

EXPLANATORY MEMORANDUM TO
THE REPRESENTATION OF THE PEOPLE (AMENDMENT) REGULATIONS 2009

2009 No.

1. This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations amend provisions relating to the registration of overseas peers for European Parliamentary elections in order to reflect recent changes to electoral law. They also make minor changes in respect of applications for anonymous entries in the electoral register, and make provision for a copy of the full electoral register to be supplied to the Statistics Board.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

Registration of European Parliamentary overseas electors

4.1 Section 3 of the Representation of the People Act 1985 (“the 1985 Act”) provides for peers who are not resident in the United Kingdom to vote at European Parliamentary elections. Regulation 13 of, and Schedule 4 to, the Representation of the People (England and Wales) Regulations 2001 (“the 2001 Regulations”) applies certain provisions of electoral law for the purpose of registration of this category of elector. Equivalent provisions in respect of Scotland are in regulation 13 of, and Schedule 4 to, the Representation of the People (Scotland) Regulations 2001 (“the 2001 Scotland Regulations”).

Anonymous registration

4.2 The procedure for applying for an anonymous entry in the electoral register is set out in regulations 31G to 31J of the 2001 Regulations and the 2001 Scotland Regulations. An application must be accompanied by a relevant court order or injunction or an attestation made by a qualifying officer that the safety of the applicant, or another person in the applicant’s household, would be at risk if the register contained the applicant’s name or address.

Supply of the full electoral register

4.3 Regulation 99 of the 2001 Regulations, and regulation 98 of the 2001 Scotland Regulations, provide for the supply of a free copy of the full electoral register to the Office for National Statistics.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

The Minister, Michael Wills, has made the following statement regarding Human Rights:

In my view the provisions of the Representation of the People (Amendment) Regulations 2009 are compatible with the Convention rights.

7. Policy background

Registration of European Parliamentary overseas electors

7.1 There have been a number of changes to the system of registration of parliamentary and local government electors since 2001. Provisions in the 2001 Regulations and the 2001 Scotland Regulations have not been updated to reflect these changes as they apply to the registration of overseas peers for the purpose of voting at European Parliamentary elections. In particular, the effect of section 3(4A) of the 1985 Act, as inserted by the Electoral Administration Act 2006, is that an overseas peer who has an anonymous entry in the register of local government electors will not satisfy the conditions of entitlement to vote at European Parliamentary elections. Accordingly, these regulations modify the application to this category of elector of certain legislative provisions to omit references to anonymous entries. Other minor amendments are made to ensure that the legislative framework for the registration of overseas peers is internally consistent.

Anonymous registration

7.2 These Regulations add relevant court orders and injunctions made under Northern Ireland legislation as evidence that may be submitted in support of an application for anonymous registration. Currently a person who has obtained a harassment order in Northern Ireland cannot use that order as evidence in support of an application for anonymous registration in England, Wales, or Scotland. The amendment will enable, for example, an individual moving from Northern Ireland to an address in Great Britain to apply for anonymous registration and to submit the Northern Ireland order as evidence.

7.3 These Regulations also amend who constitutes a qualifying officer for the purpose of signing an attestation in support of a person's application for anonymous registration. The amendment widens the category of qualifying officers to include police officers of the rank of superintendent and above. The Association of Chief Police Officers, the Electoral Commission, devolved Governments and the Association of Electoral Administrators support this change. It is designed to give applicants for anonymous registration better access to a qualifying officer within a police force, who in most circumstances will now be at their local police station.

7.4 The effect of the current regulations in England and Wales is that an attestation signed by a director of adult social services or children's services in England can only be used in support of an application for anonymous registration in England, and an attestation signed by a director of social services in Wales is

only able to be used in support of an application made in Wales. Furthermore, equivalent office-holders in Scotland and Northern Ireland are not included as qualifying officers. The amendment made by these Regulations will ensure that an attestation signed by any director of social services in England or Wales can be submitted in support of an application for anonymous registration anywhere in England or Wales. It also includes any chief social work officer in Scotland within the meaning of qualifying officer. The amendment will make the 2001 Regulations consistent with the current 2001 Scotland Regulations in this respect.

- 7.5 The Regulations also amend both the 2001 Regulations and the 2001 Scotland Regulations to include within the meaning of qualifying officer any director of social services of a Northern Ireland Health and Social Services Board, and any executive director of social work of a Northern Ireland Health and Social Services Trust.

Supply of the full electoral register

- 7.6 By virtue of the Statistics and Registration Service Act 2007, the statistical functions of the Office for National Statistics are now carried out by the Statistics Board. These Regulations therefore make a minor amendment to the 2001 Regulations and the 2001 Scotland Regulations to provide that a free copy of the full electoral register must be supplied to the Statistics Board, instead of the Office for National Statistics.

8. Consultation outcome

- 8.1 The Electoral Commission has been consulted about these Regulations and is supportive of the changes made to the list of qualifying officers, as it will make the anonymous registration application process more accessible for the public. It is also content with the changes made in respect of registration arrangements of overseas peers for the European Parliamentary elections and the changes allowing the electoral register to be supplied to the UK Statistics Board.
- 8.2 The Regulations have been developed in partnership with the Northern Ireland Office and the Scotland Office, who agree they are necessary and beneficial to both administrators and the general public.

9. Guidance

- 9.1 The Electoral Commission plans to issue a circular to registration officers about the changes made by these Regulations. Replacement pages for guidance manuals held by registration officers will also be issued on the day the new Regulations come into force.
- 9.2 The Commission also intends to update their anonymous registration application form with revised information and instructions so members of the public understand how the process works and what steps they must take.
- 9.3 In relation to changes to qualifying officers for anonymous registration, the Ministry of Justice will notify relevant organisations, including the Association of Chief Police Officers, the Association of Directors of Adult Services and the Association of Directors of Children's Services.

10. Impact

10.1 An Impact Assessment has not been prepared for this instrument because no impact on the private or voluntary sector is foreseen.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Regulations will be kept under review by liaising with the Electoral Commission, the Association of Electoral Administrators and those organisations representing qualifying officers named in legislation. The effectiveness of the Regulations will also be monitored to ensure that policy intent is being achieved.

13. Contact

Clyde Murray at the Ministry of Justice, Tel 020 3334 3864: email: clyde.murray@justice.gsi.gov.uk can answer any queries regarding the instrument.

