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DRAFT STATUTORY INSTRUMENTS

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**2004 No.**

European Parliamentary Elections  
(Northern Ireland) Regulations 2004

PART 1

*General*

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the European Parliamentary Elections (Northern Ireland) Regulations 2004.

(2) These Regulations shall come into force on the day after the day on which they are made.

(3) These Regulations shall extend to Northern Ireland only.

**Interpretation**

2. Unless the context otherwise requires, in these Regulations—

“1983 Act” means the Representation of the People Act 1983(1);

“1985 Act” means the Representation of the People Act 1985(2);

“2000 Act” means the Political Parties, Elections and Referendums Act 2000(3);

“2001 Franchise Regulations” means the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001(4);

“2002 Act” means the European Parliamentary Elections Act 2002(5);

“2003 Act” means the European Parliament (Representation) Act 2003(6);

“the absent voters list” means, in relation to any election, the list kept under regulation 9(6);

“Accession States” means any of the following states—

- (a) the Czech Republic,
- (b) the Republic of Estonia,
- (c) the Republic of Cyprus,
- (d) the Republic of Latvia,
- (e) the Republic of Lithuania,
- (f) the Republic of Hungary,
- (g) the Republic of Malta,

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(1) 1983 c. 2.  
(2) 1985 c. 50.  
(3) 2000 c. 41.  
(4) S.I.2001/1184  
(5) 2002 c. 24.  
(6) 2003 c. 7.

- (h) the Republic of Poland,
- (i) the Republic of Slovenia,
- (j) the Slovak Republic;

“the Act annexed to Council Decision 76/787” is the Act concerning the election of MEPs annexed to Council Decision 76/787/ECSC, EEC, Euratom of 20th September 1976;

“citizen of an Accession State” means a national of one of the Accession States and “relevant citizen of an Accession State” means such a citizen who is not a Commonwealth citizen or a citizen of the Republic of Ireland;

“citizen of the Union” shall be construed in accordance with Article 17.1 of the Treaty establishing the European Community<sup>(7)</sup>, and “relevant citizen of the Union” means such a citizen who is not a Commonwealth citizen or a citizen of the Republic of Ireland;

“dwelling” includes any part of a building where that part is occupied separately as a dwelling;

“election” means European Parliamentary election;

“election court” means in relation to a European Parliamentary election petition, the judges presiding at the trial;

“elector” in relation to an election, means any person whose name is for the time being on the register of electors, but does not include those shown in the register as below voting age on the day fixed for the poll;

“European Parliamentary elections rules” mean the rules in Schedule 1 to these Regulations;

“European Parliamentary election petition” means a petition presented in pursuance of Part 4 of these Regulations;

“European Parliamentary overseas elector” means a person falling within section 8(4) of the 2002 Act;

“European Parliamentary overseas elector’s declaration” means a declaration made in pursuance of regulations made under section 3 of the 1985 Act<sup>(8)</sup>;

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

“legal process” means a claim form, application, notice, writ, summons or other process;

“the list of proxies” means, in relation to any election, the list kept under regulation 11(8);

“overseas elector” means a person falling within subsection (2) of section 8 of the 2002 Act by virtue of paragraph (b) of that subsection;

“overseas elector’s declaration” has the meaning given by section 2 of the 1985 Act;

“person” includes (without prejudice to the provisions of the Interpretation Act 1978)<sup>(9)</sup> an association corporate or unincorporate;

“register of electors” means any part of—

- (a) a register of parliamentary or, in the case of peers, local government electors,
- (b) a register under section 3 of the 1985 Act, and
- (c) a register under regulation 5 of the 2001 Franchise Regulations,

in force within the electoral region at the time of a European Parliamentary election in that region;

“registration officer” means the Chief Electoral Officer for Northern Ireland;

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<sup>(7)</sup> The reference to the Treaty is to it as renumbered in accordance with the Treaty of Amsterdam.

<sup>(8)</sup> Section 3 was substituted by paragraph 4 of Schedule 2 to the Representation of the People Act 2000 (c. 2).

<sup>(9)</sup> 1978 c. 30.

“service voter” means a person who has made a service declaration and is registered or entitled to be registered in pursuance of it;

“sub-agent” has the meaning given by regulation 35(1);

“Treaty of Athens” means the Treaty signed at Athens on 16th April 2003 concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union;

“universal postal service provider” means a universal service provider (within the meaning of the Postal Services Act 2000)(10); and

“voter” means a person voting at an election and includes a person voting as proxy and, except in the European Parliamentary elections rules, a person voting by proxy, and “vote” (whether noun or verb) shall be construed accordingly, except that in those rules any reference to an elector voting or an elector’s vote shall include a reference to an elector voting by proxy or an elector’s vote given by proxy.

### **Conduct of poll and count in the electoral region**

3. The returning officer for the electoral region shall be responsible for—
- (a) the conduct of the poll in the electoral region;
  - (b) the printing of the ballot papers;
  - (c) the issue and receipt of postal ballot papers for electors in the electoral region and their proxies;
  - (d) the verification of the ballot paper accounts; and
  - (e) the counting of the votes given in the electoral region.

### **Deputies and assistance**

4.—(1) The returning officer may, in writing, appoint deputies to discharge all or any of the functions imposed on him under these Regulations.

(2) The returning officer may appoint such clerks as may be necessary to assist him in his functions in relation to an election.

### **Polling districts and places**

5.—(1) The electoral region shall be divided into polling districts and subject to the provisions of this regulation there shall be a polling place designated for each polling district.

(2) The polling districts and polling places designated under this regulation shall be the same as those used or designated for parliamentary elections, except where it appears to those responsible for designating parliamentary polling districts and places that special circumstances make it desirable for some other polling district or place to be designated.

- (3) An election shall not be questioned by reason of—
- (a) any non-compliance with the provisions of this regulation; or
  - (b) any informality relative to polling districts or polling places.

## Rules for European Parliamentary elections

6.—(1) The proceedings at a European Parliamentary election shall be conducted in accordance with the European Parliamentary elections rules in Schedule 1 to these Regulations.

(2) It is the returning officer's general duty at a European Parliamentary election to do all such acts and things as may be necessary for effectually conducting the election in the manner provided by those rules.

(3) No European Parliamentary election shall be declared invalid by reason of any act or omission by the returning officer or any other person in breach of his official duty in connection with the election or otherwise of the European Parliamentary elections rules if it appears to the tribunal having cognizance of the question that—

- (a) the election was so conducted as to be substantially in accordance with the law as to elections; and
- (b) the act or omission did not affect its result.

## Manner of voting

7.—(1) This regulation applies to determine the manner of voting of a person entitled to vote as an elector at a European Parliamentary election.

(2) He may vote in person at the polling station allotted to him under the European Parliamentary elections rules, unless he is entitled as an elector to an absent vote at the election.

(3) He may vote by post if he is entitled as an elector to vote by post at the election.

(4) If he is entitled to vote by proxy at the election, he may so vote unless, before a ballot paper has been issued for him to vote by proxy, he applies at the polling station allotted to him under the European Parliamentary elections rules for a ballot paper for the purpose of voting in person, in which case he may vote in person there.

(5) If he is not entitled as an elector to an absent vote at the election but cannot reasonably be expected to go in person to the polling station allotted to him under the European Parliamentary elections rules by reason of the particular circumstances of his employment, either as a constable or by the returning officer, on the date of the poll for a purpose connected with the election, he may vote in person at any polling station in the European Parliamentary electoral region.

(6) Nothing in the preceding provisions of this regulation applies to—

- (a) a person to whom section 7 of the 1983 Act<sup>(11)</sup> (mental patients who are not detained offenders) applies and who are liable, by virtue of any enactment, to be detained in the mental hospital in question, or
- (b) a person to whom section 7A of that Act<sup>(12)</sup> (persons remanded in custody) applies,

whether he is registered by virtue of that provision or not; and such a person may only vote by post or by proxy (where he is entitled as an elector to vote by post or, as the case may be, by proxy at the election).

(7) For the purposes of these Regulations, a person entitled to vote as an elector at a European Parliamentary election is entitled as an elector to vote by post or entitled to vote by proxy at the election if he is shown in the absent voters list for the election as so entitled; and references to entitlement as an elector to an absent vote at a European Parliamentary election are references to entitlement as an elector to vote by post or entitlement to vote by proxy at the election.

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<sup>(11)</sup> Section 7 was substituted by section 4 of the Representation of the People Act 2000 (c. 2).

<sup>(12)</sup> Section 7A was inserted by section 5 of the Representation of the People Act 2000.

### **Absent vote at elections for an indefinite period**

8.—(1) Where a person applies to the registration officer to vote by post, or to vote by proxy, at European Parliamentary elections for an indefinite period the registration officer shall grant the application (subject to paragraph (8)) if—

- (a) he is satisfied that the applicant is eligible for an absent vote at European Parliamentary elections for an indefinite period,
- (b) he is satisfied that the applicant is or will be registered in the register for such elections,
- (c) the application states the applicant's date of birth and the registration officer is satisfied that the date stated corresponds with the date supplied as the date of the applicant's birth pursuant to section 10(4A)(b), 10A(1A)(b) or 13A(2A)(b) of the 1983 Act<sup>(13)</sup>,
- (d) the application is signed and (unless section 10(4B), 10A(1B) or 13A(2B) of the 1983 Act<sup>(14)</sup> applies) the registration officer is satisfied that the signature on the application corresponds with the signature supplied as the applicant's signature pursuant to section 10(4A)(a), 10A(1A)(a) or 13A(2A)(a) of the 1983 Act,
- (e) the application either states the applicant's national insurance number or states that he does not have one, and the registration officer is satisfied as mentioned in paragraph (2), and
- (f) the application meets the requirements of Schedule 2 to these Regulations.

(2) For the purposes of paragraph (1)(e), the registration officer must be satisfied—

- (a) if the application states a national insurance number, that the requirements of paragraph (3) are met, or
- (b) if the application states that the applicant does not have a national insurance number, that no such number was supplied as his national insurance number pursuant to section 10(4A)(c)(i), 10A(1A)(c)(i) or 13A(2A)(c)(i) of the 1983 Act.

(3) The requirements of this paragraph are met if—

- (a) the number stated as mentioned in paragraph (2)(a) is the same as the one supplied as the applicant's national insurance number pursuant to section 10(4A)(c)(i), 10A(1A)(c)(i) or 13A(2A)(c)(i) of the 1983 Act, or
- (b) no national insurance number was supplied under any of those provisions, but the registration officer is not aware of any reason to doubt the authenticity of the application.

(4) For the purposes of this regulation, a person is eligible for an absent vote at European Parliamentary elections for an indefinite period—

- (a) if he is or will be registered as a service voter,
- (b) if he cannot reasonably be expected—
  - (i) to go in person to the polling station allotted or likely to be allotted to him under the European Parliamentary elections rules, or
  - (ii) to vote unaided there,by reason of blindness or other physical incapacity,
- (c) if he cannot reasonably be expected to go in person to that polling station by reason of the general nature of his occupation, service or employment or that of his spouse, or by reason of his attendance on a course provided by an educational institution or that of his spouse, or
- (d) if he cannot go in person from his qualifying address to that polling station without making a journey by air or sea,

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<sup>(13)</sup> Sections 10A and 13A were inserted by Schedule 1 to the Representation of the People Act 2000; sections 10(4A), 10A(1A) and 13A(2A) were inserted by section 1 of the Electoral Fraud (Northern Ireland) Act 2002 (c. 2).

<sup>(14)</sup> Sections 10(4B), 10A(1B) and 13A(2B) were inserted by section 1 of the Electoral Fraud (Northern Ireland) Act 2002.

and is also eligible for an absent vote at European Parliamentary elections for an indefinite period if he is or will be registered in pursuance of an overseas elector's declaration (including a European Parliamentary overseas elector's declaration).

(5) The registration officer shall keep a record of those whose applications under this regulation have been granted showing—

- (a) in the case of those who may vote by post, the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent, and
- (b) in the case of those who may vote by proxy, the names and addresses of those appointed as their proxies.

(6) The registration officer shall remove a person from the record kept under paragraph (5)—

- (a) if he applies to the registration officer to be removed,
- (b) in the case of any registered person, if he ceases to be registered or registered at the same qualifying address or ceases to be, or becomes, registered as a service voter or in pursuance of a declaration of local connection or an overseas elector's declaration, or
- (c) if the registration officer gives notice that he has reason to believe there has been a material change of circumstances.

(7) A person shown in the record kept under paragraph (5) as voting by post or, as the case may be, voting by proxy may subsequently alter his choice (subject to paragraph (8)) on an application to the registration officer that meets the requirements of Schedule 2 to these Regulations and the registration officer shall amend the record accordingly.

(8) A person applying to vote by post must provide an address in the United Kingdom as the address to which his ballot paper is to be sent.

### **Absent vote at a particular election and absent voters list**

9.—(1) Where a person applies to the registration officer to vote by post, or to vote by proxy, at a particular European Parliamentary election, the registration officer shall grant the application (subject to paragraph (7)) if—

- (a) he is satisfied that the applicant's circumstances on the date of the poll will be or are likely to be such that he cannot reasonably be expected to vote in person at the polling station allotted or likely to be allotted to him under the European Parliamentary elections rules,
- (b) he is satisfied that the applicant is or will be registered in the register of electors,
- (c) the application states the applicant's date of birth and the registration officer is satisfied that the date stated corresponds with the date supplied as the date of the applicant's birth pursuant to section 10(4A)(b), 10A(1A)(b) or 13A(2A)(b) of the 1983 Act,
- (d) the application is signed and (unless section 10(4B), 10A(1B) or 13A(2B) of the 1983 Act applies) the registration officer is satisfied that the signature on the application corresponds with the signature supplied as the applicant's signature pursuant to section 10(4A)(a), 10A(1A)(a) or 13A(2A)(a) of the 1983 Act,
- (e) the application either states the applicant's national insurance number or states that he does not have one, and the registration officer is satisfied as mentioned in paragraph (2), and
- (f) the application meets the requirements of Schedule 2 to these Regulations.

(2) For the purposes of paragraph (1)(e), the registration officer must be satisfied—

- (a) if the application states a national insurance number, that the requirements of paragraph (3) are met, or

- (b) if the application states that the applicant does not have a national insurance number, that no such number was supplied as his national insurance number pursuant to section 10(4A)(c)(i), 10A(1A)(c)(i) or 13A(2A)(c)(i) of the 1983 Act.
- (3) The requirements of this paragraph are met if—
  - (a) the number stated as mentioned in paragraph (2)(a) is the same as the one supplied as the applicant's national insurance number pursuant to section 10(4A)(c)(i), 10A(1A)(c)(i) or 13A(2A)(c)(i) of the 1983 Act, or
  - (b) no national insurance number was supplied under any of those provisions, but the registration officer is not aware of any reason to doubt the authenticity of the application.
- (4) Paragraph (1) does not apply to a person who is included in the record kept under regulation 8, but such a person may, in respect of a particular European Parliamentary election, apply to the registration officer—
  - (a) for his ballot paper to be sent to a different address in the United Kingdom, or
  - (b) to vote by proxy,if he is shown in the record so kept as voting by post at European Parliamentary elections.
- (5) The registration officer shall grant an application under paragraph (4) if it meets the requirements of Schedule 2 to these Regulations.
- (6) The registration officer shall, in respect of each European Parliamentary election, keep a special list (“the absent voters list”) consisting of—
  - (a) a list of—
    - (i) those whose applications under paragraph (1) to vote by post at the election have been granted, together with the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent, and
    - (ii) those who are for the time being shown in the record kept under regulation 8 as voting by post at European Parliamentary elections (excluding those so shown whose applications under paragraph (4) to vote by proxy at the election have been granted) together with the addresses provided by them in their applications under that regulation or, as the case may be, paragraph (4) as the addresses to which their ballot papers are to be sent, and
  - (b) a list (“the list of proxies”) of those whose applications under this regulation to vote by proxy at the election have been granted or who are for the time being shown in the record kept under regulation 8 as voting by proxy at European Parliamentary elections, together with the names and addresses of those appointed as their proxies.
- (7) A person applying to vote by post must provide an address in the United Kingdom as the address to which his ballot paper is to be sent.

### **Proxies at elections**

- 10.**—(1) Subject to the provisions of this regulation, any person is capable of being appointed proxy to vote for another (in this regulation and regulation 11 referred to as “the elector”) at any European Parliamentary election and may vote in pursuance of the appointment.
- (2) The elector cannot have more than one person at a time appointed as proxy to vote for him at European Parliamentary elections.
  - (3) A person is not capable of being appointed to vote, or voting, as proxy at a European Parliamentary election—
    - (a) if he is subject to any legal incapacity (age apart) to vote at that election as an elector, or
    - (b) if he is neither a Commonwealth citizen nor a citizen of the Union.

(4) A person is not capable of voting as proxy at a European Parliamentary election unless on the date of the poll he has attained the age of eighteen.

(5) A person is not entitled to vote as proxy at the same European Parliamentary election on behalf of more than two electors of whom that person is not the husband, wife, parent, grandparent, brother, sister, child or grandchild.

(6) Where the elector applies to the registration officer for the appointment of a proxy to vote for him at European Parliamentary elections, for an indefinite period, the registration officer shall make the appointment if the application meets the requirements of Schedule 2 to these Regulations and he is satisfied that the elector is or will be—

(a) registered in the register, and

(b) shown in the record kept under regulation 8 as voting by proxy at such elections,

and that the proxy is capable of being and willing to be appointed to vote as proxy at such elections.

(7) Where the elector applies to the registration officer for the appointment of a proxy to vote for him at a particular European Parliamentary election, the registration officer shall make the appointment if the application meets the requirements of Schedule 2 to these Regulations and he is satisfied that the elector is or will be—

(a) registered in the register of electors for that election, and

(b) entitled to vote by proxy at that election by virtue of an application under regulation 9,

and that the proxy is capable of being and willing to be appointed.

(8) The appointment of a proxy under this regulation is to be made by means of a proxy paper issued by the registration officer.

(9) The appointment may be cancelled by the elector by giving notice to the registration officer, and shall also cease to be in force on the issue of a proxy paper appointing a different person to vote for him at any European Parliamentary election or elections.

(10) Subject to paragraph (9), the appointment shall remain in force—

(a) in the case of an appointment for a particular election, for that election, and

(b) in any other case, while the elector is shown as voting by proxy in the record kept under regulation 8 in pursuance of the same application under that regulation.

### **Voting as proxy**

**11.**—(1) A person entitled to vote as proxy at a European Parliamentary election may do so in person at the polling station allotted to the elector under the European Parliamentary elections rules unless he is entitled to vote by post as proxy for the elector at the election, in which case he may vote by post.

(2) Where a person is entitled to vote by post as proxy for the elector at any election, the elector may not apply for a ballot paper for the purpose of voting in person at the election.

(3) For the purposes of these Regulations, a person entitled to vote as proxy for another at a European Parliamentary election is entitled so to vote by post if he is included in the list kept under paragraph (8) in respect of the election.

(4) Where a person applies to the registration officer to vote by post as proxy at European Parliamentary elections, for an indefinite period, the registration officer shall (subject to paragraphs (9) and (11)) grant the application if—

(a) the applicant is included in any record kept under regulation 8, or

(b) the address provided by the applicant in his application as the address to which his ballot paper is to be sent is not in the same ward as the elector's qualifying address or, where the



elector is registered in pursuance of an overseas elector's declaration, the address specified in the declaration in accordance with section 2(4) of the 1985 Act, and the application meets the requirements of Schedule 2 to these Regulations.

(5) The registration officer shall keep a record of those whose applications under paragraph (4) have been granted showing the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent.

(6) Where a person applies to the registration officer to vote by post as proxy at a particular election and the application meets the requirements of Schedule 2 to these Regulations, the registration officer shall (subject to paragraphs (9) and (11)) grant the application if—

- (a) he is satisfied that the applicant's circumstances on the date of the poll will be or are likely to be such that he cannot reasonably be expected to vote in person at the polling station allotted or likely to be allotted to the elector under the European Parliamentary elections rules, or
- (b) the applicant is, or the registration officer is satisfied that he will be, included in the absent voters list for that election.

(7) Where, in the case of a particular election, a person included in the record kept under paragraph (5) applies to the registration officer for his ballot paper to be sent to a different address in the United Kingdom, the registration officer shall grant the application if it meets the requirements of Schedule 2 to these Regulations.

(8) The registration officer shall, in respect of each European Parliamentary election, keep a special list of—

- (a) those who are for the time being included in the record kept under paragraph (5) together with the addresses provided by them in their applications under that paragraph or, as the case may be, paragraph (7) as the addresses to which their ballot papers are to be sent, and
- (b) those whose applications under paragraph (6) have been granted in respect of the election concerned, together with the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent.

(9) The registration officer shall not grant any application under this regulation unless—

- (a) he is satisfied that the elector is or will be registered in the register of electors, and
- (b) there is in force an appointment of the applicant as the elector's proxy to vote for him at European Parliamentary elections or, as the case may be, the election concerned.

(10) The registration officer shall remove a person from the record kept under paragraph (5)—

- (a) if he applies to the registration officer to be removed,
- (b) where he was included in the record on the ground mentioned in paragraph (4)(a), if he ceases to be included in any record kept under regulation 8 or becomes so included in pursuance of a further application under that regulation,
- (c) if the elector ceases to be registered as mentioned in paragraph (9)(a), or
- (d) if the appointment of the person concerned as the elector's proxy ceases to be in force (whether or not he is re-appointed).

(11) A person applying to vote by post as proxy must provide an address in the United Kingdom as the address to which his ballot paper is to be sent.

## **Offences as to declarations**

12. A person who—

- (a) in any declaration or form used for any of the purposes of regulations 7 to 11, makes a statement which he knows to be false, or

- (b) attests an application under regulation 8 or 9 when he knows that he is not authorised to do so or that it contains a statement which is false,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **Absent voting**

- 13. Schedule 2 (which makes provision with respect to absent voting) shall have effect.

### **Modification of the Regulations for 2004 elections**

- 14. The provisions of these Regulations shall apply for the purposes of—
  - (a) the registration of relevant citizens of the Accession States as European Parliamentary electors before 1st May 2004,
  - (b) making arrangements for persons so registered to exercise the right to vote if they become relevant citizens of the Union on 1st May 2004, and
  - (c) the alteration or removal of entries on the register in relation to relevant citizens of the Accession States after that date,

subject to the modifications made in Schedule 3.

### **Returning officers**

- 15. A person is not subject to any incapacity to vote at a European Parliamentary election by reason of being or acting as returning officer at that election.

### **Payments by and to returning officers**

16.—(1) The returning officer shall be entitled to recover his charges in respect of services properly rendered, or expenses properly incurred, for or in connection with a European Parliamentary election if—

- (a) the services or expenses are of a kind specified in an order made by the Secretary of State; and
- (b) the charges are reasonable.

(2) In any order made under paragraph (1) the Secretary of State may specify a maximum recoverable amount for services or expenses of any specified description and, subject to paragraph (3), the returning officer may not recover more than that amount in respect of any such services or expenses.

(3) The Secretary of State may, in a particular case, authorise the payment of more than the specified maximum amount for any specified services or expenses if satisfied—

- (a) that it was reasonable for the returning officer to render the services or incur the expenses; and
- (b) that the charges in question are reasonable.

(4) Any order under paragraph (1) which specifies a maximum amount for services or expenses of a particular description may—

- (a) provide for that amount to increase at prescribed dates, or after prescribed periods, by reference to such formula or other method of determination as may be specified in the order; and

(b) make such transitional provision in connection with any such increase as the Secretary of State considers appropriate.

(5) The power to make orders under paragraph (1) shall be exercised by statutory instrument and section 1 of the Statutory Instruments Act 1946<sup>(15)</sup> shall apply accordingly; and any such order may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the Secretary of State thinks fit.

(6) The amount of any charges recoverable in accordance with this regulation shall be paid by the Secretary of State on an account being submitted to him, but he may if he thinks fit before payment, apply for the account to be taxed under the provisions of regulation 17.

(7) On the returning officer's request for an advance on account of his charges, the Secretary of State may, on such terms as he thinks fit, make such an advance.

(8) Regulations made by the Secretary of State may make provision as to the time when and the manner and form in which accounts are to be rendered to the Secretary of State for the purposes of the payment of the returning officer's charges.

(9) Any exercise by the Secretary of State of his functions under paragraphs (1) and (2) shall require the consent of the Treasury.

#### **Taxation of returning officer's account**

17.—(1) An application for the returning officer's account to be taxed shall be made to the county court having jurisdiction at the place for delivery of nomination papers for the election.

(2) On any such application the court has jurisdiction to tax the account in such manner and at such time and place as the court thinks fit, and finally to determine the amount payable to the returning officer.

(3) On any such application the returning officer may apply to the court to examine any claim made by any person against him in respect of matters charged in the account; and the court, after notice given to the claimant and after giving him an opportunity to be heard and to tender any evidence, may allow or disallow or reduce the claim objected to with or without costs; and the determination of the court shall be final for all purposes and as against all persons.

#### **Effect of registers**

18.—(1) Any entry in the register of electors, if it gives a date as that on which the person named will attain voting age, shall for any purpose of this Part relating to him as elector be conclusive that until the date given in the entry he is not of voting age nor entitled to be treated as an elector except for the purposes of an election at which the day fixed for the poll is that or a later date.

(2) A person whose registration as an elector or entry in the list of proxies entitles him to vote shall not be excluded from voting on any of the following grounds: but this shall not prevent the rejection of the vote on a scrutiny, or affect his liability to any penalty for voting.

The grounds are—

- (a) that he is not of voting age;
- (b) that he is not, or, on the relevant date or the date of his appointment (as the case may be), was not—
  - (i) a Commonwealth citizen;
  - (ii) a citizen of the Republic of Ireland;
  - (iii) in the case of a person registered as a European Parliamentary elector in pursuance of an overseas elector's declaration, a British citizen;

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(15) 1946 c. 36.

- (iv) in the case of a person registered as an elector or entered in the list of proxies by virtue of being a relevant citizen of the Union, a relevant citizen of the Union;
  - (c) that he is, or, on the relevant date or the date of his appointment (as the case may be), was, otherwise subject to any other legal incapacity to vote.
- (3) In paragraph (2) “the relevant date” means—
- (a) in relation to a person registered in the register in question as published in accordance with section 13(1) of the 1983 Act<sup>(16)</sup>, the 15th October immediately preceding the date of publication of the register;
  - (b) in relation to any other person registered in the register in question, the relevant date for the purposes of section 4 of the 1983 Act<sup>(17)</sup>.

### Effect of misdescription

- 19.** No misnomer or inaccurate description of any person or place named—
- (a) in the register of electors, or
  - (b) in any list, record, proxy paper, nomination paper, ballot paper, notice or other document required for the purposes of this Part of these Regulations,

affects the full operation of the document with respect to that person or place in any case where the description of the person or place is such as to be commonly understood.

### Discharge of registration duties

**20.** Sections 14(5) and 14A(2) and (3) of the Electoral Law Act (Northern Ireland) 1962<sup>(18)</sup> shall have effect in relation to the Chief Electoral Officer for Northern Ireland in his capacity as registration officer.

### Payment of expenses of registration

**21.**—(1) Any expenses properly incurred by the Chief Electoral Officer for Northern Ireland in his capacity as registration officer in the performance of his functions under these Regulations (in these Regulations referred to as “registration expenses”) shall be paid out of money provided by Parliament.

(2) Any fees paid to the registration officer under these Regulations shall be accounted for by him to the Secretary of State and paid into the Consolidated Fund.

(3) On the request of a registration officer for an advance on account of registration expenses the Secretary of State may, if he thinks fit, make such an advance to him of such an amount and subject to such conditions as he may approve.

### Registration appeals

**22.**—(1) Subject to paragraph (2), an appeal lies to the county court, from any decision under these Regulations of the registration officer disallowing a person’s application to vote by proxy or by post as elector or to vote by post as proxy, in any case where the application is not made for a particular election only.

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<sup>(16)</sup> Section 13 was substituted by Schedule 1 to the Representation of the People Act 2000.

<sup>(17)</sup> Section 4 was substituted by section 1(2) of the Representation of the People Act 2000.

<sup>(18)</sup> 1962 c. 14 (N.I.); section 14 was substituted and section 14A was inserted by the Electoral Law (Northern Ireland) Order 1972 (S.I. 1972/1264 (N.I. 13)).

(2) No appeal lies where the person desiring to appeal has not availed himself of a prescribed right to be heard by or make representations to the registration officer on the matter which is the subject of the appeal, or has not given the prescribed notice of appeal within the prescribed time.

(3) An appeal to the county court by virtue of this regulation which is pending when notice of an election is given shall not prejudice the operation as respects the election of the decision appealed against, and anything done in pursuance of the decision shall be as good as if no such appeal had been brought and shall not be affected by the decision on the appeal.

(4) The registration officer shall, in accordance with sections 13A and 13B of the 1983 Act<sup>(19)</sup>, make such alterations in the register as may be required to give effect to the decision.

(5) Where, as a result of the decision on an appeal, an alteration in the register made in pursuance of paragraph (4) takes effect under section 13(5), 13A(2) or 13B(3) of the 1983 Act on or before the last day on which nomination papers at an election may be delivered to the returning officer, paragraph (3) does not apply to that appeal as respects that election.

(6) The registration officer shall undertake such duties in connection with appeals brought by virtue of this regulation as are set out in paragraph 10 of Schedule 2 and shall on any such appeal be deemed to be a party to the proceedings, and the registration expenses payable to a registration officer shall include any expenses properly incurred by him by virtue of this paragraph.

### **Personation**

**23.**—(1) A person shall be guilty of a corrupt practice if he commits, or aids, abets, counsels or procures the commission of, the offence of personation.

(2) A person shall be deemed to be guilty of personation at a European Parliamentary election if he—

- (a) votes in person or by post as some other person, whether as an elector or as proxy, and whether that other person is living or dead or is a fictitious person; or
- (b) votes in person or by post as proxy—
  - (i) for a person whom he knows or has reasonable grounds for supposing to be dead or to be a fictitious person; or
  - (ii) when he knows or has reasonable grounds for supposing that his appointment as proxy is no longer in force.

(3) For the purposes of this regulation, a person who has applied for a ballot paper for the purpose of voting in person or who has marked, whether validly or not, and returned a ballot paper issued for the purpose of voting by post, shall be deemed to have voted.

### **Offences relating to specified documents**

**24.**—(1) A person commits an offence if, on the day of or the day next preceding the poll for a European Parliamentary election, he has possession of a document to which this regulation applies, with the intention of committing or of enabling another person to commit the offence of personation at the election.

(2) This regulation applies to—

- (a) a document which is not, but purports to be, a specified document within the meaning of rule 37 of the European Parliamentary elections rules, and
- (b) a specified document within the meaning of that rule which either falsely bears the name of the person in possession or does not bear that name.

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<sup>(19)</sup> Section 13B was inserted by Schedule 1 to the Representation of the People Act 2000.

- (3) If a constable has reasonable grounds for suspecting that a person has possession of a document in contravention of paragraph (1), the constable may—
- (a) search that person, and detain him for the purpose of searching him;
  - (b) search any vehicle in which the constable suspects that the document may be found, and for that purpose require the person in control of the vehicle to stop it;
  - (c) seize and retain, for the purpose of proceedings for an offence under paragraph (1), any document found in the course of the search if there are reasonable grounds for suspecting that it is a document to which this regulation applies.
- (4) If a resident magistrate is satisfied by complaint on oath that there are reasonable grounds for suspecting that a person has possession on any premises of a document in contravention of paragraph (1), he may grant a warrant authorising any constable
- (a) to enter, if need be by force, the premises named in the warrant,
  - (b) to search the premises and any person found there, and
  - (c) to seize and retain, for the purpose of proceedings for an offence under paragraph (1), any document found in the course of the search if there are reasonable grounds for suspecting that it is a document to which this regulation applies.
- (5) A person commits an offence if he—
- (a) intentionally obstructs a constable in the exercise of his powers under this regulation, or
  - (b) conceals from a constable acting in the exercise of those powers any document to which this regulation applies.
- (6) A constable may arrest without warrant a person who has committed, or whom the constable has reasonable grounds for suspecting to have committed, an offence under paragraph (1) or (5) if—
- (a) he has reasonable grounds for believing that that person will abscond unless arrested,
  - (b) the name and address of that person are unknown to, and cannot be ascertained by, him, or
  - (c) he is not satisfied that a name and address furnished by that person as his name and address are true.
- (7) A person is guilty of a corrupt practice if he commits, or aids, abets, counsels or procures the commission, of an offence under paragraph (1).
- (8) A person guilty of an offence under paragraph (5) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or to both.
- (9) A prosecution shall not be instituted in respect of an offence under paragraph (1) except by or with the consent of the Director of Public Prosecutions for Northern Ireland.
- (10) In this regulation—
- “premises” includes any place and, in particular, includes any moveable structure, and
  - “vehicle” means a vehicle intended or adapted for use on land (however propelled, and including a caravan or other vehicle intended or adapted to be drawn).

### **Other voting offences**

- 25.—**(1) A person shall be guilty of an offence if—
- (a) he votes in person or by post, whether as an elector or as proxy, or applies to vote by proxy or by post as elector at a European Parliamentary election knowing that he is subject to a legal incapacity to vote at the election; or

- (b) he applies for the appointment of a proxy to vote for him at any European Parliamentary election knowing that he is or the person to be appointed is subject to a legal incapacity to vote at the election; or
- (c) he votes, whether in person or by post, as proxy for some other person at a European Parliamentary election, knowing that that person is subject to a legal incapacity to vote.

For the purposes of this paragraph references to a person being subject to a legal incapacity to vote do not, in relation to things done before polling day at the election or first election at or for which they are done, include his being below voting age if he will be of voting age on that day.

(2) References in paragraph (1) to legal incapacity to vote at a European Parliamentary election include incapacity to vote at the kind of election from which the entitlement to vote at a European Parliamentary election derives.

(3) A person shall be guilty of an offence if—

- (a) he votes as elector otherwise than by proxy either—
  - (i) more than once at any European Parliamentary election; or
  - (ii) in more than one electoral region at a European Parliamentary election, or
  - (iii) at a European Parliamentary election when there is in force an appointment of a person to vote as his proxy at the election in respect of an address other than the address by virtue of which he votes as elector; or
- (b) he votes as elector in person at a European Parliamentary election at which he is entitled to vote by post; or
- (c) he votes as elector in person at a European Parliamentary election, knowing that a person appointed to vote as his proxy at the election either has already voted in person at the election or is entitled to vote by post at the election; or
- (d) he applies for a person to be appointed as his proxy to vote for him at European Parliamentary elections without applying for the cancellation of a previous appointment of a third person then in force or without withdrawing a pending application for such an appointment.

(4) A person shall be guilty of an offence if—

- (a) he votes as proxy for the same elector either—
  - (i) more than once at any European Parliamentary election; or
  - (ii) in more than one electoral region at a European Parliamentary election; or
- (b) he votes in person as proxy for an elector at a European Parliamentary election at which he is entitled to vote by post as proxy for that elector; or
- (c) he votes in person as proxy for an elector at a European Parliamentary election knowing that the elector has already voted in person at the election.

(5) A person shall also be guilty of an offence if he votes at a European Parliamentary election as proxy for more than two persons of whom he is not the husband, wife, parent, grandparent, brother, sister, child or grandchild.

(6) A person shall also be guilty of an offence if he knowingly induces or procures some other person to do an act which is, or but for that other person's want of knowledge would be, an offence by that other person under the foregoing paragraphs of this regulation.

(7) For the purposes of this regulation a person who has applied for a ballot paper for the purpose of voting in person, or who has marked, whether validly or not, and returned a ballot paper issued for the purpose of voting by post, shall be deemed to have voted, but for the purpose of determining whether an application for a ballot paper constitutes an offence under paragraph (5), a previous

application made in circumstances which entitle the applicant only to mark a tendered ballot paper shall, if he does not exercise that right, be disregarded.

(8) Where a person is alleged to have committed an offence under paragraph (3)(a)(i) or (4)(a)(i) by voting on a second or subsequent occasion at a European Parliamentary election, he shall not be deemed by virtue of paragraph (7) to have voted by applying on a previous occasion for a ballot paper for the purpose of voting in person unless he then marked a tendered ballot paper under rule 40 (4) of the European Parliamentary election rules.

(9) An offence under this regulation shall be an illegal practice, but the court before whom a person is convicted of any such offence may, if they think it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of regulation 97.

### **Breach of official duty**

**26.**—(1) If a person to whom this regulation applies is, without reasonable cause, guilty of any act or omission in breach of his official duty, he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) No person to whom this regulation applies shall be liable for breach of his official duty to any penalty at common law and no action for damages shall lie in respect of the breach by such a person of his official duty.

(3) The persons to whom this regulation applies are—

- (a) any registration officer, returning officer or presiding officer,
- (b) any official designated by a universal postal service provider, and
- (c) any deputy of a person mentioned in any of sub-paragraphs (a) and (b) or any person appointed to assist or in the course of his employment assisting a person so mentioned in connection with his official duties;

and “official duty” shall for the purposes of this regulation be construed accordingly, but shall not include duties imposed otherwise than by the law relating to European Parliamentary elections or the registration of parliamentary or local government electors.

### **Tampering with nomination papers, ballot papers, etc**

**27.**—(1) A person shall be guilty of an offence if, at a European Parliamentary election, he—

- (a) fraudulently defaces or fraudulently destroys any nomination paper; or
- (b) fraudulently defaces or fraudulently destroys any ballot paper, or the official mark on any ballot paper, or any declaration of identity or official envelope used in connection with voting by post; or
- (c) without due authority supplies any ballot paper to any person; or
- (d) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorised by law to put in; or
- (e) fraudulently takes out of the polling station any ballot paper; or
- (f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election; or
- (g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts.

(2) If the returning officer, a presiding officer or a clerk appointed to assist in taking the poll, counting the votes or assisting at the proceedings in connection with the issue or receipt of postal ballot papers is guilty of an offence under this section, he shall be liable—



- (a) on conviction on indictment to a fine, or to imprisonment for a term not exceeding 2 years, or to both;
- (b) on summary conviction, to a fine not exceeding the statutory maximum, or to imprisonment for a term not exceeding 6 months, or to both.

(3) If any other person is guilty of an offence under this regulation, he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale, or to imprisonment for a term not exceeding 6 months, or to both.

### **False statement in nomination papers**

**28.** A person is guilty of a corrupt practice if, in the case of a European Parliamentary election, he causes or permits to be included in a document delivered or otherwise furnished to the returning officer for use in connection with the election—

- (a) a statement of the name or home address of a candidate at the election which he knows to be false in any particular; or
- (b) anything which purports to be the signature of an elector who proposes, seconds or assents to, the nomination of such a candidate but which he knows—
  - (i) was not written by the elector by whom it purports to have been written, or
  - (ii) if written by that elector, was not written by him for the purpose of signifying that he was proposing, seconding, or (as the case may be) assenting to, that candidate's nomination.

### **Offences in connection with candidature**

**29.** A person who makes a statement which he knows to be false in the declaration required by rule 8(1) of the European Parliamentary elections rules is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **Requirement of secrecy**

**30.—(1)** The following persons—

- (a) the returning officer and every presiding officer or clerk attending at a polling station,
- (b) every candidate or election agent or polling agent so attending,
- (c) every representative of the Electoral Commission so attending,

shall maintain and aid in maintaining the secrecy of voting and shall not, except for some purpose authorised by law, communicate to any person before the poll is closed any information as to—

- (i) the name of any elector or proxy for an elector who has or has not applied for a ballot paper or voted at a polling station;
- (ii) the number on the register of electors of any elector who, or whose proxy, has or has not applied for a ballot paper or voted at a polling station; or
- (iii) the official mark.

(2) Every person attending at the verification of the ballot paper accounts or the counting of the votes shall maintain and aid in maintaining the secrecy of voting and shall not—

- (a) ascertain or attempt to ascertain at the counting of the votes the number on the back of any ballot paper;
- (b) communicate any information obtained at the verification of the ballot paper accounts or the counting of the votes as to the way in which any vote is given on any particular ballot paper.

(3) No person attending at the verification of the ballot paper accounts shall express to any person an opinion based on information obtained at that verification as to the likely result of the election.

(4) No person shall—

- (a) interfere with or attempt to interfere with a voter when recording his vote;
- (b) otherwise obtain or attempt to obtain in a polling station information as to the way in which a voter in that station is about to vote or has voted;
- (c) communicate at any time to any person any information obtained in a polling station as to the way in which a voter in that station is about to vote or has voted, or as to the number on the back of the ballot paper given to a voter at that station;
- (d) directly or indirectly induce a voter to display his ballot paper after he has marked it so as to make known to any person the way in which he has voted.

(5) Every person attending the proceedings in connection with the issue or the receipt of ballot papers for persons voting by post shall maintain and aid in maintaining the secrecy of the voting and shall not—

- (a) except for some purpose authorised by law, communicate, before the poll is closed, to any person any information obtained at those proceedings as to the official mark; or
- (b) except for some purpose authorised by law, communicate to any person at any time any information obtained at those proceedings as to the number on the back of the ballot paper sent to any person; or
- (c) except for some purpose authorised by law, attempt to ascertain at the proceedings in connection with the receipt of ballot papers the number on the back of any ballot paper; or
- (d) attempt to ascertain at the proceedings in connection with the receipt of the ballot papers the way in which any vote is given in any particular ballot paper or communicate any information with respect thereto obtained at those proceedings.

(6) No person having undertaken to assist a voter with disabilities to vote shall communicate at any time to any person any information as to the way in which that voter intends to vote or has voted, or as to the number on the back of the ballot paper given for the use of that voter.

(7) If a person acts in contravention of this regulation he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months.

### **Prohibition on publication of exit polls**

**31.—**(1) No person shall in the case of a European Parliamentary election publish before the close of the poll—

- (a) any statement relating to the way in which voters have voted at the election where that statement is (or might reasonably be taken to be) based on information given by voters after they have voted, or
- (b) any forecast as to the result of the election which is (or might reasonably be taken to be) based on information so given.

(2) If a person acts in contravention of paragraph (1), he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding six months.

(3) In this regulation—

“forecast” includes estimate;

“publish” means make available to the public at large, or any section of the public, in whatever form and by whatever means;

and any reference to the result of an election is a reference to the result of the election either as a whole or so far as any particular candidate at the election is concerned.