
STATUTORY INSTRUMENTS

2004 No. 293

The European Parliamentary Elections Regulations 2004

PART 3

VACANCIES

Initial response to vacancies

82.—(1) Subject to paragraphs (2) and (5), as soon as practicable after the Secretary of State has—

- (a) received information of a vacancy in the seat of an MEP from the President of the European Parliament under the Act annexed to Council Decision 76/787, or
- (b) informed the European Parliament under that Act that a vacancy exists,

he shall send a notice in accordance with paragraph (4) to the returning officer for the electoral region in which the vacancy exists.

(2) Paragraph (1) does not apply where it appears from the declaration of the result of the election that the person whose seat is now vacant was an individual candidate.

(3) Subject to regulation 85(2), a by-election shall be held in the circumstances described in paragraph (2) to fill the vacancy and the period within which the poll at that election must take place is six months from the occurrence of the event specified in paragraph (1)(a) or (b), as the case may be.

(4) The notice referred to in paragraph (1) shall—

- (a) state that a vacancy exists, and
- (b) set out the name of the person who had been returned in the seat which is vacant, together with the name of the registered party on whose list his name was included.

(5) Paragraph (1) shall not apply where the event referred to in sub-paragraph (a) or (b) of that paragraph occurred less than six months before the Thursday of the period of the next general election of MEPs.

(6) For the purpose of paragraph (5) and regulation 83(1), the period of the next general election of MEPs is that during which the next general election would take place in accordance with the Act annexed to Council Decision 76/787.

Filling of vacancies from a registered party's list

83.—(1) On receipt of a notice under regulation 82(4), the returning officer shall ascertain from the list submitted by the registered party named in the notice (“the relevant list”) the name and address of the person whose name appears highest on that list (“the first choice”), disregarding the name of any person who has been returned as an MEP or who has died.

(2) The returning officer shall take such steps as appear to him to be reasonable to contact the first choice to ask whether he will—

- (a) state in writing that he is willing and able to be returned as an MEP, and

(b) deliver a certificate signed by or on behalf of the nominating officer of the registered party which submitted the relevant list stating that he may be returned as that party's MEP.

(3) Paragraph (4) applies where—

(a) within such period as the returning officer considers reasonable—

(i) he decides that the steps he has taken to contact the first choice have been unsuccessful, or

(ii) he has not received from the first choice the statement and certificate referred to in paragraph (2), or

(b) the first choice has—

(i) stated in writing that he is not willing or able to be returned as an MEP, or

(ii) failed to deliver the certificate referred to in paragraph (2)(b).

(4) In the circumstances set out in paragraph (3), the returning officer shall repeat the procedure required by paragraph (2) in respect of the person (if any) whose name and address appears next in the relevant list ("the second choice") or, where paragraph (3)(a) or (b) applies in respect of that person, in respect of the person (if any) whose name and address appear next highest after the second choice in that list and the returning officer shall continue to repeat the procedure until the seat is filled or the names in the list exhausted.

(5) Where a person whose name appears on the relevant list provides the statement and certificate referred to in paragraph (2), the returning officer shall (subject to paragraph (6)) declare in writing that person to be returned as an MEP.

(6) Where—

(a) the returning officer has, in accordance with paragraph (4), asked a second or other subsequent choice the questions in paragraph (2), and

(b) the person who was previously asked those questions then provides the statement and certificate referred to in paragraph (2),

that statement and certificate shall have no effect unless and until the circumstances described in sub-paragraph (a) or (b) of paragraph (3) apply in respect of the second or other subsequent choice.

(7) The returning officer shall give public notice of a declaration given under paragraph (5) and send a copy of it to the Secretary of State.

(8) Where the returning officer is unable to fill the seat under this regulation, he shall notify the Secretary of State that he is unable to do so.

By-election to fill certain vacancies

84.—(1) Subject to regulation 85(2), where the Secretary of State has received a notice from a returning officer under regulation 83(8), a by-election shall be held to fill that vacancy.

(2) The period within which the poll at any by-election which is required to be held under paragraph (1) must take place is six months from the date on which the Secretary of State receives the notice referred to in that paragraph.

When a by-election is not needed

85.—(1) The circumstances in which this regulation applies are where the latest date for the poll for a by-election would fall on or after the Thursday of the period of the next general election of MEPs (within the meaning of regulation 82(6)).

(2) In the circumstances in which this regulation applies, regulations 82(3) and 84(1) shall not apply and the Secretary of State shall not appoint a day for the poll for a by-election.