
STATUTORY INSTRUMENTS

1995 No. 1948

REPRESENTATION OF THE PEOPLE

The Local Government Elections (Changes to the Franchise and Qualification of Members) Regulations 1995

Made - - - - 23rd July 1995

Coming into force in accordance with regulation 1(2)

Whereas a draft of these Regulations has been approved by resolution of each House of Parliament in pursuance of paragraph 2(2) of Schedule 2 to the European Communities Act 1972⁽¹⁾;

Now, therefore, the Secretary of State, being a Minister designated⁽²⁾ for the purposes of subsection (2) of section 2 of that Act in relation to measures relating to the right of citizens of the Union to vote at and stand as a candidate at local government elections in England and Wales and Scotland and local elections in Northern Ireland, in exercise of the powers conferred on him by that subsection, hereby makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Local Government Elections (Changes to the Franchise and Qualification of Members) Regulations 1995.

(2) Regulations 3 and 5(1) of, and Schedule 1 to, these Regulations shall come into force on 1st January 1996 and the remainder of these Regulations shall come into force on the fourteenth day after the day on which they are made.

Interpretation

2. In these Regulations—

“the Act of 1983” means the Representation of the People Act 1983⁽³⁾;

“the Act of 1989” means the Elected Authorities (Northern Ireland) Act 1989⁽⁴⁾.

(1) 1972 c. 68.

(2) By the European Communities (Designation) (No. 3) Order 1993 (S.I.1993/2661).

(3) 1983 c. 2.

(4) 1989 c. 3.

Changes to the qualification for election and holding office as a member of a local authority

3.—(1) In section 79(1) of the Local Government Act 1972⁽⁵⁾, after the word “Ireland” there shall be inserted “or a relevant citizen of the Union”, and after subsection (2) of that section there shall be inserted:

“(2A) In this section the expression “citizen of the Union” shall be construed in accordance with Article 8.1 of the Treaty establishing the European Community⁽⁶⁾ (as amended by Title II of the Treaty on European Union⁽⁷⁾), and “relevant citizen of the Union” means such a citizen who is not a Commonwealth citizen or a citizen of the Republic of Ireland.”.

(2) In section 29(1) of the Local Government (Scotland) Act 1973⁽⁸⁾, after the word “Republic” there shall be inserted “or a relevant citizen of the Union” and in subsection (2) of that section, after the word “above”, there shall be inserted:

““citizen of the Union” shall be construed in accordance with Article 8.1 of the Treaty establishing the European Community (as amended by Title II of the Treaty on European Union) and “relevant citizen of the Union” means such a citizen who is not a Commonwealth citizen or a citizen of the Republic of Ireland; and”.

(3) In section 3(1) of the Local Government Act (Northern Ireland) 1972⁽⁹⁾, after the word “Ireland” there shall be inserted “or a relevant citizen of the Union”, and in subsection (2) of that section, after the word “section” there shall be inserted:

““citizen of the Union” shall be construed in accordance with Article 8.1 of the Treaty establishing the European Community (as amended by Title II of the Treaty on European Union) and “relevant citizen of the Union” means such a citizen who is not a Commonwealth citizen or a citizen of the Republic of Ireland; and”.

(4) In section 5(1) of the City of London (Various Powers) Act 1957⁽¹⁰⁾, after the word “Ireland” there shall be inserted “or a relevant citizen of the Union”.

Changes to the franchise

4.—(1) In—

- (a) section 2(1)(b)(ii) of the Act of 1983, and
- (b) section 1(1)(b)(ii) of the Act of 1989,

in each case the word “either” shall be omitted, and after the word “Ireland”, there shall be inserted in each case “or a relevant citizen of the Union”.

(2) In—

- (a) section 202(1) of the Act of 1983, and
- (b) section 10(1) of the Act of 1989,

there shall be inserted at the appropriate place:

““citizen of the Union” shall be construed in accordance with Article 8.1 of the Treaty establishing the European Community (as amended by Title II of the Treaty on European Union), and “relevant citizen of the Union” means such a citizen who is not a Commonwealth citizen or a citizen of the Republic of Ireland;”.

⁽⁵⁾ 1972 c. 70.

⁽⁶⁾ Treaty Series No. 47 (1988), Cm. 455.

⁽⁷⁾ Cm. 1934.

⁽⁸⁾ 1973 c. 65.

⁽⁹⁾ 1972 c. 9 (N.I.); section 3(1) was amended by section 11(5) of the Elected Authorities (Northern Ireland) Act 1989.

⁽¹⁰⁾ 1957 c.x; section 5(1) was amended by the [City of London \(Various Powers\) Act 1967 \(c.xlii\)](#), section 28.

(3) In section 4(1) of the City of London (Various Powers) Act 1957 there shall be inserted at the appropriate place:

““citizen of the Union” shall be construed in accordance with Article 8.1 of the Treaty establishing the European Community (as amended by Title II of the Treaty on European Union) and “relevant citizen of the Union” means such a citizen who is not a Commonwealth citizen or a citizen of the Republic of Ireland;”.

(4) In section 6(1) of the said Act of 1957, the word “either” shall be omitted, and after the word “Ireland” there shall be inserted “or, in the case of a ward election for common councilmen, relevant citizens of the Union”.

Consequential amendments

5.—(1) The amendments set out in Schedule 1 to these Regulations, which are consequential upon the changes to the qualification of members made by regulation 3 of these Regulations, shall have effect.

(2) The amendments set out in Schedule 2 to these Regulations, which are consequential upon the changes to the franchise made by regulation 4 of these Regulations, shall have effect.

Home Office
23rd July 1995

Michael Howard
One of Her Majesty’s Principal Secretaries of
State

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE 1

Regulation 5(1)

AMENDMENTS CONSEQUENTIAL UPON THE CHANGES TO THE QUALIFICATION OF MEMBERS

Primary legislation

1. In section 130(1) (interpretation) of the Electoral Law Act (Northern Ireland) 1962⁽¹¹⁾, there shall be inserted at the appropriate place:

““citizen of the Union” shall be construed in accordance with Article 8.1 of the Treaty establishing the European Community (as amended by Title II of the Treaty on European Union), and “relevant citizen of the Union” means such a citizen who is not a Commonwealth citizen or a citizen of the Republic of Ireland;”.

2. In Form 2 (candidate’s consent to nomination) in the Appendix of Forms in Schedule 5 to the said Act of 1962⁽¹²⁾, for the words “or a person to whom section 121 of the Electoral Law Act (Northern Ireland) 1962 applies” there shall be substituted “, citizen of the Republic of Ireland or a citizen of another Member State of the European Community”.

Subordinate legislation

3. At the end of rule 4 (interpretation) of—

- (a) the Local Elections (Principal Areas) Rules 1986⁽¹³⁾,
- (b) the Local Elections (Parishes and Communities) Rules 1986⁽¹⁴⁾, and
- (c) the Scottish Local Elections Rules 1986⁽¹⁵⁾,

in each case there shall be inserted:

“, and “citizen of the Union” shall be construed in accordance with Article 8.1 of the Treaty establishing the European Community (as amended by Title II of the Treaty on European Union), and “relevant citizen of the Union” means such a citizen who is not a Commonwealth citizen or a citizen of the Republic of Ireland.”.

4. In the form of candidate’s consent to nomination in the Appendix of Forms in Schedule 2 to each of the Rules of 1986 referred to in paragraph 3(a) and (b) of this Schedule, for the words “or citizen of the Republic of Ireland” there shall be substituted “, a citizen of the Republic of Ireland or a citizen of another Member State of the European Community”.

5. In the form of nomination paper in the Appendix of Forms in Schedule 2 to the Rules referred to in paragraph 3(c) of this Schedule, for the words from “British” to “Republic” in both places where they occur there shall be inserted “Commonwealth citizen or citizen of the Republic of Ireland or a citizen of another Member State of the European Community”.

(11) 1962 c. 14 (N.I.).

(12) Schedule 5 was substituted by the Local Elections (Northern Ireland) Order 1985 (S.I. 1985/454).

(13) S.I. 1986/2214; rule 4 was substituted by S.I. 1990/158. There have been other amendments which are not relevant to these Regulations.

(14) S.I. 1986/2215, to which there have been amendments which are not relevant to these Regulations.

(15) S.I. 1986/2213, amended by S.I. 1990/262.

SCHEDULE 2

Regulation 5(2)

AMENDMENTS CONSEQUENTIAL UPON CHANGES TO THE FRANCHISE

Primary legislation

The Electoral Law Act (Northern Ireland) 1962

1. In rule 34(6)(b) of the Local Elections Rules contained in Schedule 5 to the Electoral Law Act (Northern Ireland) 1962, for the words from “the United” to the end there shall be substituted “a Member State of the European Community;”.

The Representation of the People Act 1983

2. The Act of 1983 shall be amended in accordance with paragraphs 3 to 5 below.

3. In—

- (a) section 7(4)(d)(v) and (7)(c);
- (b) section 16(e);
- (c) section 17(1)(c); and
- (d) section 42(3)(c),

after the word “Ireland”, there shall be inserted in each case “or a relevant citizen of the Union”.

4. In—

- (a) section 7(9)(a), and
- (b) section 15(5)(a),

after the words “parliamentary elections”, there shall be inserted in each case “, or by a relevant citizen of the Union”.

5. For section 49(5)(16), there shall be substituted:

“(5) A person registered as a parliamentary or local government elector, or entered in the list of proxies, shall not be excluded from voting on any of the following grounds: but this shall not prevent the rejection of the vote on a scrutiny, or affect his liability to any penalty for voting.

The grounds are—

- (a) that he is not of voting age;
- (b) that he is not, or, on the qualifying date or the date of his appointment (as the case may be), was not—
 - (i) a Commonwealth citizen;
 - (ii) a citizen of the Republic of Ireland;
 - (iii) in the case of a person registered as a parliamentary elector in pursuance of an overseas elector’s declaration, a British citizen;
 - (iv) in the case of a person registered as a local government elector or entered in the list of proxies by virtue of being a relevant citizen of the Union, a relevant citizen of the Union;
- (c) that he is, or, on the qualifying date or the date of his appointment (as the case may be), was, otherwise subject to any other legal incapacity to vote.”.

(16) Section 49(5) was amended by section 4(4) of the Representation of the People Act 1985.

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6. The amendments made by paragraphs 3 to 5 of this Schedule shall also have effect in relation to the provisions amended as those provisions are applied for the purposes of local elections in Northern Ireland by section 2 of, and Schedule 1 to, the Act of 1989.

The Representation of the People Act 1985

7. For section 8(3) of the Representation of the People Act 1985(17), there shall be substituted:

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

(a) if he is subject to any legal incapacity (age apart) to vote at that election as an elector, or

(b) if he is neither a Commonwealth citizen nor a citizen of the Republic of Ireland.

(3A) A person is not capable of being appointed to vote, or voting, as proxy at a local government election—

(a) if he is subject to any legal incapacity (age apart) to vote at that election as an elector, or

(b) if he is neither a Commonwealth citizen nor a citizen of the Republic of Ireland nor a relevant citizen of the Union.”.

8. In subsection (4) of the said section 8, for the words “any such” there shall be substituted “a parliamentary or local government”.

9. Section 4(4) of the Representation of the People Act 1985 (which amended section 49(5) of the Act of 1983 and is superseded by paragraph 5 above) is hereby repealed.

Subordinate legislation

The Local Elections (Northern Ireland) Order 1985

10. In paragraph 3(2)(b) of Part I of Schedule 2 to the Local Elections (Northern Ireland) Order 1985(18), after the word “Ireland” there shall be inserted “nor a relevant citizen of the Union”.

11. In the Form in the Appendix to Schedule 2 to the said Order of 1985, in paragraph 3 of the note entitled “Your right to vote as proxy”, for the words “the Republic of Ireland”, there shall be substituted “a Member State of the European Community.”.

The Representation of the People Regulations 1986

12. The Representation of the People Regulations 1986(19) shall be amended in accordance with paragraphs 13 to 16 below.

13. In regulations 30(1)(b) and 39(2)(b) (declarations as to nationality) after the word “Ireland” there shall be inserted in each case “or a relevant citizen of the Union”.

14. In regulation 50(20) (marking of names) after paragraph (4) there shall be added:

“(5) To indicate that a person is a relevant citizen of the Union and is registered only as a local government elector, the letter “G” shall be placed against his name in the register.

(6) To indicate that a person is a relevant citizen of the Union and is registered both as a local government elector and as a European Parliamentary elector, the letter “K” shall be placed against his name in the register.”.

(17) 1985 c. 50.

(18) S.I. 1985/454; Schedule 2 was substituted by article 5(5) of, and Schedule 2 to, S.I. 1987/168, and there have been other amendments to S.I. 1985/454 which are not relevant to these Regulations.

(19) S.I. 1986/1081, amended by S.I. 1990/520 and S.I. 1994/342, and to which there have been other amendments which are not relevant to these Regulations.

(20) Regulation 50 was amended by Part I of the Schedule to S.I. 1994/342.

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15. In Schedule 2, Form A(21) (return by occupier as to residents) shall be amended as follows:

- (a) in section 2 (Names), for the words “British, other Commonwealth or Irish citizens” there shall be substituted “British citizens or other Commonwealth citizens, or who are citizens of the Republic of Ireland or another Member State of the European Community”;
- (b) between section 2 (Names) and section 3 (16/17 year olds) there shall be inserted:

2A European Community Citizens

If a European Community citizen (other than British or Irish) enter 280 below

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- (c) in section 7 (Declaration), for the words “or citizens of the Republic of Ireland”, there shall be substituted “citizens of the Republic of Ireland, or citizens of other Member States of the European Community”;
 - (d) after the last item under the heading “Be sure to include” there shall be added “Citizens of Member States of the European Community (who will be registered as local government electors only).”; and
 - (e) for the item “Foreign nationals” under the heading “Don't include”, there shall be substituted:

“Foreign nationals — except for citizens of Member States of the European Community.”.

16. In Schedule 2, Form D (proxy paper) shall be amended as follows:

- (a) at the end of paragraph 2 of the note entitled “Your right to vote as proxy” on the back of the form there shall be added:

“If the person on whose behalf you have the right to vote is a citizen of a Member State of the European Community other than the United Kingdom or the Republic of Ireland, you may vote on his or her behalf only at local government elections and not at parliamentary elections.”, and
- (b) in paragraph 3 of the said note, after the penultimate sentence, there shall be inserted:

“You are also capable of being appointed as proxy if you are a citizen of any other Member State of the European Community, but in that case you may only be appointed as proxy for local government elections and not for parliamentary elections.”.

The Representation of the People (Scotland) Regulations 1986

17. The Representation of the People (Scotland) Regulations 1986(22) shall be amended in accordance with paragraphs 18 to 22 below.

18. In regulations 29(1)(b) and 37(2)(b) (declarations as to nationality) after the word “Ireland” there shall be inserted “or a relevant citizen of the Union”.

(21) Form A was substituted by regulation 32 of, and Schedule 2 to, S.I. 1990/520.

(22) S.I. 1986/1111, amended by S.I. 1990/629, and to which there have been other amendments which are not relevant to these Regulations.

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19. In regulation 48(23) (marking of names), after paragraph (4) there shall be added:

“(5) To indicate that a person is a relevant citizen of the Union and is registered only as a local government elector, the letter “G” shall be placed against his name in the register.

(6) To indicate that a person is a relevant citizen of the Union and is registered both as a local government elector and as a European Parliamentary elector, the letter “K” shall be placed against his name in the register.”.

20. In Schedule 2, Form A(24) (return by householder as to residents) shall be amended as follows:

“(a) for the column entitled “NAMES” there shall be substituted the following:

NAMES Enter in block capitals the names of residents who are eligible to vote.

Enter householder’s name first, in the appropriate box, if resident and eligible
NAMES OF BRITISH, OTHER COMMONWEALTH OR IRISH CITIZENS
SURNAME (BLOCK LETTERS) FIRST FORENAME IN FULL. INITIALS
OF OTHER FORENAMES (BLOCK LETTERS)

NAMES OF CITIZENS OF MEMBER STATES OF THE EUROPEAN COMMUNITY
OTHER THAN THE UNITED KINGDOM AND THE IRISH REPUBLIC
SURNAME (BLOCK LETTERS) FIRST FORENAME IN FULL. INITIALS
OF OTHER FORENAMES (BLOCK LETTERS)”

(23) Regulation 48 was amended by Part II of the Schedule to S.I. 1994/342.

(24) Form A was substituted by regulation 28 of, and Schedule 2 to, S.I. 1990/629.

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- (b) in the declaration, for the words “or citizens of the Republic of Ireland” there shall be substituted “, citizens of the Republic of Ireland or citizens of other Member States of the European Community”;
- (c) in the first paragraph of the notes on how to complete the form, for the words “and citizens of the Republic of Ireland” there shall be substituted “, citizens of the Republic of Ireland and citizens of other Member States of the European Community”;
- (d) for item (a) under the heading “Do not include” there shall be substituted:
 - “(a) Foreign nationals — other than citizens of other Members States of the European Community;”;
- (e) at the end of the notes on how to complete the form there shall be added:

“European Community citizens

Appearance in the register of electors only entitles citizens of Member States of the European Community (other than British or Irish) to vote at local government elections. In order to vote at European Parliamentary elections they must complete a separate form, copies of which can be obtained from the electoral registration officer.”.

21. In Schedule 2, in paragraph 2 of Form B (notice of publication of draft register), after the word “Ireland” there shall be inserted “or a citizen of another Member State of the European Community”.

22. In Schedule 2, Form C (proxy paper) shall be amended as follows:

- (a) at the end of paragraph 2 of the note entitled “Your right to vote as proxy” on the back of the form there shall be added:

“If the person on whose behalf you have the right to vote is a citizen of a Member State of the European Community other than the United Kingdom or the Republic of Ireland, you may vote on his or her behalf only at local government elections and not at parliamentary elections.”, and

- (b) in paragraph 3 of the said note, after the penultimate sentence, there shall be inserted:

“You are also capable of being appointed as proxy if you are a citizen of any other Member State of the European Community, but in that case you may only be appointed as proxy for local government elections and not for parliamentary elections.”.

The Representation of the People (Northern Ireland) Regulations 1986

23. The Representation of the People (Northern Ireland) Regulations 1986⁽²⁵⁾ shall be amended in accordance with paragraphs 24 to 26 below.

24. In regulations 30(1)(b) and 39(2)(b) (declarations as to nationality) after the word “Ireland” there shall be inserted “or a relevant citizen of the Union”.

25. In regulation 50⁽²⁶⁾ (marking of names), after paragraph (4) there shall be added:

“(5) To indicate that a person is a relevant citizen of the Union and is registered only as a local elector, the letter “G” shall be placed against his name in the register.

“(6) To indicate that a person is a relevant citizen of the Union and is registered both as a local elector and as a European Parliamentary elector, the letter “K” shall be placed against his name in the register.”.

⁽²⁵⁾ S.I. 1986/1091, amended by S.I. 1989/1304, S.I. 1990/561 and S.I. 1994/342, and to which there have been other amendments which are not relevant to these Regulations.

⁽²⁶⁾ Regulation 50 was amended by Schedule 2 to S.I. 1989/1304 and by Part III of the Schedule to S.I. 1994/342.

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- 26.** In Schedule 2, Form A(**27**) (return by occupier as to residents) shall be amended as follows:
- (a) in section 6 (Declaration), for the words “or citizens of the Republic of Ireland”, there shall be substituted “citizens of the Republic of Ireland, or citizens of other Member States of the European Community”;
 - (b) in note 1, for the words “and citizens of the Republic of Ireland” there shall be substituted “, citizens of the Republic of Ireland and citizens of other Member States of the European Community”; and
 - (c) for note 3(a) there shall be substituted:
 - “(a) Foreign nationals — other than citizens of other Member States of the European Community.”.

The European Parliamentary Elections Regulations 1986

- 27.** The European Parliamentary Elections Regulations 1986(**28**) shall be amended as follows:
- (a) after sub-paragraph (i) of regulation 5(1)(**29**) there shall be inserted:
 - “(ia) section 49 of the Act of 1983 is to that provision as amended by Schedule 2 to the Local Government Elections (Changes to the Franchise and Qualification of Members) Regulations 1995”;
 - (b) after sub-paragraph (iv) of regulation 5(1) there shall be added:
 - “and
 - (v) section 8 of the Act of 1985 is to that provision as amended by Schedule 2 to the Local Government Elections (Changes to the Franchise and Qualification of Members) Regulations 1995”; and
 - (c) in the right-hand column of Schedule 1, in the modification of subsection (5) of section 49 of the Act of 1983 as applied by the left-hand column of that Schedule(**30**) the words “, in both places where they occur,” shall be omitted.

The European Parliamentary Elections (Northern Ireland) Regulations 1986

- 28.** The European Parliamentary Elections (Northern Ireland) Regulations 1986(**31**) shall be amended as follows:
- (a) after sub-paragraph (i) of regulation 5(1)(**32**) there shall be inserted:
 - “(ia) section 49 of the Act of 1983 is to that provision as amended by Schedule 2 to the Local Government Elections (Changes to the Franchise and Qualification of Members) Regulations 1995”;
 - (b) after sub-paragraph (iii) of regulation 5(1) there shall be added:
 - “and (iv) section 8 of the Act of 1985 is to that provision as amended by Schedule 2 to the Local Government Elections (Changes to the Franchise and Qualification of Members) Regulations 1995”; and

(27) Form A was substituted by regulation 26 of, and Schedule 2 to, S.I. [1990/561](#).

(28) S.I. [1986/2209](#); relevant amendments were made by S.I. [1992/723](#) and S.I. [1994/342](#); the citation of this instrument has been amended by section 3(1)(b) and (2)(b) of the European Communities (Amendment) Act [1986 \(c. 58\)](#) on the coming into force of the Single European Act (Cmnd. 9758) on 1st January 1987.

(29) Regulation 5(1) was amended by S.I. [1992/723](#).

(30) The modification was inserted by regulation 15(3) of S.I. [1994/342](#).

(31) S.I. [1986/2250](#); relevant amendments were made by S.I. [1992/833](#), S.I. [1994/342](#) and S.I. [1994/782](#); the citation of this instrument has been amended by section 3(1)(b) and (2)(b) of the European Communities (Amendment) Act 1986 on the coming into force of the Single European Act on 1st July 1987.

(32) Regulation 5(1) was amended by S.I. [1992/833](#).

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- (c) there shall be inserted the following modification of section 49 of the Act of 1983 (effect of registers), as applied by the left-hand column of Schedule 1, in the right-hand column of that Schedule:

“In subsection (5)(33) for the words “Republic of Ireland” there shall be substituted “Union”.”.

The Local Government (Transitional Election Arrangements) (Scotland) Order 1994

- 29.** After article 2 of the Local Government (Transitional Election Arrangements) (Scotland) Order 1994(34) there shall be inserted the following article—

“**2A.** Any reference in this Order to the 1973 Act, the 1983 Act, the 1986 Regulations or the 1986 Rules is a reference to that Act or, as the case may be, those Regulations or Rules as amended by the Local Government Elections (Changes to the Franchise and Qualification of Members) Regulations 1995.”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 2(2) of the European Communities Act 1972. They contain provisions extending the franchise and changing the qualification for election and holding office as members of local authorities. They amend both primary and secondary legislation on these matters for the purpose of implementing article 8b.1 of the Treaty establishing the European Community (as amended by Title II of the Treaty on European Union) and the requirements of the directive of the Council of the European Communities No.94/80/EC.

Regulation 3 amends the Local Government Act 1972, the Local Government (Scotland) Act 1973, the Local Government Act (Northern Ireland) 1972 and the City of London (Various Powers) Act 1957 to extend the right to stand at local government elections in England, Wales and Scotland, local elections in Northern Ireland and Common Council elections in the City of London to citizens of all Member States of the European Community on the same terms as Commonwealth citizens.

Regulation 4 amends the Representation of the People Act 1983, the Elected Authorities (Northern Ireland) Act 1989 and the City of London (Various Powers) Act 1957 to extend the right to vote in those elections to all citizens of Member States of the European Community on the same terms as Commonwealth citizens.

Regulation 5 and the Schedules to the Regulations make consequential amendments to primary and subordinate legislation for each of the three United Kingdom jurisdictions.

(33) Section 49(5) was substituted by paragraph 5 of Schedule 2 to these Regulations.

(34) S.I. 1994/3255.