

## SCHEDULE 2

### ABSENT VOTERS

#### PART I

##### *Applications*

#### **Interpretation of Part I**

1. In this Part of this Schedule—

“allotted polling station” has the meaning set out in paragraph 4(7) ; and

“related” has the meaning set out in paragraph 5(5).

#### **General requirements for applications for an absent vote**

2.—(1) An application under regulation 8, 9, 10 or 11 must comply with the requirements of this paragraph and such further requirements in this Schedule as are relevant to the application.

(2) The application must state, in addition to the matters required by regulation 8(1)(c) to (e) or regulation 9(1)(c) to (e) in the case of an application under regulation 8(1) or 9(1)—

- (a) the full name of the applicant;
- (b) the address in respect of which the applicant is or will be registered in the register except in the case of an application under regulation 11;
- (c) in the case of such an application, the proxy’s address, together with the name of the elector for whom he will act as proxy and the elector’s address for the purposes of sub-paragraph (b) above; and
- (d) in the case of an application under regulation 8(1), 9(1) or 11(4) or (7), the grounds on which the elector claims to be entitled to an absent vote.

(3) The application shall be made in writing and be signed and dated by the applicant.

(4) Where an application is made to vote by proxy, it shall include an application for the appointment of a proxy which meets the requirements of paragraph 3.

#### **Additional requirements for applications for the appointment of a proxy**

3. An application for the appointment of a proxy under regulation 10(6) or (7) shall state the full name and address of the person whom the applicant wishes to appoint as his proxy, together with his family relationship, if any, with the applicant, and—

- (a) if it is signed only by the applicant, shall contain a statement by him that he has consulted the person so named and that that person is capable of being and willing to be appointed to vote as his proxy, or
- (b) if it is also signed by the person to be appointed, shall contain a statement by that person that he is capable of being and willing to be appointed to vote as the applicant’s proxy.

#### **Additional requirements for applications on grounds of physical incapacity or blindness**

4.—(1) An application under regulation 8(4)(b) shall specify the physical incapacity by reason of which it is made.

(2) Subject to sub-paragraph (3) below, such an application shall be attested and signed by—

- (a) a registered medical practitioner;
  - (b) a registered nurse within the meaning of section 7(7) of the Nurses, Midwives and Health Visitors Act 1997(1);
  - (c) a Christian Science practitioner;
  - (d) the person registered under the Registered Homes (Northern Ireland) Order 1992(2) as carrying on a residential care home within the meaning of article 3 of that Order or a nursing home within the meaning of article 16 of that Order, where the applicant states that he is resident in such a home;
  - (e) the person in charge of residential accommodation provided under article 15 of the Health and Personal Social Services (Northern Ireland) Order 1972(3), where the applicant states that he is resident in such accommodation; or
  - (f) the warden of premises forming one of a group of premises provided for persons of pensionable age or physically disabled persons for which there is a resident warden, where the applicant states that he resides in such premises.
- (3) A person who qualifies by virtue of paragraph (a), (b) or (c) of sub-paragraph (2) above, may not attest an application for this purpose unless he is treating the applicant for the physical incapacity specified in the application or the applicant is receiving care from him in respect of that incapacity.
- (4) The person attesting the application shall state—
- (a) his name and address and the qualification by virtue of which he attests the application, and, where the person who attests the application is a person referred to in sub-paragraph (3) above, that he is treating the applicant for the physical incapacity specified in the application or the applicant is receiving care from him in respect of that incapacity;
  - (b) that, to the best of his knowledge and belief, the applicant is suffering from the physical incapacity specified in the application and that he cannot reasonably be expected to go in person to his allotted polling station or to vote unaided there by reason of that incapacity; and
  - (c) that, to the best of his knowledge and belief, the physical incapacity specified in the application is likely to continue either indefinitely or for a period specified by the person attesting the application.
- (5) Sub-paragraphs (2) to (4) above shall not apply where—
- (a) the application is based on the applicant's blindness and the applicant is registered as a blind person by a Health and Social Services Board which is specified in the application; or
  - (b) the application states that the applicant is in receipt of the higher rate of the mobility component of a disability living allowance (payable under section 73 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(4)) because of the physical incapacity specified in the application.
- (6) The fact that an applicant is registered with a Health and Social Services Board as a blind person shall be deemed sufficient evidence that he is eligible for an absent vote on the grounds set out in regulation 8(4)(b).
- (7) In this paragraph and in paragraphs 5 and 6 below, "his allotted polling station", in relation to an elector means the polling station allotted or likely to be allotted to him under the European Parliamentary elections rules.

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(1) 1997 c. 24.  
(2) S.I.1992/3204 (N.I. 20).  
(3) S.I. 1972/1265 (N.I. 14).  
(4) 1992 c. 7.

**Additional requirements for applications based on occupation, service, employment or attendance on a course**

- 5.—(1) An application under regulation 8(4)(c) shall state—
- (a) whether the occupation, service or employment in respect of which it is made is that of the applicant or his spouse or, as the case may be, it is the applicant or his spouse who is attending the course provided by an educational institution in respect of which the application is made;
  - (b) the nature of the occupation, service or employment or course provided by an educational institution giving rise to the application;
  - (c) where the person in respect of whose occupation, service or employment it is made (in this paragraph referred to as “the employed person”) is self employed, that fact; and in any other case the name of that person’s employer;
  - (d) the reason, relevant to the general nature of the employment, service or occupation in question or the course provided by an educational institution, why the applicant cannot reasonably be expected to go in person to his allotted polling station.
- (2) Such an application shall be attested and signed—
- (a) where the person is self-employed, by a person who—
    - (i) is aged 18 years or over;
    - (ii) knows the self-employed person; and
    - (iii) is not related to him;
  - (b) by the employer of the employed person or by another employee to whom this function is delegated by the employer; and
  - (c) in the case of a course provided by an educational institution, by the director or tutor of that course or by the principal or head of that institution or an employee to whom this function is delegated by the head or principal.
- (3) The person attesting an application made under sub-paragraph (2) above shall—
- (a) where the applicant is the employed person or the person attending the course, certify that the statements required by paragraphs (a) to (d) of sub-paragraph (1) above to be included in the application are true; or
  - (b) where the applicant is the spouse of the employed person or the person attending the course, certify that the statements included in the application in accordance with the requirements of paragraphs (a) to (c) of sub-paragraph (1) above are true.
- (4) The person attesting an application under sub-paragraph (2) above shall also state—
- (a) his name and address, that he is aged 18 years or over, that he knows the employed person, self-employed person or person attending a course provided by an educational institution but is not related to him; and
  - (b) if he is attesting as or on behalf of the employer of the employed person, that he is the employer or the position he holds in the employment of that employer; or
  - (c) if he is attesting an application made on the grounds of attendance at a course provided by an educational institution, the post he holds at that institution.
- (5) For the purposes of this paragraph and paragraph 6 below, one person is related to another if he is the husband, wife, parent, grandparent, brother, sister, child or grandchild of the other.

### **Additional requirements for applications in respect of a particular election**

6.—(1) An application under regulation 9(1) shall set out why the applicant’s circumstances on the date of the poll for the election in respect of which it is made will be or are likely to be such that he cannot reasonably be expected to vote in person at his allotted polling station.

(2) Except in respect of an application to which sub-paragraph (4), (6) or (8) below applies, such an application shall be signed and attested by a person who—

- (a) is aged 18 years or over,
- (b) resides in the United Kingdom,
- (c) knows the applicant but is not related to him, and
- (d) has not attested under this paragraph any other application in respect of the election for which the application he attests is made.

(3) The person attesting an application under subparagraph (2) above shall state—

- (a) his full name and address,
- (b) that he is aged 18 years or over,
- (c) that he resides in the United Kingdom,
- (d) that he knows the applicant but is not related to him, and
- (e) that he has not attested under sub-paragraph (2) above any other application in respect of the election for which the application he attests is made;

and shall certify that, to the best of his knowledge and belief, the statement included in the application in accordance with sub-paragraph (1) above is true.

(4) This paragraph applies in respect of an application under regulation 9(1) in which the grounds set out in accordance with sub-paragraph (1) above are that the applicant will be or is likely to be physically ill on the date of the poll, and which—

- (a) specifies that illness, and
- (b) is attested and signed by one of the persons specified in paragraphs (a), (b) and (c) of paragraph 4(2) above.

(5) The person attesting an application under sub-paragraph (4) above shall state—

- (a) his name and address;
- (b) the qualification by virtue of which he is authorised to attest it;
- (c) that he has seen the applicant in connection with the circumstances set out in the application in accordance with sub-paragraph (1) above, and
- (d) that to the best of his knowledge and belief—
  - (i) the applicant is suffering from the physical illness specified in the application;
  - (ii) that he will be or is likely to be so suffering on the date of the poll, and
  - (iii) that he cannot reasonably be expected to vote in person at his allotted polling station because of that illness.

(6) This paragraph applies in respect of an application under regulation 9(1)—

- (a) which is received by the registration officer after 5 p.m. on the fourteenth day (calculated in accordance with paragraph 8(5) below) before the date of the poll at the election in question (“the standard closing date for applications”) but before 5 p.m. on the sixth day (so calculated) before the date of that poll;
- (b) in which the circumstances set out in accordance with sub-paragraph (1) above relate to the applicant’s health;

- (c) which includes a statement to the effect that, before the standard closing date for applications, the applicant could not have reasonably foreseen that those circumstances would, or would be likely to, exist on the date of the poll, and
  - (d) which is attested and signed by one of the persons specified in paragraphs (a), (b) and (c) of paragraph 4(2) above.
- (7) The person attesting an application under sub-paragraph (6) above shall state—
- (a) his name and address;
  - (b) the qualification by virtue of which he is authorised to attest it;
  - (c) that he has seen the applicant in connection with the circumstances set out in the application in accordance with sub-paragraph (1) above, and
  - (d) that, to the best of his knowledge and belief, the statement which the applicant made in accordance with sub-paragraph (6)(c) above is correct.
- (8) This paragraph applies in respect of an application under regulation 9(1)—
- (a) which is received by the registration officer during the period specified in sub-paragraph (6)(a) above;
  - (b) in which the circumstances set out in accordance with sub-paragraph (1) above relate to the applicant's employment either as a constable or by the returning officer on the date of the poll of the election for which the application is made for a purpose connected with that election or any other parliamentary or European Parliamentary election the poll for which is held on the same day;
  - (c) which states the employment in question, and
  - (d) in the case of a constable, which is signed by a member of the Police Service of Northern Ireland of or above the rank of chief inspector.

#### **Additional requirements for applications by proxies to vote by post at a particular election**

7. An application under regulation 11(6) shall set out why the applicant's circumstances on the date of the poll for the election in respect of which it is made 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 elections rules.

#### **Closing date for applications**

8.—(1) An application under regulation 8(1) or (7), 10(7) or 11(4) shall be disregarded for the purposes of a particular election if it is received by the registration officer after 5 p.m. on the fourteenth day before the day of the poll at that election.

(2) Subject to sub-paragraph (3) below, an application under regulation 9(1) or (2), 10(7) or 11(6) or (7) shall be refused if it is received by the registration officer after 5 p.m. on the fourteenth day before the day of the poll at the election for which is made.

(3) Sub-paragraph (2) above shall not apply to an application which satisfies the requirements of either sub-paragraphs (6) and (7) or sub-paragraph (8) of paragraph 6 above; and such an application shall be refused if it is received by the registration officer after 5 p.m. on the sixth day before the day of the poll at the election for which it is made.

- (4) An application under—
- (a) regulation 8(6)(a) by an elector to be removed from the record kept under regulation 8(5),  
or
  - (b) regulation 11(10)(a) by a proxy to be removed from the record kept under regulation 11(5),

and a notice under regulation 10(9) by an elector cancelling a proxy's appointment shall be disregarded for the purposes of a particular election if it is received by the registration officer after 5 p.m. on the fourteenth day before the date of the poll at that election.

(5) In computing a period of days for the purposes of this regulation, Saturday, Sunday, Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a bank holiday shall be disregarded.

(6) In sub-paragraph (5) above "bank holiday" means—

- (a) in relation to a general election, a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom, and
- (b) in relation to a by-election, a day which is a bank holiday under that Act in Northern Ireland;

except that where, at a European Parliamentary general election, any proceedings are commenced afresh by reason of a candidate's death, paragraph (b), not (a), shall apply.

### **Grant or refusal of applications**

9.—(1) Where the registration officer grants an application under regulation 8, 9, 10 or 11, he shall, where practicable, notify the applicant of his decision.

(2) Where the registration officer grants an application for the appointment of a proxy, he shall confirm in writing to the elector that the proxy has been appointed, his name and address, and the duration of the appointment.

(3) The proxy paper to be issued by the registration officer on the appointment of a proxy shall be in Form E in the Appendix.

(4) Where the registration officer refuses an application under regulation 8, 9, 10 or 11, he shall notify the applicant of his decision and, in the case of an application under regulation 8(1) or 11(4), of the reasons for it; and he shall date such a notification.

(5) Where under paragraph 8(1) or (4) above the registration officer disregards an application for the purposes of a particular election, he shall, where practicable, notify the applicant of this.

### **Notice of appeal**

10.—(1) A person desiring to appeal under regulation 22(1) against the decision of a registration officer must give notice of the appeal to the registration officer within 14 days of the receipt of the notice given under paragraph 9(4) above specifying the grounds of appeal.

(2) The registration officer shall forward any such notice to the appropriate county court together in each case with a statement of the material facts which in his opinion have been established in the case, of his decision upon the whole case and on any point which may be specified as a ground of appeal.

(3) Where it appears to the registration officer that any notices of appeal given to him are based on similar grounds, he shall inform the county court of this to enable the court (if it thinks fit) to consolidate the appeals or select a case as a test case.

### **Cancellation of proxy appointment**

11. Where the appointment of a proxy is cancelled by notice given to the registration officer under regulation 10(9) or ceases to be in force under that provision or is no longer in force under regulation 10(10)(b), the registration officer shall—

- (a) notify the person whose appointment as proxy has been cancelled, expired, ceases to be or is no longer in force, unless the registration officer has previously been notified by that person that he no longer wishes to act as proxy, and

- (b) remove his name from the record kept under regulation 8(5)(b).

#### **Inquiries by registration officer**

**12.**—(1) The registration officer may, at such times as he thinks fit, make inquiries of a person who is shown in the record kept under regulation 8(5) by virtue of an application under that regulation on the grounds set out in sub-paragraph (b) or (c) of regulation 8(4).

(2) In the case of a person who is shown in the record kept under regulation 8(5) by virtue of an application under that regulation on the grounds set out in regulation 8(4)(c), the registration officer shall make the inquiries referred to in sub-paragraph (1) above not later than three years after the granting of the application or the last such inquiries, as the case may be.

(3) The registration officer may treat the failure by a person of whom inquiries have been made to respond to such inquiries within one month of the date on which they were made as sufficient evidence of a material change in circumstances.

#### **Records and lists kept under regulations 8, 9 and 11**

**13.**—(1) The registration officer shall, on request, supply free of charge a copy of the list kept under regulations 9(6) and 11(8) to each candidate at a European Parliamentary election or his election agent.

(2) The registration officer shall make available for inspection at his office a copy of the records kept under regulations 8(5) and 11(5).

(3) As soon as practicable after the sixth day before the day of the poll (calculated in accordance with paragraph 8(5) above) the registration officer shall publish the lists kept under regulations 9(6) and 11(8) by making a copy of them available for inspection at his office.

#### **Marked register for polling stations**

**14.** To indicate that an elector or his proxy is entitled to vote by post and is for that reason not entitled to vote in person, the letter “A” shall be placed against the name of that elector in any copy of the register, or part of it, provided for a polling station.