



Electoral Administration Act 2006

2006 CHAPTER 22

PART 6

CONDUCT OF ELECTIONS ETC.

Access to election documents

41 Control of documents after parliamentary election

- (1) Schedule 1 to the 1983 Act (parliamentary elections rules) is amended in accordance with subsections (2) to (7).
- (2) In the heading to rule 55 (delivery of documents after poll) for “Clerk of the Crown” substitute “registration officer”.⁴⁷
- (3) In that rule—
 - (a) in paragraph (1) for “Clerk of the Crown” substitute “relevant registration officer”;
 - (b) after paragraph (1) insert—

“(1A) In this rule and in rules 56 and 57 references to the relevant registration officer are to—

 - (a) the registration officer of the local authority in whose area the constituency is situated, or
 - (b) if the constituency comprises any part of the area of more than one local authority, the registration officer of the local authority in whose area the greater or greatest (as the case may be) number of electors is registered.”;
 - (c) omit paragraphs (2) to (4).
- (4) In rule 56 (orders for production of documents)—
 - (a) in each of paragraphs (1), (6) and (8) for “Clerk of the Crown” substitute “relevant registration officer”;

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- (b) in paragraph (2) for “Clerk of the Crown's” substitute “relevant registration officer's”;
- (5) In rule 57 (retention and public inspection of documents)—
- (a) in paragraph (1) for “Clerk of the Crown” substitute “relevant registration officer”;
 - (b) for paragraph (3) substitute—
 - “(3) The relevant registration officer or the Chief Electoral Officer for Northern Ireland (as the case may be) must, on request, supply to any person copies of or extracts from such description of the documents open to public inspection as is prescribed by regulations.”;
 - (c) after paragraph (3) insert—
 - “(4) Each of the following must, on request, be supplied with a copy of the marked copies of the register, the postal voters list, the list of proxies and the proxy postal voters list—
 - (a) a registered party within the meaning of Part 2 of the Political Parties, Elections and Referendums Act 2000;
 - (b) a person who was a candidate at the election in relation to the constituency for which he was a candidate.
 - (5) Regulations may impose conditions in relation to—
 - (a) the inspection of any document in pursuance of paragraph (2);
 - (b) the supply of any document or part of a document in pursuance of paragraph (3);
 - (c) the supply of any document or part of a document in pursuance of paragraph (4).
 - (6) Regulations may also make provision—
 - (a) as to the form in which any such document or part is supplied;
 - (b) for the payment of a fee in respect of the supply of a document or part.
 - (7) Conditions which may be imposed for the purposes of paragraph (5)(a) or (b) include conditions as to—
 - (a) whether a person may take any copy of a document he is permitted to inspect;
 - (b) the manner in which any such copy is to be taken;
 - (c) the purposes for which information contained in any document or part of a document which is inspected or supplied in pursuance of paragraph (2) or (3) may be used.
 - (8) Conditions which may be imposed for the purposes of paragraph (5)(b) or (c) include conditions as to the extent to which a person to whom a document or part of a document has been supplied may—
 - (a) supply that document or part to any other person;

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- (b) disclose to any other person any information contained in the document or part;
 - (c) use any such information for a purpose other than that for which the document or part was supplied to him.
 - (9) Regulations may also impose conditions corresponding to those mentioned in paragraph (8) in respect of persons who have obtained a document or part of a document mentioned in paragraph (4)—
 - (a) which was supplied to another person in pursuance of paragraph (4), or
 - (b) otherwise than in accordance with regulations under this section.”
- (6) For rule 58 (documents in Scotland) substitute—
 - “58 (1) In the application of rules 55 to 57 to elections in Scotland, the references to the relevant registration officer shall be taken to be references to the relevant sheriff clerk.
 - (2) For the purposes of rule 55 as it applies to elections in Scotland—
 - (a) the documents to be forwarded in accordance with that rule may be forwarded by being—
 - (i) delivered to the relevant sheriff clerk by the returning officer or his agent, or
 - (ii) sent to the relevant sheriff clerk by recorded delivery post,
 - (b) on forwarding the documents, the returning officer must deliver or send to the relevant sheriff clerk along with the documents a letter specifying the number and descriptions of the documents forwarded, and
 - (c) where the documents are forwarded by delivery under subparagraph (a)(i) above, the relevant sheriff clerk must, on receipt of the documents, provide the person delivering them with a signed receipt showing the date and time of receipt.
 - (3) In this rule, “relevant sheriff clerk” means—
 - (a) the sheriff clerk of the sheriff court district in which the constituency is situated, or
 - (b) if the constituency comprises any part of the area of more than one sheriff court district, the sheriff clerk of such one of those districts as the Secretary of State may by order appoint.”
- (7) For rule 59 (documents in Northern Ireland) substitute—
 - “59 In the application of rules 55 to 57 to elections for a constituency in Northern Ireland, the references to the relevant registration officer shall be taken to be references to the Clerk of the Crown for Northern Ireland.”
- (8) In section 63 of that Act (breach of official duty), in subsection (3)(c) after “responsible after a” insert “parliamentary or”.
- (9) After section 66A of that Act (prohibition on publication of exit polls) insert—

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“66B Failure to comply with conditions relating to supply etc. of certain documents

- (1) A person is guilty of an offence—
 - (a) if he fails to comply with any conditions imposed in pursuance of regulations under rule 57 of the parliamentary elections rules, or
 - (b) if he is an appropriate supervisor of a person (P) who fails to comply with such a condition and he failed to take appropriate steps.
- (2) P is not guilty of an offence under subsection (1) if—
 - (a) he has an appropriate supervisor, and
 - (b) he has complied with all the requirements imposed on him by his appropriate supervisor.
- (3) A person who is not P or an appropriate supervisor is not guilty of an offence under subsection (1) if he takes all reasonable steps to ensure that he complies with the conditions.
- (4) In subsections (1)(b) and (2)—
 - (a) an appropriate supervisor is a person who is a director of a company or concerned in the management of an organisation in which P is employed or under whose direction or control P is;
 - (b) appropriate steps are such steps as it was reasonable for the appropriate supervisor to take to secure the operation of procedures designed to prevent, so far as reasonably practicable, the occurrence of a failure to comply with the conditions.
- (5) A person guilty of an offence as mentioned in subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.”

42 Access to other election documents

- (1) The relevant officer must—
 - (a) make relevant election documents available for inspection by members of the public;
 - (b) supply, on request, copies of or extracts from such description of relevant election documents as is prescribed by regulations.
- (2) In the case of an election other than a parliamentary election, a local government election in Scotland or a local election in Northern Ireland, each of the following must, on request, be supplied with a copy of the marked copies of the register, the postal voters list, the list of proxies and the proxy postal voters list—
 - (a) a registered party;
 - (b) a person who was a candidate at the election in relation to the electoral area for which he was a candidate;
 - (c) in the case of an election at which a registered party submits a list of candidates, a person who was appointed as an agent for the candidates on the party’s list.
- (3) The Secretary of State may by regulations impose conditions in relation to—
 - (a) the inspection of any document in pursuance of subsection (1)(a);

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- (b) the supply of any document or part of a document in pursuance of subsection (1)(b);
 - (c) the supply of any document or part of a document in pursuance of subsection (2).
- (4) Regulations may also make provision—
- (a) as to the form in which any such document or part is supplied;
 - (b) for the payment of a fee in respect of the supply of a document or part.
- (5) Conditions which may be imposed for the purposes of subsection (3)(a) or (b) include conditions as to—
- (a) whether a person may take any copy of a document he is permitted to inspect;
 - (b) the manner in which any such copy is to be taken;
 - (c) the purposes for which information contained in any document or part of a document which is inspected or supplied in pursuance of subsection (1) may be used.
- (6) Conditions which may be imposed for the purposes of subsection (3)(b) or (c) include conditions as to the extent to which a person to whom a document or part of a document has been supplied may—
- (a) supply that document or part to any other person;
 - (b) disclose to any other person any information contained in the document or part;
 - (c) use any such information for a purpose other than that for which the document or part was supplied to him.
- (7) Regulations may also impose conditions corresponding to those mentioned in subsection (6) in respect of persons who have obtained a document or part of a document mentioned in subsection (2)—
- (a) which was supplied to another person in pursuance of subsection (2), or
 - (b) otherwise than in accordance with regulations under this section.
- (8) The power to make regulations under this section—
- (a) is exercisable by the Secretary of State by statutory instrument;
 - (b) includes power to make different provision for different purposes.
- (9) The Secretary of State must not make regulations under this section unless he first consults the Electoral Commission.
- (10) No regulations may be made under this section unless a draft of the statutory instrument containing the regulations has been laid before, and approved by resolution of, each House of Parliament.

43 Access to other election documents: contravention of regulations

- (1) A person is guilty of an offence—
- (a) if he fails to comply with any conditions imposed in pursuance of regulations under section 42, or
 - (b) if he is an appropriate supervisor of a person (P) who fails to comply with such a condition and he failed to take appropriate steps.
- (2) P is not guilty of an offence under subsection (1) if—

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- (a) he has an appropriate supervisor, and
 - (b) he has complied with all the requirements imposed on him by his appropriate supervisor.
- (3) A person who is not P or an appropriate supervisor is not guilty of an offence under subsection (1) if he takes all reasonable steps to ensure that he complies with the conditions.
- (4) In subsections (1)(b) and (2)—
- (a) an appropriate supervisor is a person who is a director of a company or concerned in the management of an organisation in which P is employed or under whose direction or control P is;
 - (b) appropriate steps are such steps as it was reasonable for the appropriate supervisor to take to secure the operation of procedures designed to prevent, so far as reasonably practicable, the occurrence of a failure to comply with the conditions.
- (5) A person guilty of an offence as mentioned in subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

44 Access to other election documents: supplementary

- (1) This section applies for the purposes of section 42.
- (2) The relevant officer is—
- (a) in England and Wales, the relevant registration officer;
 - (b) in Scotland, the relevant sheriff clerk;
 - (c) in Northern Ireland, the Chief Electoral Officer for Northern Ireland.
- (3) The relevant registration officer is—
- (a) the registration officer of the local authority in whose area the election is held, or
 - (b) if the election is held in respect of an electoral area which comprises any part of the area of more than one local authority, such registration officer as the Secretary of State by order appoints.
- (4) The relevant sheriff clerk is—
- (a) the sheriff clerk of the sheriff court district in which the election is held, or
 - (b) if the election is held in respect of an electoral area which comprises any part of the area of more than one sheriff court district, the sheriff clerk of such of those districts as the Secretary of State by order appoints.
- (5) The relevant election documents are such documents relating to an election (other than a parliamentary election, a local government election in Scotland or a local election in Northern Ireland) as the relevant officer is required by or under any enactment to retain for any period except—
- (a) ballot papers;
 - (b) completed corresponding number lists;
 - (c) certificates as to employment on the day of the election.
- (6) A party is a registered party if it is registered for the purposes of Part 2 of the 2000 Act (registration of political parties).

- (7) An electoral area is—
- (a) in relation to a local government election, an electoral area within the meaning of section 203(1) of the 1983 Act;
 - (b) in relation to an election to the National Assembly for Wales, an Assembly constituency or an Assembly electoral region within the meaning of section 2(2) of the Government of Wales Act 1998 (c. 38) (Assembly constituencies and Assembly regions);
 - (c) in relation to an election to the Scottish Parliament, a constituency or a region within the meaning of Schedule 1 to the Scotland Act 1998 (c. 46) (constituencies, regions and regional members);
 - (d) in relation to an election to the Northern Ireland Assembly, a constituency for the purposes of section 33 of the Northern Ireland Act 1998 (c. 47) (constituencies and numbers of members);
 - (e) in relation to an election to the European Parliament, an electoral region within the meaning of section 1 of the European Parliamentary Elections Act 2002 (c. 24) (electoral regions and number of MEPs).
- (8) The marked register is the copy of the register of electors marked in accordance with provision corresponding to rule 37(1)(c) of the parliamentary elections rules.
- (9) A marked copy of the list of proxies is the copy of that list marked in accordance with provision corresponding to rule 37(1)(e) of the parliamentary elections rules.
- (10) A marked copy of the postal voters list or the proxy postal voters list is the copy of that list marked in accordance with provision corresponding to rule 31A(1) of the parliamentary elections rules.
- (11) A completed corresponding number list is a list prepared under provision corresponding to rule 19A of the parliamentary elections rules which is completed in accordance with provision corresponding to rule 37(1)(b) and (d) of those rules.
- (12) Expressions used in this section or section 42 or 43 and in the 1983 Act must (unless the context otherwise requires) be construed in accordance with that Act.

45 Marked postal voters list

- (1) Schedule 1 to the 1983 Act (parliamentary elections rules) is amended as follows.
- (2) After rule 31 (notification of requirement of secrecy) insert—

“Return of postal ballot papers

31A (1) Where—

- (a) a postal vote has been returned in respect of a person who is entered on the postal voters list, or
- (b) a proxy postal vote has been returned in respect of a proxy who is entered on the proxy postal voters list,

the returning officer must mark the list in the prescribed manner.

- (2) For the purposes of paragraph (1) above, regulations may prescribe the circumstances in which a postal vote or a proxy postal vote (as the case may be) is or is not to be treated as having been returned.

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(3) Rule 45(1B) and (2) below does not apply for the purpose of determining whether, for the purposes of this rule, a postal vote or a proxy postal vote is returned.”

(3) In rule 55 (delivery of documents after poll)—

- (a) in paragraph (1)(e) for “of lists of proxies” substitute “of the postal voters list, of lists of proxies and of the proxy postal voters list”;
- (b) after paragraph (1)(e) insert—
 - “(f) such other documents relating to elections as are prescribed,”.