



EXPLANATORY NOTES

Electoral Registration and Administration Act 2013

Chapter 6

£5.75

ELECTORAL REGISTRATION AND ADMINISTRATION ACT 2013

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes relate to the Electoral Registration and Administration Act 2013, which received Royal Assent on 31 January 2013. They have been prepared by the Cabinet Office in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.

2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

BACKGROUND AND SUMMARY

3. In the programme for Government (available at <http://cabinetoffice.gov.uk/news/coalition-documents>) the Government committed to an individual electoral registration system that would:

“Reduce electoral fraud by speeding up the implementation of individual voter registration.”

4. In June 2011 the Government published a White Paper and draft legislation on Individual Electoral Registration (Cm 8108); this can be found at <http://www.cabinetoffice.gov.uk/resource-library/individual-electoral-registration-draft-bill>. A public consultation was held on the proposals and the Political and Constitutional Reform Committee (PCRC) carried out pre-legislative scrutiny. Also, in July and September 2011, the Government published draft legislation in relation to certain provisions concerning the administration and conduct of elections for pre-legislative scrutiny by the PCRC (Cm 8150 and Cm 8177), which can be found at <http://www.cabinetoffice.gov.uk/resource-library/draft-electoral-administration-provisions>, and <http://www.cabinetoffice.gov.uk/resource-library/electoral-administration-provision>. The Government responded to the PCRC report and the public consultation in February 2012 (Cm 8245); this can be found at <http://www.cabinetoffice.gov.uk/resource-library/ier-command-paper>.

5. The House of Lords Delegated Powers and Regulatory Reform Committee and Constitution Committee scrutinised the Bill and published reports on it during Summer 2012. The Government published an implementation plan in July 2012 and three tranches of proposed draft secondary legislation. The implementation plan can be found at <http://www.cabinetoffice.gov.uk/resource-library/transition-individual-electoral-registration> and the final publication of proposed draft secondary legislation published during passage of

the Bill can be found at <http://www.cabinetoffice.gov.uk/resource-library/individual-electoral-registration-draft-secondary-legislation>.

6. In summary the sections and Schedules in Part 1 of the Act relating to Individual Electoral Registration:

- Provide that each elector must apply individually to be registered to vote after the transition to the new system.
- Make transitional arrangements over two or three years, including using data matching to verify entries, and providing for the ‘carry forward’ of electors who are not automatically verified and fail to register under the new system in the first year, so that they remain on the first register published under the new system (likely to be the register used for the 2015 general election).
- Create a legislative framework to allow alternative channels for registration, such as online registration, to be offered.
- Provide for the use of data matching to verify applications, check existing entries in registers and find individuals who do not currently appear on the register.
- Make provision for an annual canvass which is compatible with the new registration system and provide a power to amend or abolish the annual canvass in future, subject to a report by the Electoral Commission and an order requiring the approval by a resolution of each House of Parliament.
- Ensure that all those wishing to vote by post or proxy will need to be registered under the new registration system to utilise these voting methods after the first annual canvass under the new system.
- Introduce a civil penalty for those who fail to make an application when required to do so by an Electoral Registration Officer (“ERO”).

7. Section 6 amends the Parliamentary Constituencies Act 1986 so that the first review of UK Parliamentary constituency boundaries conducted under that Act, as amended by the Parliamentary Voting System and Constituencies Act 2011, is to be carried out in 2018 instead of 2013.

8. The Act also includes provisions in Part 2 in relation to the administration and conduct of elections, a number of which were published for pre-legislative scrutiny by the PCRC (as explained at paragraph 4). The provisions in the Act are intended to improve the way elections are run, increase voter participation, and further improve the integrity and robustness of the electoral system. In summary the sections relating to the administration and conduct of elections:

- Extend the electoral timetable for UK Parliamentary elections from 17 to 25 working days which will also have the consequence of altering a number of the deadlines within the timetable (in particular the date for delivery of nominations) which are fixed to the start of the electoral timetable. This will allow more time for the postal vote process and facilitate the administration of elections more generally.
- Provide for there to be two interim publication dates at UK Parliamentary elections and other specified polls, where an election is pending, on which notices of alteration to the electoral register must be published.

- As a consequence of an extended electoral timetable, move the deadline for appointing polling and counting agents at UK Parliamentary elections from 2 to 5 days before polling day.
- Make changes to the timing of polling place reviews in Great Britain to bring them in line with the five year Parliamentary terms established by the Fixed-term Parliaments Act 2011, and the five year cycle for UK Parliamentary boundary reviews implemented by the Parliamentary Voting System and Constituencies Act 2011.
- Allow voters queuing at a polling station by the close of poll to be issued with ballot papers and vote despite the time of close of poll then passing.
- Address an oversight in existing legislation to enable a UK Parliamentary election candidate jointly nominated by two or more registered political parties to use, on the ballot paper, an emblem registered by one of the nominating parties.
- Allow Police Community Support Officers to enter polling stations (as police constables can currently).
- Remove the automatic postponement of parish and community council elections in England and Wales that currently occurs when a Parliamentary or European Parliamentary general election falls on the ordinary day for local government elections.
- Enable regulations to be made to place EROs under a duty to give notifications about rejected postal votes, and specify the circumstances where this duty arises. It is proposed that the regulations place EROs under a duty, after an election, to inform electors whose postal votes have been rejected because the postal vote identifiers (that is, signature and date of birth) did not match those stored on record for that elector. This will help voters who submit their postal ballot packs in good faith to avoid their vote being rejected at successive elections.
- Provide that the Secretary of State may, upon a recommendation from the Electoral Commission, withhold or reduce a Returning Officer's fee for reasons of poor performance. Returning Officers' fees and the expenses they incur in running UK Parliamentary and European Parliamentary elections are met by the Government out of the Consolidated Fund.

TERRITORIAL EXTENT

9. The Act extends to England and Wales, Scotland and Northern Ireland - in a technical sense it is law in all parts of the United Kingdom (with the exception of some amendments to other Acts which have the same territorial extent as the provisions amended). However, the majority of the provisions in the Act relating to Individual Electoral Registration apply only to Great Britain.

10. The principal subject matter of Part 1 of the Act (electoral registration) is reserved to the Westminster Parliament. However, the provision at section 3 relating to eligibility to be appointed as (and to vote as) a proxy, and the provisions in Parts 4 to 6 of Schedule 5 relating to entitlement to vote by post and proxy during the transitional period, are within the legislative competence of the Scottish Parliament to the extent that they relate to local government elections in Scotland.

11. The provisions which relate to emblems for candidates jointly nominated by two or more registered parties at a UK Parliamentary election will apply throughout the UK.

12. The provisions which extend the electoral timetable for UK Parliamentary elections (including moving the deadline for appointing polling and counting agents from 2 to 5 days before polling day) will apply throughout the UK with the exception of the additional register updates in the run-up to a poll (section 16) which will apply only to Great Britain. Those on queuing at close of poll extend throughout the UK.

13. The provisions relating to polling place reviews and the payment of fees to Returning Officers and that which relates to the notification by an ERO about a failed postal vote, will both apply to Great Britain only.

14. The provision that permits Police Community Support Officers to enter polling stations, and attend counts under the same conditions as police constables, and the provision relating to parish and community council elections, both apply to England and Wales only.

COMMENTARY ON SECTIONS

Part 1 Individual Electoral Registration in Great Britain

Section 1: Individual registration

15. *Subsection (1)* inserts a new section into the Representation of the People Act 1983 (“the 1983 Act”) which specifies when a registration officer must enter a person in an electoral register under the new system of individual electoral registration in Great Britain. An application must have been made which meets the prescribed requirements, it must appear to the registration officer that the person is entitled to be registered and that the application is made by that person. It must therefore appear to the registration officer that an applicant is who they claim to be and that such a person exists. Regulations may be made to provide further detail as to the procedure for determining applications.

16. *Subsection (2)* gives effect to Schedule 1. Schedule 1 contains new sections in the 1983 Act dealing with the new arrangements for amendments to registrations and removals of entries from registers in consequence of the new registration system in Great Britain.

17. *Subsection (3) and (4)* stipulate that registration officers must have regard to any guidance given by the Minister (the Lord President of the Council or the Secretary of State) about determining applications to register, and that this guidance may cover the process for determining whether the conditions outlined in *subsection (1)* have been met.

18. *Subsection (5)* provides that the requirement for registration officers to have regard to guidance about determining applications to register will cease 5 years after coming into force. This provision is included because after five years the new registration system, and the process for determining applications, is likely to have reached a steady state and guidance will no longer be necessary.

Section 2: Verification of entitlement etc

19. *Section 2* amends Schedule 2 to the 1983 Act to enable the Minister to make regulations which will enable a system to be established for the verification of the eligibility of applicants and registered electors in Great Britain, and verification that applicants are the person they claim to be.

20. *Subsection (2)* inserts new sub-paragraphs in Schedule 2 which require secondary legislation authorising or requiring registration officers to require an applicant or a registered elector to provide evidence of eligibility and evidence that an applicant is the person named in the application to specify the type of evidence to be provided.

21. *Subsection (3)* inserts a new paragraph in Schedule 2 to enable secondary legislation to specify the form and contents of applications and declarations, and to require a person applying to register to vote to provide evidence that he or she is the person named in the application and that he or she is entitled to be registered. The required evidence must be specified in regulations, and such evidence may for example include a person's date of birth and national insurance number. *Subsection (3)* also enables secondary legislation to confer functions on registration officers and local or public authorities to enable voter applications to be made in a particular manner. Other functions may be conferred on registration officers and functions may also be conferred on the Electoral Commission.

22. *Subsection (4)* inserts a new paragraph in Schedule 2 to permit or require registration officers to accept a person's statement of a fact without further evidence of it.

Section 3: Proxies to be registered electors

23. *Section 3* amends Schedule 4 to the Representation of the People Act 2000 by substituting new requirements concerning eligibility for appointment as a proxy so that a person must themselves be registered if they are to vote on behalf of an elector at either local government or Parliamentary elections in Great Britain. Currently the requirement is, broadly, that the person to be appointed as a proxy must be eligible to register to vote. The new provision has the effect of applying the verification requirements of a system of individual electoral registration (whether the new system in Great Britain or the existing system in Northern Ireland) to a proxy who votes on behalf of an elector as well as to the elector.

Section 4: Annual canvass

24. *Section 4* inserts a new section 9D into the 1983 Act which restates the requirement for registration officers to carry out an annual canvass in Great Britain, but with some changes from the current requirement.

25. The canvass is to be conducted in a manner set out in regulations, which may confer specific functions on the Electoral Commission (such as designing the canvass form). The canvass no longer has a reference date of 15 October.

26. *Subsection (5)* of the new section states that, as at present, a registration officer may make use of house to house inquiries to support the annual canvass. This includes obtaining information before sending a canvass form.

27. *Subsection (6)* of the new section states that, as at present, the canvass requirement does not apply to the registration of people to whom a special registration system applies (including those on remand in prison, patients in mental hospitals, those without a fixed address, service personnel, British citizens resident overseas and those registered anonymously for their safety).

Section 5: Invitations to register

28. *Section 5* inserts a new section into the 1983 Act which requires registration officers in Great Britain to give invitations to register to unregistered persons of whom they are aware (whether identified through the annual canvass or by any other means). This is supported by a power to make regulations about such invitations including how often they must be sent, the form and content of the invitations sent, what documents must be sent, and a provision to require invitations to be accompanied by other documents including application forms. The regulations may confer functions on the Electoral Commission. The new section also provides that registration officers may, after sending an invitation, subsequently require the person to make an application for registration by a specified date. It enables regulations to make provision about the requirement to make an application and specify steps that a registration officer must take before imposing a requirement. The new section provides that a registration officer may impose a civil penalty on a person who fails to comply with a requirement to make an application by a specified date.

29. *Subsection (2)* introduces Schedule 3, which inserts a new Schedule ZA1 into the 1983 Act, which makes further provision about such civil penalties.

Section 6: Amendment of Parliamentary Constituencies Act 1986

30. *Section 6* amends the Parliamentary Constituencies (PC) Act 1986. Under the Act the four Boundary Commissions have the function of recommending the boundaries of UK Parliamentary constituencies. *Section 6* requires them to submit their reports in the first review of boundaries to be conducted under changes made by the Parliamentary Voting System and Constituencies (PVSC) Act 2011 between 1 and 30 September 2018, instead of before 1 October 2013 as currently specified by the PC Act.

31. This change of date necessitates other changes to the PVSC Act which are made by *section 6*. The Boundary Commissions' discretion to consider inconveniences attendant on boundary changes as a factor when drawing up proposals is to continue to apply only after the first review, but the date of that review in section 11 of the PVSC Act is changed from 2013 to 2018. *Section 6* also postpones the review into the effects of the reduction in the number of constituencies provided for under section 14 of the PVSC Act to take place after the 2020 general election and not the 2015 election.

Section 7: Power to amend or abolish the annual canvass

32. *Subsections (1) and (2)* give a power for the Minister (the Lord President of the Council or Secretary of State) to make an order to put in place alternative arrangements to assist registration officers in Great Britain to find out the names and addresses of people who are entitled to be registered but are not registered, or who are registered but are not entitled, and a power to abolish or amend the annual canvass in Great Britain required under section 9D of the 1983 Act (inserted by section 4).

33. *Subsection (3)* allows the Minister to reinstate the annual canvass if it has been abolished under *subsection (2)*.

34. *Subsection (4)* enables an order under subsection (1) or (2) to include offences, subject to specified maximum fines.

35. *Subsection (5)* enables an order to include a power to make further subordinate legislation, and provides for any such further subordinate legislation to be subject to the affirmative resolution procedure in Parliament.

Section 8: Consulting Electoral Commission about proposals under section 7

36. *Subsection (1)* requires the Electoral Commission to prepare a report if the Minister consults it about a proposal to amend, abolish or reinstate the annual canvass in Great Britain, or to make alternative arrangements, under section 7. The report must assess the extent to which the objective of the annual canvass is met currently, the extent to which it would be met if the proposed order were made and other ways the objective could be met.

37. *Subsections (3) and (4)* require the Electoral Commission to provide the report by a date specified by the Minister. This date must not be less than 3 months after the Electoral Commission is consulted by the Minister.

38. *Subsection (5)* enables the Electoral Commission to obtain information from registration officers for use in preparing the report.

39. *Subsection (6)* requires the Minister to lay a report under this section before Parliament if the Minister lays a draft order under section 7, unless the draft order provides only for the reinstatement of the duty to conduct a canvass. The Minister must therefore consult the Electoral Commission and obtain the report before laying an order under section 7, except one that only reinstates the duty to conduct a canvass.

Section 9: Piloting changes to annual canvass

40. *Subsection (1)* provides that an order to amend or abolish the annual canvass can have effect for a specified period (“a pilot scheme”).

41. *Subsection (3)* stipulates that a Minister can only pilot the amendment or abolition of the annual canvass in an area if the registration officer responsible for that area has proposed

the making of the pilot scheme, and has agreed to any amendments to the proposal by the Minister.

42. *Subsection (4)* states that the Electoral Commission does not have to be consulted on a pilot proposal in the same way as a permanent proposal.

43. *Subsections (5) and (6)* enable a pilot scheme to state what is to happen at the end of the period of the scheme, including the scheme's replacement by a further pilot scheme.

44. *Subsections (7) and (8)* state that the Electoral Commission must prepare a report on a pilot scheme which must contain a description of the scheme, and assessments of whether the scheme met its objectives and the extent (if at all) to which this resulted in savings of time and costs. The order providing for the pilot must say when the report must be produced. *Subsection (9)* stipulates that the Minister must publish the Electoral Commission's report, and *subsection (10)* enables the Electoral Commission to obtain information from registration officers for use in preparing the report.

Section 10: Piloting registration provisions

45. *Section 10* enables the Minister to make an order, in relation to a particular area and for a particular time, to test changes to electoral registration as set out in this Act, that is to say any provision in sections 1 and 2, and in Schedules 1, 2 and 4.

46. *Subsection (4)* stipulates that a Minister can only make an order to pilot changes to the registration system in an area if the registration officer responsible for that area has proposed the making of the pilot scheme, and has agreed any amendments to the proposal by the Minister.

47. *Subsections (5) and (6)* enable an order to state what is to happen at the end of the pilot period and to modify the transitional arrangements. This could, for example, be used to ensure that electors who have registered under the new system during a pilot do not have to register under the new system again when it is launched nationwide.

Section 11: Orders under Part 1

48. *Section 11* states that orders made under a power in Part 1 must be laid before Parliament and approved by each House before they are made. There is an exception to this in the case of an order changing the date for removal of certain entries on the register (see paragraph 144).

49. *Subsections (3) and (4)* state that orders can make additional provisions related to the powers under which they are made and can amend other legislation. *Subsection (5)* provides that any order may apply generally, or only in specified cases and areas, and that any order may make different provision for different cases and areas.

Section 12: Interpretation of Part 1

50. *Section 12* defines various terms used in Part 1.

Section 13: Amendments and transitional provision

51. *Section 13* introduces Schedules 4 and 5, which contain amendments of legislation and transitional provisions.

52. *Subsections (3) and (4)* make transitional provisions in relation to sentences for offences, until such time as the relevant sections of the Criminal Justice Act 2003 come into force.

Part 2: Administration and Conduct of Elections etc

Section 14: Extension of timetable for Parliamentary elections

53. *Subsection (1)* amends the Fixed-term Parliaments Act 2011 to provide that Parliament shall be dissolved 25, rather than 17, working days before the next UK Parliamentary general election. This provision therefore has the effect of extending the electoral timetable to 25 days.

54. *Subsections (2) and (3)* amend the Parliamentary Elections Rules (Schedule 1 to the 1983 Act) to also extend the electoral timetable for UK Parliamentary by-elections. The Rules as amended by this provision will provide that polling day will take place between 17 and 19, rather than between 9 and 11, working days after the last day for delivery of nomination papers, thereby allowing an extended timetable which retains sufficient flexibility for the Returning Officer to set polling day on a Thursday, in keeping with convention.

55. *Subsection (4)* amends rule 30(3) of the Parliamentary Elections Rules to move the deadline for appointing polling and counting agents at UK Parliamentary elections from 2 to 5 days before polling day. This change is being made as a consequence of the extended Parliamentary electoral timetable and will bring the deadline for appointing these agents at UK Parliamentary elections into line with that at other elections.

56. *Subsection (5)* amends rules 61(9), 63(9) and 64(6) of the Parliamentary Elections Rules to extend the electoral timetable for polls which are re-run due to the death of a candidate. The rules as amended by this provision will state that the fresh poll will take place between 21 and 27, rather than between 15 and 19, working days after the day on which the election writ is taken to have been received.

57. *Subsection (6)* makes a consequential change.

Section 15: Timing of parish and community council elections in England and Wales

58. Section 16 of the Representation of the People Act 1985 currently has the effect of postponing a poll at a parish or community council election in England and Wales for three weeks if the poll would otherwise have been held on the ordinary day for local government elections, but this is also the date of the poll at a UK Parliamentary general election or a European Parliamentary general election. *Section 15* repeals section 16 so that in England and Wales a poll at a parish or community council election may be held on the ordinary day of election of councillors even if this is also the date of the poll at a Parliamentary or European

Parliamentary general election. This will allow polls at parish and community council elections more often to be run in combined form with polls at other elections.

Section 16: Alteration of electoral registers: pending elections

59. *Section 16* amends the 1983 Act to add a new section 13AB which provides for there to be two interim publication dates where an election is pending on which notices of alteration to the electoral register must be published.

60. At present, section 13B of the 1983 Act provides that in addition to the monthly alterations to the electoral register published under section 13A, where an election is pending there is to be a further notice of alteration to the register published on the 5th or 6th day before the poll (the day being at the discretion of the registration officer). This ensures that there is a final update to the register which can be used for the poll.

61. However, there may be a significant period between the previous monthly notice of alteration and the final register. Postal ballots can only be sent to electors on the register, and cannot therefore be issued until an elector appears on the register or an alteration to it. Therefore even under a longer electoral timetable many voters could not be sent postal ballots until less than 5 days before the election. To help realise the full benefits of a longer timetable, *new section 13AB* therefore requires an additional notice of alteration to the register to be published on the final day for delivery of nominations (normally the 19th day before the poll). *Section 13AB* will also require a further notice of alteration between 19 and 6 days before the poll, the exact timing of which will be at the discretion of the registration officer. The additional notices of alteration will enable more postal ballot papers to be issued earlier.

62. *New section 13AB* is concerned with the alteration of registers pending certain elections in Great Britain. Where a registration officer is satisfied that an entry should be made in, or removed from, the register *new section 13AB* requires that on the interim publication date the registration officer must publish a notice specifying the appropriate alteration in the electoral register. The alterations would be those required as a result of the circumstances covered by *subsection (1)* of section 13AB. *Subsection (3)* states that the alteration takes effect from the beginning of the interim publication date.

63. *Subsections (4), (5) and (6)* of *new section 13AB* establish that there are two interim publication dates. The first interim publication date is the last day on which nomination papers may be delivered to the returning officer. The second interim publication date is to be determined by the registration officer but it must be in the period after the first interim publication date and before the appropriate publication date. The appropriate publication date is the date on which the final version of the register (to be used for the poll) is published. This appropriate publication date is defined in *subsection (5)* of section 13B of the 1983 Act, and is either the fifth or sixth day before the poll as determined by the registration officer.

64. *Subsection (7)* of section 13AB defines “relevant provision” which is referred to in *subsection (1)(c)*. A notice of alteration need not be made on the first interim publication date where an alteration has already taken effect, or is due to take effect, under section 13A(2). A notice of alteration need not be made on the second interim publication date where one has

already taken effect, or is due to take effect, under section 13A(2), or on the first interim publication date.

65. *Subsection (8)* provides that section 13AB applies to Parliamentary elections in England, Wales and Scotland; to elections to the European Parliament in England, Wales and Scotland; to elections to the Scottish Parliament; to elections to the National Assembly for Wales; to local government elections in England, Wales and Scotland; and to elections of police and crime commissioners in England and Wales. *Subsection (9)* applies the interpretation provisions at *subsections (5) and (6)* of section 13B of the 1983 Act to this section. Section 13B(5) defines in particular the appropriate publication date (referred to in paragraph 63 above), and section 13B(6) applies section 119 of the 1983 Act for the purposes of the computation of time.

66. *Subsections (4) and (5)* make a number of consequential amendments to provisions in the 1983 Act which are necessary as a result of the new section 13AB.

Section 17: Review of polling districts and places in Great Britain

67. *Section 17* makes provision about the timing of reviews of polling districts and places by local authorities in Great Britain. At present, section 18C of the 1983 Act provides that every polling place and every polling district must be reviewed at least once every four years. In light of the provisions in the Fixed-term Parliaments Act 2011 that set Parliamentary terms to 5 year periods, and the new five year cycle for UK Parliamentary boundary reviews implemented by the Parliamentary Voting System and Constituencies Act 2011, section 17 amends section 18C of the 1983 Act to provide that a local authority must carry out and complete a review of all the polling districts and places in its area within the period of 16 months beginning with 1 October 2013, and the period of 16 months beginning with 1 October of every fifth year after that. This is so as to bring the reviews into line with the new cycles of Parliamentary terms and UK Parliamentary boundary reviews.

68. The section does not prevent a local authority carrying out a review of some or all of the polling districts or polling places in its area at other times.

Section 18: Inadequate performance of returning officers: reduction of charges

69. *Section 18* inserts new section 29A into the Representation of the People Act 1983 after section 29 (payments by and to a returning officer). Section 29A allows for the Secretary of State, upon a recommendation by the Electoral Commission (“the Commission”), to withhold or reduce a returning officer’s fee for reasons of poor performance.

70. Under *subsection (2)* of new section 29A, the Commission may make a recommendation to the Secretary of State that the returning officer’s fee should be reduced or withheld where the Commission thinks the returning officer’s performance has been inadequate.

71. *Subsection (3)* of new section 29A sets out the factors to which the Commission must have regard when making a recommendation for a returning officer’s fee to be reduced, which include in particular any report on the administration of the election concerned (under

section 5 of the Political Parties, Elections and Referendums Act 2000) (“PPERA”), or any assessment against the performance standards of the service provided by the returning officer in that election (under section 9B(4) (performance standards) of PERA).

72. *Subsection (4)* of new section 29A provides that the Secretary of State must determine the final amount which the returning officer is paid for his services at a UK Parliamentary election, having regard to any recommendation made.

73. Section 29 has been prospectively amended to transfer certain powers in relation to returning officers’ charges to the Commission. *Subsection (3)* of section 18 amends those provisions to take account of new section 29A.

Section 19: Voters waiting at polling station at close of poll

74. *Section 19* allows voters queuing at a polling station, for the purpose of voting, at close of poll to be issued with ballot papers and vote despite the time of close of poll having passed. Further provision in connection with this change may be made under *section 27* on commencement (see paragraph 83).

Section 20: Use of emblems on ballot papers

75. *Section 20* makes provision about the use of emblems on ballot papers by candidates at UK Parliamentary elections. At present, while a candidate who is standing on behalf of a single party may choose to have a party emblem displayed on the ballot paper, there is no provision for a candidate who is standing on behalf of more than one party to use an emblem. *Section 20* therefore inserts new provisions in rule 19 of the Parliamentary Elections Rules to provide that a candidate standing on behalf of more than one party at a UK Parliamentary election may request that the ballot paper shall contain against the candidate’s particulars a registered emblem of one of those parties. Equivalent changes have already been made to rules for conducting certain other types of election: see, for example, the Local Elections (Principal Areas) (England and Wales) (Amendment) Rules 2011 (SI 2011/563).

Section 21: Community support officers

76. *Section 21* amends rule 32 of the Parliamentary Elections Rules which deals with admission to polling stations. The amendment will allow Police Community Support Officers (“PCSOs”) to enter polling stations as police constables can currently. It will also allow a PCSO to be admitted to vote at a polling station other than their own on the production and surrender of a “certificate of employment” signed by a prescribed police officer. *Section 21* also amends rule 31 which provides for the requirements of secrecy of the ballot (set out at section 66 of the 1983 Act) to be notified to those attending polling stations and counting venues during Parliamentary elections, with the effect that PCSOs, like police constables, will not need to be given such notification. These amendments apply to Parliamentary elections in England and Wales. In addition, this section amends paragraph 2(5) of Schedule 4 to the Representation of the People Act 2000 to enable PCSOs to vote at any polling station in the constituency or electoral area if they are prevented from voting at their own polling station by reason of their employment on the day of the poll for the purpose of the election. This amendment applies to Parliamentary and local government elections in England and Wales.

Section 22: Notification of rejected postal vote

77. *Section 22* amends Schedule 4 to the Representation of the People Act 2000 (which includes provisions for the conduct of absent voting in Great Britain) by inserting a power to specify in regulations the circumstances in which, following close of poll, an electoral registration officer must notify a person that their postal ballot paper had been rejected. It specifies that this power covers proxy voters and the electors on whose behalf they are voting, where the proxy chooses to vote by post. *Sub-paragraph (2)* of the new paragraph specifies that the duty only applies where a postal voting statement has been returned but has not been duly completed. *Sub-paragraph (3)* specifies that regulations made under the power may make provision about the information communicated to the elector, the time within which the notification must be given (after a poll) and the way in which the information is communicated. The power to make regulations applies to Parliamentary and local government elections in Great Britain.

Section 23: Repeal of powers to establish co-ordinated on-line record of electors

78. *Section 23* repeals Part 1 of the Electoral Administration Act 2006 and repeals consequential provisions related to it. These provided the legislative basis to establish a Co-ordinated Online Record of Electors. These provisions are no longer needed following the Government's announcement on 21 July 2011 that it would not be pursuing the Co-ordinated Online Record of Electors project.

Part 3: Final Provisions

Section 26: Extent

79. *Section 26* is a technical provision to ensure that, where legislation that is amended or repealed by this Act is law in only a part of the United Kingdom, the amendment or repeal is subject to the same territorial restriction.

Section 27: Commencement

80. *Subsections (1) and (3)* specify that Parts 1 and 2 of the Act come into force on such day as the Minister may appoint by order and that Part 3 comes into force on Royal Assent. This is subject to one exception, which is that paragraph 28 of Schedule 5 (power to bring forward effect of paragraph 6 of that Schedule) comes into force two months after Royal Assent (*subsection (2)*).

81. *Subsection (4)* provides that a commencement order may specify different days for different purposes. This includes commencing provisions of the Act on different days in different parts of the United Kingdom.

82. *Subsection (10)* empowers the Minister, by order, to make transitional, transitory or saving provisions connected with the commencement of any provision of the Act.

83. *Subsections (5) to (9)* make particular provision for the commencement of section 19 (voters waiting at polling station at close of poll). An order commencing that section may modify legislation and may make consequential, supplementary and incidental provision for the purposes of the section, or otherwise make provision to enable the section to operate.

Schedules

Schedule 1: Register of electors: alterations and removal

84. *Paragraph 1* inserts two new sections in the 1983 Act which set out when a registration officer must alter the name or address of an elector, or remove an elector's entry from the register, in the new registration system in Great Britain. It does not affect registration officers' ability to correct clerical errors.

85. *Section 10ZD* states the circumstances in which a registration officer must alter the name or address of a person on the register. *Subsection (1)* provides that an application must have been made to that effect, and it must appear to the registration officer that the person is entitled to be registered in respect of the new name or address and that the application is made by that person. *Subsection (2)* stipulates that in determining an application under this section registration officers must consider any objection made within the prescribed requirements. *Subsection (3)* provides that regulations may make provision about the process for determining applications.

86. *Section 10ZE(1) and (2)* state that a registration officer must remove a person from the register if that person was not or has ceased to be entitled to be registered at the address in respect of which they are registered (whether because they have moved house or for any other reason), or if the person's current registration is the result of an application made by someone else. The requirements for being entitled to be registered are set out at section 4 of the 1983 Act.

87. *Section 10ZE(3)* enables a registration officer to make use of house to house inquiries when deciding whether to remove an entry from the register.

88. *Section 10ZE(4)* confers a power to make regulations to support the process of removing entries from the electoral register, including steps that a registration officer must take before concluding that a person is not entitled to remain registered. For example, regulations could require that in certain circumstances the registration officer must attempt to contact the person before determining that they are not entitled to remain registered.

89. *Section 10ZE(5) and (6)* state that a registration officer must consider whether to remove a person from the electoral register if they receive an objection from another registered person about that person's registration (unless it is an anonymous registration) or if they become aware of information that causes them to suspect that the person may not be entitled to remain registered (for example because of information obtained during the annual canvass).

90. *Section 10ZE(7)* states that the requirement to remove people from the register does not apply to the registration of people for whom there are separate rules about removal from the register (including those on remand in prison, patients in mental hospitals, those without a fixed address, service personnel and British citizens resident overseas).

91. *Paragraph 2(1) and 2(2)* state that registration officers must have regard to any guidance given by the Minister about determining any applications to alter a name or address, and that this guidance may include guidance about the process for determining whether the conditions have been met, and the relative weight to be given to different kinds of evidence. *Paragraph 2(3)* provides that the requirement for registration officers to have regard to this guidance will cease 5 years after coming into force. This provision is included because, after five years the new registration system, and the process for determining applications, is likely to have reached a steady state and guidance will no longer be necessary.

92. *Paragraph 3* amends section 13A of the 1983 Act to enable a registration officer to correct information in a register in Great Britain if they determine that it is incorrect. This would not remove the requirement to remove an entry from the register if the circumstances in new section 10ZE(1) are met, but would allow a registration officer to correct an error that has not resulted from a clerical error where those circumstances are not met (for example, where a person has changed their name but has not informed the registration officer). Section 13A(6) of the 1983 Act enables regulations to put in place procedures for the making of a correction under this provision.

Schedule 2: Sharing and checking information

93. *Paragraph 2* inserts new paragraph 1A in Schedule 2 to the 1983 Act to enable regulations to be made authorising or requiring a person to disclose to another person information that will assist a registration officer to verify information that an individual has provided in a new application, to ascertain the names and addresses of eligible people who are not registered, or to identify people who are registered but are not entitled. The powers inserted by this paragraph could for example be used to set up a system whereby information provided with applications for registration and information held by specified public authorities are passed to another person for comparison, with the results passed to registration officers and used to verify applications for registration.

94. *New paragraph 1A(2)* provides that the person to whom the information is disclosed may be required or authorised to compare it with other information and to inform the registration officer of the results of the comparison.

95. *New paragraph 1A(3)* states that regulations made under *paragraph 1A(1) and (2)* may include related provisions to confer other functions on a person, authorise the Secretary of State to make grants to such a person, require information to be retained or disposed of, and restrict disclosure or processing of information so that this can only happen in accordance with an agreement or with requirements imposed by the Secretary of State. Regulations may also regulate how information is disclosed and how it is dealt with thereafter.

96. *New paragraph 1A(4)* states that provision under *paragraph 1A* overrules any statutory or other restriction on the disclosure of information.

97. *Paragraph 3* enables regulations to be made requiring information relating to applications for registration to be retained or disposed of, and about how such information may be dealt with.

98. *Paragraph 4* enables regulations to provide for a criminal offence of disclosing or otherwise dealing with information in breach of regulations, subject to specified maximum penalties.

99. *Paragraph 5* states that before making regulations providing for information to be shared under paragraph 1A of Schedule 2 the Secretary of State must consult the Electoral Commission, the Information Commissioner and any other person the Secretary of State thinks appropriate. The Secretary of State may also require the Commission to prepare a report on how data sharing arrangements have worked by a specified date. If a report is required, it must be published by the Secretary of State and registration officers must comply with any reasonable request for information made by the Commission in connection with preparing the report.

Schedule 3: Civil penalty for failing to make application when required by registration officer

100. *Schedule 3* inserts a new Schedule ZA1 into the 1983 Act about civil penalties. *Paragraph 2 of the new Schedule* states that the amount of the civil penalty is to be specified in regulations.

101. *Paragraphs 3 and 4* provide for the procedure for imposing a civil penalty to be set out in regulations, which may specify steps that a registration officer must take before imposing a civil penalty. The regulations must require a registration officer who issues a civil penalty to a person to give the person a written notice specifying the amount of the penalty, the reasons for imposing it, and how and when it must be paid.

102. *Paragraph 5* provides that regulations may give a person who has been issued a civil penalty a right to request a review of the decision, and a right of appeal against the decision to the First-tier Tribunal. These regulations may in particular set out the grounds for a review or appeal, the time in which a person can request a review or appeal, require a person to request a review before an appeal, and make further provision about reviews and appeals, including the procedure for a review.

103. *Paragraph 6* enables regulations to specify circumstances in which a civil penalty may not be imposed, or where a civil penalty once issued can be cancelled.

104. *Paragraphs 8 to 11* deal with the recovery of civil penalties and late payments. Regulations may allow interest to be charged on a civil penalty that is paid late, and allow an additional penalty to be imposed for the late payment of a civil penalty. Civil penalties are to be paid into the Consolidated Fund.

Schedule 4: Amendments to do with Part 1

105. *Paragraphs 1 to 20* make amendments to the 1983 Act. Several of these amendments restrict the application of sections of the 1983 Act which currently apply to all of the United Kingdom so that they apply only in Northern Ireland, since those sections are replaced by the new sections inserted by sections 1, 4 and 5 and Schedule 1 which apply in Great Britain.

106. *Paragraphs 2, 3, 4, 15 and 21* make amendments to the 1983 Act and the Representation of the People Act 1985 so that a registration officer must remove a person from the register if the person's current registration is the result of an application made under the new system by someone else. The effect is similar to the effect of section 10ZE(1)(c) of the 1983 Act (inserted by paragraph 1 of Schedule 1 to the Act), but these amendments apply that effect to the special types of registration to which that new section does not apply.

107. *Paragraph 5* amends section 9(2) of the 1983 Act so that it is clear that a person will only be included on a register in the United Kingdom pursuant to an application for registration.

108. *Paragraph 6* amends section 9A(1) of the 1983 Act to set out the scope of the general duty on registration officers, which could otherwise be reduced by the amendment made by paragraph 5(2).

109. *Paragraphs 7 and 8* amend the requirements for the renewal of anonymous registrations in Great Britain so that it will not be necessary to make a complete application for registration each year as at present. Instead, once the anonymous registration is in place it will only be necessary to make an application for anonymity under section 9B of the 1983 Act in order to renew the entry each year. This means that it will only be necessary for the full verification process to apply to an application for a new anonymous registration, or for an anonymous registration under a different name or address.

110. *Paragraph 12(2)* inserts provisions into section 13A of the 1983 Act to provide for the manner in which registration officers must give effect to changes to registers in Great Britain resulting from the new provisions relating to applications for registration and alterations to registers. *Paragraph 12(3)* allows certain successful applicants to be added to the register up to the date of publication of the revised register instead of having to wait to the update published the following month.

111. *Paragraph 20* gives additional powers to make regulations for Great Britain in relation to the conduct of canvasses, following up canvass requests and invitations for applications to which no responses have been received, and enabling registration officers to share information to ensure that proxies meet the requirement to be registered before they are appointed (see section 3). The existing criminal offence for non-disclosure of information to a registration officer will continue to have effect.

112. *Paragraph 24* repeals sections 23(1) and 30 to 37 of the Political Parties and Elections Act 2009 concerning the previous voluntary and compulsory schemes of individual electoral registration in Great Britain which are being replaced by this Act, and the previous powers on data schemes, which will be superseded by those contained in the Act.

Schedule 5: Transitional provision to do with Part 1

113. Schedule 5 sets out how the move from the old system of electoral registration to the new system of individual electoral registration in Great Britain will operate once sections 1 and 4 and Schedule 1 come into force (referred to in this Schedule as “the commencement date”).

Part 1: Introduction

114. *Paragraph 1* stipulates that applications made before the commencement date are to be dealt with under the old system even if the application is determined after that date.

115. *Paragraph 4(1)* enables the Secretary of State or Lord President of the Council to make an order requiring registration officers to check for evidence as to whether the people on their registers are entitled to remain registered. Subsequent provisions in the Schedule ensure that people whose entries are confirmed under such an order do not have to make a separate application under the new system to remain on the register (unless their details change).

116. *Paragraph 4(3)* enables the order to authorise data to be shared for this check. For example a person may be authorised to compare entries on the electoral register with other information that has been disclosed. *Paragraph 4(3)* also provides that an order may state that where a registration officer has confirmed a person’s entitlement they must notify them in a specified manner, and that this notification may be accompanied by and combined with other documents.

117. *Paragraph 4(4)* provides that where an order authorises or requires the disclosure of information the Secretary of State must consult the Electoral Commission, the Information Commissioner and others and may require the Electoral Commission to produce a report.

118. *Paragraph 4(5)* states that a registration officer will not be required to confirm that a person who is on the register they maintain is still eligible if that person was on the register because they were carried forward at the final old canvass (that is, they did not respond to the last canvass and were left on the register by virtue of the carry forward provision), if the person has already made a successful new application for registration, or if the person is registered under the special arrangements referred to at paragraph 121 below.

Part 2: Removal of existing registrations by end of the third new canvass

119. *Paragraph 5* stipulates that, after the first canvass under the new system (likely to be in late 2014), registration officers must remove from the register each entry that was carried forward after the last canvass carried out under the old system despite not responding to that canvass, unless the elector has made an application under the new system or responded to the first canvass under the new system.

120. *Paragraph 6* states that, after the third new canvass (likely to be in late 2016), a registration officer must remove from the register the entry of each person who has not made a successful application for registration under the new system or has not had their entitlement to remain registered confirmed under paragraph 4. It will only be possible for a person to be added to the register after this point if they have made an application under the new system and that application has been successful. (See also *paragraph 28* of this Schedule).

121. *Paragraph 7* states that the provisions about removal from the register in paragraphs 5 and 6 do not apply to people who are registered under a special registration system (and have been since immediately before the commencement date). This includes those on remand in prison, patients in mental hospitals, those without a fixed address, service personnel, British citizens resident overseas and those registered anonymously for their safety. Parts 5 and 6 of Schedule 5 make separate provision for those people.

Part 3: Encouraging new applications

122. *Paragraph 8* states that a registration officer must, within a prescribed period, send an invitation to make a new application for registration to all persons listed on the register who have not made an application under the new system or have not had their entitlement to remain registered confirmed under paragraph 4. An invitation does not have to be sent where the officer has reason to believe that the person is no longer resident at the relevant address.

123. *Paragraph 9* relates to the timing of canvasses before and during the transition to the new system. *Sub-paragraph (1)* enables the Minister to make an order postponing canvasses in advance of the transition to the new system, and requiring canvass forms to be sent out at a particular time. For example, the 2013 canvass could be postponed so that it takes place in the first quarter of 2014.

124. *Paragraphs 9(2) and (4)* provide that the Minister may make an order postponing the first canvass under the new system (the canvass forms for that canvass are to be sent out at the same time as invitations under paragraph 8), and requiring canvass forms for the second canvass under the new system to be sent out at a specified time.

125. *Paragraph 9(6)* stipulates that any order to postpone an old or new style canvass must specify the period in which the canvass is to be carried out, and that that period must not end later than the 1 April after it begins.

126. *Paragraph 10* provides that registration officers need not send canvass forms for the first new canvass to addresses at which people have been sent individual invitations to register, or have had their entries confirmed under paragraph 4. However registration officers must consider whether to send a canvass form despite there being no requirement to do so.

127. *Paragraph 11* stipulates that after the second new canvass under the new system a registration officer must send an invitation to make a new application for registration to all persons who have an entry on the register, but are not yet registered under the new system (whether by making an application under the new system or by having their entry confirmed under paragraph 4). This must be sent when the registration officer receives a returned canvass form in respect of the person's address or when the officer realises that a canvass form will not be returned for that address, and at the latest at the end of October in the year of the second new canvass. If the registration officer has reason to believe that the person is no longer resident at the relevant address or if that person has made an application under the new system that has not yet been determined, then no invitation need be sent.

128. *Paragraph 12* allows further provision to be made about the invitations to be sent to people under paragraphs 8 and 11. For example, regulations could require that a registration officer who sends an individual invitation to an individual under paragraph 8, and chooses not to send a canvass form to that address in 2014, must include additional blank application

forms with that invitation, with a request to pass them to any other residents at the address who have not received a personalised invitation.

129. *Paragraph 13* provides that a registration officer who invites a person to make a new application under paragraph 8 or 11 may subsequently require the person to make a new application by a specified date, and that if they fail to make an application a registration officer may issue that person with a civil penalty. This is similar to the provision in *section 5* and *Schedule 3* of this Act.

130. *Paragraph 14* provides that regulations under section 7(1) of the European Parliamentary Elections Act 2002 may include provision for poll cards for the 2014 European Parliamentary elections to include information alerting electors to the upcoming change in the registration system.

131. *Paragraph 15* states that the reference to a person who has an entry on the register does not apply to people who are registered under a special registration system. The system for those people is set out in Parts 5 and 6 of this Schedule.

Part 4: Absent voting

132. *Paragraph 16* provides that a person who makes an application to vote by post or proxy after the commencement date will only be successful if they are registered under the new system (whether by making an application under the new system or by having their entry confirmed under paragraph 4). This paragraph does not apply to people who are subject to special registration systems.

133. *Paragraph 17* states that a person's existing ability to vote by post or proxy will expire following the first new canvass if they are not registered under the new system (whether by making an application under the new system or by having their entry confirmed under paragraph 4). The registration officer must notify the individual, and regulations may require the registration officer to take other steps (for example providing the individual with the forms needed to make an application to regain an absent vote). Again, this paragraph does not apply to people who are subject to special registration systems.

134. *Paragraphs 18 and 19* state that, after the first canvass under the new system, proxies will only be regarded as registered in a register in Great Britain (and so eligible to be a proxy following the change made by section 3) if they are registered under the new system (whether by making an application under the new system or by having their entry confirmed under paragraph 4). Existing registrations resulting from applications made under the old system are therefore not sufficient. This does not apply to proxies who are registered in a register in Northern Ireland, where there is already a system of individual electoral registration and registration under that system is sufficient for the purpose of the change made by section 3.

135. *Paragraph 19* also stipulates that if an existing proxy appointment ceases to be in force at that point because the proxy has not made a successful application to register under the new system, the registration officer must inform the proxy and the elector for whom they were appointed, and regulations may require the registration officer to take other steps (for example providing the individuals with the forms needed for the proxy to be reappointed). Again, this paragraph does not apply to people who are subject to special registration systems.

Part 5: Persons with existing registrations by virtue of declarations etc

136. *Paragraph 20* states that Part 5 applies to people who are (and have been since immediately before the commencement date) registered as a result of a declaration of local connection, a service declaration or an overseas elector's declaration, and people registered anonymously.

137. *Paragraph 21* states that on the first occasion 3 months after the commencement date on which a person's entry comes up for renewal they will only remain registered if they make a successful application for registration under the new system. Until that point they may remain registered under the old system.

138. *Paragraph 22* has the effect that an application for an absent vote made by the person on or after the commencement date may be granted even though at that point the person has not made a successful application to be registered under the new system.

139. *Paragraph 23* provides that such a person's proxy need not have made a successful application for registration under the new system until the first occasion on which the relevant person makes a successful new application to register.

Part 6: Persons with existing registrations by virtue of section 7(2) or 7A(2) of the Representation of the People Act 1983

140. *Paragraph 24* states that Part 6 applies to people who are registered on the basis of residence in mental hospitals or a place where they are held on remand, and have been registered on that basis since immediately before the commencement date.

141. *Paragraph 25* has the effect that on the first occasion on or after 3 months after the commencement date on which a person's entry comes up for renewal they will only remain registered if they make a successful application for registration under the new system. Until that point they may remain registered under the old system.

142. *Paragraph 26* has the effect that an application for an absent vote made by the person on or after the commencement date may be granted even though at that point the person has not made a successful application to be registered under the new system.

143. *Paragraph 27* states that such a person's proxy need not have made a successful application for registration under the new system until the first occasion on which the relevant person makes a successful new application to register.

144. *Paragraph 28* enables an order to be made by the Secretary of State or Lord President of the Council to remove certain carried-forward entries on publication of a register following the second new canvass (expected to be in December 2015) instead of publication following the third new canvass (expected to be in December 2016), as provided for in *paragraph 6* of this Schedule. Such an order is subject to the negative resolution procedure.

Part 7: Supplementary

145. *Paragraph 29* empowers the Minister, by order, to make provisions which are supplementary or incidental to this Schedule.

COMMENCEMENT

146. Commencement is dealt with in section 27. Part 3, Final Provisions, comes into force on Royal Assent (subsection (3)). Paragraph 28 of Schedule 5, which deals with the date of the removal of certain entries from the electoral register, comes into force two months after the date of Royal Assent (subsection (2)). The remaining provisions of the Act will come into force on a day to be appointed by the Minister by order made by statutory instrument; different days may be appointed for different purposes, including different days for different parts of the United Kingdom (subsections (1) and (4)).

HANSARD REFERENCES

147. The following table sets out the dates and *Hansard* references for each stage of this Act's passage through Parliament.

Stage	Date	<i>Hansard</i> Reference
	House of Commons	
Introduction	10/05/2012	Vol. 545 Col. 164
Second Reading	23/05/2012	Vol. 545 Col. 1172
Committee of the whole House	18/06/2012	Vol. 546 Col. 626
	25/06/2012	Vol. 547 Col. 53
	27/06/2012	Vol. 547 Col. 309
Report	27/06/2012	Vol. 547 Col. 309
Third Reading	27/06/2012	Vol. 547 Col. 309
	House of Lords	
Introduction	28/06/2012	Vol. 738 Col. 326
Second Reading	24/07/2012	Vol. 739 Col. 616
Committee of the whole House	29/10/2012	Vol. 740 Col. 407
	14/01/2013	Vol. 742 Col. 475
Report	23/01/2013	Vol. 742 Col. 1118
Third Reading	23/01/2013	Vol. 742 Col. 1172
Commons Consideration of Lords Amendments	29/01/2013	Vol. 557 Col. 806
Royal Assent	31/01/2013	Lords: Vol. 742 Col. 1637 Commons: Vol. 557 Col. 1071

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