and understand and ensures that critical and sensitive elements are clearly and adequately reflected. Particular attention was given to the new provisions on the voter identification card and the confirmation of registration. The voter registration process forms the crux of the democratic process, and it is due in large part to this fact that the mechanism by which voters are registered must be measured in terms of its contribution to the electoral system as a whole. Therefore, the system of registration must be beyond reproach. The proposed legislative framework is intended to provide electoral registers that are accurate and comprehensive throughout the country.
3. The structure of the legislation is re-organised into Parts along thematic lines, with sub-headings under which provisions dealing with specific aspects of the theme of the Part are set out to achieve greater coherence by treating provisions that relate to each other together. All of this is intended to make the legislation user-friendly.

The Draft Registration of Electors Bill, 2023

1. The Bill is divided into six Parts containing, respectively, standard Preliminary provisions (Part I), provisions relating to Polling Districts and the Appointment of Officers (Part II), provisions governing the registration of electors and the register of electors (Part III), General Provisions (Part IV), provisions that deal with the

Confirmation of Registration (Part V) and Repeal, Savings and Transitional Provisions (Part VI). There are 60 clauses.

Part I

2. In Part I the three clauses set out its short title, the effective date of the legislation, the definitions of certain expressions used in the Bill and the application of the Bill. This part clarifies that the Bill is intended to apply to registration of electors for the election of members not only to serve in the House of Assembly, but in a City, Town, Urban or Village Council and the Kalinago Territory Council.

Part II

3. In Part II the two clauses deal with the Polling Districts and the Appointment of Officers necessary to effect the Registration of Electors. Clause 4 directs the division of every constituency into polling districts and empowers the Commission and the Chief Registering Officer to make alterations in polling districts, to abolish them or to create new ones. Clause 5 designates the Chief Elections Officer as the Chief Registering Officer and provides for the appointment of registration officers, assistant registering officers and enumerators to perform functions under the Act.

Part III

4. In part III the 27 clauses deal with the qualification and disqualification for registration, the registration process, the constitution of a new register of electors, the Registers and Lists, some general provisions relating to registration and the register of electors and the use of technology. Controversial issues relating to the qualification and disqualification for registration have been resolved under this part.

As a caveat, it must be borne in mind that the reconsideration being given to the Elections Act may require some adjustments to the Bill and Regulations that are attached as appendices to this Report.

Residence or Citizenship

5. One of these controversies was the extent to which residence in or citizenship of the Commonwealth of Dominica should be the predominant criterion.
6. The constitutional position is set out in section 33 of the constitution. Section 33(2) (a)¹ effectively prescribes that every “Commonwealth citizen” of the age of eighteen years or upwards who possesses such qualifications relating to residence or domicile as Parliament may prescribe shall, unless disqualified by Parliament from registration as a voter for the purpose of electing Representatives, be entitled to

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2(a) Every Commonwealth citizen of the age of eighteen years or upwards who possesses such qualifications relating to residence or in domicile as Parliament may shall, unless he is disqualified by parliament from registration as a voter for the purpose of electing Representatives, be entitled to registered as such a voter in accordance with the provisions of any law in that behalf, and no other person may be so registered.

(b) Every person who is registered as aforesaid in any constituency shall, unless be is disqualified by Parliament from voting in that constituency in any election of representatives, entitled so to vote, in with the provisions of any law that behalf, and no other person may so vote.

be registered as such a voter in accordance with the provision of any law in that behalf, and no other person may be so registered.

7. This reform project is governed by that constitutional provision. There is no mandate to amend the constitution. The prevailing constitutional position is that Citizenship of the Commonwealth of Dominica is not the dominant Constitutional criterion to be qualified to vote. Any citizen of the Commonwealth, and that means the British Commonwealth has the same qualification subject to different qualifications relating to residence or domicile in the Commonwealth of Dominica.
8. Parliament has prescribed that the general rule is that:
 - (a) Citizens of the Commonwealth of Dominica 18 years and over are qualified to vote if they have resided in a polling district for a continuous period of 3 months immediately before the qualifying date, and
 - (b) other Commonwealth Citizens 18 years and over who have resided in the Commonwealth of Dominica for not less than 12 months immediately before the qualifying date are qualified to vote if they have resided in a polling district for a continuous period of at least 3 months immediately preceding the qualifying date.

These provisions were preserved in clause 7 of this new Bill.

9. A major discussion point was the status of Citizens by Investment. In the absence of any special legislation, they are not entitled to vote unless they are over the age of 18 years and have resided in a polling district for a continuous period of 3 months immediately before the qualifying date. This reform does not propose any legislation to address persons of this status. I should add that there are no constitutional or legal enactments or judicial decisions to clarify whether legislation conferring citizens of different categories different rights under section 33 of the Constitution could be introduced without constitutional change.

Absence from the Commonwealth Dominica for 5 years

10. Parliament had defined residence in relation to citizens of the Commonwealth of Dominica by prescribing that “absence from Dominica for a period exceeding 5 years was a basis for deleting an elector’s name from the register”. However, it seemed to be generally accepted that:
 - (a) there was no record that any elector’s name had ever been deleted from the register on that basis,
 - (b) similarly, there was no record that any objection had ever been made against the failure to delete an elector’s name on that basis.

Despite the foregoing, the issue of allowing voting rights to persons who have been residing overseas has been and remains an issue of passionate contention.

11. The interpretation and implementation of that enactment was a highly contentious and time-consuming issue throughout my consultations. The explanations for the failure to implement the absence provisions which seemed most pertinent were that there were difficulties:
 - (a) in interpreting that provision and

(b) in accessing evidence to allow an evidence-based decision on absence for 5 years.

12. The arguments raised concerns about disenfranchisement of persons who had been legitimately placed on the register of electors and had taken up residence overseas and maintained links of various types, including sending remittances and making occasional home visits. On the other hand, there were concerns regarding manipulation of the system by a person making a short home visit during an election cycle, to stop the clock from running.
13. Eventually after various compromises the following provision was reached: Electors residing outside of the Commonwealth of Dominica would not be considered absent from the Commonwealth of Dominica if in any five-year cycle they spent an aggregate of 90 days in the Commonwealth of Dominica. 90 days over 5 years works out at approximately 18 days per year. Information on vacation entitlements in the USA suggested that 18 days exceeded average vacation entitlements which were more in the vicinity of between 10 to 15 days per year. This led to the alternative position of 50 days per year. The Commission accepted the principle but did not agree on the time that should be spent in the Commonwealth of Dominica to avoid removal from the Register of Electors. This provision is square bracketed, and the selection would be a function of Parliament, as my role is advisory. A mitigating fact is that a citizen can requalify as an elector by residing in a polling district for a continuous period of 3 months.

During consultations with the Government, it was contended that the provision for removing persons from the electoral register who had not been resident in Dominica for 5 years was an archaic hangover from the colonial or pre-independence era. There was also criticism of the definition of absence: it was argued that the number of days it was proposed that citizens living overseas would be required to be in Dominica during the 5-year period was excessive. It was argued that the period of 90 or 50 days (proposed in the alternative) was too onerous and would inevitably lead to disenfranchisement.

However, the specific recommendation that was made was to extend the period of absence, which would disqualify a person from being on the register of electors to 10 years. No definition of “absence” was proposed to replace the definition of the term the Draft Bill which was not favoured. Whether the period of “absence” remains 5 years or is extended to 10 years, uncertainty as to the meaning of the concept will remain, in the absence of a definition.

One of the objectives of this exercise is to clean up the register of electors. Consistently over the last few elections, the percentage of persons on the register of electors who voted, voters have been low. This could be an indication that names on the register should not be there. In fact, it is generally assumed that this is the case.

Without doubt, a definition of “absence” would provide guidance to the Chief Registering Officer who is mandated to update and clean up the register from time to time. But in the absence of such guidance, clarity on the meaning of absence, in the context, could be provided by the courts, should the matter be adjudicated by the Court. This is really a matter of policy. To facilitate decision-making, I am submitting the draft Bill with alternative formulations in square brackets relating to

the period of absence: the definition of absence, set out in square brackets in clause 26(1), may be retained or deleted as thought fit.

Gathering evidence

14. The issue of gathering evidence to support evidence-based decisions on issues related to qualification and disqualifications to be on the register of electors was addressed in clause 26 by requiring the relevant public officers to provide information to the Electoral Commission and to do so in an electronic form.

Closure of Registration on the day a writ of election is issued

15. Closing registration of electors on the day the writ of election is issued is another important innovation. In addition to matters raised by stakeholders in the consultation process, the Chief Elections Officer drew attention to the culture of last-minute applications for registration of electors when the writ is issued. This puts pressure on the resources of the Electoral Office at a time when the Office should be focused on making adequate preparations for elections. If this is not properly managed it creates the risk of undermining the integrity of the electoral register. The last-minute rush means that there is insufficient time for the CRO and registering officers to do their due diligence. Despite this the unit has risen to the occasion and processed the applications, although the CEO has indicated that is facilitated by the fact that several of the last-minute applicants were not eligible. But he explained that inevitably this practice allows possible inadvertent registration of disqualified persons or of persons more than once in different constituencies and handicapped the timely hearing and disposition of I related claims and objections before the final and definitive register of electors is published. The Commission supported the view that in order to resolve this problem the register of electors must be closed to amendments on the day the writ for holding an election is issued. However, in the interests of fair play, matters already pending on that day may be addressed after polling day. New legislative provisions have been introduced to give effect to the fact that decision.
16. This creates a massive change in behaviour and requires a change of culture surrounding elections, which the Commission must proactively foster. New measures are introduced into the Act to authorize and encourage new practices. These are aimed at stopping last minute applications to register when an election writ is issued. Instead, eligible people are expected to register as soon as they are eligible. The Commission will declare Special registration periods during each year. These periods will be supported by public awareness/education campaigns encouraging early and continuous registration and emphasizing that the register will be closed once the writ for election is issued. The proposed special registration periods would be in addition to the continuous registration process required under the current law. These new measures are prescribed in Clause 22 and 23.

Request to de-register oneself

17. Another new measure considered a best practice is to allow persons on the register of electors to have themselves deregistered. Under Clause 24 the Chief Registering Officer is empowered to deregister an elector at his or her request in accordance with the prescribed procedures.

Technology

18. Modernising the system for registration of electors should take advantage of the available technology, which has already been discussed. The Act, in clauses 32 and 33, specifically makes provision for the Commission to allow for the implementation of a system of electronic registration and the establishment of a register of electors in electronic form. Consideration is currently being given to the acquisition of the Votrust solution. If it is approved early enough, we may be able to make regulatory changes to this Act.

Giving effect to the Interpretation and General Clauses Act on Penalties in Regulations

19. Section 29(1) (b) of the Interpretation and General Clauses Act (IGCA) prescribes the maximum penalties that may be imposed for the contravention of regulations unless the Act under which the regulations are made provides otherwise. The IGCA also stipulates that those regulations may provide only for summary conviction for offences they create.

20. Since it is proposed that penalties under the proposed regulations for offences exceed the penalties prescribed under the IGCA it is necessary to authorise the Commission in the Bill to exceed those levels, where appropriate, for offences created under the regulations. This is the import and purpose of Clause 48.

Part IV

1. The first 4 Clauses in Part IV address

- (a) The continuation of the existing Electoral Office after the Act takes effect (Clause 34)
- (b) Disclosure of information on electors to “authorized officers” save for biometric data which requires a court order to be shared (Clause 35)
- (c) Conferring wide regulation-making powers on the Electoral Commission (Clause 36) and
- (d) Conferring jurisdiction on the Commission to hear and determine appeals against the decisions of the CRO and the power to regulate that in a particular matter the decision of the CRO shall be final (clause 37)

Offences and Penalties

2. the remaining 11 clauses in Part IV (Clauses 38-48) create a number of offences relating to the registration of electors and fixes penalties. Clause 48 provides a general penalty applicable to offences for which no specific penalty is provided.

Part V

The Confirmation Process

3. The clauses in Part V are the transitional provisions between the existing register of voters and the new register.

4. They provide that any person who is registered as an elector on the date when the new Act comes into force is entitled to be registered as an elector in the preliminary register established under this Act. Every such person must apply to have his or her registration as an elector confirmed within the period established by the Commission. The name of a person who is not confirmed shall be deleted from the register of electors. Such a person has a limited period within which to apply for late registration.
5. The confirmation process as detailed in the Regulations requires compliance with the new provisions for obtaining a voter ID Card. In order to be confirmed the elector must obtain a voter ID card. The voter must supply personal and biometric data in order to obtain the voter ID card. A person who is not confirmed within the confirmation period would be deleted from the register of electors.
6. The financial implications of confirmation would vary depending on the location of an eligible person and the cost of travelling to the Commonwealth of Dominica. This means that it would be more costly for some than for others, and an eligible person who could not come home for financial, health or other reasons would be disenfranchised. Responsible authorities should put arrangements in place to mitigate this situation, particularly as it is those with the least economic means who are most vulnerable.

Clause 52 makes provision for the Commission to designate suitable places overseas as enrolment centres. During consultation with the Leader of the Opposition and his team there were expressions of mistrust and fear of manipulation of the procedures. They also preferred that people who wanted to exercise their franchise should come home to ensure their place on the register of electors.

These concerns were addressed when the Commission approved the use of electoral technology, through the Votrust system, and the Government committed to arranging for its deployment. Eligible persons will be able to establish their right to vote without having to incur the expense to travel to Dominica.

The Votrust system can facilitate the confirmation of registration of persons wishing to register to vote in the Commonwealth of Dominica who are overseas during the voter registration confirmation period, with the establishment of Trusted Registration Centres in designated locations in strategically specified countries. These Centres will be secure, trusted facilities that can serve as enrollment centers to make the process of registering to vote more accessible to eligible nationals who are overseas. This approach should increase the accessibility, security, and integrity of the process, and increase public trust and confidence in the voter registration process. The Votrust technology could be used to monitor the enrollment centers, ensuring that all registrations are conducted in a fair and secure manner. This combination of technology and robust administrative protocols will provide added reassurance that the confirmation process is being managed with the highest levels of integrity.

The Commission will have the power to make regulations for the use of technology. The legislation proposed on this issue is designed to facilitate this process.

Part VI

Repeal, Savings and Transitional Provisions.

1. Clause 56 repeals the existing Registration of Electors Act, (Chap. 2:03) and Clauses 57 to 60 contain the Savings and Transitional provisions.

Draft of Registration of Electors Regulations, 2022

The Regulations are divided into Part 1 – Preliminary; Part II – Registration of Persons as Electors; Part III – Registers and Lists; Part IV General Provisions; V – Confirmation of Registration as Elector: Schedules – Forms and Oath of Office.

The substance is based on the existing regulations, provisions of the draft amending regulation of 2017 which were never promulgated and some new provisions.

Part I Preliminary

The two clauses deal with the short title and the interpretation clause.

Part II - Deals with the Registration Persons as electors.

Enrolment Officer

This part commences with prescribing the appointment of enrolment officers by the Commission after consultation with the CRO (regs 2 and 3). These officers are engaged with the primary purpose of performing functions relating to the confirmation of registration as electors. These functions are described in Part V regs 50 to 55.

The residence requirements for registration

Ordinary residence is defined in Reg 6 and powers for House-to-House investigative visits by enumerators are conferred by Reg 7.

The CRO may require enumerators to do House to House visits for investigative purposes as prescribed by Reg 7.

Application for Registration

The form and manner of application for Registration is prescribed by Reg 8 and Reg 9 creates the offence of giving false information in connection with an application for registration. Reg 10 regulates the process by the registering officer in considering each application and if the applicant meets requirements of the Act the transmission of the application and supporting documents to the CRO who if satisfied completes the registration process and causes a voter identification card to be issued.

Regs 11 and 12 provide that a registering officer may issue a Notice of Disallowance of Registration if of opinion that the applicant does not qualify for registration under the Act and the process of appealing against the said Notice of disallowance.

Voter Identification Card

Regs 13 to 16 make detailed provisions relating to the voter identification card.

Registration Records

Reg 17 provides that registration records relating to each person shall be computer generated and maintained in electronic form by the CRO. Regs 18 and 19 make provisions for correction of errors in the records and the reconstruction of lost, mutilated, destroyed registration records.

General Provisions Relating to Identification Cards and Registration Records

Regs 20 and 21 prescribe the keeping of records relating to voter identification cards issued, lost, destroyed, or replaced and the safe custody of cards and other related records.

Reg 22 creates offences relating to destroying and creating false records.

Part III

Registers and Lists

Regs 23 to 26 gives detailed directions relating to the form revision and publication of the Preliminary Register. Provision is also made for notices to be given requesting entitled people omitted from the register to make a claim, inviting qualified persons whose name do not appear on the preliminary register to apply, and stating that objection can be made to the inclusion of a person's name on the preliminary register.

Reg 27 requires the Commission to establish electoral revising centres in each constituency, and the CRO prior to publication of the preliminary register to publish a notice specifying places where the electoral revising centres have been established and the dates and times which applications may be made.

Claims and Objections

Regs 28 to 35 details the procedure for Claims and Objections in relation to the preliminary register. Reg 34 outlines information gathering powers of the CRO, the registering officers and the enumerators in the discharge of their functions under the Regulations. The Regs in this part outline the primary decisions that can be made by the registering officers and the oversight decisions of the CRO; and Reg 33 allows a person aggrieved by a decision of the CRO to appeal to the Commission. The procedures for such an appeal are governed by reg 42.

Regs 36 to 41 provide detailed directions on all aspects of dealing with amendments or alterations to registers and lists relating to the address, name or particular of an elector.

Part IV General provisions

Reg 42 sets out the procedure on appeal to the Commission against a decision of the CRO.

Reg 43 to 47 gives general administrative directions regarding how notices under the Act and Regulations are to be delivered, allowing access to copies of Commission documents on payment of cost to cover making copies, addressing consequences of failure to publish document in accordance with the Regulations.

Reg 48 prescribes that persons guilty of an offence under the Regs shall be liable on summary conviction to penalties not exceeding \$5,000.00 or 6 months or both.








PART V – The confirmation of registration as an Elector

Regs 50 – 55 details the process for confirmation of Registration as electors.

Schedules

The schedules contain the Forms to be used in discharge of the regulations. There is a simple caveat based on technology, that the exercise of the power to apply electronic solutions may require modification of the rules and the forms.

Annexure

 Annex 1	<u>Annex 1 - Schedule of Meetings</u>
 Annex 2	<u>Annex 2 – List of organisations requested to provide written submissions</u>
 Annex 3	<u>Annex 3 - Report on Written submissions</u>
 Annex 4	<u>Annex 4 – Report on elections survey</u>
 Annex 5	<u>Annex 5 – Abed Report</u>
 Annex 6	<u>Annex 6 - Proposed Draft Registration of Electors Regulations 2023</u>
 Annex 7	<u>Annex 7 - Proposed Registration of Electors Bill 2022</u>