
STATUTORY INSTRUMENTS

1999 No. 450

The National Assembly for Wales
(Representation of the People) Order 1999

PART II

ASSEMBLY FRANCHISE AND ITS EXERCISE

Voting at Assembly elections

3.—(1) A constituency vote shall be given in an Assembly constituency.

(2) Although given in relation to an Assembly electoral region, in accordance with section 4(1) and (3) of the 1998 Act, an electoral region vote shall also be given in an Assembly constituency.

Registers of electors etc.

4.—(1) An alteration in a register of electors under section 11(1) or (2) or 56 of the 1983 Act (correction of registers and registration appeals) shall not have effect for the purposes of an Assembly election if it was made after the last day for the delivery of nomination papers set out in the Table in paragraph 1(1) of Schedule 5.

(2) Schedule 1 (which makes provision in connection with electors lists and registers) has effect.

Registration appeals

5.—(1) Subject to giving the notice of appeal in accordance with paragraph 10(1) of Schedule 2, an appeal lies to the county court from any decision under this Order of the registration officer disallowing a person's application to vote—

- (a) by proxy or by post as elector, or
- (b) by post as proxy,

in any case where the application is not made for a particular Assembly election only.

(2) No appeal lies from the decision of the Court of Appeal on appeal from a decision of the county court under this article.

(3) An appeal to the county court or Court of Appeal by virtue of this article or section 56 of the 1983 Act which is pending when notice of an Assembly election is given shall not prejudice the operation as respects the Assembly election of the decision appealed against, and anything done in pursuance of the decision shall be as good as if no such appeal had been brought and shall not be affected by the decision of the appeal.

(4) Notice shall be sent to the registration officer in manner provided by rules of court of the decision of the county court or of the Court of Appeal on any appeal by virtue of this article, and the registration officer shall make such alterations in the—

- (a) record kept under article 8(4), or
- (b) record kept under article 12(6),

as may be required to give effect to the decision.

(5) Where, as a result of the decision on an appeal under section 56 of the 1983 Act, an alteration in the register is made under section 56(4) of that Act on or before the last day for the delivery of nomination papers at an Assembly election set out in the Table in paragraph 1(1) of Schedule 5, paragraph (3) shall not apply to that appeal as respects that Assembly election.

(6) The registration officer shall on an appeal brought under this article be deemed to be a party to the proceedings, and the registration expenses payable to a registration officer shall include any expenses properly incurred by him by virtue of this paragraph.

(7) Order 45, rule 2 of the County Court Rules 1981(1) (appeal from decision of registration officer) shall have effect in relation to appeals under this article subject to the following modifications—

(a) in rule 2(1), “regulations made under section 53 of the said Act of 1983”, and

(b) in rule 2(4)(a), “to the regulations mentioned in paragraph (1)”,

shall be construed as including a reference to paragraph 10 of Schedule 2.

Polling districts and places at Assembly elections

6.—(1) For the purpose of Assembly elections every Assembly constituency shall be divided into polling districts and subject to the provisions of this article there shall be a polling place for each polling district.

(2) Subject to paragraph (3), the polling districts and polling places to have effect at Assembly elections under this article shall be the districts and places as have effect at parliamentary elections.

(3) Where special circumstances make it desirable the council of a county or county borough may determine that other polling districts or polling places shall have effect in its area at an Assembly election.

(4) Any determination under paragraph (3) shall be taken in accordance with the rules set out in section 18(2) of the 1983 Act.

(5) An election shall not be questioned by reason of—

(a) any non-compliance with the provisions of this article, or

(b) any informality relating to polling districts or polling places.

Manner of voting at Assembly elections

7.—(1) This article applies to determine the manner of voting of a person entitled to vote as an elector at an Assembly election.

(2) He may vote in person at the polling station allotted to him under this Order, unless he is entitled as an elector to an absent vote at the Assembly election.

(3) He may vote by post if he is entitled as an elector to vote by post at the Assembly election.

(4) If he is entitled to vote by proxy at the Assembly election, he may so vote unless, before a ballot paper has been issued for him to vote by proxy, he applies at the polling station allotted to him under this Order for a ballot paper for the purposes of voting in person, in which case he may vote in person there.

(5) If he is not entitled as an elector to an absent vote at the Assembly election but cannot reasonably be expected to go in person to the polling station allotted to him under this Order by reason of the particular circumstances of his employment, either—

(a) as a constable,

- (b) by a constituency returning officer, in the case of a constituency election,
- (c) by a regional returning officer, in the case of a regional election, or
- (d) by a constituency returning officer, in the case of a regional election where that officer is exercising functions in relation to the election,

on the date of the poll for a purpose connected with the election (subject to paragraph (6)), he may vote in person at any polling station in the Assembly constituency—

- (i) for which the election is being held, in the case of a constituency election, or
- (ii) in which he is entitled to give his vote, in the case of a regional election.

(6) But if a person is employed at an ordinary election for a purpose connected with only one of two elections at which he is entitled to give a vote, he shall be treated for the purposes of paragraph (5) as employed for a purpose connected with both elections: provided that if a person is so treated, in exercising the right conferred by paragraph (5), those votes shall be given at the same polling station.

(7) For the purposes of the provisions of this Order, a person entitled to vote as an elector at an Assembly 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 an Assembly election are references to entitlement as an elector to vote by post or entitlement to vote by proxy at the election.

Absent vote at Assembly elections for an indefinite period

8.—(1) Where a person applies to the registration officer to vote by post, or to vote by proxy, at Assembly elections for an indefinite period, the registration officer shall grant the application (subject to paragraph (6)) if—

- (a) he is satisfied that the applicant is eligible for an absent vote at Assembly elections for an indefinite period,
- (b) he is satisfied that the applicant is or will be registered in the register for local government elections, and
- (c) the applicant meets the requirements set out in Schedule 2.

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

- (a) if he is or will be registered as a service voter,
- (b) if he is no longer resident at his qualifying address or at any other address in the same area,
- (c) if he cannot reasonably be expected—
 - (i) to go in person to the polling station allotted or likely to be allotted to him under this Order, or
 - (ii) to vote unaided there,

by reason of blindness or other physical incapacity,

- (d) 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
- (e) if he cannot go in person from his qualifying address to that polling station without making a journey by air or sea.

(3) For the purposes of paragraph (2)(b), two addresses are in the same area only if both addresses are in the same electoral division of a county or county borough and in the same community.

(4) The registration officer shall keep a record of those whose applications under this article have been granted.

- (5) The record kept under paragraph (4) shall also show—

- (a) in the case of those who may vote by post, the addresses provided by them in their application 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.
- (6) The registration officer shall remove a person from the record kept under paragraph (4)—
- (a) if he applies to the registration officer to be removed,
 - (b) in the case of any registered person, if he ceases to be registered or registered at the same qualifying address or ceases to be, or becomes, registered as a service voter, or
 - (c) if the registration officer gives notice that he has reason to believe there has been a material change of circumstances.
- (7) A person shown in the record kept under paragraph (4) as voting by post or voting by proxy may subsequently alter his choice (subject to paragraph (8)) on an application to the registration officer that meets the requirements set out in Schedule 2, and the registration officer shall amend the record accordingly.
- (8) A person applying to vote by post must provide an address in the United Kingdom as the address to which his ballot paper or, where he is entitled to give two votes at an ordinary election, ballot papers shall be sent.

Absent vote at a particular Assembly election

9.—(1) Where a person applies to the registration officer to vote by post, or to vote by proxy, at a particular Assembly election, the registration officer shall grant the application (subject to paragraph (4)) 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 this Order,
- (b) he is satisfied that the applicant is or will be registered in the register of local government electors, and
- (c) the application meets the requirements set out in Schedule 2.

(2) Paragraph (1) above does not apply to a person who is included in the record kept under article 8 but such a person may, in respect of a particular Assembly election, apply to the registration officer—

- (a) for his ballot paper or, where he is entitled to give two votes at an ordinary election, ballot papers 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 at Assembly elections.

(3) The registration officer shall grant an application under paragraph (2) if it meets the requirements set out in Schedule 2.

(4) A person applying to vote by post must provide an address in the United Kingdom as the address to which his ballot paper or, where he is entitled to give two votes at an ordinary election, ballot papers shall be sent.

(5) For the purposes of this article, articles 11 and 12 and Schedule 2 “particular election”, shall, where a person (whether as elector or as proxy) is entitled to give two votes at an ordinary election, refer to both elections at which he is entitled to so vote; and references to an absent vote at a particular Assembly election shall be construed accordingly.

Absent voters list at Assembly elections

10.—(1) Subject to paragraph (2), the registration officer shall, in respect of each Assembly election, keep a special list (“the absent voters list”) consisting of—

- (a) a list of—
 - (i) those who are for the time being shown in the record kept under article 8 as voting by post at Assembly elections (excluding those so shown whose applications under article 9(2) to vote by proxy at the election have been granted), together with the addresses provided by them in their applications under article 8 or article 9(2) as the addresses to which their ballot papers are to be sent, and
 - (ii) those whose applications under article 9(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
- (b) a list (“the list of proxies”) of those who are for the time being shown in the record kept under article 8 as voting by proxy at Assembly elections or whose applications under article 9 to vote by proxy at the election have been granted, together with the names and addresses of those appointed as their proxies.

(2) Where electors are entitled to give two votes at an ordinary election in an Assembly constituency, only one absent voters list shall be kept under paragraph (1) and that list shall have effect in relation to both elections.

Proxies at Assembly elections

11.—(1) Subject to the provisions of this article, any person is capable of being appointed proxy to vote for another (in this article and article 12 referred to as “the elector”) at any Assembly election and may vote in pursuance of the appointment.

(2) The elector cannot have more than one person at a time appointed as proxy to vote for him at an Assembly election (whether in the same Assembly constituency or elsewhere).

(3) A person is not capable of being appointed to vote, or voting, as proxy at an Assembly 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.

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

(5) A person is not entitled to vote as proxy—

- (a) in the case of an ordinary election, at constituency elections in Assembly constituencies in an Assembly electoral region (or in one such election),
- (b) in the case of a constituency election other than at an ordinary election, at the constituency election,
- (c) at a regional election (whether or not at an ordinary election),

on behalf of more than two persons of whom he is not the husband, wife, parent, grandparent, brother, sister, child or grandchild.

(6) Where the elector applies to the registration officer for the appointment of a proxy to vote for him at Assembly elections for an indefinite period, the registration officer shall make the appointment if the application meets the requirements set out in Schedule 2 and he is satisfied that the elector is or will be—

- (a) registered in the register of local government electors for Assembly elections, and

(b) shown in the record kept under article 8 as voting by proxy at such elections, and that the proxy is capable of being and willing to be appointed to vote as proxy at such elections.

(7) Where the elector applies to the registration officer for the appointment of a proxy to vote for him at a particular Assembly election, the registration officer shall make the appointment if the application meets the requirements set out in Schedule 2 and he is satisfied that the elector is or will be—

(a) registered in the register of local government electors for that election, and

(b) entitled to vote by proxy at that election by virtue of an application under article 9,

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

(8) The appointment of a proxy under this article is to be made by means of a proxy paper issued by the registration officer.

(9) The appointment may be cancelled by the elector by giving notice to the registration 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 an Assembly election or Assembly elections (whether in the same Assembly constituency or elsewhere).

(10) Subject to paragraph (9), 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 article 8 in pursuance of the same application under that article.

Voting as proxy at Assembly elections

12.—(1) A person entitled to vote as proxy at an Assembly election may do so in person at the polling station allotted to the elector under this Order 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 Assembly 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, a person entitled to vote as proxy for another at an Assembly election is entitled so to vote by post if he is included in the list kept under paragraph (9) in respect of the election.

(4) Where a person applies to the registration officer to vote by post as proxy at Assembly elections for an indefinite period, the registration officer shall (subject to paragraphs (10) and (12)) grant the application if—

(a) the applicant is included in any record kept under article 8 in respect of an Assembly constituency for the whole or any part of which the registration officer acts, or

(b) the address provided by the applicant in his application as the address to which his ballot paper or, where he is entitled to two votes at an ordinary election, ballot papers shall be sent is not in the same area as the elector's qualifying address,

and the application meets the requirements set out in Schedule 2.

(5) For the purposes of this article, two addresses are in the same area only if both addresses are in the same electoral division of a county or county borough and in the same community.

(6) The registration officer shall keep a record of those whose applications under paragraph (4) have been granted; and that record shall also show the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent.

(7) Where a person applies to the registration officer to vote by post as proxy at a particular election and the application meets the requirements set out in Schedule 2, the registration officer shall (subject to paragraphs (10) and (12)) 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 this Order, or
- (b) the applicant is, or the registration officer is satisfied that he will be, included in respect of the Assembly constituency for the whole or any part of which the registration officer acts in any of the absent voters lists for that election.

(8) Where, in the case of a particular election, a person included in the record kept under paragraph (6) applies to the registration officer for his ballot paper or, where he is entitled to give two votes in the case of an ordinary election, ballot papers to be sent to a different address in the United Kingdom, the registration officer shall grant the application if it meets the requirements set out in Schedule 2.

(9) Subject to the proviso to this paragraph, the registration officer shall, in respect of each Assembly election, keep a special list of—

- (a) those who are for the time being included in the record kept under paragraph (6), together with the addresses provided by them in their applications under that paragraph or paragraph (8) as the addresses to which their ballot papers are to be sent, and
- (b) those whose applications under paragraph (7) have been granted in respect of the election concerned, together with the addresses to which their ballot papers are to be sent.

Provided that where electors are entitled to give two votes at an ordinary election in an Assembly constituency, only one list shall be kept under this paragraph and that list shall have effect in relation to both elections.

(10) The registration officer shall not grant any application under this article unless—

- (a) he is satisfied that the elector is or will be registered in the register of local government electors, and
- (b) there is in force an appointment of the applicant as the elector's proxy to vote for him at Assembly elections or the particular election.

(11) The registration officer shall remove a person from the record kept under paragraph (6)—

- (a) if he applies to the registration officer to be removed,
- (b) where he was included in the record on the ground mentioned in paragraph (4)(a), if he ceases to be included in any record kept under article 8 in respect of an Assembly constituency for the whole or any part of which the registration officer acts or becomes so included in pursuance of a further application under that article,
- (c) if the elector ceases to be registered as mentioned in paragraph (10)(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).

(12) 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 or, where he is entitled to give two votes at an ordinary election, ballot papers shall be sent.

Absent voting at Assembly elections: miscellaneous

13.—(1) For the purposes of section 59 of the 1983 Act (supplemental provisions as to members of forces and service voters)—

- (a) subsection (3)(a) shall be construed as including a reference to this Order in connection with the rights conferred by this Order on a person having a service qualification by virtue of section 14(1)(a) or (b) of that Act in relation to the making and cancellation of appointments of a proxy and in relation to voting by post, and

(b) subsection (3)(b) shall be similarly construed.

(2) Schedule 2 (which makes provision in connection with absent voting at Assembly elections) has effect.

(3) Schedule 3 (which makes provision in connection with the issue and receipt of postal ballot papers) has effect.

Combination of polls at Assembly and local government elections

14.—(1) Where the polls at an ordinary Assembly election and an ordinary local government election are to be taken on the same date, they shall be taken together.

(2) Where the polls at an Assembly election and local government election for related areas are to be taken on the same date but are not required by paragraph (1) to be taken together, they may nevertheless be so taken if the returning officer for each election thinks fit.

(3) For the purposes of paragraph (2), two areas are related if one is coterminous with or situated wholly or partly within the other.

(4) Where the polls at an ordinary Assembly election and an ordinary local government election are combined under paragraph (1) the cost of taking the combined polls (excluding any cost solely attributable to one election) and any cost attributable to their combination shall be apportioned among the elections in such proportions as the Assembly may by order specify; and an order under this paragraph may specify different proportions in relation to different functions.

(5) Where the polls at an Assembly election and another election are combined under paragraph (2) the cost of taking the combined polls (excluding any cost solely attributable to one election) and any cost attributable to their combination shall be apportioned equally among the elections.

(6) The power to make orders under paragraph (4) shall be exercised by statutory instrument.

(7) Schedule 4 (which makes provision in connection with the combination of polls at Assembly and local government elections) has effect.

(8) Before the day of the first ordinary Assembly election the reference in paragraph (4) to the Assembly shall be construed as a reference to the Secretary of State.

Conduct of Assembly elections etc.

15.—(1) The proceedings at Assembly elections and return of Assembly members shall be conducted in accordance with Schedule 5.

(2) In addition to the functions otherwise conferred or imposed on a constituency or regional returning officer at an Assembly election it is the general duty of such an officer to do all such acts as may be necessary for effectively conducting the election in the manner provided by Schedule 5.

(3) No Assembly election shall be declared invalid by reason of any act or omission by such a returning officer or any other person in breach of his official duty in connection with the election or otherwise of Schedule 5 if it appears to the election court having cognizance of the question that—

(a) the election was so conducted as to be substantially in accordance with the law as to Assembly elections, and

(b) the act or omission did not affect the result.

Returning officers

16.—(1) For the purpose of Assembly elections there shall be—

(a) a constituency returning officer for each Assembly constituency, and

(b) a regional returning officer for each Assembly electoral region, and such persons shall hold office in accordance with paragraphs (2) and (3).

(2) A constituency returning officer shall be a person—

(a) appointed under section 35(1A)(a) of the 1983 Act⁽²⁾ to be the returning officer for elections of councillors of a county or county borough situated wholly or partly in the Assembly constituency, and (in the case where there is more than one such person)

(b) who is for the time being designated by the Assembly as returning officer for the constituency.

(3) A regional returning officer shall be a person—

(a) appointed under section 35(1A)(a) of the 1983 Act to be the returning officer for elections of councillors of a county or county borough situated wholly or partly in the Assembly electoral region, and

(b) who is for the time being designated by the Assembly as returning officer for the electoral region.

(4) Before the day of the first ordinary election the references in paragraphs (2)(b) and (3)(b) to the Assembly shall be construed as references to the Secretary of State.

(5) A designation made under this article shall be in writing.

Officers of councils to be placed at disposal of returning officers

17.—(1) The council of each county or county borough shall place the services of its officers at the disposal of any constituency returning officer for an Assembly constituency wholly or partly situated in its area.

(2) The services placed at the disposal of a constituency returning officer under paragraph (1) may relate to the exercise of that officer's functions in connection with a constituency election, a regional election or to both such elections.

(3) The council of each county or county borough shall also place the services of its officers at the disposal of any regional returning officer for an Assembly electoral region partly situated in its area.

Returning officers: discharge of functions

18.—(1) A constituency or a regional returning officer at an Assembly election may, in writing, appoint one or more persons to discharge all or any of his functions.

(2) Paragraph (1) applies to a constituency returning officer at a constituency or a regional election.

(3) In relation to an ordinary election and to a regional election other than at an ordinary election, it shall be the duty of each regional returning officer and each constituency returning officer for an Assembly constituency in the Assembly electoral region to co-operate with each other in the discharge of their functions.

(4) The duty imposed by paragraph (3) applies as between constituency returning officers in an Assembly electoral region as well as between such officers and the regional returning officer for the electoral region.

(5) In this Order, a reference to a constituency returning officer in relation to the discharge of functions at a regional election is a reference to the discharge of such functions in relation to the Assembly constituency for which he is the returning officer.

(2) Subsection (1A) was added by the Local Government (Wales) Act 1994 (c. 19), Schedule 16.

Returning officers: general

19.—(1) An Assembly election is not liable to be questioned by reason of a defect in the title, or want of title, of the person presiding at or conducting the election, if that person was then in actual possession of, or acting in, the office giving the right to preside at or conduct the election.

(2) A person is not subject to any incapacity to vote at an Assembly election by reason of being returning officer at that election.

Payments by and to returning officer

20.—(1) A constituency or a regional returning officer shall be entitled to recover his charges in respect of services properly rendered, or expenses properly incurred, for, or in connection with, an Assembly election if—

- (a) the services or expenses are of a kind specified in an order made by the Assembly, and
- (b) the charges are reasonable,

and in the case of a constituency returning officer, this paragraph applies to services rendered or expenses incurred for, or in connection with, a constituency or a regional election.

(2) In any order made under paragraph (1) the Assembly may specify a maximum recoverable amount for services or expenses of any specified description and, subject to paragraph (3), the returning officer may not recover more than that amount in respect of any such services or expenses.

(3) The Assembly may, in a particular case, authorise the payment of more than the specified amount for any specified services or expenses if satisfied—

- (a) that it was reasonable for the returning officer concerned to render the services or incur the expenses, and
- (b) that the charges in question are reasonable.

(4) Any order under paragraph (1) which specifies the maximum amount for services or expenses of a particular description may—

- (a) provide for that amount to increase at such dates, or after such periods, by reference to such formula or other method of determination as may be specified in the order, and
- (b) make such transitional provision in connection with any such increase as the Assembly considers appropriate.

(5) Any order under paragraph (1) may make different provision for constituency elections (on the one hand) and regional elections (on the other).

(6) The power to make orders under paragraph (1) shall be exercised by statutory instrument.

(7) The Assembly shall pay the amount of any charges recoverable in accordance with this article on an account being submitted to it but the Assembly may if it thinks fit, before payment, apply for the account to be taxed under the provisions of article 21.

(8) Where the superannuation contributions required to be paid by a local authority in respect of any person are increased by any fee paid under this article as part of a returning officer's charges at an Assembly election, then on an account being submitted to the Assembly, a sum equal to the increase shall be paid by the Assembly to the authority.

(9) On a returning officer's request for an advance on account of his charges, the Assembly may, on such terms as it thinks fit, make such an advance.

(10) The Assembly by regulations may make provision as to the time when and the manner and form in which accounts are to be rendered to the Assembly for the purpose of the payment of a returning officer's charges; and such regulations may make different provision for constituency elections (on the one hand) and regional elections (on the other).

(11) Before the day of the first ordinary election references in this article to the Assembly shall be construed as references to the Secretary of State and any exercise by the Secretary of State of his functions under paragraphs (1) and (2) shall require the consent of the Treasury.

Taxation of returning officer's account

21.—(1) An application for a returning officer's account to be taxed shall be made to the county court and in this article the expression "the court" means the county court.

(2) On any such application the court has jurisdiction to tax the account in such manner and at such time and place as the court thinks fit, and finally to determine the amount payable to the returning officer.

(3) On any such application the returning officer may apply to the court to examine any claim made by any person against him in respect of matters charged in the account; and the court, after notice given to the claimant and after giving him an opportunity to be heard and to tender any evidence, may allow or disallow or reduce the claim objected to with or without costs; and the determination of the court shall be final for all purposes and against all persons.

(4) Order 45, rule 1 of the County Court Rules 1981⁽³⁾ (application for taxation of returning officer's account under section 30 of the 1983 Act) shall have effect in relation to applications made under this article and, accordingly, in that rule the references to—

- (a) the Secretary of State shall be construed as including references to the Assembly, and
- (b) returning officers shall be construed as including references to—
 - (i) constituency returning officers in relation to a constituency election, and
 - (ii) constituency and regional returning officers in relation to a regional election.

Loan of equipment for Assembly elections

22.—(1) Any ballot boxes, fittings and compartments provided for parliamentary elections out of money provided by Parliament may, on request, be lent to a constituency returning officer at an Assembly election on such terms and conditions as the Secretary of State may determine.

(2) Any ballot boxes, fittings and compartments provided by or belonging to a local authority within the meaning of the Local Government Act 1972⁽⁴⁾ shall, on request (if not required for immediate use by that authority), be lent to a constituency returning officer at an Assembly election on such terms and conditions as may be agreed.

Effect of registers

23.—(1) In relation to an Assembly election the register of local government electors shall be for the purposes of this Part conclusive on the following questions—

- (a) whether or not a person registered in it was on the qualifying date resident at the address shown, and
- (b) whether or not that address is in any local government area or any particular part of a local government area.

(2) Any entry in the register of local government electors, if it gives a date as that on which the person named will attain voting age, shall for any purpose of this Part relating to him as elector be conclusive that until the date given in the entry he is not of voting age or is entitled to be treated as an elector except for the purposes of an Assembly election at which the date fixed for the poll is that or a later date.

⁽³⁾ S.I. 1981/1687.

⁽⁴⁾ 1972 c. 70.

(3) A person registered as a local government elector, or entered in the list of proxies, shall not be excluded from voting at an Assembly election on any of the grounds set out in paragraph (4); but this shall not prevent the rejection of the vote on a scrutiny, or affect his liability to any penalty for voting.

(4) The grounds referred to in paragraph (3) 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, or
 - (iii) a relevant citizen of the Union, or
- (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.

Effect of misdescription

24. In relation to an Assembly election no misnomer or inaccurate description of any person or place named—

- (a) in the register of local government electors, or
- (b) in any list, record, proxy paper, individual or party nomination paper, ballot paper, notice or other document required for the purposes of this Order,

shall affect the full operation of the document with respect to that person or place in any case where the description of the person or place is such as to be commonly understood.

Discharge of registration duties

25.—(1) A registration officer shall comply with any general or specific directions which may be given by the Secretary of State with respect to the arrangements to be made by the registration officer in carrying out his functions under this Order.

(2) Any of the duties and powers of a registration officer under this Order may be performed and exercised by any deputy for the time being approved by the county or county borough council which appointed the registration officer; and the provisions of this Order apply to any such deputy so far as respects any duties or powers to be performed or exercised by him as they apply to the registration officer.

(3) Any acts authorised or required to be done by or with respect to the registration officer under this Order may, in the event of his incapacity to act or of a vacancy, be done by or with respect to the proper officer of the county or county borough council by whom the registration officer was appointed.

(4) A county or county borough council by whom a registration officer is appointed shall assign such officers to assist him as may be required in carrying out his functions under this Order.

Payment of expenses of registration

26.—(1) Any expenses properly incurred by a registration officer in performance of his functions under this order (in this Order referred to as “registration expenses”) shall be paid by the county or county borough council by whom the registration officer was appointed.

(2) Any fees paid to the registration officer under this Order shall be accounted for by him and paid to the county or county borough council by whom he was appointed.

(3) On the request of a registration officer for an advance on account of registration expenses, the county or county borough council by whom the registration officer was appointed may, if it thinks fit, make such an advance to him of such an amount and subject to such conditions as it may approve.

Personation

27.—(1) In relation to an Assembly election a person shall be guilty of a corrupt practice if he commits, or aids, abets, counsels or procures the commission of, the offence of personation.

(2) A person shall be deemed to be guilty of personation at an Assembly election if he—

- (a) votes in person or by post as some other person, whether as an elector or as proxy, and whether that other person is living or dead or is a fictitious person, or
- (b) votes in person or by post as proxy—
 - (i) for a person whom he knows or has reasonable grounds for supposing to be dead or to be a fictitious person, or
 - (ii) when he knows or has reasonable grounds for supposing that his appointment as proxy is no longer in force.

(3) For the purposes of this article, 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.

Other voting offences

28.—(1) For the purposes of this article 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 paragraph (6), 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.

(2) A person shall be guilty of an offence 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 an Assembly election, or at Assembly elections, knowing that he is subject to a legal incapacity to vote at the election or, as the case may be, at elections of that kind,
- (b) he applies for the appointment of a proxy to vote for him at any Assembly election or at Assembly 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, at elections of that kind, or
- (c) he votes, whether in person or by post, as proxy for some other person at an Assembly election, knowing that that person is subject to a legal incapacity to vote.

(3) For the purposes of paragraph (2), 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 or for which they are done, include his being below voting age if he will be of voting age on that day.

(4) A person shall be guilty of an offence if—

- (a) he votes as elector otherwise than by proxy either—
 - (i) more than once in the same Assembly constituency at any Assembly election,
 - (ii) in more than one Assembly constituency at an ordinary election, or
 - (iii) in any Assembly constituency at an Assembly election when there is in force an appointment of a person to vote as his proxy at the election in some other constituency,

- (b) he votes as elector in person at an Assembly election at which he is entitled to vote by post,
 - (c) he votes as elector in person at an Assembly 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 at the election, or
 - (d) he applies for a person to be appointed as his proxy to vote for him at Assembly elections in any Assembly constituency without applying for the cancellation of a previous appointment of a third person then in force in respect of that or another constituency or without withdrawing a pending application for such an appointment in respect of that or another constituency.
- (5) A person shall be guilty of an offence if—
- (a) he votes as proxy for the same elector either—
 - (i) more than once in the same Assembly constituency at any Assembly election, or
 - (ii) in more than one Assembly constituency at an ordinary election,
 - (b) he votes in person as proxy for an elector at an Assembly 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 an Assembly election knowing that the elector has already voted in person at the election.
- (6) A person shall also be guilty of an offence if he votes as proxy—
- (a) in the case of an ordinary election, at constituency elections in Assembly constituencies in an Assembly electoral region (or in one such election),
 - (b) in the case of a constituency election other than at an ordinary election, at a constituency election,
 - (c) at a regional election (whether or not at an ordinary election),
- for more than two persons of whom he is not the husband, wife, parent, grandparent, brother, sister, child or grandchild.
- (7) A person shall also be guilty of an offence 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 paragraphs of this article.
- (8) An offence under this article shall be an illegal practice, but—
- (a) the court before whom a person is convicted of any such offence may, if they think it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of article 135, and
 - (b) a candidate shall not be liable, nor shall his election be avoided, for an illegal practice under this article of any agent of his other than an offence under paragraph (7).
- (9) Where a person is entitled to give two votes at an ordinary election in an Assembly constituency (whether in person as elector or by proxy, or by post as elector or by proxy) he votes once in relation to each Assembly election for which his votes are given.

Breach of official duty

29.—(1) If a person to whom this article applies is, without reasonable cause, guilty of any act or omission in breach of his official duty, he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) No person to whom this article applies shall be liable for breach of his official duty to any penalty at common law and no action for damages shall lie in respect of the breach by such a person of his official duty.

- (3) The persons to whom this article applies are—
- (a) any registration officer, returning officer or presiding officer,
 - (b) any member of staff of the Assembly,
 - (c) any other person whose duty it is to be responsible after an Assembly election for the used ballot papers and other documents (including returns and declarations as to expenses),
 - (d) any postmaster, and
 - (e) any deputy of a person mentioned in any of sub-paragraphs (a) to (d) or any person appointed to assist or in the course of his employment assisting a person so mentioned in connection with his official duties;

and “official duty” shall for the purpose of this article be construed accordingly, but shall not include duties imposed otherwise than by the law relating to Assembly elections or the registration of local government electors.

Tampering with nomination papers, ballot papers etc.

- 30.**—(1) A person shall be guilty of an offence if, at an Assembly election, he—
- (a) fraudulently defaces or fraudulently destroys any individual nomination or party nomination paper,
 - (b) fraudulently defaces or fraudulently destroys any ballot paper, or the official mark on any ballot paper, or any declaration of identity or official envelope used in connection with voting by post,
 - (c) without due authority supplies any ballot paper to any person,
 - (d) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorised by law to put in,
 - (e) fraudulently takes out of the polling station any ballot paper,
 - (f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election, or
 - (g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts.
- (2) If—
- (a) a constituency returning officer at a constituency election,
 - (b) a constituency or regional returning officer at a regional election,
 - (c) a presiding officer, or
 - (d) 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,

is guilty of an offence under this article, he shall be liable—

- (i) on conviction on indictment to a fine, or to imprisonment for a term not exceeding two years, or to both, or
 - (ii) on summary conviction, to a fine not exceeding the statutory maximum, or to imprisonment for a term not exceeding six months, or to both.
- (3) If any other person is guilty of an offence under this article he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale, or to imprisonment for a term not exceeding six months, or to both.

Requirement of secrecy

31.—(1) The following persons attending at a polling station, namely—

- (a) a constituency returning officer at a constituency election,
- (b) a constituency or regional returning officer at a regional election,
- (c) a presiding officer or clerk, or
- (d) a candidate or election agent or polling agent,

shall maintain and aid in maintaining the secrecy of voting and shall not, except for some purpose authorised by law, communicate to any person before the poll is closed any information as to—

- (i) the name of any elector or proxy for an elector who has or has not applied for a ballot paper or voted at a polling station,
- (ii) the number on the register of electors of any elector who, or whose proxy, has or has not applied for a ballot paper or voted at a polling station, or
- (iii) the official mark.

(2) Every person attending at the counting of the votes shall maintain and aid in maintaining the secrecy of voting and shall not—

- (a) ascertain or attempt to ascertain at the counting of votes the number on the back of any ballot paper,
- (b) communicate any information obtained at the counting of votes as to how any vote is given on any particular ballot paper.

(3) No person shall—

- (a) interfere with or attempt to interfere with a voter when giving his vote,
- (b) otherwise obtain or attempt to obtain in a polling station information as to how a voter in that station is about to vote or has voted,
- (c) communicate at any time to any person any information obtained in a polling station as to how a voter in that station is about to vote or has voted, or as to the number on the back of a ballot paper given to a voter at that station, or
- (d) directly or indirectly induce a voter to display a ballot paper after he has marked it so as to make known to any person how he has or has not voted.

(4) Every person attending the proceedings in connection with the issue or the receipt of ballot papers for persons voting by post shall maintain and aid in maintaining the secrecy of the voting and shall not—

- (a) except for some purposes authorised by law, communicate, before the poll is closed, to any person any information obtained at those proceedings as to the official mark,
- (b) except for some purpose authorised by law, communicate to any person at any time any information obtained at those proceedings as to the number on the back of the ballot paper sent to any person,
- (c) except for some purpose authorised by law, attempt to ascertain at the proceedings in connection with the receipt of ballot papers the number on the back of any ballot paper, or
- (d) attempt to ascertain at the proceedings in connection with the receipt of the ballot papers how any vote is given on any particular ballot paper or communicate any information with respect thereto obtained at those proceedings.

(5) No person having undertaken to assist a blind voter shall communicate at any time to any person any information as to how that voter intends to vote or has voted, or as to the number on the back of the ballot paper given for the use of that voter.

(6) If a person acts in contravention of this article he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding six months.