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STATUTORY INSTRUMENTS

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**1987 No. 168**

**NORTHERN IRELAND**

**The Local Elections (Northern  
Ireland) (Amendment) Order 1987**

*Made - - - - 10th February 1987*

*Coming into force in accordance with Article 2*

At the Court at Buckingham Palace, the 10th day of February 1987

Present

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty in exercise of the powers conferred by section 38(1)(a) and (4) of the Northern Ireland Constitution Act 1973(1) is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

**Citation and extent**

1.—(1) This Order may be cited as the Local Elections (Northern Ireland) (Amendment) Order 1987.

(2) This Order extends to Northern Ireland only.

**Commencement**

2.—(1) Subject to paragraphs (2) to (7), this Order shall come into force on the sixth day after the day on which it is made.

(2) The provisions of—

(a) Articles 5 and 6,

(b) paragraphs 5, 6, 32 to 34, 36 to 39, 42 and 46 to 50 of Schedule 1, and

(c) Schedules 2 and 3,

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(1) 1973 c. 36; section 38 was amended by paragraph 6 of Schedule 2 to the Northern Ireland Act 1982 (c. 38) and the powers in section 38(1) are referred to in section 5(1) of the Elections (Northern Ireland) Act 1985 (c. 2).

shall not have effect for the purposes of an election in respect of which the notice of election is published before the sixth day after the day on which this Order is made.

(3) The provisions of paragraphs 18, 22, 25 to 27, 30, 51, 56 and 57 of Schedule 1 shall not have effect for the purposes of an offence committed, or alleged to have been committed, before the sixth day after the day on which this Order is made.

(4) The provisions of paragraphs 7 to 11, 13, 15, 52 and 58 of Schedule 1 shall not have effect for the purposes of an election the result of which is declared before the sixth day after the day on which this Order is made.

(5) The provisions of paragraphs 12 and 24 of Schedule 1 shall not have effect for the purposes of an application made under sections 49 and 107, respectively, of the Act of 1962 before the sixth day after the day on which this Order is made.

(6) Paragraph 14 of Schedule 1 shall not have effect for the purposes of an order made under section 50 of the Act of 1962 which was made before the sixth day after the day on which this Order is made.

(7) Paragraph 44 of Schedule 1 shall come into force on the expiry of three months after the day on which this Order is made.

### **Interpretation**

**3.—**(1) The Interpretation Act (Northern Ireland) 1954(2) shall apply to Articles 1 and 2 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) The “Act of 1962” means the Electoral Law Act (Northern Ireland) 1962(3)

### **Miscellaneous amendments to Act of 1962**

**4.** The Act of 1962 shall have effect subject to the amendments specified in Schedule 1.

### **Amendments to the Local Elections (Northern Ireland) Order 1985**

**5.—**(1) Article 6(6) (manner of voting) of the Local Elections (Northern Ireland) Order 1985(4) shall be omitted.

(2) For Article 6(7) of that Order there shall be substituted the following paragraph:

“(7) If a local elector is not entitled as an elector to an absent vote at the election but cannot reasonably be expected to go in person to the polling station allotted to him under the local elections rules by reason of the particular circumstances of his employment either as a constable or by the returning officer, on the date of the poll for a purpose connected with the election, he may vote in person at any polling station in the district electoral area.”.

(3) At the end of Article 6 of that Order there shall be added the following paragraphs:—

“(9) For the purposes of the provisions of this Order and the Act of 1962, a person entitled to vote as an elector at a local election is entitled as an elector to vote by post or entitled to vote by proxy at the election if he is shown in the absent voters list for the election as so entitled; and references in those provisions to entitlement as an elector to an absent vote at a local election are references to entitlement as an elector to vote by post or entitlement to vote by proxy at the election.

(10) Parts I and III of Schedule 2 shall have effect as if contained in Part VII of the Act of 1962.”.

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(2) 1954 c. 33 (N.I.).

(3) 1962 c. 14 (N.I.).

(4) S.I. 1985/454.

- (4) Article 14 (voting offences) of that Order shall be omitted.
- (5) For Part I (voting by post and by proxy) of Schedule 2 to that Order there shall be substituted the provisions set out in Schedule 2.
- (6) Part II (forms) of Schedule 2 to that Order shall be omitted.
- (7) Part III (issue and receipt of postal ballot papers) of Schedule 2 to that Order shall have effect subject to the amendments specified in Schedule 3.

### **Transitional provisions for absent voters**

6.—(1) In relation to any person who, immediately before 16th February 1987, was entitled to vote by post or by proxy for an indefinite period at local elections by virtue of an application under paragraph 2(1) of Part I of Schedule 2 to the Local Elections (Northern Ireland) Order 1985 (which Part is to be replaced by the Part set out in Schedule 2 to this Order and is hereafter referred to as the “replaced Part”), paragraphs 1 to 4 of Part I of Schedule 2 to that Order, as substituted by Schedule 2 to this Order (“the Part which is substituted”), shall have effect—

- (a) as if an application by him under paragraph 1 of the Part which is substituted so to vote at local elections had been granted on the date of the coming into force of that Part,
- (b) where immediately before 16th February 1987, an appointment of a person to vote for him as proxy at local elections was in force, as if the appointment had been made in respect of such elections under paragraph 3 of the Part which is substituted on the date of the coming into force of that Part, and
- (c) where the application treated as granted by virtue of sub-paragraph (a) is an application to vote by post, as if he had specified in the application as the address to which his ballot paper is to be sent the address provided by him for the purpose under the replaced Part.

(2) Where an appointment of a person to vote as proxy for another at local elections is treated by virtue of paragraph (1) as made under paragraph 3 of the Part which is substituted, and immediately before 16th February 1987 the proxy was entitled, in pursuance of an application for an indefinite period, so to vote by post at local elections, paragraph 4 of that Part shall have effect—

- (a) where the proxy’s application was based on his entitlement as elector to vote by post, as if an application by him under paragraph 4(4)(a) of that Part to vote by post as proxy at local elections had been granted on the date of the coming into force of that part, and
- (b) where the proxy’s application was based on the situation of the address to which his ballot paper was to be sent, as if an application by him under paragraph 4(4)(b) of that Part to vote by post as proxy at local elections had been granted on the date of the coming into force of that Part.

*G. I. de Deney*  
Clerk of the Privy Council

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## SCHEDULE 1

Article 4.

### Amendments to the Act of 1962

1. In section 32(1)(a) (corrupt and illegal practices list) **(5)** the words “or local” shall be omitted.
2. In section 34(4) (appointment of election agent), after the word “appointment” there shall be inserted the words “(or, at a local election, a deemed appointment)”.
3. At the end of section 36(1) (offices of election agent and sub-agent) there shall be added the words:

“At a local election, this subsection shall have effect as if after the words ‘appointment of the agent’ there were inserted the words ‘is declared to him’.”
4. After subsection (3) of section 37 (default in appointing election agent) there shall be inserted:

“(3A) At a local election the deemed appointment of a candidate as his own election agent may be revoked as if it were an actual appointment.”
5. At the end of section 39(2) (payment of expenses at an election through election agent)**(6)** there shall be added the words:

“At a local election, this subsection shall have effect as if for the words ‘£2’ there were substituted the words ‘£20’.”
6. In section 41(2) (prohibition of unauthorised expenses)**(7)** after the sum “50p” there shall be inserted the words “or, at a local election, £5”.
7. At the end of section 41(5)**(8)** there shall be added the words:

“At a local election, paragraph (b) of this subsection shall have effect as if for the words ‘fourteen’ and ‘send’ there were substituted ‘twenty-one’ and ‘deliver’, respectively.”
8. At the end of section 43(1) (time for sending in and paying claims)**(9)** there shall be added the words:

“At a local election, this subsection, subsection (3) and section 44(4) shall have effect as if for the word ‘fourteen’ there were substituted ‘twenty-one’.”
9. At the end of section 46 (return as to expenses at an election)**(10)** there shall be added the following subsection:

“(7) At a local election, subsections (1) and (5) shall have effect as if for the word ‘transmit’ in each place where it occurs there were substituted ‘deliver’ and for the word ‘transmitted’ in subsection (5) there were substituted ‘delivered’.”
10. At the end of section 47 (declarations as to expenses at an election) there shall be added the following subsection:

“(4) At a local election, subsections (1) and (2) shall have effect as if for the word ‘transmitted’ in each place where it occurs in subsection (1) and the proviso to subsection (2) there were substituted ‘delivered’ and for the words ‘transmits’ and ‘transmit or cause to be transmitted’ in subsection (2) there were substituted respectively ‘delivers’ and ‘deliver’.”

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**(5)** Section 32(1) was repealed in part by Schedule 3 to the Electoral Law (Northern Ireland) Order 1972 (S.I. 1972/1264 (N.I. 13)).  
**(6)** Section 39 was extended by Article 13(1) of the Electoral Law (Northern Ireland) Order 1972 (S.I. 1972/1264 (N.I. 13)) and the sum in section 39(2) substituted by virtue of section 10 of, and Schedule 1 to, the Decimal Currency Act 1969 (c. 19).  
**(7)** The sum in section 41(2) was substituted by virtue of section 10 of, and Schedule 1 to, the Decimal Currency Act 1969 (c. 19).  
**(8)** Section 41(5) was extended by Article 13(1) of the Electoral Law (Northern Ireland) Order 1972 (S.I. 1972/1264 (N.I. 13)).  
**(9)** Section 43 was extended by Article 13(1) of the Electoral Law (Northern Ireland) Order 1972 (S.I. 1972/1264 (N.I. 13)) and subsection (4) of that section was repealed by Part II of Schedule 7 to the Judicature (Northern Ireland) Act 1978 (c. 23).  
**(10)** Section 46 was extended by Article 13(1) of the Electoral Law (Northern Ireland) Order 1972 (S.I. 1972/1264 (N.I. 13)).

**11.** At the end of section 48(1) (penalty for sitting or voting after failure to transmit return and declarations)(**11**) there shall be added the words:

“At a local election this subsection shall have effect as if for the word ‘transmitted’, in each place where it occurs, there were substituted ‘delivered’.”.

**12.** After section 49(1) (authorised excuses for failure as respects return and declarations) there shall be added the following subsection:

“(1A) Where a person makes an application under this section in respect of the return and declaration as to election expenses at a local election, he shall notify the Director of Public Prosecutions for Northern Ireland of the application and the Director or his assistant or any barrister or solicitor duly appointed as the Director’s representative may attend the hearing of the application and make representations at the hearing in respect of it.”.

**13.** At the end of section 49(2) there shall be added the words:

“At a local election this subsection shall have effect as if for the word ‘transmit’, in each place where it occurs, there were substituted ‘deliver’.”.

**14.** At the end of section 50(3) (power of court to require information from election agent or sub-agent) there shall be added the words:

“At a local election this subsection shall have effect as if for the words ‘five hundred pounds’ there were substituted ‘the amount of the maximum fine to which he would be liable if at the time the order is made he were convicted of a summary offence on conviction of which he was liable to a fine of level 5 on the standard scale’.”.

**15.** At the end of section 52(1) (inspection of returns and declarations)(**12**) there shall be added the words:

“and this subsection shall have effect as if for the word ‘sent’ there were substituted ‘delivered’.”.

**16.** At the end of section 55 (duty on and licences for carriages, etc., used at elections) there shall be added the words “other than a local election”.

**17.** At the end of section 73 (attendance of Director of Public Prosecutions at trial of election petition)(**13**) there shall be added the words:

“At the trial of a petition relating to a local election, this section shall have effect as if for the word ‘shall’ there were substituted ‘may and, if the election court so requests him, shall’.”.

**18.** At the end of section 86 (punishment for corrupt withdrawal) there shall be added the words:

“In respect of a petition relating to a local election, this section shall have effect as if for the words from ‘to a fine’ to ‘and such fine’ there were substituted ‘to a fine, or to both, or on summary conviction, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding the statutory maximum or to both’.”.

**19.** In section 92 (further provision as to costs of petition)—

(a) at the end of subsection (1) there shall be added the words:

“In respect of a petition relating to a local election, this subsection shall have effect as if the reference to subsection (2) were omitted.”; and

(b) in subsection (2) the words from “and, in relation to a local” to the end shall be omitted.

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(11) Section 48 was extended by Article 13(1) of, and subsection (2A) was inserted by Article 13(2) of, the Electoral Law (Northern Ireland) Order 1972 (S.I. 1972/1264 (N.I. 13)).

(12) Section 52(1) was amended by Article 10 of the Local Elections (Northern Ireland) Order 1985 (S.I. 1985/454).

(13) Section 73 was amended by Article 9(1) of the Prosecution of Offences (Northern Ireland) Order 1972 (S.I. 1972/538 (N.I. 1)).

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**20.** At the end of section 96 (provisions applying to all persons reported personally guilty of a corrupt or illegal practice)(**14**) there shall be added the following subsection:

“(5) In respect of the report of an election court at the trial of a local election petition, this section shall have effect subject to the following amendments:

- (a) in subsection (1) the words from ‘and whether’ to ‘indemnity’ and from ‘It shall be the duty’ to ‘is given’ shall be omitted; and
- (b) for subsection (2) there shall be substituted:

“(2) The report shall be laid before the Director of Public Prosecutions for Northern Ireland.”.

**21.** At the end of section 97 (disciplinary action on report of corrupt practice)(**15**) there shall be added the following subsection:

“(4) In respect of the report of an election court at the trial of a local election petition, subsections (1), (2) and (3) shall have effect as if for the words from ‘whether’ to ‘for Northern Ireland to’, in each place where those words occur, there were substituted ‘the court shall’.”.

**22.** At the end of section 105 (prosecution and trial of electoral misdemeanours)(**16**) there shall be added the following subsection:

“(8) In respect of the prosecution and trial of an electoral misdemeanour committed or alleged to have been committed at a local election, this section shall have effect subject to the following amendments:

- (a) in subsection (1) the words, ‘subject to subsection (2),’ and from ‘A person charged with personation’ to the end of the subsection shall be omitted;
- (b) subsections (2) and (6) shall be omitted; and
- (c) in subsection (5) for the words ‘the offences specified in paragraphs 24 to 26’ there shall be substituted ‘the offence specified in paragraph 26(2)’ and for the words ‘charged with any of the electoral offences specified in paragraphs 24 to 26’ there shall be substituted ‘to whom section 111(2A)(c)(i) applies charged with the offence specified in paragraph 26(2)’.”.

**23.** At the end of section 106 (prosecution of offences disclosed on election petition) there shall be added the following subsection:

“(10) This section shall not apply to electoral misdemeanours committed or alleged to have been committed at a local election.”.

**24.** After section 107(1) (power to except innocent act from being illegal practice, payment, employment or hiring) there shall be added the following subsection:

“(1A) Where a person makes an application under this section for relief in respect of an act or omission at a local election, he shall notify the Director of Public Prosecutions for Northern Ireland of the application and the Director or his assistant or any barrister or solicitor duly appointed as the Director’s representative may attend the hearing of the application and make representations at the hearing in respect of it.”.

**25.** At the end of section 108 (penalties for corrupt practices) there shall be added the following subsection:

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(14) Section 96(1) was amended by Article 9(1) of the Prosecution of Offences (Northern Ireland) Order 1972 (S.I. 1972/538 (N.I. 1)).

(15) Section 97 was amended by Article 9(1) of the Prosecution of Offences (Northern Ireland) Order 1972 (S.I. 1972/538 (N.I. 1)).

(16) Section 105(1) was amended by paragraph 66 of Schedule 6 to the Magistrates’ Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)).

“(4) Subsections (1) to (3) above shall not apply to a person convicted of a corrupt practice at a local election and such a person shall be liable—

- (a) on conviction on indictment—
  - (i) in the case of a corrupt practice under paragraph 4 of Schedule 9 or paragraphs 8 or 9 of that Schedule in relation to the offence in paragraph 4, to imprisonment for a term not exceeding two years, or to a fine, or to both;
  - (ii) in any other case, to imprisonment for a term not exceeding one year, or to a fine, or to both;
- (b) on summary conviction, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding the statutory maximum, or to both.”.

**26.** At the end of section 109 (penalty for illegal practices) there shall be added:

“In respect of an illegal practice at a local election this section shall have effect as if for the words ‘one hundred pounds’ there were substituted ‘level 5 on the standard scale’.”.

**27.** After section 111(2) (penalties for electoral offences by officers and other persons), there shall be inserted the following subsection:

“(2A) Subsections (1) and (2) above shall not apply to a person convicted of an electoral offence at a local election or in connection with the registration of local electors and such a person shall be liable—

- (a) in the case of an offence under paragraph 24, 24A, 25, 28, 29, 30, 31 or 32A of Schedule 9, on summary conviction to a fine not exceeding level 5 on the standard scale;
- (b) in the case of an offence under paragraph 26(1) or 33 of Schedule 9, on summary conviction to a fine not exceeding level 3 on the standard scale;
- (c) in the case of an offence under paragraph 26(2) of Schedule 9—
  - (i) if the person guilty of the offence is the Chief Electoral Officer or any person to whom functions are delegated by him under this Act, a presiding officer or a clerk appointed to assist in taking the poll, counting the votes or assisting at the proceedings in connection with the issue or receipt of postal ballot papers, on conviction on indictment to a fine, or to imprisonment for a term not exceeding 2 years, or to both, or on summary conviction, to a fine not exceeding the statutory maximum, or to imprisonment for a term not exceeding 6 months, or to both;
  - (ii) if the person guilty of the offence is any other person, on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months, or to both;
- (d) in the case of an offence under paragraph 27 of Schedule 9, on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months;
- (e) in the case of an offence under paragraph 32 of Schedule 9, on summary conviction to a fine not exceeding level 4 on the standard scale.”.

**28.** At the end of section 111(3)(17) there shall be added:

“In respect of a breach of official duty at a local election, this subsection shall have effect as if for the words ‘the Clerk of the Crown’ there were substituted ‘any presiding officer, any person either appointed to assist in the conduct of the election or who so assists in the course of his employment’.”.

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(17) Section 111 was amended by Schedule 2 to the Electoral Law (Northern Ireland) Order 1972 (S.I. 1972/1264 (N.I. 13)).

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**29.** At the end of section 112(1) (incapacities resulting from convictions for corrupt and illegal practices) there shall be added:

“In respect of a person convicted of a corrupt practice at a local election this subsection shall have effect as if the words ‘on indictment or by an election court’ were omitted.”

**30.** At the end of section 118 (time limit for prosecutions)(**18**) there shall be added the following subsection:

“(3) In respect of the prosecution of an electoral misdemeanour committed or alleged to have been committed at a local election, this section shall have effect subject to the following amendments:

(a) in subsection (1) the words, ‘whether before an election court or otherwise,’ shall be omitted, and

(b) for subsection (2) there shall be substituted:

“(2) For the purposes of this section, the making of a complaint shall be deemed to be the commencement of a proceeding.”

**31.** At the end of section 120(4) (provisions as to Director of Public Prosecutions)(**19**) there shall be added:

“In respect of the costs of an election petition relating to a local election, this subsection shall have effect as if the words ‘so far as they are not in the case of any prosecution paid by the defendant’ were omitted.”

**32.** At the end of section 129 (computation of time) there shall be added:

“In respect of a local election and an election petition relating to a local election the foregoing provisions shall not have effect and any period of time shall be computed as follows:

(a) where the day or the last day on which anything is required or permitted to be done by or in pursuance of Parts VI and IX is any of the days mentioned in paragraph (b), the requirement or permission shall be deemed to relate to the first day thereafter which is not one of those days; and in computing any period of not more than 7 days for the purposes of those Parts any of the days so mentioned shall be disregarded;

(b) the days referred to in paragraph (a) are Saturday, Sunday, Christmas Eve, Maundy Thursday or a public holiday.”

**33.** In section 130(1) (interpretation)(**20**) before the definition of “Chief Electoral Officer” there shall be inserted the following definition—

“‘absent voters list’ means, in relation to any local election, the list kept under paragraph 2(4) of Part I of Schedule 2 to the Local Elections (Northern Ireland) Order 1985 (as substituted by Schedule 2 to the Local Elections (Northern Ireland) (Amendment) Order 1987) for that election;”

**34.** In rule 2 of the local elections rules in Schedule 5 to the Act of 1962 (computation of time)(**21**) after the word “Sunday” there shall be inserted “, Christmas Eve, Maundy Thursday”.

**35.** In rule 16(2)(d) of the local elections rules in Schedule 5 (the ballot papers)(**21**) for the words “on the face” there shall be substituted “on it”.

(18) Section 118(1) was repealed in part by Part V of the Schedule to the Statute Law Revision (Northern Ireland) Act 1976 (c. 12).

(19) Section 120 was amended by Article 9(1) of the Prosecution of Offences (Northern Ireland) Order 1972 (S.I. 1972/538 (N.I. 1)) and the functions of the Ministry of Finance were transferred by Article 5(2) of, and Schedule 1 to, the Northern Ireland (Modification of Enactments—No. 1) Order 1973 (S.I. 1973/2163).

(20) Section 130(1) was amended by Schedule 2 to the Electoral Law (Northern Ireland) Order 1972 (S.I. 1972/1264 (N.I. 13)) and other provisions not relevant to this Order.

(21) The rules in Schedule 5 were substituted by Schedule 1 to the Local Elections (Northern Ireland) Order 1985 (S.I. 1985/454).

(21) The rules in Schedule 5 were substituted by Schedule 1 to the Local Elections (Northern Ireland) Order 1985 (S.I. 1985/454).

**36.** In rule 21(1) of the local elections rules in Schedule 5 (postal ballot papers)(**21**) for the words “provided by them for the purpose” there shall be substituted “shown in the absent voters list”.

**37.** Rule 24 of the local elections rules in Schedule 5 to the Act of 1962 (list of proxies and postal voters)(**21**) shall be omitted.

**38.** In rule 25(1)(b) of the local elections rules in Schedule 5 (issue of official poll cards)(**22**) for the words from “his application” to the end there shall be substituted “he is entitled to vote by post as proxy at the election”.

**39.** For rule 28 of the local elections rules in Schedule 5 (declaration of secrecy)(**22**) there shall be substituted:

**“Notification of requirement of secrecy**

**28.** The returning officer shall make such arrangements as he thinks fit to ensure that—

(a) every person attending at a polling station (otherwise than for the purpose of voting or assisting a blind voter to vote or as a constable on duty there) has been given a copy in writing of the provisions of paragraph 27(1) and (3) of Schedule 9 and a statement of the penalty prescribed by section 111(2A)(d) (as inserted by paragraph 27 of Schedule 1 to the Local Elections (Northern Ireland) (Amendment) Order 1987); and

(b) every person attending at the counting of the votes (other than any constable on duty at the counting) has been given a copy in writing of the provisions of paragraph 27(2) of Schedule 9 and a statement of the penalty prescribed by section 111(2A)(d) (as inserted by paragraph 27 of Schedule 1 to the Local Elections (Northern Ireland) (Amendment) Order 1987).”.

**40.** In rule 29 of the local elections rules in Schedule 5 (admission to polling station)(**22**):

(a) paragraph (1)(e) shall be omitted, and

(b) in paragraph (3) the words “, a member of Her Majesty’s forces (including Her Majesty’s reserve or auxiliary forces)” and sub-paragraph (b) shall be omitted.

**41.** In rule 34(6) of the local elections rules in Schedule 5 (voting procedure)(**22**):

(a) in sub-paragraph (a) for the words “Article 12” there shall be substituted “Articles 8 and 12”; and

(b) after sub-paragraph (e), the following sub-paragraph shall be added:

“(f) a British seaman’s card issued in accordance with regulations made under section 70 of the Merchant Shipping Act 1970(**23**)

**42.** In rule 37(1)(b) of the local elections rules in Schedule 5 (tendered ballot papers)(**22**) the words “named in the list of persons” shall be omitted.

**43.** In the Appendix of forms to the local elections rules in Schedule 5(**22**), in form 9 (form of certificate of employment), paragraph (b) (members of Her Majesty’s forces) shall be omitted.

**44.** In paragraph 7 (provisions as to security for costs) of Schedule 8 (election courts):

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(21) The rules in Schedule 5 were substituted by Schedule 1 to the Local Elections (Northern Ireland) Order 1985 (S.I. 1985/454).

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(23) 1970 c. 36.

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(22) The rules in Schedule 5 were substituted by Schedule 1 to the Local Elections (Northern Ireland) Order 1985 (S.I. 1985/454).

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- (a) in sub-paragraph (2)(b) for the words “five hundred pounds” there shall be substituted “£2,500”;
  - (b) at the end of sub-paragraph (3) there shall be added:

“In respect of a petition relating to a local election the following provisions shall have effect in substitution for the foregoing provisions of this sub-paragraph:

    - “Within the prescribed time after giving the security the petitioner shall serve on the respondent in the prescribed manner—
    - (a) a notice of the presentation of the petition and of the amount and nature of the security, and
    - (b) a copy of the petition.””;
  - (c) at the end of sub-paragraph (4) there shall be added:

“In respect of a petition relating to a local election this sub-paragraph shall have effect as if the words ‘, not exceeding five days after service of the notice,’ were omitted.”;
  - (d) sub-paragraph (5) shall be omitted; and
  - (e) at the end of sub-paragraph (7) there shall be added:

“In respect of a petition relating to a local election this sub-paragraph shall have effect as if the words “not exceeding five days” were omitted.”.
- 45.** In paragraph 12 (witnesses) of Schedule 8:
- (a) at the beginning of sub-paragraph (5) there shall be inserted the words “Except in respect of the trial of a local election petition,”; and
  - (b) in sub-paragraph (7)(a) after the words “to answer” there shall be inserted the words “, other than a witness at a trial of a local election petition,”.
- 46.** At the beginning of paragraph 5 (misdemeanours as to proxy voting)(**24**) of Schedule 9 (electoral misdemeanours) there shall be inserted the words “Except at a local election” and the words “or local” in sub-paragraph (a) shall be omitted.
- 47.** In paragraph 10 (offences in connection with legal incapacity to vote)(**25**) of Schedule 9:
- (a) at the beginning of sub-paragraph (1) there shall be inserted the words “Except at a local election” and the words “or votes by post at a local election” and “or local” shall be omitted; and
  - (b) in sub-paragraph (2) the words “or local government electoral area” shall be omitted.
- 48.** In paragraph 11 (offences in connection with voting in person)(**26**) of Schedule 9:
- (a) in sub-paragraph (b) the words “or local” shall be omitted; and
  - (b) sub-paragraphs (c) and (d) shall be omitted.
- 49.** In paragraph 12 (proxy offences)(**27**) of Schedule 9:
- (a) at the beginning of sub-paragraph (1) there shall be inserted the words “Except at a local election” and the words “(at a local election, whether in person or by post)” shall be omitted; and
  - (b) sub-paragraph (2)(d) shall be omitted.

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(24) Paragraph 5 was amended by Article 14 of the Local Elections (Northern Ireland) Order 1985 (S.I. 1985/454).

(25) Paragraph 10 was amended by Article 14 of the Local Elections (Northern Ireland) Order 1985.

(26) Paragraph 11 was amended by Article 14 of the Local Elections (Northern Ireland) Order 1985.

(27) Paragraph 12 was amended by Article 14 of the Local Elections (Northern Ireland) Order 1985.

**50.** For paragraph 12A (supplementary provisions about voting offences)(**28**) of Schedule 9 there shall be substituted the following paragraph—

“**12A.**—(1) A person shall be guilty of an illegal practice if—

- (a) he votes in person or by post, whether as an elector or as proxy, or applies to vote by proxy or by post as elector, at a local election or at local elections, knowing that he is subject to a legal incapacity to vote at the election or, as the case may be, at such elections; or
- (b) he applies for the appointment of a proxy to vote for him at any local election or at local elections knowing that he or the person to be appointed is subject to a legal incapacity to vote at the election or, as the case may be, such elections; or
- (c) he votes, whether in person or by post, as proxy for some other person at a local election, knowing that that person is subject to a legal incapacity to vote.

For the purposes of this sub-paragraph references to a person being subject to a legal incapacity to vote do not, in relation to things done before polling day at the election or first election at which or for which they are done, include his being below voting age if he will be of voting age on that day.

(2) A person shall be guilty of an illegal practice if—

- (a) he votes as elector otherwise than by proxy either—
  - (i) more than once in the same district electoral area at any local election; or
  - (ii) in more than one district electoral area at an ordinary election of councillors for a local government district; or
  - (iii) in any district electoral area at such an ordinary election as mentioned above, when there is in force an appointment of a person to vote as his proxy at the election in some other district electoral area; or
- (b) he votes as elector in person at a local election at which he is entitled to vote by post; or
- (c) he votes as elector in person at a local election, knowing that a person appointed to vote as his proxy at the election either has already voted in person at the election or is entitled to vote by post.

(3) A person shall be guilty of an illegal practice if—

- (a) he votes as proxy for the same elector either—
  - (i) more than once in the same district electoral area at any local election; or
  - (ii) in more than one district electoral area at an ordinary election of councillors for a local government district; or
- (b) he votes in person as proxy for an elector at a local election at which he is entitled to vote by post as proxy for that elector; or
- (c) he votes in person as proxy for an elector at a local election knowing that the elector has already voted in person at the election.

(4) A person shall also be guilty of an illegal practice if he votes at a local election in any district electoral area as proxy for more than two persons of whom he is not the husband, wife, parent, grandparent, brother, sister, child or grandchild.

(5) A person shall also be guilty of an illegal practice if he knowingly induces or procures some other person to do an act which is, or but for that other person's want of knowledge would be, an offence by that other person under the foregoing provisions of this paragraph.

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(28) Paragraph 12A was inserted by Article 14 of the Local Elections (Northern Ireland) Order 1985.

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(6) For the purposes of this paragraph a person who has applied for a ballot paper for the purpose of voting in person, or who has marked, whether validly or not, and returned a ballot paper issued for the purpose of voting by post, shall be deemed to have voted, but for the purpose of determining whether an application for a ballot paper constitutes an offence under sub-paragraph (4), a previous application made in circumstances which entitle the applicant only to mark a tendered ballot paper shall, if he does not exercise that right, be disregarded.

(7) Where a person is alleged to have committed an offence under sub-paragraph (2) (a)(i) or (3)(a)(i) by voting on a second or subsequent occasion, he shall not be deemed by sub-paragraph (6) to have voted by applying on a previous occasion for a ballot paper for the purpose of voting in person unless he then marked a tendered ballot paper under rule 37(4) of the local elections rules.

(8) In respect of an illegal practice under this paragraph—

- (a) the court before whom a person is convicted may, if they think it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of section 112; and
- (b) a candidate shall not be liable, nor shall his election be avoided, for an illegal practice under this paragraph of any agent of his other than an offence under sub-paragraph (5).”.

**51.** In paragraph 13(1)(b) (offence at meetings held with reference to local elections) of Schedule 9 for the words “on or within three weeks before” there shall be substituted “in the period beginning with the last day on which notice of election may be published under rule 1 of the local elections rules and ending with”.

**52.** At the end of paragraph 16 (failure to send certain statements, declarations, returns or copies) of Schedule 9 there shall be added:

“In respect of the application of the provisions of sections 41(5)(b), 46 and 47 at a local election, this paragraph shall have effect as if for “send” there were substituted “deliver”.”.

**53.** After paragraph 24 (offences in connection with service declarations) of Schedule 9 there shall be inserted the following paragraph:

“**24A.** A person who makes a statement which he knows to be false in any declaration or form used for any of the purposes of Part I of Schedule 2 to the Local Elections (Northern Ireland) Order 1985 (as substituted by Schedule 2 to the Local Elections (Northern Ireland) (Amendment) Order 1987) or attests an application under that Part when he knows that he is not authorised to do so or that it contains a statement which is false shall be guilty of an electoral offence.”.

**54.** In paragraph 29(4) (prohibition of certain payments) of Schedule 9 after the words “any election” there shall be inserted “, other than a local election,”.

**55.** In paragraph 31(2) (prohibition of use of certain premises as committee rooms) of Schedule 9 before the words “This sub-paragraph applies to” there shall be inserted “Except in respect of a committee room in connection with a local election” and at the end of the sub-paragraph there shall be added “At a local election this sub-paragraph applies only to the premises referred to at (iv) above”.

**56.** After paragraph 32 (officials not to act for candidates) of Schedule 9 there shall be inserted—

“**32A.**—(1) A person to whom this paragraph applies shall be guilty of an electoral offence if, without reasonable cause, he is guilty of any act or omission in breach of his official duty.

(2) The persons to whom this paragraph applies are—

- (a) the Chief Electoral Officer and any person to whom functions are delegated by him under this Act,
- (b) any presiding officer or any person either appointed to assist in the conduct of the election or who so assists in the course of his employment, and
- (c) any postmaster or his deputy;

and ‘official duty’ shall for the purposes of this paragraph be construed accordingly, but shall not include duties imposed otherwise than by the law relating to local elections or the registration of local electors.”.

57. At the beginning of paragraph 34 (attempts etc.) of Schedule 9 there shall be inserted the words “Except at a local election” and at the end of the paragraph there shall be added:

“Without prejudice to any other enactment a person who does any of the acts described in sub-paragraphs (a) or (b) shall be guilty of the electoral offence in question and shall be liable to be punished accordingly.”.

58. In form 5 (form of declaration as to election expenses required by section 47) of Schedule 10 (forms), in paragraph 2 after the word “transmitted” there shall be inserted “(or at a local election, delivered)”.

## SCHEDULE 2

Article 5(5).

Provisions substituted for Part I of Schedule 2 to  
the Local Elections (Northern Ireland) Order 1985

### “Part I

#### VOTING BY POST, BY PROXY AND BY POST AS PROXY

##### **Absent vote at local elections for indefinite period**

1.—(1) Where a person applies to the Chief Electoral Officer to vote by post, or to vote by proxy, at local elections for an indefinite period, the Chief Electoral Officer shall grant the application (subject to sub-paragraph (6)) if—

- (a) he is satisfied that the applicant is eligible for an absent vote at such elections for an indefinite period,
- (b) he is satisfied that the applicant is or will be registered in the register of local electors, and
- (c) the application meets the requirements set out in paragraphs 5 to 11.

(2) For the purposes of this paragraph, a person is eligible for an absent vote at local elections for an indefinite period—

- (a) if he is or will be registered as a service elector,
- (b) if he cannot reasonably be expected—
  - (i) to go in person to the polling station allotted or likely to be allotted to him under the local elections rules, or
  - (ii) to vote unaided there,

by reason of blindness or other physical incapacity,

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- (c) if he cannot reasonably be expected to go in person to that polling station by reason of the general nature of his occupation, service or employment or that of his spouse, or
- (d) if he cannot go in person from his qualifying address to that polling station without making a journey by air or sea.

(3) The Chief Electoral Officer shall keep a record of those whose applications under this paragraph have been granted showing—

- (a) in the case of those who may vote by post, the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent, and
- (b) in the case of those who may vote by proxy, the names and addresses of those appointed as their proxies.

(4) The Chief Electoral Officer shall remove a person from the record kept under sub-paragraph (3)—

- (a) if he applies to the Chief Electoral Officer to be removed,
- (b) in the case of any registered person, if he ceases to be registered at the same qualifying address or ceases to be, or becomes, registered as a service elector, or
- (c) if the Chief Electoral Officer gives notice that he has reason to believe there has been a material change of circumstances.

(5) A person shown in the record kept under sub-paragraph (3) as voting by post or, as the case may be, voting by proxy may subsequently alter his choice (subject to sub-paragraph (6)) on an application to the Chief Electoral Officer that meets the requirements set out in paragraphs 5 to 11 and the Chief Electoral Officer shall amend the record accordingly.

(6) A person applying to vote by post must provide an address in the United Kingdom as the address to which his ballot paper is to be sent.

### **Absent vote at a particular local election and absent voters list**

2.—(1) Where a person applies to the Chief Electoral Officer to vote by post, or to vote by proxy, at a particular local election, the Chief Electoral Officer shall grant the application (subject to sub-paragraph (5)) if—

- (a) he is satisfied that the applicant’s circumstances on the date of the poll will be or are likely to be such that he cannot reasonably be expected to vote in person at the polling station allotted or likely to be allotted to him under the local elections rules,
- (b) he is satisfied that the applicant is or will be registered in the register of local electors, and
- (c) the application meets the requirements set out in paragraphs 5 to 11.

(2) Sub-paragraph (1) does not apply to a person who is included in the record kept under paragraph 1, but such a person may, in respect of a particular local election apply to the Chief Electoral Officer—

- (a) for his ballot paper to be sent to a different address in the United Kingdom, or
- (b) to vote by proxy

if he is shown in the record so kept as voting by post.

(3) The Chief Electoral Officer shall grant an application under sub-paragraph (2) if it meets the requirements set out in paragraphs 5 to 11.

(4) The Chief Electoral Officer shall, in respect of each local election, keep a special list (“the absent voters list”) consisting of—

- (a) a list of—

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- (i) those whose applications under sub-paragraph (1) to vote by post at the election have been granted, together with the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent, and
  - (ii) those who are for the time being shown in the record kept under paragraph 1 as voting by post (excluding those so shown whose applications under sub-paragraph (2) to vote by proxy at the election have been granted), together with the addresses provided by them in their applications under that paragraph or, as the case may be, sub-paragraph (2) as the addresses to which their ballot papers are to be sent, and
- (b) a list (“the list of proxies”) of those whose applications under this paragraph to vote by proxy at the election have been granted or who are for the time being shown in the record kept under paragraph 1 as voting by proxy, together with the names and addresses of those appointed as their proxies.
- (5) A person applying to vote by post must provide an address in the United Kingdom as the address to which his ballot paper is to be sent.

### **Proxies at local elections**

**3.—(1)** Subject to the provisions of this paragraph, any person is capable of being appointed proxy to vote for another (in this paragraph and paragraph 4 referred to as “the elector”) at any local election and may vote in pursuance of the appointment.

(2) A person is not capable of being appointed to vote, or voting, as proxy at a local election—

- (a) if he is subject to any legal incapacity (age apart) to vote at the election as an elector, or
- (b) if he is neither a Commonwealth citizen nor a citizen of the Republic of Ireland.

(3) A person is not capable of voting as proxy at any such election unless on the date of the poll he has attained the age of eighteen.

(4) A person is not entitled to vote as proxy at the same local election in any district electoral area on behalf of more than two electors of whom that person is not the husband, wife, parent, grandparent, brother, sister, child or grandchild.

(5) Where the elector applies to the Chief Electoral Officer for the appointment of a proxy to vote for him at local elections for an indefinite period, the Chief Electoral Officer shall make the appointment if the application meets the requirements set out in paragraphs 5 to 11 and he is satisfied that the elector is or will be—

- (a) registered in the register of local electors, and
- (b) shown in the record kept under paragraph 1 as voting by proxy at local elections,

and that the proxy is capable of being and willing to be appointed to vote as proxy at such elections.

(6) Where the elector applies to the Chief Electoral Officer for the appointment of a proxy to vote for him at a particular local election, the Chief Electoral Officer shall make the appointment if the application meets the requirements set out in paragraphs 5 to 11 and he is satisfied that the elector is or will be—

- (a) registered in the register of local electors, and
- (b) entitled to vote by proxy at that election by virtue of an application under paragraph 2,

and that the proxy is capable of being and willing to be appointed.

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(7) The appointment of the proxy under this paragraph is to be made by means of a proxy paper in the form in the Appendix to this Part, or a form to the like effect, issued by the Chief Electoral Officer.

(8) The appointment may be cancelled by the elector by giving notice to the Chief Electoral Officer and shall also cease to be in force on the issue of a proxy paper appointing a different person to vote for him at a local election or local elections in the same district electoral area.

(9) Subject to sub-paragraph (8) the appointment shall remain in force—

- (a) in the case of an appointment for a particular election, for that election, and
- (b) in any other case, while the elector is shown as voting by proxy in the record kept under paragraph 1 in pursuance of the same application under that paragraph.

### **Voting as proxy**

4.—(1) A person entitled to vote as proxy at a local election may do so in person at the polling station allotted to the elector under the local elections rules unless he is entitled to vote by post as proxy for the elector at the election, in which case he may vote by post.

(2) Where a person is entitled to vote by post as proxy for the elector at any election, the elector may not apply for a ballot paper for the purpose of voting in person at the election.

(3) For the purposes of this Order and the Act of 1962, a person entitled to vote as proxy for another at a local election is entitled so to vote by post if he is included in the list kept under sub-paragraph (8) in respect of the election.

(4) Where a person applies to the Chief Electoral Officer to vote by post as proxy at local elections for an indefinite period, the Chief Electoral Officer shall (subject to sub-paragraphs (9) and (11)) grant the application if—

- (a) the applicant is included in the record kept under paragraph 1 in respect of the district electoral area, or
- (b) the address provided by the applicant in his application as the address to which his ballot paper is to be sent is not in the same ward as the elector's qualifying address,

and the application meets the requirements set out in paragraphs 5 to 11.

(5) The Chief Electoral Officer shall keep a record of those whose applications under sub-paragraph (4) have been granted showing the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent.

(6) Where a person applies to the Chief Electoral Officer to vote by post as proxy at a particular election and the application meets the requirements set out in paragraphs 5 to 11, the Chief Electoral Officer shall (subject to sub-paragraphs (9) and (11)) grant the application if—

- (a) he is satisfied that the applicant's circumstances on the date of the poll will be or are likely to be such that he cannot reasonably be expected to vote in person at the polling station allotted or likely to be allotted to the elector under the local elections rules, or
- (b) the applicant is, or the Chief Electoral Officer is satisfied that he will be, included in respect of the district electoral area in the absent voters lists for that election.

(7) Where, in the case of a particular election, a person included in the record kept under sub-paragraph (5) applies to the Chief Electoral Officer for his ballot paper to be sent to a different address in the United Kingdom, the Chief Electoral Officer shall grant the application if it meets the requirements set out in paragraphs 5 to 11.

(8) The Chief Electoral Officer shall, in respect of each local election keep a special list of—

- (a) those who are for the time being included in the record kept under sub-paragraph (5), together with the addresses provided by them in their applications under that sub-

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- paragraph or, as the case may be, sub-paragraph (7) as the addresses to which their ballot papers are to be sent, and
- (b) those whose applications under sub-paragraph (6) have been granted in respect of the election concerned, together with the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent.
- (9) The Chief Electoral Officer shall not grant any application under this paragraph unless—
- (a) he is satisfied that the elector is or will be registered in the register of local electors, and
  - (b) there is in force an appointment of the applicant as the elector’s proxy to vote for him at local elections or, as the case may be, the election concerned.
- (10) The Chief Electoral Officer shall remove a person from the record kept under sub-paragraph (5)—
- (a) if he applies to the Chief Electoral Officer to be removed,
  - (b) where he was included in the record on the ground mentioned in sub-paragraph (4)
    - (a), if he ceases to be included in any record kept under paragraph 1 in respect of the district electoral area or becomes so included in pursuance of a further application under that paragraph,
  - (c) if the elector ceases to be registered as mentioned in sub-paragraph (9)(a), or
  - (d) if the appointment of the person concerned as the elector’s proxy ceases to be in force (whether or not he is re-appointed).
- (11) A person applying to vote by post as proxy must provide an address in the United Kingdom as the address to which his ballot paper is to be sent.

### **General requirements for applications**

**5.—**(1) Applications under paragraph 1, 2, 3 or 4 shall, in addition to the address which is required by paragraph 1(6), 2(5) or 4(11) (as the case may be) in the case of a person applying to vote by post, state:—

- (a) the applicant’s full name,
- (b) except in the case of an application under paragraph 4, the address in respect of which the applicant is or will be registered in the register,
- (c) in the case of an application under paragraph 4, the address of the applicant, together with the name of the elector for whom he acts as proxy and the address of that elector for the purposes of paragraph (b), and
- (d) in the case of an application under paragraph 1(1), 2(1), 4(4) or (6), the grounds on which the applicant claims to be entitled to an absent vote;

and the application shall be signed by the applicant.

For the purposes of paragraph (b), the address in respect of which the applicant is or will be registered includes, in the case of a service elector, the address at which he would be resident but for his service as a member of the forces or employment as a Crown servant.

(2) An application to vote by proxy under paragraph 1(1) or (5) or 2(1) or (2) shall include an application for the appointment of a proxy which meets the requirements of paragraph 9.

(3) An application under this Part to the Chief Electoral Officer shall be made in writing and sent by post or delivered to his office or to the address specified by him for the purpose.

(4) An application under paragraph 1, 2, 3 or 4 shall comply with such further requirements of this Part as applies to such an application and with the requirements as to time set out in paragraph 11.

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

6.—(1) An application under paragraph 1(2)(b) shall specify the physical incapacity by reason of which the application is made.

- (2) Subject to sub-paragraph (4), such an application shall be attested and signed by—
- (a) a registered medical practitioner;
  - (b) a first level nurse trained in general nursing registered in Part I of the register maintained under section 10(1) of the Nurses, Midwives and Health Visitors Act 1979<sup>(29)</sup> in accordance with Article 2 of, and Schedule 1 to, the Nurses, Midwives and Health Visitors (Parts of the Register) Order 1983<sup>(30)</sup>
  - (c) a Christian Science practitioner;
  - (d) in the case of an application in which the applicant states that he is registered in a home for persons in need within the meaning of the definition in Article 2(2) of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(31)</sup> or a nursing home within the meaning of the definition in section 10(1) of the Nursing Homes and Nursing Agencies Act (Northern Ireland) 1971<sup>(32)</sup> which is required to be registered under Schedule 5 to that Order or Part I of that Act, as the case may be, by the person registered under that Order or that Act respectively as carrying on that home;
  - (e) in the case of an application in which the applicant states that he is resident in residential accommodation provided under Article 15 of the Health and Personal Social Services (Northern Ireland) Order 1972, by the officer in charge of that accommodation; or
  - (f) in the case of an application in which the applicant states that he resides in premises forming part of a group of premises—
    - (i) which are provided for persons of pensionable age or physically disabled persons, and
    - (ii) for which there is a resident warden,
 by that warden.
- (3) The person attesting the application under sub-paragraph (2) shall state—
- (a) his name and address and the qualification by virtue of which he is authorised to attest the application;
  - (b) that, to the best of his knowledge and belief, the applicant is suffering from the physical incapacity specified in the application and that he cannot reasonably be expected to go in person to his allotted polling station or to vote unaided there, by reason of that incapacity; and
  - (c) that to the best of his knowledge and belief, the physical incapacity specified in the application is likely to continue either indefinitely or for a period specified by the person attesting the application.
- (4) Sub-paragraphs (2) and (3) shall not apply where—
- (a) the application is based on the applicant's blindness and the applicant is registered as a blind person by a Health and Social Services Board, which is specified in the application, or

<sup>(29)</sup> 1979 c. 36.

<sup>(30)</sup> S.I. 1983/667.

<sup>(31)</sup> S.I. 1972/1265 (N.I. 14); that definition was repealed in part by the Health and Personal Social Services (Northern Ireland) Order 1978 (S.I. 1978/1907 (N.I. 26)), Schedule 2.

<sup>(32)</sup> 1971 c. 32 (N.I.); that definition was repealed in part by the Health and Personal Social Services (Northern Ireland) Order 1972, Schedule 18.

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- (b) the applicant is in receipt of a mobility allowance under section 37A of the Social Security (Northern Ireland) Act 1975<sup>(33)</sup> and the reference number of such an allowance is set out in the application.

(5) The fact that an applicant is either—

- (a) registered with a Health and Social Services Board as a blind person, or
- (b) in receipt of a mobility allowance,

shall be deemed sufficient evidence that he is eligible for an absent vote on the grounds set out in paragraph 1(2)(b).

(6) In this paragraph and paragraphs 7 and 8 “his allotted polling station”, in relation to an elector, means the polling station allotted or likely to be allotted to him under the local elections rules.

#### **Additional requirements for applications based on occupation, service or employment**

7.—(1) An application under paragraph 1(2)(c) shall state—

- (a) whether the occupation, service or employment, in respect of which it is made, is that of the applicant or his spouse;
- (b) the nature of the occupation, service or employment in respect of which it is made;
- (c) where the person in respect of whose occupation, service or employment it is made (in this paragraph referred to as “the employed person”) is self-employed, that fact; and in any other case the name of that person’s employer;
- (d) why the applicant cannot reasonably be expected to go in person to his allotted polling station (within the meaning of paragraph 6(6)) by reason of the general nature of the occupation, service or employment referred to in paragraph (b).

(2) Such an application shall be attested and signed—

- (a) where the employed person is self-employed, by a person who—
  - (i) is aged 18 years or over;
  - (ii) resides in the United Kingdom;
  - (iii) knows the employed person; and
  - (iv) is not related to him, and
- (b) in any other case, by the employer of the employed person or by another employee to whom this function is designated by the employer.

For the purposes of paragraph (a) above and paragraph (i) of sub-paragraph (3), one person is related to another if he is the husband, wife, parent, grandparent, brother, sister, child or grandchild of the other.

(3) The person attesting an application under sub-paragraph (2) shall—

- (a) where the applicant is the employed person, certify that the statements included in the application in accordance with the requirements of paragraphs (a) to (d) of sub-paragraph (1) are true; or
- (b) where the applicant is the spouse of the employed person, certify that the statements included in the application in accordance with the requirements of paragraphs (a) to (c) of sub-paragraph (1) are true;

and in addition, he shall state:—

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<sup>(33)</sup> 1975 c. 15; section 37A was inserted by Article 24(1) of the Social Security Pensions (Northern Ireland) Order 1975 (S.I. 1975/1503 (N.I. 15)).

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- (i) in the case of a person who attests an application under paragraph (a) of sub-paragraph (2), his name and address, and that he is aged 18 years or over, resides in the United Kingdom, knows the employed person, but is not related to him, or
- (ii) in the case of a person who attests an application under paragraph (b) of that sub-paragraph, either that he is the employer of the employed person or the position he holds in the employment of that employer.

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

8.—(1) An application under paragraph 2(1) shall set out why the applicant's circumstances on the date of the poll for the election in respect of which it is made will be or are likely to be such that he cannot reasonably be expected to vote in person at his allotted polling station (within the meaning of paragraph 6(6)).

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

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

For the purposes of paragraph (c) above and paragraph (d) of sub-paragraph (3), one person is related to another if he is the husband, wife, parent, grandparent, brother, sister, child or grandchild of the other.

(3) The person attesting an application under sub-paragraph (2) shall state—

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

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

(4) This sub-paragraph applies in respect of an application under paragraph 2(1) which—

- (a) states that it is made on the grounds that the applicant cannot reasonably be expected to vote in person at his allotted polling station (within the meaning of paragraph 6(6)) because he will be or is likely to be physically ill on the date of the poll,
- (b) specifies that illness, and
- (c) is attested and signed by one of the persons specified in paragraphs (a), (b) and (c) of paragraph 6(2).

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

- (a) his name and address and the qualification by virtue of which he is authorised to attest it; and
- (b) that, to the best of his knowledge and belief, the applicant is suffering from the physical illness specified in the application, that he will be or is likely to be so

suffering on the date of the poll, and that he cannot reasonably be expected to vote in person at his allotted polling station by reason of that illness.

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

9. An application for the appointment of a proxy under paragraph 3(5) or (6) shall state the full name and address of the person whom the applicant wishes to appoint as his proxy, together with his family relationship, if any, with the applicant, and—

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

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

10. An application under paragraph 4(6) shall set out why the applicant's circumstances on the date of the poll for the election in respect of which it is made will be or are likely to be such that he cannot reasonably be expected to vote in person at the polling station allotted or likely to be allotted to the elector under the local elections rules.

**Closing dates for applications**

11.—(1) An application—

- (a) to vote by post or proxy under paragraph 1(1);
- (b) by an absent voter to alter his choice as to the manner of absent voting under paragraph 1(5);
- (c) for the appointment of a proxy under paragraph 3(5); or
- (d) from a proxy to vote by post under paragraph 4(4),

shall be disregarded for the purposes of any particular election if it is received by the Chief Electoral Officer after noon on the thirteenth day before the date of the poll at that election.

(2) Subject to sub-paragraphs (3) and (4), an application—

- (a) to vote by post or proxy under paragraph 2(1);
- (b) by a postal voter for his ballot paper to be sent to a different address or to vote instead by proxy at a particular election under paragraph 2(2);
- (c) for the appointment of a proxy under paragraph 3(6);
- (d) from a proxy to vote by post under paragraph 4(6); or
- (e) from a postal proxy for his ballot paper to be sent to a different address at a particular election under paragraph 4(7),

shall be disallowed if it is received by the Chief Electoral Officer after noon on the thirteenth day before the date of the poll at the election for which it was made.

(3) Sub-paragraph (2) shall not apply to an application—

- (a) to which sub-paragraph (4) of paragraph 8 applies and which is attested in accordance with sub-paragraph (5) of that paragraph, and
- (b) in which, in addition to those requirements, the applicant states that on the thirteenth day before the date of the poll at the election for which the application is made

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(calculated in accordance with sub-paragraph (6)) he could not reasonably have foreseen that he would be or was likely to be physically ill on the date of the poll and the attester states that, so far as he is aware, that statement is true;

and such an application shall be disallowed if it is received by the Chief Electoral Officer after noon on the sixth day before the date of the poll at the election for which it was made.

(4) Sub-paragraph (2) shall not apply to an application to vote by post or proxy under paragraph 2(1) in which the applicant's circumstances on the date of the poll for the election in respect of which it is made are stated to be his employment, either as a constable or by the Chief Electoral Officer, on that date for a purpose connected with that election; and such an application may be disallowed if it is received by the Chief Electoral Officer after noon on the thirteenth day before that date.

(5) An application—

- (a) under paragraph 1(4)(a), by an elector to be removed from the record kept under paragraph 1(3), and
- (b) under paragraph 4(10)(a), by a proxy to be removed from the record kept under paragraph 4(5), and

a notice under paragraph 3(8) of the cancellation of a proxy's appointment may be disregarded for the purposes of any particular election if it is received by the Chief Electoral Officer after noon on the thirteenth day before the date of the poll at that election.

(6) In computing a period of days for the purposes of this paragraph, Saturday, Sunday, Christmas Eve, Maundy Thursday or a public holiday shall be disregarded.

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

**12.**—(1) Where the Chief Electoral Officer grants an application under paragraph 1, 2, 3 or 4 he shall, where practicable, notify the applicant of his decision.

(2) Where the Chief Electoral Officer disallows an application under paragraph 1, 2, 3 or 4 he shall notify the applicant of his decision and shall date such notification.

(3) Where under paragraph 1(1) or (5) the Chief Electoral Officer disregards an application for the purposes of any particular election, he shall, where practicable, notify the applicant of this.

### **Cancellation of proxy appointment**

**13.** Where the appointment of a proxy is cancelled by notice given to the Chief Electoral Officer under paragraph 3(8) or ceases to be in force under that provision or is no longer in force under paragraph 3(9)(b), the Chief Electoral Officer shall—

- (a) notify the person whose appointment as proxy has been cancelled or ceases to be or is no longer in force, unless the Chief Electoral Officer has previously been notified by that person that he no longer wishes to act as proxy, and
- (b) remove his name from the record kept under paragraph 1(3)(c).

### **Inquiries by Chief Electoral Officer**

**14.**—(1) The Chief Electoral Officer may, at such times as he thinks fit, make inquiries of a person—

- (a) who is shown in the record kept under sub-paragraph (3) of paragraph 1 by virtue of an application under that paragraph on the grounds set out in sub-paragraph (2) (b) or (c) of that paragraph, or

- (b) who immediately before 16th February 1987 was entitled to vote by post or by proxy for an indefinite period at local elections by virtue of his entitlement so to vote at parliamentary elections where that entitlement was based on the grounds set out in paragraphs (b)(i), (c) or (h) of section 19(1) of the Representation of the People Act 1983<sup>(34)</sup> and in respect of whom paragraph 1 has effect, by virtue of Article 6(1) of the Local Elections (Northern Ireland) (Amendment) Order 1987, as if an application under that paragraph so to vote had been granted on the date of the coming into force of that paragraph 1,

for the purpose of determining whether there has been a material change of circumstances.

(2) In the case of a person—

- (a) who is shown in the record kept under sub-paragraph (3) of paragraph 1 by virtue of an application under that paragraph on the grounds set out in sub-paragraph (2) (c) of that paragraph, or
- (b) to whom sub-paragraph (1)(b) applies and whose application to be treated as an absent voter was based on the ground set out in paragraph (b)(i) or (h) (general nature of applicant's occupation, service or employment or that of his spouse) of section 19(1) of the Representation of the People Act 1983,

the Chief Electoral Officer shall make the inquiries referred to in sub-paragraph (1) not later than three years after the date of the granting of the application or the last such inquiries, as the case may be.

In respect of a person to whom sub-paragraph (1)(b) applies, 16th February 1987 shall be treated as the date of the granting of the application.

(3) The Chief Electoral Officer may treat the failure by a person of whom inquiries have been made under sub-paragraph (1) or (2) to respond to such inquiries within one month of the date on which they were made as sufficient evidence of a material change in circumstances.

#### **Records and lists kept under paragraphs 1, 2 and 4**

**15.**—(1) Subject to the provisions of this paragraph, the records kept under paragraphs 1(3) and 4(5) and the lists kept under paragraphs 2(4) and 4(8) shall be in such form as the Chief Electoral Officer thinks fit.

(2) In that part of the absent voters list referred to in paragraph 2(4)(a), the address to which the ballot paper is to be sent to a person who is entitled to vote by post as an elector shall be placed on the right hand side of his name and electoral number.

(3) In that part of the absent voters list referred to in paragraph 2(4)(b) (the list of proxies), the name and address of the proxy shall be placed on the right hand side of the elector's name and electoral number.

(4) In the list kept under paragraph 4(8) (those proxies who are entitled to vote by post), the name of the proxy, together with the address to which his ballot paper is to be sent, shall be placed on the right hand side of the elector's name and electoral number.

(5) The Chief Electoral Officer shall make available for inspection at his office during ordinary office hours a copy of the records kept under paragraphs 1(3) and 4(5).

(6) As soon as practicable after the day referred to in paragraph 11(1), the Chief Electoral Officer shall publish the lists kept under paragraphs 2(4) and 4(8) by making a copy of them available for inspection at his office during ordinary office hours; and he shall continue to make a copy of those lists so available until the date of the poll.

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(34) 1983 c. 2.

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(7) As soon as practicable after the publication of the lists referred to in sub-paragraph (6) above, the Chief Electoral Officer shall, on request, supply free of charge a copy of them to each candidate or his election agent:

Provided that, if such a request is made before any issue of postal ballot papers, he shall before that issue supply a copy of those lists or so much of them as relates to that issue.

(8) In this paragraph, “electoral number” means a person’s number in the register to be used at the election or, pending publication of the register, his number (if any) in the electors lists for that register.

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

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

### **Forms**

17. The Chief Electoral Officer shall supply free of charge as many copies of forms for use in connection with applications made under paragraph 1, 2, 3 or 4 as appear to that Officer reasonable in the circumstances to any person who satisfies that Officer of his intention to use the forms in connection with an election.

### **Notifications**

18. Where the Chief Electoral Officer is required by a provision in this Part to notify any person, such notification shall be in writing and may be sent by post—

- (a) in the case of a person other than a service elector, to the address provided by that person for the purpose of such notification or of any record, or if there is no such address, to the last known place of abode of that person;
- (b) in the case of a service elector, to any address provided by him for the purpose of such notification or of any record or to the address provided for the purpose by the appropriate Government department (within the meaning of section 59(3) of the Representation of the People Act 1983).

### **Publication of documents**

19.—(1) Any failure to publish a document in accordance with this Part shall not invalidate the document, but this provision shall not relieve the Chief Electoral Officer from any penalty for such a failure.

(2) Where a document is made available for inspection, any person may make a copy of, or take extracts from, such document.

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## APPENDIX

### Form of proxy paper

District electoral area .....

Polling district.....

Name of Proxy.....

Address.....

is hereby appointed as proxy for

(Name of elector).....

who is qualified to be registered for

(Qualifying address).....

to vote for him/her at

\*[the local election for the above district electoral area on (date).....]

\*[any local election for the above district electoral area]

\*[This proxy appointment is not valid until.....]

Signature.....

\*Delete whichever is inappropriate

Chief Electoral Officer

Address.....

Date.....

#### YOUR RIGHT TO VOTE AS PROXY

1. This proxy paper gives you the right to vote as proxy on behalf of the elector whose name is given above.
2. Your appointment as proxy may be for a particular election only, or it may be for an indefinite period. If it is for a particular election, you have the right to vote as proxy only at the election specified in the proxy paper. If it is for an indefinite period, you have the right to vote as proxy at any local election until the Chief Electoral Officer informs you to the contrary.
3. When the elector applied for you to be appointed as proxy EITHER he or she was asked to state that he or she had consulted you and that you were capable of being and willing to be appointed as proxy OR you signed a statement stating that you were capable of being and willing to be appointed. You are capable of being appointed as proxy if you are at least 18 years old on polling day, a British or other Commonwealth citizen or a citizen of the Republic of Ireland and not for any reason disqualified from voting. If for some reason you are not capable of being, or willing to be, appointed as proxy, please write to the elector asking him to cancel the appointment.
4. You may vote as proxy at the polling station allotted to the elector on whose behalf you are appointed. However, you may not vote as proxy at the same election for more than two electors of whom you are not the husband, wife, parent, grandparent, brother, sister, child or grandchild. Shortly before polling day you will be sent a proxy poll card telling you where the polling station is. You do not need to take either the poll card or this proxy paper to the polling station but you may find it helpful to do so. Remember that the elector may still vote in person. If he or she applies for a ballot paper at the polling station before you do you will not be able to vote as proxy on his or her behalf.
5. If you cannot vote in person at the polling station the Chief Electoral Officer may be able to allow you to vote as proxy by post. If your appointment is for an indefinite period, you may apply to vote by post throughout the period your appointment is in force if you live in a different ward from the elector's qualifying address. If you are registered for the same ward as the elector, you may apply if you are entitled to vote by post or proxy on your own behalf. In addition, you may vote by post at a particular election if the Chief Electoral Officer is satisfied that you cannot reasonably be expected to vote in person at the elector's polling station. But the Chief Electoral Officer cannot allow an application to vote by post at a particular election if he receives it after midday on the thirteenth working day before the poll.

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## SCHEDULE 3

Article 5(7).

Amendments to Part III of Schedule 2 to the Local Elections (Northern Ireland) Order 1985

1. In paragraph 1 (interpretation) after the definition of “issue” there shall be inserted the following definition:—

“‘list of postal proxies’ means the list kept under paragraph 4(8) of Part I of this Schedule (as substituted by Schedule 2 to the Local Elections (Northern Ireland) (Amendment) Order 1987);”.

2. For paragraph 4 (declaration of secrecy) there shall be substituted the following paragraph:

**“Notification of requirement of secrecy**

4. The returning officer shall make such arrangements as he thinks fit to ensure that every person attending the proceedings in connection with the issue and receipt of postal ballot papers has been given a copy in writing of the provisions of paragraph 27(4) of Schedule 9 to the Act of 1962 and a statement of the penalty prescribed by section 111(2A)(d) of that Act (as inserted by paragraph 27 of Schedule 1 to the Local Elections (Northern Ireland) (Amendment) Order 1987).”.

3. In paragraph 6(1) (marking of postal ballot paper) for the words “list of postal voters” there shall be substituted “absent voters list”.

4. In paragraph 7 (refusal to issue postal ballot paper) for the words from “the list of postal voters” to “list of proxies” there shall be substituted “either the absent voters list or the list of postal proxies or in each of those lists relate to the same elector”.

5. In paragraph 11 (sealing up of special lists and counterfoils) for the words “list of postal voters”, in each place where those words occur, there shall be substituted “absent voters list and of the list of postal proxies”.

### EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Electoral Law Act (Northern Ireland) 1962 (“the 1962 Act”) and the Local Elections (Northern Ireland) Order 1985 (“the 1985 Order”) to make changes to the law in respect of local elections in Northern Ireland equivalent to those changes in respect of parliamentary elections which were made by the Representation of the People Act 1985 (c. 50) (“the 1985 Act”).

Schedule 1 to this Order includes amendments to the 1962 Act equivalent to those made to the Representation of the People Act 1983 (c. 2) (“the 1983 Act”) by sections 14 and 19 of, and Schedules 2, 3, 4 and 5 to, the 1985 Act. In addition, paragraph 41 of that Schedule amends the list of documents, one of which must be produced at a polling station before a ballot paper can be delivered to a voter; the amendment corresponds to that made for parliamentary elections by Regulation 13 of the Representation of the People (Northern Ireland) Regulations 1986 (S.I. 1986/1091) (“the 1986 Regulations”). Paragraph 50 of that Schedule (together with paragraphs 46 to 49) makes provision for voting offences at local elections in Northern Ireland equivalent to that made for such offences at parliamentary elections there by section 61 of the 1983 Act (as amended by the Elections (Northern

Ireland) Act 1985 (c. 2) and the 1985 Act). Paragraph 54 of that Schedule disapplies an offence which is already repealed as respects parliamentary elections.

Schedule 2 to this Order replaces the provisions about entitlement to vote by post or by proxy in Part I of Schedule 2 to the 1985 Order. The new provisions correspond to the provisions in respect of parliamentary elections made by sections 6 to 9 of the 1985 Act and Part IV of the 1986 Regulations. The absent voting forms prescribed by Part II of Schedule 2 to the 1985 Order are revoked by Article 5(6) of this Order because the new provisions set out the contents of applications to vote by post or by proxy or by post as proxy but do not prescribe forms as such.

Schedule 3 to this Order makes consequential amendments to Part III of Schedule 2 to the 1985 Order, which concerns the procedure on the issue and receipt of postal ballot papers. It also replaces the requirement to make a declaration of secrecy before attending such proceedings with a duty on the returning officer to notify persons so attending of the requirement of secrecy.