

These notes refer to the European Parliamentary Elections Act 1999 (c.1) which received Royal Assent on 14 January 1999

EUROPEAN PARLIAMENTARY ELECTIONS ACT 1999

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 2: Minor and Consequential Amendments of Schedule 1 to the European Parliamentary Elections Act 1978

32. This Schedule amends the existing Schedule 1 to the European Parliamentary Elections Act 1978.
33. *Paragraph 2* replaces the existing title of Schedule 1 to the European Parliamentary Elections Act 1978 with the new title "System of Elections &c".
34. *Paragraph 3* removes paragraph 1 of Schedule 1 to the 1978 Act.
35. *Paragraph 4* removes paragraphs 2(1) and (2) of Schedule 1 to the 1978 Act, as substituted by section 1 of the present Act and Schedule 1 to that Act respectively.
 - Paragraph 2(1) concerned those who may be permitted to vote in elections to the European Parliament and is superseded by the new section 3C of the 1978 Act substituted by section 1 of the present Act.
 - Paragraph 2(2) concerned the electoral system in Northern Ireland. It is replaced by identical provisions in the new section 3A of the 1978 Act substituted by section 1 of the present Act.
36. *Paragraph 5* removes the reference to the registration of electors and limitations of candidates' expenses in paragraph 2(3)(a) of Schedule 1 to the European Parliamentary Elections Act 1978 (which deals with the power of the Secretary of State to make regulations). Limitation of candidates' expenses (and parties' expenses) is henceforth dealt with by the new paragraph 2(3A) inserted by paragraph 6 of this Schedule. The reference to registration of electors included in the 1978 Act has never been used and is not needed.
37. *Paragraph 6* inserts two new sub-paragraphs into paragraph 2 of Schedule 1 to the 1978 Act.
 - New sub-paragraph (3A) permits the Secretary of State to make regulations to:
 - limit election expenses (including expenses incurred in relation to the election as a whole);
 - allocate seats in the event of tied votes; and
 - prevent people from standing more than once at a European Parliamentary general election. A person is considered to be standing for election if nominated as an individual candidate or included in a list of candidates submitted by a party.

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38. New sub-paragraph (3B) requires regulations made under paragraph 3 to allow registered political parties to be nominated for an election in electoral regions in Great Britain. Such nominations should be accompanied by a list of candidates containing no more names than there are seats to be filled in the region.
39. *Paragraph 7* removes paragraph 2(4)(c) of Schedule 1 to the 1978 Act which permitted regulations to be made to amend provisions relating to the registration of Parliamentary and local government electors. This power in the 1978 Act has never been used and is not needed.
40. *Paragraph 8* replaces paragraph 3 of Schedule 1 to the 1978 Act which dealt with the timing of general elections and by-elections to the European Parliament and with the circumstances in which a by-election is to be held.
41. The timing of general elections is now covered by new section 3D of the 1978 Act inserted by section 1 of the present Act. Paragraph 8 creates a new paragraph 3 in Schedule 1 of the 1978 Act to deal with vacancies. It provides that regulations made by virtue of paragraph 2 of Schedule 1 to the European Parliamentary Elections Act 1978:
 - shall prescribe the procedure to be followed when a seat is or becomes vacant;
 - may include provisions requiring a by-election to be held in certain circumstances and may provide for consequential modifications to the provisions in section 3 of the 1978 Act (the revised form of which is inserted by section 1 of the present Act) concerning the electoral system; and
 - may also require that when a seat which was filled by a candidate from a party list becomes vacant it should, in specified circumstances, be filled from the list without a by-election.
42. It is the Government's intention that when a seat becomes vacant as the result of the death or resignation of a candidate originally elected on a party list, it should be filled by drawing the next eligible and willing person from that list. Where the list has been exhausted or where the vacancy arises as a result of the death or resignation of an individual candidate, a by-election will be held.
43. New paragraph 3(3) provides that where the regulations provide for a by-election to be held, it will take place within the period specified in the regulations and on a day specified in an order made by the Secretary of State. However, the regulations may also allow the Secretary of State not to set a day for a by-election in certain circumstances # for example, if the next general European Parliamentary election is imminent.
44. New paragraph 3(4) provides that an order made by the Secretary of State setting a date for a by-election shall be laid before Parliament after it has been made.
45. *Paragraph 9* replaces paragraph 4 of Schedule 1 to the European Parliamentary Elections Act 1978 (which dealt with returning officers and their staff). The new paragraph 4 provides that each electoral region will have a returning officer. He or she will be designated for the purpose by order of the Secretary of State in England, Scotland and Wales. In Northern Ireland the returning officer will be the Chief Electoral Officer.
 - New paragraph 4(2) allows regulations made under paragraph 2 of Schedule 1 of the 1978 Act to confer functions relating to the conduct and administration of the elections on returning officers for European Parliamentary electoral regions and on those who serve as acting returning officers and (in Scotland) returning officers for Parliamentary elections.
 - New paragraph 4(3) requires councils in relevant areas to place their staff at the disposal of returning officers and acting returning officers to enable them to perform their functions. New paragraph 4(4) defines "relevant area" as a district or London borough in England, a county or county borough in Wales and a local government area in Scotland.

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46. *Paragraph 10* updates paragraph 5 of Schedule 1 to the 1978 Act (which deals with disqualification from office). It replaces all the references to "representative to" the European Parliament with "Member of" the European Parliament and all references to European Parliamentary "constituencies" with references to "electoral regions".
47. It also replaces sub-paragraph (4) which deals with the position of those who are disqualified from serving as MEPs. If anyone returned as an MEP is subsequently disqualified either from being an MEP or from being an MEP for the region for which he has been returned, his return shall be void and the seat shall be vacant. This applies whether the MEP was returned at a general election or as the result of a casual vacancy.
48. *Paragraph 11* amends paragraph 6 of Schedule 1 to the 1978 Act, which is concerned with judicial proceedings relating to the allegation that an MEP is legally disqualified from holding such an office. It:
 - increases from £200 to £5,000 the maximum amount that the court may direct that any person bringing such a case must lodge with the court for security, to cover the costs of such proceedings (the figure of £200 dates back to at least 1957, whereas the corresponding sum for parliamentary election challenges is £5,000);
 - replaces each reference to a European Parliamentary "constituency" with a reference to an "electoral region";
 - replaces each reference to a "representative to" the European Parliament with a reference to a "Member of" the European Parliament.
49. *Paragraph 11* also inserts two new sub-paragraphs in paragraph 6 of Schedule 1 to the 1978 Act. These enable the Secretary of State to make an order changing the maximum amount that must be lodged with the court for security when such a challenge is made. The orders are subject to the negative resolution procedure.