
STATUTORY INSTRUMENTS

2004 No. 293

REPRESENTATION OF THE PEOPLE

The European Parliamentary Elections Regulations 2004

Made - - - - 22nd March 2004

Coming into force - - 23rd March 2004

The Secretary of State, in exercise of the powers conferred on him by sections 5, 6(5) and 7 of the European Parliamentary Elections Act 2002(1) and by sections 17, 18, 23(2) and 25(3) of the European Parliament (Representation) Act 2003(2), being a Minister designated for the purposes of section 2(2) of the European Communities Act 1972(3) in relation to measures relating to the right of citizens of the Union to vote at and stand as a candidate at European Parliamentary elections(4), in exercise of the powers conferred on him by the said section 2(2), after consulting the Electoral Commission pursuant to section 7(2)(a) of the Political Parties, Elections and Referendums Act 2000(5) and section 17(4) of the European Parliament (Representation) Act 2003, and in accordance with a recommendation of the Electoral Commission under section 8(2) of the Political Parties, Elections and Referendums Act 2000, hereby makes the following Regulations, a draft of which has been laid before and approved by a resolution of each House of Parliament:

PART 1

GENERAL

Citation, commencement and extent

1.—(1) These Regulations may be cited as the European Parliamentary Elections Regulations 2004.

(2) They shall come into force on the day after the day on which they are made.

(3) They shall extend to England, Wales, Scotland and Gibraltar.

(1) 2002 c. 24; the Act was amended by sections 1, 8, 20, 21, 22, 23 and 25, and extended to Gibraltar by section 19, of the European Parliament (Representation) Act 2003 (c. 7).

(2) 2003 c. 7.

(3) 1972 c. 68.

(4) S.I.1993/2661.

(5) 2000 c. 41.

Interpretation

2.—(1) the context otherwise requires, in these Regulations—

“1983 Act” means the Representation of the People Act 1983**(6)**;

“1985 Act” means the Representation of the People Act 1985**(7)**;

“1986 (Scotland) Regulations” means the Representation of the People (Scotland) Regulations 1986**(8)**;

“2000 Act” means the Political Parties, Elections and Referendums Act 2000**(9)**;

“2001 Franchise Regulations” means the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001**(10)**;

“2001 Regulations” means the Representation of the People (England and Wales) Regulations 2001**(11)**;

“2001 (Scotland) Regulations” means the Representation of the People (Scotland) Regulations 2001**(12)**;

“2002 Act” means the European Parliamentary Elections Act 2002;

“2003 Act” means the European Parliament (Representation) Act 2003;

“the absent voters list” means, in relation to any election, the list kept under paragraph 5 of Schedule 2 to these Regulations;

“Accession State” means any of the following states—

- (a) the Czech Republic,
- (b) the Republic of Estonia,
- (c) the Republic of Cyprus,
- (d) the Republic of Latvia,
- (e) the Republic of Lithuania,
- (f) the Republic of Hungary,
- (g) the Republic of Malta,
- (h) the Republic of Poland,
- (i) the Republic of Slovenia, or
- (j) the Slovak Republic;

“the Act annexed to Council Decision 76/787” is the Act concerning the election of MEPs annexed to Council Decision [76/787/ECSC](#), EEC, Euratom of 20th September 1976**(13)**;

“citizen of an Accession State” means a national of one of the Accession States and “relevant citizen of an Accession State” means such a citizen who is not a Commonwealth citizen or a citizen of the Republic of Ireland;

“citizen of the Union” shall be construed in accordance with Article 17.1 of the Treaty establishing the European Community**(14)**, and “relevant citizen of the Union” means such a citizen who is not a Commonwealth citizen or a citizen of the Republic of Ireland;

(6) 1983 c. 2.

(7) 1985 c. 50

(8) S.I. 1986/1111 (S. 93), to which there are amendments not relevant to these Regulations.

(9) 2000 c. 41; which was amended by S.I. 2004/366.

(10) S.I. 2001/1184, which was amended by S.I. 2003/1557. Other amendments are not relevant to these Regulations.

(11) S.I. 2001/341, which was amended by 2002/881 and S.I. 2001/1700. Other amendments are not relevant to these Regulations.

(12) S.I. 2001/497 (S. 2), which was amended by S.I. 2002/881 and S.I. 2001/1749(S. 11). Other amendments are not relevant to these Regulations.

(13) O. J. L 278, 08.10.1976, p. 21 (Cmnd. 6623).

(14) The reference to the Treaty is to it as renumbered in accordance with the Treaty of Amsterdam (Cmnd. 3780).

- “the City” means the City of London;
- “Combination of Polls Regulations” means the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004⁽¹⁵⁾;
- “Common Council” means the Common Council of the City;
- “dwelling” includes any part of a building where that part is occupied separately as a dwelling;
- “election” means a European Parliamentary election;
- “elector” in relation to an election, means any person whose name is for the time being on the register of electors, but does not include those shown in the register as below voting age on the day fixed for the poll;
- “European Parliamentary elections rules” means the rules in Schedule 1 to these Regulations;
- “European Parliamentary election petition” means a petition presented in pursuance of Part 4 of these Regulations;
- “European Parliamentary overseas elector” means a person falling within section 8(4) of the 2002 Act;
- “European Parliamentary overseas elector’s declaration” means a declaration made in pursuance of regulations made under section 3 of the 1985 Act⁽¹⁶⁾;
- “Gibraltar elector” in relation to an election, means any person whose name is for the time being on the Gibraltar register, but does not include those shown in the register as below voting age on the day fixed for the poll;
- “legal incapacity” includes (in addition to any incapacity by virtue of any subsisting provision of the common law) any disqualification imposed by these Regulations or by any Act;
- “legal process” means a claim form, application, notice, writ, summons or other process;
- “list” means a list of candidates submitted by a registered party to accompany its nomination for election;
- “local counting area” means any of the following—
- (a) a parliamentary constituency wholly or partly comprised in an electoral region in England, or in Wales or Scotland, or
 - (b) Gibraltar;
- “the list of proxies” has, in relation to any election, the meaning given by paragraph 3(4)(c) of Schedule 2 to these Regulations;
- “mayoral election” means an election conducted under the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002⁽¹⁷⁾;
- “national election agent” means the person appointed under regulation 33;
- “nominating officer” means the person registered under the 2000 Act as the officer with responsibility for the matters referred to in section 24(3) of that Act in respect of a registered party;
- “overseas elector” means a person falling within subsection (2) of section 8 of the 2002 Act by virtue of paragraph (b) of that subsection or, in Gibraltar, a person falling within section 16(2) of the 2003 Act;
- “overseas elector’s declaration” has the meaning given by section 2 of the 1985 Act or, in relation to Gibraltar, paragraph 15 of Schedule 4;

⁽¹⁵⁾ S.I. 2004/294.

⁽¹⁶⁾ Section 3 was amended by Schedule 2 to the Representation of the People Act 2000 (c. 2).

⁽¹⁷⁾ S.I. 2002/185; which was amended by S.I. 2004/225.

“person” includes (without prejudice to the provisions of the Interpretation Act 1978⁽¹⁸⁾) an association corporate or unincorporate;

“proper officer” in England and Wales means a proper officer within the meaning of section 270(3) and (4) of the Local Government Act 1972⁽¹⁹⁾, or in Scotland section 235(5) of the Local Government (Scotland) Act 1973⁽²⁰⁾;

“referendum” means a referendum conducted under the Local Authorities (Conduct of Referendums) (England) Regulations 2001⁽²¹⁾;

“register of electors” means any part of—

- (a) a register of parliamentary or, in the case of peers, local government electors,
- (b) a register under section 3 of the 1985 Act,
- (c) a register under regulation 5 of the 2001 Franchise Regulations, and
- (d) the Gibraltar register⁽²²⁾,

in force within an electoral region at the time of a European Parliamentary election in that region;

“registered party” means a party registered under Part 2 of the 2000 Act;

“registration officer” means an officer appointed under section 8 of the 1983 Act⁽²³⁾ or, in relation to Gibraltar, the clerk of the House of Assembly of Gibraltar⁽²⁴⁾;

“service voter” means a person who has made a service declaration and is registered or entitled to be registered in pursuance of it;

“sub-agent” has the meaning given by regulation 35(1) in relation to registered parties under Part 2 of the 2000 Act or regulation 39(1) in relation to individual candidates;

“Treaty of Athens” means the Treaty signed at Athens on 16th April 2003⁽²⁵⁾ concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union;

“universal postal service provider” means a universal service provider (within the meaning of the Postal Services Act 2000⁽²⁶⁾); and

“voter” means a person voting at an election and includes a person voting as proxy and, except in the European Parliamentary elections rules, a person voting by proxy, and “vote” (whether noun or verb) shall be construed accordingly, except that in those rules any reference to an elector voting or an elector’s vote shall include a reference to an elector voting by proxy or an elector’s vote given by proxy.

(2) Part 1 of these Regulations shall (subject to any express provision contained in it) apply to the City as if the City were a London Borough and the Common Council were a London borough council.

For the purposes of this paragraph the Inner Temple and the Middle Temple shall be treated as forming part of the City.

(3) The modifications made by paragraph (2) do not affect regulation 19(3).

(18) 1978 c. 30.

(19) 1972 c. 70.

(20) 1973 c. 65.

(21) S.I. 2001/1298; which was amended by S.I. 2004/226.

(22) See section 14(1) of the European Parliament (Representation) Act 2003 (c. 7).

(23) Section 8 was amended by Schedules 16 and 18 to the Local Government (Wales) Act 1994 (c. 19) and Schedule 13 to the Local Government (Scotland) Act 1994 (c. 39).

(24) See section 14(2) of the European Parliament (Representation) Act 2003 (c. 7).

(25) O.J. L 236, 23.09.2003.

(26) 2000 c. 26.

General application in relation to local government elections in England and Wales

3. In the application of these Regulations in relation to England and Wales, as respects local government elections—

“the 1999 Act” means the Greater London Authority Act 1999;

“Assembly constituency” has the same meaning as in the 1999 Act (see section 2(4) and (5) of that Act);

“Authority election” means—

- (a) any election of the Mayor of London;
- (b) any election of a constituency member of the London Assembly; or
- (c) the election of the London members of the London Assembly at an ordinary election;

“constituency member”, in relation to the London Assembly, has the same meaning as in the 1999 Act;

“election of a constituency member of the London Assembly” means—

- (a) any such election at an ordinary election; or
- (b) an election under section 10 of the 1999 Act (election to fill a vacancy in an Assembly constituency);

“election of the Mayor of London” means—

- (a) any such election at an ordinary election; or
- (b) an election under section 10 of the 1999 Act (election to fill a vacancy in the office of Mayor of London);

“electoral area” means—

- (a) any electoral division or ward or, in the case of a parish or community in which there are no wards, the parish or community, for which the election of councillors is held under the local government Act;
- (b) Greater London, in the case of—
 - (i) any election of the Mayor of London; or
 - (ii) the election of the London members of the London Assembly at an ordinary election;
- (c) any Assembly constituency for which the election of a constituency member of the London Assembly is held;

“local authority” means the Greater London Authority, a county council, a county borough council, a district council, a London borough council or a parish or community council;

“local government Act” means the Local Government Act 1972⁽²⁷⁾;

“local government area” means Greater London, a county, county borough, London borough, district, parish or community;

“local government election” means—

- (a) the election of councillors for any electoral area; or
- (b) any Authority election; and

“London member”, in relation to the London Assembly, has the same meaning as in the 1999 Act.

General application to Scotland

4.—(1) This regulation has (in addition to any express application elsewhere in these Regulations) effect for the general application of these Regulations to Scotland, and accordingly—

“electoral area”, in relation to a local government election, means the electoral ward for which the election is held;

“local authority” means a council constituted under section 2 of the Local Government etc (Scotland) Act 1994⁽²⁸⁾;

“local government area” means the area of a local authority; and

“local government election” means an election of councillors by local government electors for an electoral area.

(2) For a reference to the High Court substitute a reference to the Court of Session and for a reference to the county court or a judge of that court substitute a reference to the sheriff.

(3) The power conferred by regulation 22 on the Court of Session to make acts of sederunt for the appointment of judges to hear appeals under that regulation or to fill any vacancy among the judges so appointed is not required to be exercised by statutory instrument.

(4) For a reference to the Director of Public Prosecutions or the Attorney General substitute a reference to the Lord Advocate.

(5) For a reference to a plaintiff or defendant substitute respectively a reference to a pursuer or defender, for a reference to a recognisance substitute a reference to a bond of caution and for a reference to an injunction substitute a reference to an interdict.

(6) For a reference to the register of licences substitute a reference to the register kept in pursuance of section 20 of the Licensing (Scotland) Act 1976.

General application to Gibraltar

5.—(1) This regulation has (in addition to any express application elsewhere in these Regulations) effect for the general application of these Regulations to Gibraltar.

(2) “Gibraltar court”, as respects any purpose, means the court determined by or under the law of Gibraltar to be the court for that purpose.

(3) Except where the contrary intention appears, any reference to—

(a) a level of a fine on the standard scale shall be construed as a reference to that level on the standard scale pursuant to section 189 of, and Schedule 6 to, the Criminal Procedure Ordinance; and

(b) a fine not exceeding the statutory maximum shall be construed as a reference to a fine not exceeding level 5 on the standard scale pursuant to section 189 of, and Schedule 6 to, that Ordinance.

(4) Where reference is made to a time of day, in Gibraltar that reference shall be taken to be the time of day in Gibraltar (and in the United Kingdom that time shall be taken to be the time of day in the United Kingdom) unless otherwise stated.

(5) References in these Regulations to a named Ordinance are to the Gibraltar Ordinance of that name.

Conduct of poll and count in each local counting area

6.—(1) The local returning officer for each local counting area wholly or partly comprised in an electoral region shall be responsible for—

(28) 1994 c. 39.

- (a) the conduct of the poll in that area;
- (b) unless the returning officer otherwise directs, the printing of the ballot papers;
- (c) the issue and receipt of postal ballot papers for electors in that area and their proxies;
- (d) the verification of the ballot paper accounts; and
- (e) the counting of the votes given in that area.

(2) Subject to paragraph (3), the local returning officer for a local counting area shall be the person who, in relation to a parliamentary election, is the acting returning officer (in England and Wales) or the returning officer (in Scotland) for the parliamentary constituency which is coterminous with the local counting area.

(3) The local returning officer pursuant to section 6(5A)(b) of the 2002 Act⁽²⁹⁾ shall be the local returning officer for the Gibraltar local counting area.

Deputies and assistance

7.—(1) A returning officer and a local returning officer may, in writing, appoint deputies to discharge all or any of the functions imposed on them under these Regulations or the provisions applied by these Regulations.

(2) A returning officer may appoint such clerks as may be necessary to assist him in his functions in relation to an election.

Polling districts and places

8.—(1) Every electoral region shall be divided into polling districts and subject to the provisions of this regulation there shall be a polling place designated for each polling district.

(2) Subject to paragraph (4), the polling districts and polling places designated under this regulation shall be the same as those used or designated for parliamentary elections, except where it appears to those responsible for designating parliamentary polling districts and places that special circumstances make it desirable for some other polling district or place to be designated.

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

- (a) any non-compliance with the provisions of this regulation; or
- (b) any informality relative to polling districts or polling places.

(4) In Gibraltar the polling districts and polling places designated for each district shall be the same as those used or designated for House of Assembly elections.

Rules for European Parliamentary elections and general duty of returning officers and local returning officers

9.—(1) The proceedings at a European Parliamentary election shall be conducted in accordance with the European Parliamentary elections rules in Schedule 1 to these Regulations.

(2) It is the returning officer's and the local returning officer's general duty at a European Parliamentary election to do all such acts and things as may be necessary for effectually conducting the election in the manner provided by those rules.

(3) The returning officer may give to any local returning officer for a local counting area in the electoral region for which he acts directions relating to the discharge of his functions, including directions requiring the provision to him of any information which that person has or is entitled to have.

(29) Subsection 5A was inserted by section 20(1) and (3) of the European Parliament (Representation) Act 2003 (c. 7).

(4) It shall be the duty of any local returning officer to whom directions are given under paragraph (3) to discharge his functions in accordance with the directions.

(5) No European Parliamentary election shall be declared invalid by reason of any act or omission by the returning officer, local returning officer or any other person in breach of his official duty in connection with the election or otherwise of the European Parliamentary elections rules if it appears to the tribunal having cognizance of the question that—

- (a) the election was so conducted as to be substantially in accordance with the law as to elections; and
- (b) the act or omission did not affect its result.

Absent voting

10. Schedule 2, which makes provision with respect to the manner of voting at elections, and in particular absent voting, shall have effect.

Combination of polls

11. Where the poll at a European Parliamentary election is to be taken together with—

- (a) the poll at a parliamentary or local government election under section 15(1) or (2) of the 1985 Act; or
- (b) the poll at a mayoral election or a referendum in accordance with regulations made under sections 44 and 105 or 45 and 105 of the Local Government Act 2000⁽³⁰⁾,

or two or more such polls, the European Parliamentary elections rules shall have effect subject to—

- (i) in England and Wales, the modifications in Part 1 of Schedule 3 to these Regulations, and
- (ii) in Scotland, the modifications in Part 2 of that Schedule.

Entitlement to registration and legal incapacity to vote in Gibraltar

12. Schedule 4, which makes provision as to—

- (a) legal incapacity to vote in Gibraltar as an elector at a European Parliamentary election; and
- (b) entitlement to registration in the Gibraltar register,

shall have effect.

Modification of the 2003 Act and these Regulations for 2004 elections in relation to citizens of Accession States

13. The provisions of the 2003 Act and these Regulations shall apply for the purposes of—

- (a) the registration of relevant citizens of the Accession States as European Parliamentary electors before 1st May 2004,
- (b) making arrangements for persons so registered to exercise the right to vote if they become relevant citizens of the Union on 1st May 2004, and
- (c) the alteration or removal of entries on the register in relation to relevant citizens of the Accession States after that date,

subject to the modifications made in Schedule 5 to these Regulations.

⁽³⁰⁾ 2000 c. 22. Section 44 was amended by paragraphs 18 (1) and (2) of Schedule 21 to, and section 45 was amended by paragraphs 18 (1), (3) and (4) to Schedule 21 to, the Political Parties, Elections and Referendums Act 2000 (c. 41).

Title of returning officers and local returning officers

14. A European Parliamentary 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.

Payments by and to returning officers and local returning officers

15.—(1) A returning officer or local returning officer shall be entitled to recover his charges in respect of services properly rendered, or expenses properly incurred, for or in connection with a European Parliamentary election if—

- (a) the services or expenses are of a kind specified in an order made by the Secretary of State; and
- (b) the charges are reasonable.

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

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

- (a) that it was reasonable for the returning officer or local 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 a maximum amount for services or expenses of a particular description may—

- (a) provide for that amount to increase at prescribed dates, or after prescribed 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 Secretary of State considers appropriate.

(5) The power to make orders under paragraph (1) shall be exercised by statutory instrument and section 1 of the Statutory Instruments Act 1946(31) shall apply accordingly; and any such order may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the Secretary of State thinks fit.

(6) The amount of any charges recoverable in accordance with this regulation shall be charged on and paid out of the Consolidated Fund on an account being submitted to the Secretary of State, but the Secretary of State may if he thinks fit before payment, apply for the account to be taxed under the provisions of regulation 16.

(7) 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 regulation as part of a returning officer's or local returning officer's charges at a European Parliamentary election, then on an account being submitted to the Secretary of State a sum equal to the increase shall be charged on and paid out of the Consolidated Fund to the authority.

(8) On the returning officer's or local returning officer's request for an advance on account of his charges, the Secretary of State may, on such terms as he thinks fit, make such an advance.

(9) Regulations by the Secretary of State may make provision as to the time when and the manner and form in which accounts are to be rendered to the Secretary of State for the purposes of

(31) 1946 c. 36.

the payment of a returning officer's or local returning officer's charges, and may include different provision for different cases, circumstances or areas.

(10) 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 and local returning officer's account

16.—(1) An application for a returning officer's or local returning officer's account to be taxed shall be made—

- (a) where the account relates to an election in an electoral region in England or Wales, to the county court,
- (b) where the account relates to an election in Scotland, to the Auditor of the Court of Session,
- (c) where the account is the account of the local returning officer for the Gibraltar local counting area, to the Gibraltar court,

and in this regulation the expression "the court" means that court or Auditor.

(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 or local 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 as against all persons.

(4) In paragraph (1)(a), the reference to an account which relates to an electoral region in England shall be construed as including a reference to an account which relates to the whole of the combined region.

Effect of registers

17.—(1) Any entry in the register of 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 nor entitled to be treated as an elector except for the purposes of an election at which the day fixed for the poll is that or a later date.

(2) A person whose registration as an elector or entry in the list of proxies entitles him to vote 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 relevant 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 European Parliamentary elector in pursuance of an overseas elector's declaration, a British citizen;
 - (iv) in the case of a person registered as an 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 relevant date or the date of his appointment (as the case may be), was, otherwise subject to any other legal incapacity to vote.
- (3) In paragraph (2) “the relevant date” means—
 - (a) in relation to a person registered in the register in question as published in accordance with section 13(1) of the 1983 Act⁽³²⁾, the 15th October immediately preceding the date of publication of the register;
 - (b) in relation to a person registered in the Gibraltar register, the date on which an application for registration is made or treated as having been made by virtue of paragraph 6 of Schedule 4;
 - (c) in relation to any other person registered in the register in question, the relevant date for the purposes of section 4 of the 1983 Act⁽³³⁾.
- (4) In the case of Gibraltar electors—
 - (a) omit paragraph (2)(b)(ii); and
 - (b) in paragraph (2)(b)(iii) for “British citizen”, substitute “Commonwealth citizen”.

Effect of misdescription

- 18.** No misnomer or inaccurate description of any person or place named—
- (a) in the register of electors, or
 - (b) in any list, record, proxy paper, nomination paper, ballot paper, notice or other document required for the purposes of this Part of these Regulations,

affects 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

19.—(1) Any of the duties and powers of a registration officer may be performed and exercised by any deputy for the time being approved by the council which appointed the registration officer, and the provisions of these Regulations 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.

(2) In England and Wales, any acts authorised or required to be done by or with respect to the registration officer 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 council by whom the registration officer was appointed.

- (3) It shall be the duty—
- (a) in England, of a district council or London borough council,
 - (b) in Wales, of a county or county borough council, and
 - (c) in Scotland, of every local authority,

to assign such officers to assist the registration officer as may be required for carrying out his functions under these Regulations.

(4) This regulation shall apply as respects the European Parliamentary electoral registration officer for Gibraltar with the following modifications—

- (a) in paragraph (1), for “approved by the council which appointed the registration officer”, substitute “appointed for that purpose by the clerk to the House of Assembly for Gibraltar”;
- (b) in paragraph (2)—

⁽³²⁾ Section 13 was amended by paragraphs 1 and 6 of Schedule 1 to the Representation of the People act 2000 (c. 2).

⁽³³⁾ Section 4 was amended by section 1(2) of the Representation of the People act 2000 (c. 2).

- (i) for “In England and Wales”, substitute “In Gibraltar”; and
- (ii) for the words from “the proper officer” to the end, substitute “any deputy appointed under paragraph (1)”; and
- (c) in paragraph (3), insert after sub-paragraph (c)—
 - “(d) in Gibraltar, the Government of Gibraltar.”.

Payment of expenses of registration

20.—(1) Any expenses properly incurred by a registration officer in the performance of his functions under these Regulations (in these Regulations referred to as “registration expenses”) shall be paid by the local authority by whom the registration officer was appointed.

(2) Any fees paid to the registration officer under these Regulations shall be accounted for by him and paid to the local authority by whom he was appointed.

(3) On the request of a registration officer for an advance on account of registration expenses the local authority by whom the registration officer was appointed may, if they think fit, make such an advance to him of such an amount and subject to such conditions as they may approve.

(4) Any registration expenses or contributions to them paid by the Common Council shall be paid out of the general rate and any sums paid to the Common Council under this regulation shall be placed to the credit of that rate.

(5) This regulation does not apply to the European Parliamentary electoral registration officer for Gibraltar.

Registration appeals: England and Wales

21.—(1) Subject to paragraph (2), an appeal lies to the county court, from any decision under these Regulations of the registration officer disallowing a person’s application to vote by proxy or by post as elector or to vote by post as proxy, in any case where the application is not made for a particular election only.

(2) No appeal lies where the person desiring to appeal has not availed himself of a prescribed right to be heard by or make representations to the registration officer on the matter which is the subject of the appeal, or has not given the prescribed notice of appeal within the prescribed time.

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

(4) An appeal to the county court or Court of Appeal by virtue of this regulation which is pending when notice of an election is given shall not prejudice the operation as respects the 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.

(5) 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 regulation.

(6) The registration officer shall undertake such duties in connection with appeals brought by virtue of this regulation as are set out in paragraph 21 of Schedule 2 and shall on any such appeal 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) In paragraph (2) “prescribed” means prescribed by paragraph 21 of Schedule 2.

(8) This regulation applies to Gibraltar subject to the following modifications—

- (a) any reference to the county court shall be construed as a reference to the Gibraltar court; and

- (b) any reference to the Court of Appeal shall be construed as a reference to the Gibraltar Court of Appeal.

Registration appeals: Scotland

22.—(1) Regulation 21 applies to Scotland subject to the following modifications—

- (a) paragraph (3) shall be omitted;
- (b) an appeal lies on any point of law from any decision of the sheriff under this regulation to the court of three judges constituted under paragraph (2); and
- (c) for any reference to the Court of Appeal there shall be substituted a reference to that court of three judges.

(2) The court for hearing appeals under sub-paragraph (b) of paragraph (1) shall consist of three judges of the Court of Session who shall be appointed by the Court of Session by act of sederunt and of whom one judge shall be appointed from each division of the Inner House and one from the Lords Ordinary in the Outer House; and the Principal Clerk of Session shall be clerk of the court.

(3) The Court of Session may by act of sederunt fill any vacancy in the court of three judges, and regulate its sittings and forms of process so as to carry out the provisions of these Regulations; and acts of sederunt under this regulation may be made, and the court of three judges may sit, either during the sitting of the Court of Session or in vacation or recess.

Personation

23.—(1) 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 a European Parliamentary 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 regulation, 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

24.—(1) 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 a European Parliamentary election knowing that he is subject to a legal incapacity to vote at the election; or
- (b) he applies for the appointment of a proxy to vote for him at any European Parliamentary election knowing that he is or the person to be appointed is subject to a legal incapacity to vote at the election; or
- (c) he votes, whether in person or by post, as proxy for some other person at a European Parliamentary election, knowing that that person is subject to a legal incapacity to vote.

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

(2) References in paragraph (1) to legal incapacity to vote at a European Parliamentary election include incapacity to vote at the kind of election from which the entitlement to vote at a European Parliamentary election derives.

(3) 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 electoral region at any European Parliamentary election;
or

(ii) in more than one electoral region at a European Parliamentary election, or

(iii) in any electoral region at a European Parliamentary election when there is in force an appointment of a person to vote as his proxy at the election in respect of an address other than the address by virtue of which he votes as elector; or

(b) he votes as elector in person at a European Parliamentary election at which he is entitled to vote by post; or

(c) he votes as elector in person at a European Parliamentary 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 European Parliamentary elections in any electoral region without applying for the cancellation of a previous appointment of a third person then in force in respect of that or another electoral region or without withdrawing a pending application for such an appointment in respect of that or another electoral region.

(4) 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 electoral region at any European Parliamentary election;
or

(ii) in more than one electoral region at a European Parliamentary election; or

(b) he votes in person as proxy for an elector at a European Parliamentary 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 European Parliamentary election knowing that the elector has already voted in person at the election.

(5) A person shall also be guilty of an offence if he votes at a European Parliamentary election in any electoral region as proxy for more than two persons of whom he is not the husband, wife, parent, grandparent, brother, sister, child or grandchild.

(6) 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 regulation.

(7) For the purposes of this regulation 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 (5), 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.

(8) An offence under this regulation shall be an illegal practice, but 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 regulation 107.

Breach of official duty

25.—(1) If a person to whom this regulation 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 regulation 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 regulation applies are—

- (a) any sheriff clerk, registration officer, returning officer, local returning officer or presiding officer,
- (b) any official designated by a universal postal service provider, and
- (c) any deputy of a person mentioned in any of sub-paragraphs (a) to (b) 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 purposes of this regulation be construed accordingly, but shall not include duties imposed otherwise than by the law relating to European Parliamentary elections or the registration of parliamentary or local government electors.

Tampering with nomination papers, ballot papers, etc

26.—(1) A person shall be guilty of an offence, if, at a European Parliamentary election, he—

- (a) fraudulently defaces or fraudulently destroys any nomination paper, or the list of candidates submitted by a registered party; or
- (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; or
- (c) without due authority supplies any ballot paper to any person; or
- (d) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorised by law to put in; or
- (e) fraudulently takes out of the polling station any ballot paper; or
- (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) In Scotland, a person shall be guilty of an offence if—

- (a) at a European Parliamentary election, he forges any nomination paper, delivers to the returning officer any nomination paper knowing it to be forged, or forges or counterfeits any ballot paper or the official mark on any ballot paper; or
- (b) he fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts.

(3) If a returning officer, a local returning officer, 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 is guilty of an offence under this section, he shall be liable—

- (a) on conviction on indictment to a fine, or to imprisonment for a term not exceeding 2 years, or to both;
- (b) on summary conviction, to a fine not exceeding the statutory maximum, or to imprisonment for a term not exceeding 6 months, or to both.

(4) If any other person is guilty of an offence under this regulation, 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 6 months, or to both.

False statement in nomination papers

27. A person is guilty of a corrupt practice if, in the case of a European Parliamentary election, he causes or permits to be included in a document delivered or otherwise furnished to a returning officer for use in connection with the election a statement of the name or home address of a candidate at the election which he knows to be false in any particular.

Offences in connection with candidature

28.—(1) A person who makes a statement which he knows to be false in the declaration required by rule 9(2) of the European Parliamentary elections rules is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale or, in Gibraltar, not exceeding £1000.

(2) A person who, at a general election of MEPs—

- (a) consents to nomination as an individual candidate in more than one electoral region,
- (b) consents to nomination as an individual candidate in an electoral region and consents to being nominated in a list submitted by a registered party, whether in that region or some other,
- (c) consents to being nominated in the list submitted by more than one registered party in the same region, or
- (d) consents to being nominated in the lists submitted by a registered party or parties for more than one region,

is guilty of an illegal practice.

Requirement of secrecy

29.—(1) The following persons—

- (a) every local returning officer and every presiding officer or clerk attending at a polling station,
- (b) every candidate or election agent or polling agent so attending,
- (c) every representative of the Electoral Commission so attending,

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 verification of the ballot paper accounts or 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 the votes the number on the back of any ballot paper;
- (b) communicate any information obtained at the verification of the ballot paper accounts or the counting of the votes as to the way in which any vote is given on any particular ballot paper.

(3) No person attending at the verification of the ballot paper accounts shall express to any person an opinion based on information obtained at that verification as to the likely result of the election.

(4) No person shall—

- (a) interfere with or attempt to interfere with a voter when recording his vote;
- (b) otherwise obtain or attempt to obtain in a polling station information as to the way in which 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 the way in which a voter in that station is about to vote or has voted, or as to the number on the back of the ballot paper given to a voter at that station;
- (d) directly or indirectly induce a voter to display his ballot paper after he has marked it so as to make known to any person the way in which he has voted.

(5) 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 purpose authorised by law, communicate, before the poll is closed, to any person any information obtained at those proceedings as to the official mark; or
- (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; or
- (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 the way in which any vote is given in any particular ballot paper or communicate any information with respect thereto obtained at those proceedings.

(6) No person having undertaken to assist a voter with disabilities to vote shall communicate at any time to any person any information as to the way in which 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.

(7) If a person acts in contravention of this regulation 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 6 months.

Prohibition on publication of exit polls

30.—(1) No person shall in the case of a European Parliamentary election publish before the close of the poll—

- (a) any statement relating to the way in which voters have voted at the election where that statement is (or might reasonably be taken to be) based on information given by voters after they have voted, or

(b) any forecast as to the result of the election which is (or might reasonably be taken to be) based on information so given.

(2) If a person acts in contravention of paragraph (1), 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 6 months.

(3) In this regulation—

“close of the poll” means, in the case of a general election of MEPs, the close of the polling in the Member State whose electors are the last to vote in the election;

“forecast” includes estimate;

“publish” means make available to the public at large, or any section of the public, in whatever form and by whatever means;

and any reference to the result of an election is a reference to the result of the election either as a whole or so far as any particular registered party or individual candidate at the election is or are concerned.

PART 2

THE ELECTION CAMPAIGN

Interpretation of Part 2

31.—(1) In this Part of these Regulations, unless the context otherwise requires—

“appropriate officer” means the returning officer;

“candidate” shall be construed in accordance with paragraph (2) below;

“committee room” does not include any house or room occupied by a candidate as a dwelling, by reason only of the candidate transacting business there with his agents in relation to the election, and no room or building shall be deemed to be a committee room by reason only of the candidate or any agent of the candidate addressing in it electors, committee members or others;

“declaration as to election expenses” means a declaration made under regulation 52;

“disputed claim” has the meaning given by regulation 49(1) as extended by regulation 50;

“election expenses”, in relation to a European Parliamentary election, shall be construed in accordance with regulations 60 to 62;

“individual candidate” means a person to whom paragraph (2)(b) applies;

“money” and “pecuniary reward” shall (except in regulations 42, 77 and 78 and Schedule 6 to these Regulations) be deemed to include—

- (a) any office, place or employment, and
- (b) any valuable security or other equivalent of money, and
- (c) any valuable consideration,

and expressions referring to money shall be construed accordingly;

“payment” includes any pecuniary or other reward;

“personal expenses” as used with respect to the expenditure of a candidate in relation to any European Parliamentary election includes the reasonable travelling expenses of the candidate, and the reasonable expenses of his living at hotels or elsewhere for the purposes of and in relation to the election; and

“return as to election expenses” means a return (including the bills and receipts to be delivered with it) to be made under regulation 51(1).

- (2) A person becomes a candidate at an election—
- (a) in the case of a person included in the list of candidates of a registered party to accompany its nomination for election, on the day on which the list is submitted by the party; or
 - (b) in the case of a person not included in the list of candidates of a registered party to accompany its nomination for election—
 - (i) on the last day for publication of the notice of the election if on or before that day he is declared by himself or by others to be a candidate at the election, and
 - (ii) otherwise, on the day on which he is so declared by himself or by others or on which he is nominated as a candidate at the election (whichever is the earlier).

Computation of time for purposes of Part 2

32.—(1) Where the day or last day on which anything is required or permitted to be done by or in pursuance of this Part of these Regulations is any of the days mentioned in paragraph (2)—

- (a) the requirement or permission shall be deemed to relate to the first day thereafter which is not one of those days; and
- (b) in computing any period of not more than 7 days for the purposes of this Part any of the days so mentioned shall be disregarded.

(2) The days referred to in paragraph (1) are Saturday, Sunday, Christmas Eve, Christmas Day, Maundy Thursday, Good Friday, a bank holiday or a day appointed for public thanksgiving or mourning.

- (3) In this regulation “bank holiday”, in relation to any European Parliamentary election, means—
- (a) in relation to the combined region, a day which is a bank holiday under the Banking and Financial Dealings Act 1971⁽³⁴⁾ in England and Wales or a Bank or Public Holiday in Gibraltar not otherwise falling within paragraph (2);
 - (b) in relation to an electoral region other than the combined region, a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom in which the electoral region is situated.

Election agents of registered parties

Appointment of national election agent of registered party

33.—(1) This regulation applies where, at a general election of MEPs, the nominating officer of a registered party (in accordance with the European Parliamentary elections rules) nominates, or authorises the nomination of, that party to stand for election in more than one electoral region.

(2) Not later than the latest date for the delivery of notices of withdrawal for an election, that officer shall name himself, or some other person, as the party’s national election agent.

(3) The name and address of the person so named shall be declared in writing by or on behalf of the party’s nominating officer to the Secretary of State not later than that time.

(4) One national election agent only shall be appointed for each registered party but the appointment (whether or not the national election agent appointed is the party’s nominating officer) may be revoked.

(34) 1971 c. 80.

(5) If (whether before, during or after the general election of MEPs) the appointment or deemed appointment of a national election agent is revoked or a national election agent dies, another national election agent shall be appointed forthwith and his name and address declared to the Secretary of State.

(6) The declaration as a party's national election agent of a person other than the nominating officer of that party shall be of no effect under this regulation unless it is made and signed by that person or is accompanied by a written declaration of acceptance signed by him.

(7) Upon the name and address of a national election agent being declared to the Secretary of State, the Secretary of State shall forthwith give public notice of that name and address.

(8) Where for any reason the nominating officer of a registered party is unable to act, functions conferred on him by this regulation shall be discharged by—

- (a) the person registered as leader of that party under the 2000 Act, or
- (b) where that person is also the nominating officer, the person who holds some other office in the party and is registered in pursuance of it under section 24 of that Act.

(9) In the following provisions of these Regulations, except regulations 38 to 41—

- (a) any reference to an election agent shall, in the case of a registered party to which this regulation applies, be construed as a reference to a national election agent, and
- (b) any reference to the election agent of a candidate shall, in the case of a registered party to which this regulation applies, be construed as a reference to that party's national election agent.

Appointment of election agent by a registered party standing in one electoral region only

34.—(1) This regulation applies where a registered party is nominated for election in one electoral region only.

(2) Not later than the latest date for the delivery of notices of withdrawal for an election, the nominating officer of a registered party shall name himself, or some other person, as the party's election agent.

(3) The name and address of the person so named shall be declared in writing by or on behalf of the party's nominating officer to the appropriate officer not later than that time.

(4) One election agent only shall be appointed for each registered party, but the appointment (whether or not the election agent appointed is the party's nominating officer) may be revoked.

(5) If (whether before, during or after the election) the appointment or deemed appointment of an election agent is revoked or an election agent dies, another election agent shall be appointed forthwith and his name and address declared to the appropriate officer.

(6) The declaration as a party's election agent of a person other than the nominating officer of that party shall be of no effect under this regulation unless it is made and signed by that person or is accompanied by a written declaration of acceptance signed by him.

(7) Upon the name and address of an election agent being declared to the appropriate officer, the appropriate officer shall forthwith give public notice of that name and address.

(8) Regulation 33(8) above applies for the purposes of this regulation as it applies for the purposes of that regulation.

(9) In the following provisions of these Regulations, except regulations 38 to 41, any reference to the election agent of a candidate shall, in the case of a registered party to which this regulation applies, be construed as a reference to that party's election agent.

Appointment of sub-agent for registered parties

35.—(1) A national election agent or a person authorised by him may appoint to act in any electoral region one, but not more than one, deputy election agent and in any part of an electoral region one, but not more than one, deputy election agent (referred to in these Regulations as a sub-agent).

(2) An election agent of a registered party may appoint to act in any part of the electoral region one, but not more than one, deputy election agent (referred to in these Regulations as a sub-agent).

(3) As regards matters in the area for which there is a sub-agent, the election agent (including the national election agent), may act by the sub-agent and—

- (a) anything done for the purposes of these Regulations, by or to the sub-agent in his area shall be deemed to be done by or to the election agent (including the national election agent); and
- (b) any act or default of a sub-agent which, if he were the election agent (including the national election agent), would be an illegal practice or other offence against these Regulations, shall be an illegal practice and offence against these Regulations committed by the sub-agent and the sub-agent shall be liable to punishment accordingly.

(4) Not later than the fifth day before the day of the poll (calculated in accordance with regulation 32) the national election agent or a person acting on his behalf or, as the case may be, the election agent shall declare in writing to the returning officer—

- (a) the name and address of every sub-agent, and
- (b) the area for which he is appointed to act.

(5) The appointment of a sub-agent shall not be vacated by the national election agent or, as the case may be, the election agent who appointed him ceasing to be such an agent.

(6) The appointment of a sub-agent may be revoked by whoever is for the time being the national election agent or, as the case may be, election agent.

(7) Where the appointment of a sub-agent is revoked or the sub-agent dies, another sub-agent may be appointed, and the national election agent or a person acting on his behalf or, as the case may be, the election agent shall forthwith declare in writing to the returning officer—

- (a) the name and address of the sub-agent, and
- (b) the area for which he is appointed to act.

(8) On receipt of a declaration under paragraph (4) or (7) above, the returning officer shall forthwith give public notice of the name, address and area so declared.

(9) References in this regulation to an election agent are to the election agent of a registered party.

Office of agents of registered parties

36.—(1) Every national election agent, every election agent and every sub-agent of a registered party shall have an office to which all claims, notices, writs, summonses and documents may be sent.

(2) The office of a national election agent shall be in the United Kingdom and shall be—

- (a) declared to the Secretary of State at the same time as the appointment of the agent is declared to him; and
- (b) stated in the public notice of the name of the agent.

(3) The office of the election agent or sub-agent of a registered party shall be within the United Kingdom or, in the case of a party standing for election in the combined region, Gibraltar and shall be—

- (a) declared to the appropriate officer at the same time as the appointment of the agent is declared to him; and
- (b) stated in the public notice of the name of the agent.

(4) Any claim, notice, writ, summons or document delivered at the address of the national election agent, election agent or sub-agent and addressed to him, shall be deemed to have been served on him and every national election agent, election agent or sub-agent may in respect of any matter connected with the election in which he is acting be sued in any court having jurisdiction at the place where his office is situated.

Effect of default in appointment of agents of registered parties

37.—(1) If no person's name and address are given as required by—

- (a) regulation 33 as the national election agent of a registered party, or
- (b) regulation 34 (where regulation 33 does not apply) as the election agent of a registered party for an electoral region,

by the latest time for delivery of notices of withdrawals, the nominating officer shall be deemed to have named himself as the national election agent or, as the case may be, the election agent and to have revoked any appointment of another person as that agent.

(2) If—

- (a) the person whose name and address have been so given as those of the party's national election agent or, as the case may be, election agent (not being the party's nominating officer) dies, and
- (b) a new appointment is not made on the day of the death or the following day,

the party's nominating officer shall be deemed to have appointed himself as from the time of the death to the office in question.

(3) If the appointment of a party's national election agent or, as the case may be, election agent is revoked without a new appointment being made, the party's nominating officer shall be deemed to have been appointed (or re-appointed) to the office in question.

(4) The deemed appointment of a nominating officer as his party's national election agent or, as the case may be, election agent may be revoked as if it were an actual appointment.

(5) Regulation 33(8) applies for the purposes of this regulation as it applies for the purposes of that regulation.

(6) Where a party's nominating officer or officer determined under regulation 33(8), as applied by paragraph (5) above, is by virtue of this regulation to be treated as the party's national election agent or, as the case may be, election agent, he shall be deemed to have his office at the address registered under the 2000 Act as the party's headquarters (or, if it has no headquarters, the address to which communications to the party may be sent).

(7) On being satisfied that a party's nominating officer or officer determined under paragraph (5) above is by virtue of this regulation to be treated as—

- (a) the party's national election agent, or
- (b) the party's election agent,

the Secretary of State or the appropriate officer (as the case may be) shall forthwith proceed to publish the like notice as if that officer's name and address and the address of his office had been duly given to him under regulations 33 and 36 or, as the case may be, regulations 34 and 36.

Election agents of individual candidates

Appointment of election agent for individual candidate

38.—(1) Not later than the latest time for the delivery of notices of withdrawals for an election, a person shall be named by or on behalf of each individual candidate as the individual candidate's election agent, and the name and address of the individual candidate's election agent shall be declared in writing by the individual candidate or some other person on his behalf to the appropriate officer not later than that time.

(2) An individual candidate may name himself as election agent, and upon doing so shall, so far as circumstances admit, be subject to the provisions of these Regulations both as an individual candidate and as an election agent, and, except where the context otherwise requires, any reference in these Regulations to an election agent shall be construed to refer to the individual candidate acting in his capacity of election agent.

(3) One election agent only shall be appointed for each individual candidate, but the appointment, whether the election agent appointed be the individual candidate himself or not, may be revoked.

(4) If (whether before, during or after the election) the appointment (or deemed appointment) of an election agent is revoked or an election agent dies, another election agent shall be appointed forthwith and his name and address declared in writing to the appropriate officer.

(5) The declaration as an individual candidate's election agent of a person other than the individual candidate shall be of no effect under this regulation unless it is made and signed by that person or is accompanied by a written declaration of acceptance signed by him.

(6) Upon the name and address of an election agent being declared to the appropriate officer, the appropriate officer shall forthwith give public notice of that name and address.

Appointment of sub-agent for individual candidate

39.—(1) An election agent for an individual candidate may appoint to act in any part of the electoral region one, but not more than one, deputy election agent (in these Regulations referred to as a sub-agent).

(2) As regards matters in a part of the electoral region for which there is a sub-agent the election agent may act by the sub-agent and—

- (a) anything done for the purposes of these Regulations by or to the sub-agent in his part of the electoral region shall be deemed to be done by or to the election agent; and
- (b) any act or default of a sub-agent which, if he were the election agent, would be an illegal practice or other offence against these Regulations shall be an illegal practice and offence against these Regulations committed by the sub-agent, and the sub-agent shall be liable to punishment accordingly.

(3) Not later than the fifth day before the day of the poll the election agent shall declare in writing the name and address of every sub-agent to the appropriate officer, and the appropriate officer shall forthwith give public notice of the name and address of every sub-agent so declared.

(4) The appointment of a sub-agent—

- (a) shall not be vacated by the election agent who appointed him ceasing to be election agent, but
- (b) may be revoked by whoever is for the time being the individual candidate's election agent,

and in the event of the revocation of the appointment or of the death of a sub-agent another sub-agent may be appointed, and his name and address shall be forthwith declared in writing to the appropriate officer, who shall forthwith give public notice of the name and address so declared.

(5) The declaration to be made to the appropriate officer, and the notice to be given by him, under paragraph (3) or paragraph (4) shall specify the part of the electoral region within which any sub-agent is appointed to act.

(6) In paragraphs (2) to (4) references to an election agent are to an election agent of an individual candidate.

Office of election agent and sub-agent for individual candidate

40.—(1) Every election agent and every sub-agent shall have an office to which all claims, notices, writs, summonses and legal process and other documents may be sent, and the address of the office shall be—

- (a) declared to the appropriate officer at the same time as the appointment of the agent is declared to him; and
- (b) stated in the public notice of the name of the agent.

(2) The office of the elections agent or sub-agent shall be within the United Kingdom or, in the case of a candidate standing for election in the combined region, Gibraltar.

(3) Any claim, notice, writ, summons or legal process or other document delivered at the office of the election agent or sub-agent and addressed to him, shall be deemed to have been served on him and every election agent or sub-agent may in respect of any matter connected with the election in which he is acting be sued in any court having jurisdiction at the place where his office is situated.

(4) In this regulation, references to an election agent and sub-agent are to an election agent or sub-agent of an individual candidate.

Effect of default in election agent's appointment

41.—(1) If no person's name and address is given as required by regulation 38 as the election agent of an individual candidate who remains validly nominated at the latest time for delivery of notices of withdrawals, the individual candidate shall be deemed at that time to have named himself as election agent and to have revoked any appointment of another person as his election agent.

(2) If—

- (a) the person whose name and address have been so given as those of the individual candidate's election agent (not being the individual candidate himself) dies, and
- (b) a new appointment is not made on the day of the death or on the following day, the individual candidate shall be deemed to have appointed himself as from the time of death.

(3) If the appointment of an individual candidate's election agent is revoked without a new appointment being made, the individual candidate himself shall be deemed to have been appointed (or re-appointed) election agent.

(4) The deemed appointment of an individual candidate as his own election agent may be revoked as if it were an actual appointment.

(5) Where an individual candidate is by virtue of this regulation to be treated as his own election agent, he shall be deemed to have his office at his address as given in the statement as to persons nominated.

(6) The appropriate officer on being satisfied that an individual candidate is by virtue of this regulation to be treated as his own election agent, shall forthwith proceed to publish the like notice as if the name and address of the individual candidate and the address of his office had been duly given to him under regulations 38 and 40.

Election expenses

Control of donations to individual candidates

42.—(1) In the case of any individual candidate at a European Parliamentary election, any money or other property provided (whether as a gift or loan)—

(a) by any person other than the candidate or his election agent, and

(b) for the purpose of meeting election expenses incurred by or on behalf of the candidate, must be provided to the candidate or his election agent.

(2) Paragraph (1) does not apply to any money or other property so provided for the purpose of meeting any such expenses which may be lawfully paid by a person other than the candidate, his election agent or any sub-agent.

(3) A person who provides any money or other property in contravention of paragraph (1) shall be guilty of an illegal practice.

(4) Schedule 6 to these Regulations shall have effect for the purpose of controlling donations to individual candidates.

(5) In this regulation and that Schedule “property” includes any description of property, and references to the provision of property accordingly include the supply of goods.

Payment of expenses of individual candidates through election agent

43.—(1) Subject to paragraph (5), no payment (of whatever nature) shall be made by—

(a) an individual candidate at an election, or

(b) any other person,

in respect of election expenses incurred by or on behalf of an individual candidate unless it is made by or through the candidate’s election agent.

(2) Every payment made by an election agent in respect of any election expenses shall, except where less than £20, be vouched for by a bill stating the particulars or by a receipt.

(3) The references in the foregoing provisions of this regulation to an election agent shall be taken as references to the election agent acting by himself or a sub-agent or a person authorised in writing by the election agent or sub-agent.

(4) All money provided by any person other than the individual candidate for any election expenses, whether as gift, loan, advance or deposit, shall be paid to the candidate or his election agent or sub-agent and not otherwise.

(5) This regulation does not apply to—

(a) any expenses which are, in accordance with regulations 44(1) or (2), 48(6) or 49(2), paid by the individual candidate;

(b) any expenses which are paid in accordance with regulation 44(4) by a person authorised as mentioned in that provision;

(c) any expenses included in a declaration made by the election agent under regulation 45; or

(d) any expenses which are to be regarded as incurred by or on behalf of the individual candidate by virtue of regulation 60(5)(b).

(6) A person who makes any payment (of whatever nature) in contravention of paragraph (1), or pays in contravention of paragraph (4) any money so provided as mentioned above, shall be guilty of an illegal practice.

Individual candidate's personal expenses, and petty expenses

44.—(1) An individual candidate at a European Parliamentary election may pay any personal expenses incurred by him on account of or in connection with or incidental to the election, but the amount which the candidate may pay shall not exceed £900, and where this applies any further personal expenses so incurred by him shall be paid by his election agent.

(2) An individual candidate at a European Parliamentary election may also pay any election expenses (other than expenses falling within paragraph (1)) which were incurred by him or on his behalf and in respect of which payment falls to be made before the date on which he appoints (or is deemed to have appointed) an election agent.

(3) The candidate shall send to his election agent within the time limited by these Regulations for sending in claims a written statement of the amount of expenses paid as mentioned in paragraph (1) or (2) by the candidate.

(4) Any person may, if so authorised in writing by an election agent or sub-agent, pay any election expenses to a total amount not exceeding that named in the authority, but any excess above that amount so named shall be paid by the agent who authorised that person.

(5) A statement of the particulars of payments made by any person so authorised shall be sent to the agent who authorised them within the time limited by these Regulations for sending in claims, and shall be vouched for by a bill containing that person's receipt and, where that agent is the sub-agent, he shall forward the statement, together with his authority, to the election agent.

(6) Regulations 48 and 49 do not apply to expenses which, in accordance with any provision of this regulation, are paid otherwise than by the candidate's election agent.

Expenses of individual candidate incurred otherwise than for elections purposes

45.—(1) Neither regulation 43 nor regulations 48 and 49 shall apply to election expenses—

- (a) which are incurred by or on behalf of an individual candidate otherwise than for the purposes of the candidate's election, but
- (b) which by virtue of regulation 60(1) fall to be regarded as election expenses by reason of the property, services or facilities in respect of which they were incurred being used for the purposes of the candidate's election.

(2) The individual candidate's election agent shall make a declaration of the amount (determined in accordance with regulation 61) of any election expenses falling within paragraph (1).

(3) In this regulation "for the purposes of the candidate's election" has the same meaning as in regulations 60 to 62.

Prohibition of expenses of individual candidate not authorised by election agent

46.—(1) No expenses shall, with a view to promoting or procuring the election of an individual candidate at an election, be incurred by any person other than the candidate, his election agent and persons authorised in writing by the election agent on account—

- (a) of holding public meetings or organising any public display; or
- (b) of issuing advertisements, circulars or publications; or
- (c) of otherwise presenting to the electors that candidate or his views or the extent or nature of his backing or disparaging a registered party or its candidates or an independent candidate,

but this paragraph shall not—

- (i) restrict the publication of any matter relating to the election in a newspaper or other periodical or in a broadcast made by the British Broadcasting Corporation, by Sianel Pedwar Cymru, by the Gibraltar Broadcasting Corporation or in a programme included in any service licensed

under Part 1 or 3 of the Broadcasting Act 1990⁽³⁵⁾ or Part 1 or 2 of the Broadcasting Act 1996⁽³⁶⁾; or

- (ii) apply to any expenses incurred by any person which do not exceed in the aggregate the permitted sum (and are not incurred by that person as part of a concerted plan of action), or to expenses incurred by any person in travelling or in living away from home or similar personal expenses.

(2) For the purposes of sub-paragraph (1)(ii), “the permitted sum” means £5,000; and expenses shall be regarded as incurred by a person “as part of a concerted plan of action” if they are incurred by that person in pursuance of any plan or other arrangement whereby that person and one or more other persons are to incur, with a view to promoting or procuring the election of the same candidate, expenses which (disregarding sub-paragraph (1)(ii)) fall within paragraph (1).

(3) Where a person incurs any expenses required by this regulation to be authorised by the election agent—

- (a) that person shall, within 21 days after the day on which the result of the election is declared, deliver to the agent who authorised the expenses a return of the amount of them, and
- (b) the return shall be accompanied by a declaration made by that person (or in the case of an association or body of persons, by a director, general manager, secretary or other similar officer of the association or body) verifying the return and giving particulars of the matters for which the expenses were incurred,

but this paragraph does not apply to any person engaged or employed for payment or promise of payment by the individual candidate or his election agent.

(4) The authority of the agent who authorised the incurring of the expenses shall be annexed to and deemed to form part of the return.

(5) If a person—

- (a) incurs, or aids, abets, counsels or procures any other person to incur, any expenses in contravention of this regulation, or
- (b) knowingly makes the declaration required by paragraph (3) falsely,

he shall be guilty of a corrupt practice; and if a person fails to deliver any declaration or return as required by this regulation he shall be guilty of an illegal practice, but the court before whom a person is convicted under this paragraph may, if they think it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of regulation 107.

(6) Where any act or omission of an association or body of persons, corporate or unincorporate, is an offence declared to be a corrupt or illegal practice by this regulation, any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he proves—

- (a) that the act or omission took place without his consent or connivance; and
- (b) that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

(7) References in this regulation to an election agent include a sub-agent.

⁽³⁵⁾ 1990 c. 42, which was amended by section 360 of, and Schedules 15 and 19 to, the Communications Act 2003 (c. 21).

⁽³⁶⁾ 1996 c. 55, which was amended by Schedules 15 and 19 to the Communications Act 2003 (c. 21).

Limitation of election expenses for individual candidates

47.—(1) Sums paid out and election expenses incurred by or on behalf of an individual candidate at an election must not in the aggregate exceed the maximum amount specified in paragraph (4).

(2) The references in paragraph (1) to sums paid out and expenses incurred on behalf of an individual candidate include sums being paid and expenses being incurred by the election agent or by a person acting on the written authority of an election agent or sub-agent.

(3) Where any election expenses are incurred in excess of a maximum amount specified in paragraph (4), any candidate or election agent who—

- (a) incurred, or authorised the incurring of, the election expenses, and
- (b) knew or ought reasonably to have known that the expenses would be incurred in excess of that maximum amount,

shall be guilty of an illegal practice.

(4) That maximum amount is £45,000 multiplied by the number of MEPs to be returned for the electoral region at that election.

(5) The maximum amount mentioned above for an individual candidate at a European Parliamentary election is not required to cover the individual candidate's personal expenses.

Time for sending in and paying claims: individual candidates

48.—(1) Every claim against an individual candidate or his election agent in respect of election expenses which is not sent in to the agent who incurred the expense not later than 21 days after the day on which the result of the election is declared shall be barred and not paid.

(2) All election expenses of an individual candidate shall be paid not later than 28 days after that day.

(3) Where the agent who incurred the expense is not the election agent, he shall send to that agent, forthwith on payment of the expense, the bill and a record of the fact that he has paid it and, on receiving a receipt for that payment, shall send that receipt to that agent.

(4) An election agent or the agent who incurred the expense who pays a claim in contravention of paragraph (1) or makes a payment in contravention of paragraph (2) shall be guilty of an illegal practice.

(5) The claimant or the agent or individual candidate who incurred the expense may apply to the High Court or to a county court for leave to pay a claim for any election expenses, although sent in after that period of 21 days or although sent in to the individual candidate and not to the agent who incurred the expense, and the court on cause shown to their satisfaction may by order grant the leave.

(6) Any sum specified in the order of leave may be paid by the agent or candidate who incurred the expense and when paid in pursuance of the leave shall not be deemed to be in contravention of paragraph (2); and paragraph (3) shall apply to any such payment.

(7) References in this regulation to the agent who incurred the expense are references to the election agent or sub-agent or an agent who did so on the written authority of such an agent.

(8) In the application of this regulation to Gibraltar, for the reference in paragraph (5) to the High Court or a county court, substitute a reference to the Gibraltar court.

Disputed claims: individual candidates

49.—(1) If the agent who incurred the expense disputes any claim sent in to him within the period of 21 days mentioned in regulation 48 or refuses or fails to pay the claim within the period of 28 days so mentioned, the claim shall be deemed to be a disputed claim.

(2) The claimant may, if he thinks fit, bring an action for a disputed claim in any competent court, including, in Gibraltar, the Gibraltar court, and any sum paid by the agent or individual candidate who incurred the expense in pursuance of the judgment or order of the court shall not be deemed to be in contravention of regulation 43(1) or of regulation 48(2).

(3) If the defendant in the action admits his liability but disputes the amount of the claim, that amount shall, unless the court on the claimant's application otherwise directs, be forthwith referred for taxation—

- (a) to a Circuit judge nominated under subsection (1)(a) of section 68 of the Supreme Court Act 1981(37), or
- (b) to the master, registrar or other proper officer of the court, or
- (c) in an action in a Gibraltar court, the registrar,

and the amount found due on the taxation shall be the amount to be recovered in the action in respect of the claim.

(4) Paragraphs (5) to (7) of regulation 48 apply in relation to a disputed claim as they apply in relation to a claim for election expenses sent in after that period of 21 days.

Election agent's claim

50. So far as circumstances admit, these Regulations apply to an election agent's claim for his remuneration and to its payment in like manner as if he were any other creditor, and if any difference arises about the amount of the claim, the claim shall be a disputed claim within the meaning of these Regulations and be dealt with accordingly.

Return as to election expenses: individual candidates

51.—(1) Within 50 days after the day on which the result of the election is declared, the election agent of every individual candidate at the election shall deliver or cause to be delivered to the appropriate officer a true return containing as respects that candidate—

- (a) a statement of all election expenses incurred by or on behalf of the candidate; and
- (b) a statement of all payments made by the election agent together with all bills or receipts relating to the payments.

(2) A return under this regulation must—

- (a) specify the poll by virtue of which the return is required;
- (b) specify the name of the candidate to whom the return relates and of the candidate's election agent; and
- (c) under a separate heading with any expenses in respect of which a return is required by virtue of regulation 46(2).

(3) The return shall also contain as respects that candidate—

- (a) a statement of all payments made—
 - (i) by the candidate in accordance with regulation 44(1) or (2), or
 - (ii) by any other person in accordance with regulation 44(4),together with all bills or receipts relating to any such payments made in accordance with regulation 44(2) or 44(4);
- (b) a statement of all disputed claims of which the election agent is aware;

- (c) a statement of all the unpaid claims, if any, of which the election agent is aware, in respect of which application has been or is about to be made to the High Court, county court or Gibraltar court;
- (d) any declarations of value falling to be made by the candidate's election agent by virtue of regulation 45(2) or 62(2);
- (e) a declaration of the amount of expenses which are to be regarded as election expenses incurred by or on behalf of the candidate by virtue of regulation 60(5)(b);
- (f) a statement of donations made to the candidate or his election agent which complies with the requirements of paragraphs 11 and 12 of Schedule 6 to these Regulations; and
- (g) a statement of the amount, if any, of money provided by the candidate from his own resources for the purpose of meeting election expenses incurred by him or on his behalf.

(4) Where after the date at which the return as to election expenses is delivered, leave is given by the court under regulation 48(5) for any claim to be paid, the agent of the candidate who incurred the expenses shall, within seven days after its payment, deliver or cause to be delivered to the appropriate officer a return of the sums paid in pursuance of the leave, accompanied by a copy of the order of the court giving the leave, and in default he shall be deemed to have failed to comply with the requirements of this regulation without such authorised excuse as is mentioned in regulation 55.

(5) Regulation 48(7) applies for the interpretation of paragraph (4) as it applies for the interpretation of regulation 48.

Declarations as to election expenses: individual candidates

52.—(1) A return delivered under regulation 51(1) shall be accompanied by a declaration made by the election agent in the appropriate form.

(2) At the same time that the election agent delivers or causes to be delivered that return, or within seven days afterwards, the candidate shall deliver or cause to be delivered to the appropriate officer a declaration made by him in the appropriate form.

(3) For the purposes of paragraphs (1) and (2), “the appropriate form” is the form in Schedule 7 to this Act.

(4) Where the candidate is out of the United Kingdom or, in the case of an individual candidate resident in Gibraltar standing for election in the combined region, Gibraltar when the return is so delivered—

(a) the declaration required by paragraph (2) may be made by him within 14 days after his return to the United Kingdom or Gibraltar (as the case may be), and

(b) in that case, the declaration shall be forthwith delivered to the appropriate officer,

but the delay authorised by this provision in making the declaration shall not exonerate the election agent from complying with the provisions of these Regulations relating to the return and declaration as to election expenses.

(5) Where the candidate is his own election agent, the declaration by an election agent as to election expenses need not be made and the declaration by the candidate as to election expenses shall be modified as specified in the form in Schedule 7.

(6) If a candidate or election agent knowingly makes the declaration required by this regulation falsely, he shall be guilty of a corrupt practice.

Return as to personal expenses: candidates on party lists

53.—(1) Within 50 days after the day on which the result of the election is declared, every candidate on the list of a registered party shall deliver or cause to be delivered to the appropriate

officer a true return containing as respects that candidate a statement of all personal expenses incurred by him on account of or incidental to the election.

(2) If a candidate knowingly makes the return required by this regulation falsely, he shall be guilty of a corrupt practice.

Penalty for failure as respects return or declarations: individual candidates

54. Subject to the provisions of regulation 55 if an individual candidate or election agent fails to comply with the requirements of regulation 51 or regulation 52 he shall be guilty of an illegal practice.

Authorised excuses for failures as to return and declarations: individual candidates

55.—(1) An individual candidate or his election agent may apply for relief under this regulation to—

- (a) the High Court;
- (b) an election court; or
- (c) a county court.

(2) Where a person makes an application under this regulation he shall notify the Director of Public Prosecutions of the application and the Director or his assistant or any barrister, advocate 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.

(3) Relief under this regulation may be granted—

- (a) to a candidate, in respect of any failure to deliver the return and declarations as to election expenses, or any part of them, or in respect of any error or false statement in them; or
- (b) to an election agent, in respect of the failure to deliver the return and declarations which he was required to deliver, or any part of them, or in respect of any error or false statement in them.

(4) The application for relief may be made on the ground that the failure, error or false statement arose—

- (a) by reason of the applicant's illness; or
- (b) where the applicant is the candidate, by reason of the absence, death, illness or misconduct of his election agent or sub-agent or of any clerk or officer of such agent; or
- (c) where the applicant is the election agent, by reason of the death or illness of any prior election agent of the candidate, or of the absence, death, illness or misconduct of any sub-agent, clerk or officer of any election agent of the candidate; or
- (d) by reason of inadvertence or any reasonable cause of a like nature,

and not by reason of any want of good faith on the applicant's part.

(5) The court may—

- (a) after such notice of the application in the electoral region as it considers fit, and
- (b) on production of such evidence of the grounds stated in the application and of the good faith of the application, and otherwise, as it considers fit,

make such order for allowing an authorised excuse for the failure, error or false statement as it considers just.

(6) An order under paragraph (5) may make the allowance conditional on the making of the return and declaration in a modified form or within an extended time, and upon the compliance with

such other terms as to the court seem best calculated for carrying into effect the objects of this Part of these Regulations

(7) An order under paragraph (5) shall relieve the applicant for the order from any liability or consequences under these Regulations in respect of the matter excused by the order.

(8) In the application of this regulation to Gibraltar, for the reference in paragraph (1) to a county court, substitute a reference to the Gibraltar court.

(9) Where a person makes an application under this regulation to the Gibraltar court, references in paragraph (2) to the Director of Public Prosecutions shall be construed as references to the Attorney General for Gibraltar.

Court's power to require information from election agent or sub-agent of individual candidate

56.—(1) Where on an application under regulation 55 it appears to the court that any person who is or has been an election agent or sub-agent of an individual candidate has refused or failed to make such return, or to supply such particulars, as will enable the candidate and his election agent to comply with the provisions of these Regulations as to the return or declarations as to election expenses, the court, before making an order under that regulation, shall order that person to attend before the court.

(2) The court shall on the attendance of that person, unless he shows cause to the contrary, order him—

(a) to make the return and declaration, or

(b) to deliver a statement of the particulars required to be contained in the return,

as the court considers just, within such time, to such person and in such manner as it may direct, or may order him to be examined with respect to the particulars.

(3) If a person fails to comply with any order of the court under this section, the court may order him to pay a fine not exceeding 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.

(4) References in this regulation to the election agent or sub-agent include a person authorised in writing by the election agent or any sub-agent to incur election expenses.

Duty of appropriate officer to forward returns and declarations to Electoral Commission

57. Where the appropriate officer receives any return or declaration under regulations 46, 51, 52 or 53 in respect of a European Parliamentary election he shall as soon as reasonably practicable after receiving the return or declaration deliver a copy of it to the Electoral Commission and, if so requested by the Commission, he shall also deliver to them a copy of any accompanying documents.

Publication of time and place for inspection of returns and declarations

58.—(1) At a European Parliamentary election—

(a) the returning officer shall, within 10 days after the end of the time allowed for delivering to him returns as to election expenses, publish in at least one newspaper circulating in the electoral region for which the election was held a notice of the time and place at which the returns and declarations (including the accompanying documents) can be inspected; but

(b) if any return or declaration has not been received by the returning officer before the notice is despatched for publication, the notice shall so state, and a like notice about that return or declaration, if afterwards received, shall within 10 days after the receipt be published in like manner.

(2) In the application of this regulation to the combined region, for the words “the electoral region” substitute “that part of the region which is in England and in at least one newspaper circulating in that part which is in Gibraltar”.

Inspection of returns and declaration

59.—(1) Where the appropriate officer receives any return or declaration under regulations 51(1) or 52 he shall—

- (a) as soon as reasonably practicable after receiving the return or declaration make a copy of it, and any accompanying documents, available for public inspection at his office, or some other convenient place chosen by him, for a period of 12 months beginning with the date when the return is received by him;
- (b) if requested to do so by any person, and on payment of the prescribed fee, supply that person with a copy of the return or declaration and any accompanying documents.

(2) If any such return contains a statement of donations in accordance with regulation 51(3)(f), the appropriate officer shall secure that the copy of the statement made available for public inspection under paragraph (a) or (as the case may be) supplied under paragraph (b) does not include, in the case of any donation by an individual, the donor’s address.

(3) After the expiry of those 12 months the appropriate officer may cause the returns or declarations (including the accompanying documents) to be destroyed.

Meaning of “election expenses”

60.—(1) In this Part of these Regulations “election expenses”, in relation to a candidate at an election, means (subject to paragraphs (2) and (3) and regulations 61 and 62) any expenses incurred in respect of—

- (a) the acquisition or use of any property, or
- (b) the provision by any person of any goods, services or facilities,

which is or are used for the purposes of the candidate’s election after the date when he becomes a candidate at the election.

(2) Paragraph (1) applies whether the expenses are incurred before or after that date.

(3) No election expenses shall be regarded as incurred, by virtue of paragraph (1) or (2) or regulations 61 and 62, in respect of—

- (a) the payment of any deposit required by rule 10 of Schedule 1 to these Regulations;
- (b) the publication of any matter, other than an advertisement, relating to the election in—
 - (i) a newspaper or periodical,
 - (ii) a broadcast made by the British Broadcasting Corporation, by Sianel Pedwar Cymru or by the Gibraltar Broadcasting Corporation, or
 - (iii) a programme included in any service licensed under Part 1 or 3 of the Broadcasting Act 1990 or Part 1 or 2 of the Broadcasting Act 1996;
- (c) the provision of any facilities provided in pursuance of any right conferred on candidates at an election by these Regulations other than facilities in respect of which expenses fall to be defrayed by virtue of regulation 67(4);
- (d) the provision by any individual of his own services which he provides voluntarily in his own time and free of charge.

(4) In this regulation and in regulations 61 and 62 “for the purposes of the candidate’s election” means with a view to, or otherwise in connection with, promoting or procuring the election of a candidate at the election.

(5) For the purposes of this Part of these Regulations—

(a) election expenses are incurred by or on behalf of a candidate at an election if they are incurred—

(i) by the candidate or his election agent, or

(ii) by any person authorised by the candidate or his election agent to incur the expenses;
and

(b) any reference to election expenses incurred by or on behalf of a candidate at an election includes expenses which are incurred as mentioned in sub-paragraph (a)(i) or (ii) before the date when he becomes a candidate at the election but which by virtue of paragraph (1) and (2) fall to be regarded as election expenses.

(6) In this Part, and in Part 4 of these Regulations, any reference (in whatever terms) to promoting or procuring the election of a candidate at an election includes doing so by prejudicing the electoral prospects of another candidate or registered party at the election.

Incurring of election expenses for purposes of regulation 60

61.—(1) The election expenses which are to be regarded as incurred for the purposes of regulation 60(1) shall (subject to paragraph (2) and regulation 62) be the actual expenses incurred in respect of the acquisition or use of the property, or (as the case may be) the provision of the goods, services or facilities mentioned in regulation 60(1).

(2) Where the property, goods, services or facilities mentioned in paragraph (1) is or are not used exclusively for the purposes of the candidate’s election, the election expenses to be regarded as incurred for the purposes of regulation 60(1) shall be such proportion of the expenses incurred in respect of their acquisition, use or provision (as the case may be) as is reasonably attributable to the use of the property or (as the case may be) the goods, services or facilities for the purposes of the candidate’s election.

Property, goods, services etc provided free of charge or at a discount

62.—(1) This regulation applies where, in the case of a candidate at an election—

(a) either—

(i) property or goods is or are transferred to the candidate or his election agent free of charge or at a discount of more than 10 per cent of the market value of the property or goods, or

(ii) property, goods, services or facilities is or are provided for the use or benefit of the candidate free of charge or at a discount of more than 10 per cent of the commercial rate for the use of the property or for the provision of the goods, services or facilities,
and

(b) the property, goods, services or facilities is or are made use of by or on behalf of the candidate in circumstances such that, if any expenses were to be (or are) actually incurred by or on behalf of the candidate in respect of that use, they would be (or are) election expenses incurred by or on behalf of the candidate.

(2) Where this regulation applies—

(a) an amount of election expenses determined in accordance with this regulation (“the appropriate amount”) shall be treated, for the purposes of this Part of these Regulations, as incurred by the candidate, and

- (b) in the case of an individual candidate, the candidate's election agent shall make a declaration of that amount, unless that amount is not more than £50.

This paragraph has effect subject to regulation 60(3).

(3) Where paragraph (1)(a)(i) applies, the appropriate amount is such proportion of either—

- (a) the market value of the property or goods (where the property or goods is or are transferred free of charge), or
- (b) the difference between the market value of the property or goods and the amount of expenses actually incurred by or on behalf of the candidate in respect of the property or goods (where the property or goods is or are transferred at a discount),

as is reasonably attributable to the use made of the property or goods as mentioned in paragraph (1)(b).

(4) Where paragraph (1)(a)(ii) applies, the appropriate amount is such proportion of either—

- (a) the commercial rate for the use of the property or the provision of the goods, services or facilities (where the property, goods, services or facilities is or are provided free of charge), or
- (b) the difference between that commercial rate and the amount of expenses actually incurred by or on behalf of the candidate in respect of the use of the property or the provision of the services or facilities (where the property, goods, services or facilities is or are provided at a discount),

as is reasonably attributable to the use made of the property, goods, services or facilities as mentioned in paragraph (1)(b).

(5) Where the services of an employee are made available by his employer for the use or benefit of a candidate, then for the purposes of this regulation the commercial rate for the provision of those services shall be the amount of the remuneration and allowances payable to the employee by his employer in respect of the period for which his services are so made available (but shall not include any amount in respect of any contributions or other payments for which the employer is liable in respect of the employee).

(6) In this regulation “market value”, in relation to any property or goods, means the price which might reasonably be expected to be paid for the property or goods on a sale in the open market; and paragraph 2(6)(a) of Schedule 6 to these Regulations shall apply with any necessary modifications for the purpose of determining, for the purposes of paragraph (1), whether property or goods is or are transferred to a candidate or his election agent.

General

Candidate's right to send election address post free

63.—(1) An individual candidate and the nominating officer of a registered party which is included in the statement of parties and individual candidates nominated for the election or a person authorised in writing by that officer at a European Parliamentary election is, subject to such reasonable terms and conditions as the universal service provider concerned may specify, entitled to send free of any charge for postage which would otherwise be made by a universal service provider either—

- (a) one unaddressed postal communication, containing matter relating to the election only and not exceeding 60 grammes in weight, to each place in the electoral region which, in accordance with those terms and conditions, constitutes a delivery point for the purposes of this paragraph; or
- (b) one such postal communication addressed to each elector.

(2) An individual candidate and the nominating officer of a registered party which is included in the statement of parties and individual candidates nominated for the election or a person authorised in writing by that officer is also, subject as mentioned above, entitled to send free of any such charge for postage as mentioned above to each person entered in the list of proxies for the election one such communication as mentioned above for each appointment in respect of which that person is so entered.

(3) A person shall not be deemed to be an individual candidate for the purposes of this regulation unless he is shown as standing nominated in the statement of persons nominated, but until the publication of that statement any person who declares himself to be an individual candidate shall be entitled to exercise the right of free postage conferred by this regulation if he gives such security as may be required by the universal service provider concerned for the payment of postage should he not be shown as standing nominated as mentioned above.

(4) Until the publication of the statement of parties and individual candidates nominated for the election in an electoral region, the nominating officer of a registered party or a person authorised in writing by him shall be entitled to exercise in that region the right of free postage conferred by this regulation if he gives such security as may be required by the universal service provider concerned for the payment of postage should that party not be included in that statement as standing nominated.

(5) For the purposes of this regulation “elector” means a person—

- (a) who is registered in the register of electors to be used at the election in the electoral region on the last day for publication of notice of the election; and
- (b) includes a person who is registered in such a register as below voting age if (but only if) it appears from the register that he will be of voting age on the day fixed for the poll.

(6) In this regulation “universal service provider” has the same meaning as in the Postal Services Act 2000(38).

Broadcasting from outside United Kingdom

64.—(1) No person shall, with intent to influence persons to give or refrain from giving their votes at a European Parliamentary election, include, or aid, abet, counsel or procure the inclusion of, any matter relating to the election in any programme service (within the meaning of the Broadcasting Act 1990(39)) or in any service which would, if Gibraltar were part of the United Kingdom, be a programme service provided from a place outside the United Kingdom and Gibraltar otherwise than in pursuance of arrangements made with—

- (a) in the United Kingdom,
 - (i) the British Broadcasting Corporation;
 - (ii) Sianel Pedwar Cymru;
 - (iii) the holder of any licence granted by the Office of Communications;
- (b) in Gibraltar, the Gibraltar Broadcasting Corporation,

for the reception and re-transmission of that matter by that body or the holder of that licence.

(2) An offence under this regulation shall be an illegal practice, but the court before whom a person is convicted of an offence under this regulation may, if they think it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of regulation 107.

(3) Where any act or omission of an association or body of persons, corporate or unincorporate, is an illegal practice under this regulation, any person who at the time of the act or omission was

(38) 2000 c. 26.

(39) See section 201 of the Broadcasting Act 1990 (c. 42), which was amended by paragraph 11 to Schedule 10 of the Broadcasting Act 1996 (c. 55) and sections 306(1) (a) and (b) and (2) of, and Schedule 19 to, the Communications Act 2003 (c. 21).

a director, general manager, secretary or other similar officer of the association or body, or was purporting to act in any such capacity, shall be deemed to be guilty of the illegal practice, unless he proves—

- (a) that the act or omission took place without his consent or connivance; and
- (b) that he exercised all such diligence to prevent the commission of the illegal practice as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

Broadcasting of local items during election period

65.—(1) Each broadcasting authority shall adopt a code of practice with respect to the participation of candidates at a European Parliamentary election in items about the electoral region in question which are included in relevant services during the election period.

(2) The code for the time being adopted by a broadcasting authority under this section shall be either—

- (a) a code drawn up by that authority, whether on their own or jointly with one or more other broadcasting authorities, or
- (b) a code drawn up by one or more other such authorities;

and a broadcasting authority shall from time to time consider whether the code for the time being so adopted by them should be replaced by a further code falling within paragraph (a) or (b).

(3) Before drawing up a code under this section a broadcasting authority shall have regard to any views expressed by the Electoral Commission for the purposes of this regulation; and any such code may make different provision for different cases.

(4) The Office of Communications and the Gibraltar Regulatory Authority shall each do all that they can to secure that the code for the time being adopted by them under this regulation is observed in the provision of relevant services; and the British Broadcasting Corporation and Sianel Pedwar Cymru shall each observe in the provision of relevant services the code so adopted by them.

(5) For the purposes of paragraph (1) “the election period”, in relation to an election, means the period beginning with the last date for publication of notice of the election, and ending with the close of the poll.

(6) In this regulation—

“broadcasting authority” means the British Broadcasting Corporation, the Office of Communications, Sianel Pedwar Cymru or the Gibraltar Regulatory Authority;

“candidate”, in relation to an election, means a candidate standing nominated at the election or included in a list of candidates submitted in connection with it;

“relevant services”—

- (a) in relation to the British Broadcasting Corporation or Sianel Pedwar Cymru, means services broadcast by that body;
- (b) in relation to the Office of Communications, means services licensed under Part 1 or 3 of the Broadcasting Act 1990 or Part 1 or 2 of the Broadcasting Act 1996; and
- (c) in relation to the Gibraltar Regulatory Authority, means services broadcast by the Gibraltar Broadcasting Corporation.

Imitation poll cards

66. No person shall for the purpose of promoting or procuring the election of a registered party or any individual candidate at a European Parliamentary election issue any poll card or document

so closely resembling an official poll card as to be calculated to deceive, and paragraphs (2) and (3) of regulation 64 apply as if an offence under this regulation were an offence under that regulation.

Schools and rooms for European Parliamentary election meetings

67.—(1) Subject to the provisions of this regulation, a candidate at a European Parliamentary election is entitled for the purpose of holding public meetings in furtherance of his candidature or that of his party to the use free of charge at reasonable times between the last date on which notice of election may be published in accordance with the European Parliamentary elections rules and the day preceding the date of the poll of—

- (a) a suitable room in the premises of a school to which this regulation applies;
- (b) any meeting room to which this regulation applies.

(2) This regulation applies—

- (a) in England and Wales, to community, foundation and voluntary schools of which the premises are situated in the electoral region,
- (b) in Scotland, to any school of which the premises are so situated, not being an independent school within the meaning of the Education (Scotland) Act 1980; and
- (c) in Gibraltar, to a school the expense of maintaining which is payable wholly or partly out of public funds or out of any rate, or by a body whose expenses are so payable.

(3) This regulation applies to meeting rooms situated in the electoral region, the expense of maintaining which is payable wholly or mainly out of public funds or out of any rate, or by a body whose expenses are so payable.

(4) Where a room is used for a meeting in pursuance of the rights conferred by this regulation, the person by whom or on whose behalf the meeting is convened—

- (a) shall defray any expenses incurred in preparing, warming, lighting and cleaning the room and providing attendance for the meeting and restoring the room to its usual condition after the meeting; and
- (b) shall defray any damage done to the room or the premises in which it is situated, or to the furniture, fittings or apparatus in the room or premises.

(5) A candidate is not entitled to exercise the rights conferred by this regulation except on reasonable notice; and this regulation does not authorise any interference with the hours during which a room in school premises is used for educational purposes, or any interference with the use of a meeting room either for the purposes of the person maintaining it or under a prior agreement for its letting for any purpose.

(6) The provisions of Schedule 8 to these Regulations have effect with respect to the rights conferred by this regulation and the arrangements to be made for their exercise.

(7) For the purposes of this regulation (except those of paragraph (b) of paragraph (4)), the premises of a school shall not be taken to include any private dwelling, and in this regulation—

- (a) the expression “meeting room” means any room which it is the practice to let for public meetings; and
- (b) the expression “room” includes a hall, gallery or gymnasium.

Disturbances at election meetings

68.—(1) A person who at a lawful public meeting to which this regulation applies acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together shall be guilty of an illegal practice.

(2) This regulation applies to a political meeting held in an electoral region in connection with a European Parliamentary election between the last date on which notice of election may be published in accordance with the European Parliamentary elections rules and the date of the poll.

(3) If a constable reasonably suspects any person of committing an offence under paragraph (1), he may if requested so to do by the chairman of the meeting require that person to declare to him immediately his name and address and, if that person refuses or fails so to declare his name and address or gives a false name and address, he shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale or, in Gibraltar, not exceeding £200.

Officials not to act for candidates

69.—(1) If—

- (a) any returning officer or local returning officer at a European Parliamentary election, or
- (b) any officer or clerk appointed under the European Parliamentary elections rules, or
- (c) any partner or clerk of any such person,

acts as an agent of a registered party which has submitted a list, a candidate on that list or an individual candidate in the conduct or management of the election, he shall be guilty of an offence, but nothing in this paragraph prevents an individual candidate from acting as his own election agent.

(2) A person guilty of an offence under this regulation shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale or, in Gibraltar, not exceeding £2500.

Illegal canvassing by police officers

70.—(1) No member of a police force shall by word, message, writing or in any other manner, endeavour to persuade any person to give, or dissuade any person from giving, his vote, whether as an elector or as proxy at any European Parliamentary election for an electoral region wholly or partly within the police area.

(2) A person acting in contravention of paragraph (1) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale or, in Gibraltar, not exceeding £1000, but nothing in that paragraph shall subject a member of a police force to any penalty for anything done in the discharge of his duty as a member of the force.

(3) In the application of this regulation to Gibraltar, the reference in paragraph (1) to the police area shall be construed as a reference to Gibraltar.

False statements as to candidates

71.—(1) A person who, or any director of any body or association corporate which—

- (a) before or during an election,
- (b) for the purpose of affecting the return of any registered party or individual candidate at the election,

makes or publishes any false statement of fact in relation to the personal character or conduct of a candidate on the list of that party or of that individual candidate shall be guilty of an illegal practice, unless he can show that he had reasonable grounds for believing, and did believe, the statement to be true.

(2) A person making or publishing any false statement of fact as mentioned above may be restrained by interim or perpetual injunction by the High Court or the county court from any repetition of that false statement or of a false statement of a similar character in relation to the candidate and, for the purpose of granting an interim injunction, prima facie proof of the falsity of the statement shall be sufficient.

(3) In the application of this regulation to Gibraltar, in paragraph (2) for the reference to the county court substitute a reference to the Gibraltar court.

Corrupt withdrawal from candidature

72. Any person who corruptly induces or procures any other person to withdraw from being an individual candidate at an election, in consideration of any payment or promise of payment, and any person withdrawing in pursuance of the inducement or procurement, shall be guilty of an illegal payment.

Payments for exhibition of election notices

73.—(1) No payment or contract for payment shall for the purpose of promoting or procuring the election of a registered party or an individual candidate at an election be made to an elector or his proxy on account of the exhibition of, or the use of any house, land, building or premises for the exhibition of, any address, bill or notice, unless—

- (a) it is the ordinary business of the elector or proxy as an advertising agent to exhibit for payment bills and advertisements; and
- (b) the payment or contract is made in the ordinary course of that business.

(2) If any payment or contract for payment is knowingly made in contravention of this regulation either before, during or after an election—

- (a) the person making the payment or contract, and
- (b) if he knew it to be in contravention of these Regulations, any person receiving the payment or being a party to the contract,

shall be guilty of an illegal practice.

Details to appear on election publications

74.—(1) A person shall not—

- (a) print or publish, or cause to be printed or published, any bill, placard or poster having reference to an election or any printed document distributed for the purpose of promoting or procuring the election of a registered party or an individual candidate, or
- (b) post or cause to be posted any such bill, placard or poster as mentioned above, or
- (c) distribute or cause to be distributed any printed document for that purpose,

unless the bill, placard, poster or document bears upon its face the name and address of the printer and publisher.

(2) For the purposes of paragraph (1), any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printing and the expression “printer” shall be construed accordingly.

(3) Subject to paragraph (4), a candidate or election agent acting in contravention of paragraph (1) shall be guilty of an illegal practice, and any other person so acting shall on summary conviction be liable to a fine not exceeding level 5 on the standard scale.

(4) Where any act or omission would be lawful by reason of—

- (a) the act being done in compliance with, or
- (b) the omission being made in reliance on,

any provisions of the new section 110 if it were substituted for paragraphs (1) to (3) with the modification in paragraph (5), it shall be deemed to be lawful.

(5) For the purposes of paragraph (4), the new section 110 shall be construed as if in subsection (1) for “candidate” there were substituted “individual candidate or a registered party”.

(6) In this regulation, “the new section 110” means the section 110 of the 1983 Act contained in paragraph 14 of Schedule 18 to the 2000 Act.

Prohibition of paid canvassers

75. If a person is, either before, during or after a European Parliamentary election, engaged or employed for payment or promise of payment as a canvasser for the purpose of promoting or procuring the election of a registered party or an individual candidate—

- (a) the person so engaging or employing him, and
- (b) the person so engaged or employed,

shall be guilty of illegal employment.

Providing money for illegal purposes

76. Where a person knowingly provides money—

- (a) for any payment which is contrary to the provisions of these Regulations, or
- (b) for any expenses incurred in excess of the maximum amount allowed by these Regulations, or
- (c) for replacing any money expended in any such payment or expenses,

except where the payment or the incurring of the expenses may have been previously allowed in pursuance of regulation 108 to be an exception, that person shall be guilty of an illegal payment.

Bribery

77.—(1) A person shall be guilty of a corrupt practice if he is guilty of bribery.

(2) A person shall be guilty of bribery if he, directly or indirectly, by himself or by any other person on his behalf—

- (a) gives any money or procures any office to or for any voter or to or for any other person on behalf of any voter or to or for any other person in order to induce any voter to vote or refrain from voting, or
- (b) corruptly does any such act as mentioned above on account of any voter having voted or refrained from voting, or
- (c) makes any such gift or procurement as mentioned above to or for any person in order to induce that person to procure, or endeavour to procure, the return of any individual candidate or registered party at a European Parliamentary election or the vote of any voter,

or if upon or in consequence of any such gift or procurement as mentioned above he procures or engages, promises or endeavours to procure the return of any person or registered party at a European Parliamentary election or the vote of any voter.

For the purposes of this paragraph—

- (i) references to giving money include references to giving, lending, agreeing to give or lend, offering, promising, or promising to procure or endeavour to procure any money or valuable consideration; and
- (ii) references to procuring any office include references to giving, procuring, agreeing to give or procure, offering, promising, or promising to procure or to endeavour to procure any office, place or employment.

(3) A person shall be guilty of bribery if he advances or pays or causes to be paid any money to or for the use of any other person with the intent that that money or any part of it shall be expended in bribery at any European Parliamentary election or knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election.

(4) The foregoing provisions of this regulation shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses incurred in good faith at or concerning a European Parliamentary election.

(5) A voter shall be guilty of bribery if before or during a European Parliamentary election he directly or indirectly by himself or by any other person on his behalf receives, agrees, or contracts for any money, gift, loan or valuable consideration, office, place or employment for himself or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting.

(6) A person shall be guilty of bribery if after a European Parliamentary election he directly or indirectly by himself or by any other person on his behalf receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting.

(7) In this regulation the expression “voter” includes any person who has or claims to have a right to vote.

Treating

78.—(1) A person shall be guilty of a corrupt practice if he is guilty of treating.

(2) A person shall be guilty of treating if he corruptly, by himself or by any other person, either before, during or after a European Parliamentary election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing, any meat, drink, entertainment or provision to or for any person—

- (a) for the purpose of corruptly influencing that person or any other person to vote or refrain from voting; or
- (b) on account of that person or any other person having voted or refrained from voting, or being about to vote or refrain from voting.

(3) Every elector or his proxy who corruptly accepts or takes any such meat, drink, entertainment or provision shall also be guilty of treating.

Undue influence

79.—(1) A person shall be guilty of a corrupt practice if he is guilty of undue influence.

(2) A person shall be guilty of undue influence—

- (a) if he, directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of any force, violence or restraint, or inflicts or threatens to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm or loss upon or against any person in order to induce or compel that person to vote or refrain from voting, or on account of that person having voted or refrained from voting; or
- (b) if, by abduction, duress or any fraudulent device or contrivance, he impedes or prevents the free exercise of the franchise of an elector or proxy for an elector, or so compels, induces or prevails upon an elector or proxy for an elector either to vote or to refrain from voting.

Rights of creditors

80. The provisions of this Part of these Regulations prohibiting—

- (a) payments and contracts for payments,
- (b) the payment or incurring of election expenses in excess of the maximum amount allowed by these Regulations; or
- (c) the incurring of expenses not authorised by the election agent,

do not affect the right of any creditor, who, when the contract was made or the expense was incurred, was ignorant of that contract or expense being in contravention of these Regulations.

Savings as to European Parliamentary elections

81.—(1) Nothing in this Part makes it illegal for an employer to permit European Parliamentary electors or their proxies to absent themselves from his employment for a reasonable time for the purpose of voting at the poll at a European Parliamentary election without having any deduction from their salaries or wages on account of their absence, if the permission—

- (a) is (so far as practicable without injury to the employer's business) given equally to all persons alike who are at the time in his employment, and
- (b) is not given with a view to inducing any person to record his vote for any particular registered party or individual candidate at the election, and
- (c) is not refused to any person for the purpose of preventing him from recording his vote for any particular registered party or individual candidate at the election,

but this paragraph shall not be construed as making illegal any act which would not be illegal apart from this paragraph.

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.

PART 4

LEGAL PROCEEDINGS

Interpretation of Part 4

86. In this Part of these Regulations, unless the context otherwise requires—

“appropriate officer” means the returning officer;

“candidate” has the same meaning as in Part 2 of these Regulations;

“costs” includes charges and expenses;

“declaration as to election expenses” means a declaration made under regulation 52;

“elective office” means any office to which a local government election is held in England or Wales;

“judicial office” includes the office of justice of the peace;

“Licensing Acts” means the Licensing Act 1964(40) and the Acts amending that Act, or the corresponding enactments forming part of the law of Scotland;

“money” and “pecuniary reward” shall be deemed to include—

- (a) any office, place or employment, and
- (b) any valuable security or other equivalent of money, and
- (c) any valuable consideration,

and expressions referring to money shall be construed accordingly;

“payment” includes any pecuniary or other reward;

“prescribed” means prescribed by rules of court; and

“public office” in relation to Scotland means any office held in Scotland—

- (a) under the Crown, or
 - (b) under the charter of a city or borough, or
 - (c) under the Acts relating to local government or public health or public education,
- whether the office is that—

- (i) of mayor, provost, chief magistrate, chairman, alderman, councillor, member of a board, commission or other local authority in any local government or other area; or
 - (ii) of proper officer or other officer under a council, board, commission or other authority; or
 - (iii) of any other office to which a person is elected or appointed under any such charter or enactment as is mentioned above, including any other municipal or parochial office; and
- “return as to election expenses” means a return made under regulation 51.

Computation of time for purposes of Part 4

87. Regulation 32 applies in computing any period of time for the purposes of this Part of these Regulations as for the purposes of Part 2 of these Regulations.

Method of questioning European Parliamentary elections

88.—(1) No European Parliamentary election and no declaration of the result by the returning officer under rule 56 of the European Parliamentary elections rules shall be questioned except by a petition complaining of an undue election or undue declaration (“a European Parliamentary election petition”) presented in accordance with this Part of these Regulations.

(2) A petition complaining that no declaration of the result has been given by the returning officer shall be deemed to be a European Parliamentary election petition and the High Court—

- (a) may make such order on the petition as they think expedient for compelling a declaration to be made; or
- (b) may allow the petition to be heard by an election court as provided with respect to ordinary European Parliamentary election petitions.

(3) No European Parliamentary election petition may be brought on the grounds of the commission of corrupt or illegal practices, except those in regulations 23 and 24.

(4) No European Parliamentary election petition may be brought where an application may be made under section 11 of the 2002 Act.

Presentation and service of European Parliamentary election petitions

89.—(1) A European Parliamentary election petition may be presented by one or more of the following persons—

- (a) a person who voted as an elector at the election or who had a right so to vote; or
- (b) a person claiming to have had a right to be elected or returned at the election; or
- (c) a person alleging himself to have been a candidate at the election.

(2) If the petition complains of the conduct of—

- (a) the returning officer,
- (b) any local returning officer,

the officer (or officers) in question shall be deemed to be the respondent (or respondents), together with any MEP returned at the election.

(3) The petition shall be in the prescribed form, state the prescribed matters and be signed by the petitioner, or all the petitioners if more than one, and shall be presented to—

- (a) the High Court, where it relates to the combined region or any electoral region wholly in England and Wales,
- (b) the Court of Session, where it relates to Scotland.

(4) The petition shall be presented by delivering it to the prescribed officer or otherwise dealing with it in the prescribed manner; and the prescribed officer shall send a copy of it to the returning officer of the electoral region to which the petition relates, who shall forthwith publish it in that electoral region.

(5) The petition shall be served in such manner as may be prescribed.

Time for presentation or amendment of European Parliamentary election petition

90. A European Parliamentary election petition shall be presented within 21 days after the day on which the result of the election was declared under rule 56 of the European Parliamentary elections rules.

Constitution of election court and place of trial

91.—(1) A European Parliamentary election petition shall be tried by two judges on the rota for the trial of parliamentary election petitions, and the judges for the time being on that rota shall, unless they otherwise agree, try the European Parliamentary election petitions standing for trial according to their seniority, and the judges presiding at the trial of a European Parliamentary election petition are hereinafter referred to as the election court.

(2) The election court has, subject to the provisions of these Regulations, the same powers, jurisdiction and authority as a judge of the High Court (or, in Scotland, a judge of the Court of Session presiding at the trial of a civil cause without a jury) and shall be a court of record.

(3) In the application of this regulation to a European Parliamentary election relating to the combined region, in paragraph (1), after the word “petitions”, in the first place where it occurs, insert “and a judge of the Gibraltar Supreme court”.

Judges' expenses and reception: England and Wales

92. In relation to the trial of a European Parliamentary election petition in England (including the combined region) and Wales, the travelling and other expenses of the judges and all expenses properly incurred in providing them with necessary accommodation and with a proper court shall be defrayed by the Treasury out of moneys provided by Parliament.

Judges' expenses and reception: Scotland

93. In relation to the trial of a European Parliamentary election petition in Scotland the travelling and other expenses of the judges, and of the officer or officers in attendance on them, and all expenses properly incurred in providing the judges with a proper court shall be defrayed by the Treasury out of moneys provided by Parliament.

Security for costs

94.—(1) At the time of presenting a European Parliamentary election petition or within three days afterwards the petitioner shall give security for all costs which may become payable by him to any witness summoned on his behalf or to any respondent.

(2) The security shall be such amount not exceeding £5,000 as the High Court or a judge of the High Court directs on an application made by the petitioner; and shall be given in the prescribed manner by recognisance entered into by any number of sureties not exceeding four or by a deposit of money, or partly in one way and partly in the other; but in Scotland—

(a) the amount mentioned above shall be such amount not exceeding £5,000 as the Court of Session or a judge of the Court of Session directs and the amount mentioned in sub-

paragraph (b) shall be such amount not exceeding £2,500 as the election court or the sheriff directs; and

(b) the persons finding caution for that amount may exceed four.

(3) 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.

(4) Within a further prescribed time, the respondent may object in writing to any recognisance on the ground that any surety is insufficient or is dead or cannot be found or ascertained for want of a sufficient description in the recognisance, or that a person named in the recognisance has not duly acknowledged the recognisance.

(5) An objection to a recognisance shall be decided in the prescribed manner.

(6) If the objection is allowed, the petitioner may within a further prescribed time, remove it by a deposit in the prescribed manner of such sum of money as will, in the opinion of the court or officer having cognisance of the matter, make the security sufficient.

(7) If no security is given as required by this regulation or any objection is allowed and not removed as mentioned above, no further proceedings shall be had on the petition.

Petition at issue

95.—(1) The petition shall be at issue as from the relevant time, as defined by paragraph (2).

(2) In this paragraph “the relevant time” means—

(a) where the petitioner gives the security for costs required by regulation 94 by a deposit of money equal to the amount of the security so required, the time when the security is so given; and

(b) in any other case, the time when—

(i) the time prescribed for the making of objections under regulation 94(4) expires, or

(ii) if such an objection is made, that objection is disallowed or removed,

whichever happens later.

Trial of election issue

96.—(1) A European Parliamentary election petition shall be tried in open court, without a jury, and notice of the time and place of trial shall be given in the prescribed manner, not less than 14 days before the day of trial.

(2) The election court may in its discretion adjourn the trial from time to time, but the trial shall, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day on every lawful day until its conclusion.

(3) The trial of a European Parliamentary election petition shall be proceeded with notwithstanding that one (or more) of the respondents is no longer an MEP.

(4) On the trial of a petition complaining of an undue election and claiming the seat or office for some person, the respondent may give evidence to prove that that person was not duly elected, in the same manner as if he had presented a petition against the election of that person.

(5) If the petition relates to an election conducted under the European Parliamentary elections rules and it appears that there is an equality of votes between any registered parties or individual candidates at the election, and that the addition of a vote would entitle any of those registered parties or individual candidates to be declared elected then—

- (a) any decision under the provisions as to equality of votes in the European Parliamentary elections rules, as the case may be, shall in so far as it determines the question between those registered parties or individual candidates, be effective also for the purposes of the petition; and
- (b) in so far as that question is not determined by such a decision, the court shall decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote.

Witnesses

97.—(1) Witnesses shall be summoned and sworn in the same manner as nearly as circumstances admit as in an action tried in the High Court.

(2) On the trial a member of the election court may, by order signed by him, require any person who appears to him to have been concerned in the election to attend as a witness, and any person refusing to obey the order shall be guilty of contempt of court.

(3) The election court may examine any person so required to attend or who is in court although he is not called and examined by any party to the petition.

(4) A witness may, after his examination by the court, be cross-examined by or on behalf of the petitioner and respondent, or either of them.

(5) In Scotland one of the deputies of the Lord Advocate or the procurator-fiscal of the district may, if the Lord Advocate so decides, and shall, if the election court so requests attend the trial of the petition as part of his official duty.

Duty to answer relevant questions

98.—(1) A person called as a witness respecting an election before any election court shall not be excused from answering any question relating to any offence at or connected with the election—

- (a) on the ground that the answer to it may incriminate or tend to incriminate—
 - (i) that person or that person's husband or wife, or
 - (ii) in Scotland, that person; or
- (b) on the ground of privilege.

(2) An answer by a person to a question put by or before any election court shall not, except in the case of any criminal proceeding for perjury in respect of the evidence, be in any proceeding, civil or criminal, admissible in evidence against—

- (a) that person or that person's husband or wife; or
- (b) in Scotland, that person.

Expenses of witnesses

99.—(1) The reasonable expenses incurred by any person in appearing to give evidence at the trial of a European Parliamentary election petition, according to the scale allowed to witnesses on the trial of civil actions, may be allowed to him by a certificate of the election court or of the prescribed officer.

(2) If the witness was called and examined by virtue of regulation 97(2), the expenses referred to in paragraph (1) shall be deemed part of the expenses of providing a court, but otherwise they shall be deemed costs of the petition.

Conclusion of trial of European Parliamentary election petition

100.—(1) At the conclusion of the trial of a European Parliamentary election petition, the election court shall determine whether—

- (a) the member or members whose election is complained of were duly elected,
- (b) some other person or persons should have been declared to be elected, or
- (c) the election of all members for that electoral region was void,

and the determination so certified shall be final to all intents as to the matters at issue on the petition.

(2) The election court shall forthwith certify in writing the determination to the Secretary of State.

(3) If the judges constituting the election court differ as to any matter which they are required to determine, they shall certify that difference and, to the extent that there is such a difference, the result of the election shall stand.

Special case for determination of the High Court

101.—(1) If, on the application of any party to a petition made in the prescribed manner to the High Court, it appears to the High Court that the case raised by the petition can be conveniently stated as a special case, the High Court may direct it to be stated accordingly and the special case shall be heard before the High Court.

(2) In the case of a European Parliamentary election petition, the High Court shall certify to the Secretary of State its decision on the special case.

(3) If it appears to the election court on the trial of a European Parliamentary election petition that any question of law as to the admissibility of evidence or otherwise requires further consideration by the High Court, the election court may postpone the granting of a certificate until the question has been determined by the High Court, and for this purpose may reserve the question by stating a case for the decision of the High Court.

(4) In Scotland the decision of the Court of Session on a special case under paragraph (1) shall be final.

Withdrawal of petition

102.—(1) A petitioner shall not withdraw a European Parliamentary election petition without the leave of the election court or High Court on special application, made in the prescribed manner and at the prescribed time and place.

(2) The application shall not be made until the prescribed notice of the intention to make it has been given in the electoral region to which the petition relates.

(3) Where there are more petitioners than one, the application shall not be made except with the consent of all the petitioners.

(4) If a petition is withdrawn the petitioner shall be liable to pay the costs of the respondent.

Abatement of petition

103. —A European Parliamentary election petition shall be abated by the death of a sole petitioner or of the survivor of several petitioners.

(2) The abatement shall not affect the liability of the petitioner or any other person to the payment of costs previously incurred.

(3) On the abatement the prescribed notice of it shall be given in the electoral region to which the petition relates; and within the prescribed time after the notice is given, any person who might have been a petitioner in respect of the election may apply to the election court or High Court in

the prescribed manner and in the prescribed time and place to be substituted as a petitioner; and the court may, if it thinks fit, substitute him accordingly.

(4) Security shall be given on behalf of a petitioner so substituted, as in the case of a new petition.

Costs of petition

104.—(1) All costs of and incidental to the presentation of a European Parliamentary election petition and the proceedings consequent on it, except such as are by these Regulations otherwise provided for, shall be defrayed by the parties to the petition in such manner and in such proportions as the election court or High Court may determine.

(2) In particular—

(a) any costs which in the opinion of the election court or High Court have been caused by vexatious conduct, unfounded allegations or unfounded objections on the part either of the petitioner or of the respondent, and

(b) any needless expense incurred or caused on the part of the petitioner or respondent,

may be ordered to be defrayed by the parties by whom it has been incurred or caused whether or not they are on the whole successful.

Neglect or refusal to pay costs

105.—(1) Paragraph (2) applies if, in the case of a European Parliamentary election petition a petitioner neglects or refuses for six months after demand to pay to any person summoned as a witness on his behalf or to the respondent any sum certified to be due to that person or the respondent for his costs, and the neglect or refusal is, within one year after the demand, proved to the satisfaction of the High Court, or, in Scotland, the election court.

(2) Where paragraph (1) applies, every person who under these Regulations entered into a recognisance relating to that petition shall be held to be in default of the recognisance, and—

(a) the prescribed officer shall thereupon certify the recognisance to be forfeited, and

(b) it shall be dealt with as if forfeited by the Crown Court,

but in Scotland the prescribed officer shall, where otherwise competent under the provisions of this paragraph—

(i) certify that the conditions contained in the bond of caution have not been fulfilled; and

(ii) it shall then be competent for the party or parties interested to register that bond, and do diligence upon it as accords of law.

Appeals and jurisdiction

106.—(1) No appeal lies without the special leave of the High Court from the decision of the High Court on any question of law, whether on appeal or otherwise, under the foregoing provisions of this Part of these Regulations, and if leave to appeal is granted the decision of the Court of Appeal in the case shall be final and conclusive.

(2) The High Court has, subject to the provisions of these Regulations, the same powers, jurisdiction and authority with respect to a European Parliamentary election petition and the proceedings on it as if the petition were an ordinary action within its jurisdiction.

(3) The duties to be performed in relation to European Parliamentary elections by the prescribed officer under this Part shall be performed by such one or more of the masters of the Supreme Court (Queen's Bench Division) as the Lord Chief Justice may determine.

(4) In the application of this regulation to Scotland, paragraphs (1) and (3) shall be omitted, but the duties to be performed in relation to European Parliamentary elections by the prescribed officer under this Part shall be performed by the Principal Clerk of Session.

Persons convicted of corrupt or illegal practices

107.—(1) Subject to the provisions of paragraph (2) and regulation 112, a candidate or other person convicted of a corrupt or illegal practice—

- (a) shall during the relevant period specified in paragraph (3) be incapable of—
 - (i) being registered as an elector or voting at any parliamentary or European Parliamentary election in the United Kingdom or at any local government election in Great Britain,
 - (ii) being registered as a European Parliamentary elector or voting at any European Parliamentary election in Gibraltar,
 - (iii) being elected to the House of Commons or the European Parliament, or
 - (iv) holding any elective office; and
- (b) if already elected to a seat in the House of Commons or the European Parliament, or holding any such office, shall vacate the seat or office as from the date of the conviction.

(2) The incapacity imposed by paragraph (1)(a)(i) applies only to a candidate or other person convicted of a corrupt practice under regulation 23 or of an illegal practice under regulation 24.

(3) For the purposes of paragraph (1) the relevant period is the period beginning with the date of the conviction and ending—

- (a) in the case of a person convicted of a corrupt practice, five years after that date, or
- (b) in the case of a person convicted of an illegal practice, three years after that date,

except that if (at any time within that period of five or three years) a court determines on an appeal by that person against the conviction that it should not be upheld, the relevant period shall end at that time instead.

(4) Where paragraph (1)(b) applies to any person, he shall (subject to paragraph (5)) vacate the seat or office in question at the appropriate time for the purposes of this regulation, namely—

- (a) the end of the period which is the period prescribed by law within which notice of appeal may be given, or an application for leave to appeal may be made, by him in respect of the conviction, or
- (b) if (at any time within that period) that period is extended—
 - (i) the end of the period as so extended, or
 - (ii) the end of the period of three months beginning with the date of the conviction,
 whichever is the earlier.

(5) If (before the appropriate time mentioned in paragraph (4)) notice of appeal is given, or an application for leave to appeal is made, by such a person in respect of the conviction, he shall vacate the seat or office in question at the end of the period of three months beginning with the date of the conviction unless—

- (a) such an appeal is dismissed or abandoned at any earlier time (in which case he shall vacate the seat or office at that time), or
- (b) at any time within that period of three months the court determines on such an appeal that the conviction should not be upheld (in which case the seat or office shall not be vacated by him).

(6) Where such a person vacates a seat or office in accordance with paragraph (4) or (5), no subsequent determination of a court that his conviction should not be upheld shall entitle him to resume the seat or office.

(7) If a person convicted of a corrupt or illegal practice has already been elected to a seat in the House of Commons or the European Parliament or to any elective office, he shall (in addition to being subject to the incapacities mentioned in paragraph (1)(a)) be suspended from performing any of his functions as a Member of Parliament or a Member of the European Parliament, or (as the case may be) any of the functions of that office, during the period of suspension specified in paragraph (8).

(8) For the purposes of paragraph (7) the period of suspension is the period beginning with the date of the conviction and ending with—

- (a) the date on which the seat or office is vacated in accordance with paragraph (4) or (5), or
- (b) where paragraph (5)(b) applies, the date on which the court determines that the conviction should not be upheld.

(9) Any incapacities or other requirement applying to a person by virtue of paragraph (1) or (7) applies in addition to any punishment imposed under regulation 109 or 110; but each of those regulations has effect subject to regulation 112.

(10) Subject to the provisions of regulation 112 but in addition to any incapacity arising by virtue of paragraph (1) or (7), a candidate or other person convicted of a corrupt practice—

- (a) shall for the period of five years beginning with the date of the conviction, be incapable of holding any public or judicial office in Scotland, and
- (b) if already holding such an office, shall vacate it as from that date.

Application for relief

108.—(1) An application for relief under this regulation may be made to the High Court or an election court or else, if in respect of a payment made in contravention of regulation 48(1) or (2), to a county court.

(2) Where a person makes an application under this regulation he shall notify the Director of Public Prosecutions of the application and the Director or his assistant or representative may attend the hearing of the application and make representations at the hearing in respect of it.

(3) If it is shown to the court by such evidence as to the court seems sufficient—

- (a) that any act or omission of any person would apart from this regulation by reason of being in contravention of these Regulations be an illegal practice, payment, employment or hiring,
- (b) that the act or omission arose from inadvertence or from accidental miscalculation or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith, and
- (c) that such notice of the application has been given in the electoral region as to the court seems fit,

and under the circumstances it seems to the court to be just that either that or any other person should not be subject to any of the consequences under these Regulations of the act or omission, the court may make an order allowing the act or omission to be an exception from the provisions of these Regulations making it an illegal practice, payment, employment or hiring and upon the making of the order no person shall be subject to any of the consequences under these Regulations of that act or omission.

(4) This regulation shall apply to Gibraltar subject to the following modifications—

- (a) in paragraph (1), for “a county court”, substitute “the Gibraltar court”;

- (b) in paragraph (2), in the case of an application to the Gibraltar court, references in paragraph (2) to the Director of Public Prosecutions shall be construed as references to the Attorney General for Gibraltar.

Prosecution for corrupt practices

109.—(1) A person who is guilty of a corrupt practice shall be liable—

- (a) on conviction on indictment—
- (i) in the case of a corrupt practice under regulation 23, 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.

(2) If it appears to the court by which any person holding a licence or certificate under the Licensing Acts is convicted of the offence of bribery or treating that the offence was committed on his licensed premises—

- (a) the court shall direct the conviction to be entered in the proper register of licences, and
- (b) the entry shall be taken into consideration by the licensing authority in determining whether they will or will not grant a renewal of the licence or certificate, and may be a ground, if the authority think fit, for refusing its renewal.

Prosecutions for illegal practices

110. A person who is guilty of an illegal practice shall be liable to a fine not exceeding level 5 on the standard scale; and on a prosecution for an illegal practice it shall be sufficient to allege that the person charged was guilty of an illegal practice.

Conviction of illegal practice on charge of corrupt practice

111. A person charged with a corrupt practice may, if the circumstances warrant such finding, be found guilty of an illegal practice (which offence shall for that purpose be an indictable offence), and a person charged with an illegal practice may be found guilty of that offence notwithstanding that the act constituting the offence amounted to a corrupt practice.

Mitigation and remission etc

112.—(1) Where any person is subject to any incapacity by virtue of a conviction and any witness who gave evidence against that person upon the proceeding for the conviction is convicted of perjury in respect of that evidence, the incapacitated person may apply to the High Court, and the court, if satisfied that the conviction so far as respects that person was based upon perjury, may order that the incapacity shall thenceforth cease.

- (2) In the application of this regulation to Gibraltar, for “High Court” substitute “Gibraltar court”.

Illegal payments

113.—(1) A person guilty of an offence of illegal payment or employment shall, on summary conviction, be liable to a fine not exceeding level 5 on the standard scale; and on a prosecution for such an offence it shall be sufficient to allege that the person charged was guilty of an illegal payment or employment as the case may be.

(2) A candidate or election agent who is personally guilty of an offence of illegal payment or employment shall be guilty of an illegal practice.

(3) Any person charged with an offence of illegal payment or employment may be found guilty of that offence, notwithstanding that the act constituting the offence amounted to a corrupt or illegal practice.

Time limit for prosecution

114.—(1) A proceeding against a person in respect of any offence under any provision contained in these Regulations shall be commenced within one year after the offence was committed, and the time so limited by this regulation shall, in the case of any proceedings under the Magistrates' Courts Act 1980⁽⁴¹⁾ for any such offence be substituted for any limitation of time contained in that Act.

(2) For the purposes of this regulation—

- (a) in England and Wales, the laying of an information; and
- (b) in Scotland, the granting of a warrant to apprehend or cite the accused (if, in relation to an offence alleged to have been committed within the United Kingdom, such warrant is executed without delay),

shall be deemed to be the commencement of a proceeding.

(3) In the application of this regulation to a proceeding in a Gibraltar court—

- (a) in paragraph (1), for the words “Magistrates' Courts” to the end of that paragraph, substitute “laws of Gibraltar governing proceedings before the Gibraltar court for any such offence be substituted for any limitation of time contained in those laws.”; and
- (b) in paragraph (2)(a), after “England and Wales” insert “or in Gibraltar”.

Prosecution of offences committed outside the United Kingdom

115. Proceedings in respect of an offence under these Regulations alleged to have been committed outside the United Kingdom or Gibraltar by a Commonwealth citizen or citizen of the Union may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the United Kingdom or Gibraltar.

Offences by associations

116. Where—

- (a) any corrupt or illegal practice or any illegal payment, employment or hiring, or
- (b) any offence under regulation 74,

is committed by any association or body of persons, corporate or unincorporate, the members of the association or body who have taken part in the commission of the offence shall be liable to any fine or punishment imposed for that offence by these Regulations.

Evidence by certificate of holding of elections

117. On any prosecution for a corrupt or illegal practice or for any illegal payment, employment or hiring, the certificate of the returning officer at a European Parliamentary election—

- (a) that the election mentioned in the certificate was duly held, and
- (b) that the person named in the certificate was a candidate at the election, and
- (c) that a registered party named in the certificate submitted a list at the election,

(41) 1980 c. 43.

shall be sufficient evidence of the facts stated in it.

Evidence by certificate of electoral registration

118. The certificate of a registration officer that any person is or is not, or was or was not at any particular time, duly registered in one of the officer's registers in respect of any address shall be sufficient evidence of the facts stated in it; and a document purporting to be such a certificate shall be received in evidence and presumed to be such a certificate unless the contrary is proved.

Director of Public Prosecutions

119.—(1) Where information is given to the Director of Public Prosecutions that any offence under these Regulations has been committed, it is his duty to make such inquiries and institute such prosecutions as the circumstances of the case appear to him to require.

(2) The Director by himself or by his assistant or by his representative appointed under paragraph (3) may and, if the election court so requests him, shall attend the trial of every European Parliamentary election petition.

(3) The Director may nominate a barrister or solicitor to be his representative for the purposes of this Part of these Regulations.

(4) There shall be allowed to the Director and his assistant or representative for the purposes of this Part (other than his general duties under paragraph (1)) such allowances for expenses as the Treasury may approve.

(5) The costs incurred in defraying the expenses of the Director incurred for those purposes (including the remuneration of his representative) shall, in the first instance, be paid by the Treasury, and shall be deemed to be expenses of the election court; but if for any reasonable cause it seems just to the court so to do, the court shall order all or part of those costs to be repaid to the Treasury by the parties to the petition, or such of them as the court may direct.

(6) In the application of this regulation to Scotland, paragraphs (2) to (5) shall be omitted.

(7) In the application of this regulation to Gibraltar, in paragraph (1) the reference to the Director of Public Prosecutions shall be construed as a reference to the Attorney General for Gibraltar.

Rules of procedure

120.—(1) The authority having for the time being power to make rules of court for the Supreme Court may make rules for the purposes of Part 2 and this Part of these Regulations.

(2) In relation to the power conferred by paragraph (1) to make rules—

(a) that power shall be exercisable by statutory instrument, and be treated for the purposes of the Statutory Instruments Act 1946(42) as if conferred by an Act on a Minister of the Crown; and

(b) a statutory instrument containing rules under paragraph (1) shall be subject to annulment in pursuance of a resolution of either House of Parliament; and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

(3) The above provisions of this regulation do not apply to Scotland, but the Court of Session has power to make acts of sederunt for the purposes of Part 2 and this Part.

(4) The above provisions of this regulation do not apply to Gibraltar courts, but in those courts Gibraltar rules of court apply.

(42) 1946 c. 36.

Costs

121.—(1) The rules of the Supreme Court with respect to costs to be allowed in actions, causes and matters in the High Court shall in principle and so far as practicable apply to the costs of petition and other proceedings under Part 2 or this Part of these Regulations, and the taxing officer shall not allow any costs higher than would be allowed in any action, cause or matter in the High Court on a common fund basis.

(2) Where any costs or other sums are, under the order of an election court or otherwise under this Part, to be paid by any person, those costs or sums shall be due from that person to the person or persons to whom they are to be paid and, if payable to the Treasury, shall be a debt due to Her Majesty and in either case may be recovered accordingly.

(3) The above provisions of this regulation do not apply to Scotland, but those costs shall, subject to any provision which the Court of Session may make by act of sederunt, be taxed as nearly as possible according to the same principles as expenses between solicitor and client are taxed in a cause in the Court of Session.

(4) The above provisions of this regulation do not apply to Gibraltar courts, but those costs shall be taxed as nearly as possible according to the same principles as expenses between solicitor and client are taxed in a cause in the Gibraltar court.

Services of notices

122.—(1) Any notice, legal process or other document required to be served on any person with reference to any proceeding respecting an election for the purpose of causing him to appear before the High Court, the county court, or any election court, or otherwise or of giving him an opportunity of making a statement, or showing cause, or being heard by himself before any court for any purpose of this Part of these Regulations may be served—

- (a) by delivering it to that person, or by leaving it at, or sending it by post by a registered letter or by the recorded delivery service, to his last known place of abode in the electoral region or, as the case may be, the area of the authority for which the election was held; or
- (b) if the proceeding is before any court in such other manner as the court may direct.

(2) In proving service by post under this regulation it shall be sufficient to prove that the letter was prepaid, properly addressed, and registered or recorded with the postal operator (within the meaning of the Postal Services Act 2000) concerned.

(3) In the application of the above provisions to post sent in Gibraltar, references to the postal operator shall be construed as references to the Gibraltar Post Office.

(4) This regulation does not apply in respect of any proceedings before the Gibraltar court.

PART 5

MISCELLANEOUS

Public notices and declarations

123.—(1) A public notice required by or under these Regulations to be given by a returning officer for a European Parliamentary election shall be given by posting the notice in some conspicuous place or places in the electoral region and may also be given in such other manner as he thinks desirable for publicising it.

(2) A public notice required by or under these Regulations to be given by a local returning officer shall be given by posting the notice in some conspicuous place or places in the local counting area and may also be given in such other manner as he thinks fit.

(3) Any person before whom a declaration is authorised to be made under these Regulations may take the declaration.

(4) In the application of paragraph (1) to the combined region, the notice shall be given by posting it in some conspicuous place or places in that part of the combined region which is in the United Kingdom and in some conspicuous place or places in that part which is in Gibraltar.

Remuneration for free postal services provided under the Regulations

124.—(1) This regulation applies where any postal services are provided without charge by a universal service provider in pursuance of these Regulations.

(2) The universal service provider shall be entitled to be remunerated for having provided the services—

- (a) at the rate fixed in relation to them by virtue of a scheme under section 89 of the Postal Services Act 2000; or
- (b) in the case of any postal communication sent to a place or an elector in the combined region in pursuance of regulation 63 for which there is no such scheme for those services, at a rate fixed in relation to those services in accordance with paragraph (3).

(3) The rate referred to in paragraph (2)(b) must correspond substantially to the rate fixed in relation to the provision of services in pursuance of regulation 63 which would apply by virtue of a scheme under section 89 of the Postal Services Act 2000 if the whole of the combined region were in England, except that it may include an element for additional expenses associated with providing such services in the combined region.

(4) A sum which a universal service provider is entitled to receive by virtue of this regulation shall be charged on, and issued out of, the Consolidated Fund.

(5) In this regulation “postal services” and “universal service provider” have the same meanings as in the Postal Services Act 2000.

Application of Local Government Finance Act 1988 for European Parliamentary Elections

125. Section 65(6) of the Local Government Finance Act 1988⁽⁴³⁾ (hereditaments to be treated as unoccupied notwithstanding use for election purposes) shall apply in relation to a European Parliamentary election as it applies in relation to a parliamentary election and as though the reference in section 65(6) to a person’s candidature included a reference to a registered party’s; and as though the reference to a returning officer was a reference to a local returning officer.

Revocation

126. The European Parliamentary Elections Regulations 1999⁽⁴⁴⁾ are hereby revoked.

⁽⁴³⁾ 1988 c. 41.

⁽⁴⁴⁾ S.I. 1999/1214.

Signed on behalf of the Secretary of State for Constitutional Affairs

Dated 22nd March 2004

Christopher Leslie
Parliamentary Under Secretary of State
Department for Constitutional Affairs

SCHEDULE 1

Regulation 9

EUROPEAN PARLIAMENTARY ELECTIONS RULES

PART 1

PROVISIONS AS TO TIME

Timetable

1. The proceedings of the election shall be conducted in accordance with the following Table.

<i>Proceeding</i>	<i>Time</i>
Publication of notice of election	Not later than the 25th day before the date of the poll.
Delivery of nomination papers and list of candidates of registered parties	Between the hours of 10 a.m. and 4 p.m. in the United Kingdom on any day after the date of the publication of the notice of election but not later than the 19th day before the date of the poll.
Delivery of notices of withdrawals of candidature.	Within the time for the delivery of nomination papers at the election.
The making of objections to nomination papers or list of candidates of registered parties.	During the hours allowed for delivery of nomination papers on the last day for their delivery and the hour following; but <ol style="list-style-type: none"> (a) no objection may be made in the afternoon of that last day except to a nomination paper delivered within 24 hours of the last time for its delivery, and in the case of a nomination paper so delivered no objection may be so made to the sufficiency or nature of the particulars of a registered party or candidate on the party's list or individual candidate unless made at or immediately after the time of the delivery of the nomination paper; and; (b) the foregoing provisions do not apply to objections made in pursuance of rule 17(2).
Publication of statement of parties and individual candidates nominated.	At the close of the time for making objections to nomination papers or list of candidates of registered parties or as soon afterwards as any objections are disposed of.
Polling.	Between the hours of 7 a.m. and 10 p.m. on the day of the poll.

Computation of time

- 2.—(1) In computing any period of time for the purposes of the Timetable—

- (a) a Saturday or Sunday,
- (b) a Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a bank holiday, or
- (c) a day appointed for public thanksgiving or mourning,

shall be disregarded, and any such day shall not be treated as a day for the purpose of any proceedings up to the completion of the poll nor shall the returning officer be obliged to proceed with the counting of the votes on such a day.

(2) In this rule “bank holiday” means—

- (a) in relation to a general election in the combined region a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom or a Bank or Public Holiday in Gibraltar not otherwise falling within sub-paragraph (b) of paragraph (1),
- (b) in relation to a by-election in the combined region a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales or a Bank or Public Holiday in Gibraltar not otherwise falling within sub-paragraph (b) of paragraph (1),
- (c) in relation to a general election in a region other than the combined region, a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom, and
- (d) in relation to a by-election in a region other than the combined region a day which is a bank holiday under that Act in that part of the United Kingdom in which the electoral region is situated,

but at a general election sub-paragraph (b) or (d) and not sub-paragraph (a) or (c) (as the case may be) of this paragraph applies in relation to any proceedings extending, by reason of riot or open violence, beyond the time laid down by the Timetable.

PART 2

STAGES COMMON TO CONTESTED AND UNCONTESTED ELECTIONS

Notice of election

3.—(1) The returning officer shall publish notice of the election, stating—

- (a) the place and times at which nomination papers are to be delivered, and
- (b) the date of the poll in the event of a contest.

(2) The notice of election shall state the date by which (except in such circumstances as are provided for in paragraph 19 of Schedule 2)—

- (a) applications to vote by post or by proxy, and
- (b) other applications and notices about postal or proxy voting,

must reach the registration officer in order that they may be effective for the election.

(3) The returning officer shall send a copy of the notice to the local returning officer for each local counting area wholly or partly contained in the electoral region; and each local returning officer shall publish the copy of the notice at a place within the area in which he acts.

Nomination of individual candidates

4.—(1) Each individual candidate shall be nominated by a separate nomination paper, which is signed and delivered by the individual candidate himself or a person authorised in writing by him.

Status: This is the original version (as it was originally made).

- (2) The nomination paper shall state the individual candidate's—
 - (a) full names,
 - (b) home address in full, and
 - (c) if desired, description,and the surname shall be placed first in the list of his names.
- (3) The description, if any, must consist of either—
 - (a) in the case of an individual candidate standing on behalf of a registered party at a by-election, a description (of not more than 6 words in length) which is authorised as mentioned in rule 5(1); or
 - (b) the word “Independent”.
- (4) Where a nomination paper is delivered in respect of the same person after an earlier paper in respect of that person has been delivered, that later paper shall be deemed to supersede the earlier one.

Nomination papers: name of registered political party at a by-election

- 5.—**(1) A nomination paper may not include a description of an individual candidate which is likely to lead voters to associate the candidate with a registered political party unless—
- (a) the individual candidate is standing on behalf of a registered party at a by-election;
 - (b) the party is a qualifying party in relation to the electoral region; and
 - (c) the description in question is authorised by a certificate—
 - (i) issued by or on behalf of the registered nominating officer of the party, and
 - (ii) received by the returning officer at some time during the period for delivery of nomination papers set out in the Table in rule 1.
- (2) A person shall be guilty of a corrupt practice if he fraudulently purports to be authorised to issue a certificate under paragraph (1) on behalf of a registered political party's nominating officer.
- (3) For the purposes of the application of this rule in relation to an election—
- (a) “registered political party” means a party which was registered under Part 2 of the 2000 Act at the time by which the notice of the election is required to be published by virtue of rule 1 (“the relevant time”);
 - (b) a registered political party is a qualifying party in relation to an electoral region if the region is in England (including the combined region) or is Wales or Scotland and the party was at the relevant time registered in respect of that part of Great Britain in the Great Britain register maintained under that Part of that Act.

Nomination papers: name of registered political party at a general election

- 6.—**(1) A registered party which is to stand for election in the electoral region shall be nominated by a nomination paper delivered, to the returning officer at the place which he has fixed for the purpose, by the party's nominating officer or a person authorised in writing by him.
- (2) The nomination paper shall state the name by which the registered party is to stand for election; and that name need not be the party's registered name but must not be such as would be likely to lead voters to associate that party with another registered party.
- (3) That name shall not exceed 6 words in length.
- (4) The nomination paper shall be accompanied by a list of candidates which complies with rule 7.
- (5) The nomination paper shall include a statement that the party is nominated by or on behalf of the nominating officer of the registered party in question and shall be signed by the person making it.

(6) Where a nomination paper and list of candidates are delivered in respect of the same registered party after an earlier paper and list have been so delivered, that later paper and list shall be deemed to supersede the earlier ones.

(7) A person shall be guilty of a corrupt practice if he fraudulently purports to be authorised to make the statement required by paragraph (5) on behalf of a registered party's nominating officer.

(8) In the application of this rule in relation to an election "registered party" means a party which was registered under Part 2 of the 2000 Act at the time by which the notice of election is required to be published.

List of candidates

7.—(1) The number of candidates in the list of a registered party's candidates which must accompany its nomination paper shall not exceed the number of MEPs to be elected in the electoral region at the election.

(2) The list shall set out the full names and home addresses in full of each candidate.

Consent to nomination

8.—(1) A person shall not be validly nominated as an individual candidate or a candidate on a registered party's list unless his consent to nomination—

- (a) is given in writing on or within one month before the day fixed as the last day for the delivery of nomination papers,
- (b) is attested by one witness,
- (c) in the case of a candidate on a registered party's list, identifies the party in question, and
- (d) is delivered at the place and within the time for the delivery of nomination papers, subject to paragraph (2).

(2) If the returning officer is satisfied that owing to the absence of a person from the United Kingdom or Gibraltar (as the case may be) it has not been reasonably practicable for his consent in writing to be given as mentioned above, a telegram (or any similar means of communication) consenting to his nomination and purporting to have been sent by him shall be deemed for the purposes of this rule to be consent in writing given by him on the day on which it purports to have been sent, and attestation of his consent shall not be required.

(3) A candidate's consent given under this rule—

- (a) shall state the day, month and year of his birth; and
- (b) shall state—
 - (i) that he is aware of the provisions of section 10 of the European Parliamentary Elections Act 2002; and
 - (ii) that to the best of his knowledge and belief he is not disqualified for membership of the office of MEP.

Candidature by relevant citizen of the Union

9.—(1) Where the candidate is a relevant citizen of the Union, he shall not be validly nominated as an individual candidate or as a candidate on a registered party's list, unless a declaration under paragraph (2) and a certificate under paragraph (3) are delivered at the place and within the time for the delivery of nomination papers.

(2) The declaration referred to in paragraph (1) must be made by or on behalf of the candidate and state, in addition to his name:

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- (a) his nationality;
- (b) his home address in the United Kingdom or Gibraltar in full;
- (c) that he is not standing as a candidate for election to the European Parliament in any other Member State at elections held in the same period; and
- (d) where his name has been entered in a register of electors in a locality or constituency in the Member State of which he is a national, the name of the locality or constituency where, so far as he knows, his name was last entered.

(3) The certificate referred to in paragraph (1) must be made by the competent administrative authorities in the Member State of which the candidate is a national stating either that he has not been deprived of his right to stand as a candidate in that State or that no such disqualification is known to those authorities.

(4) As soon as practicable after publication of the statement of parties and individual candidates nominated, the returning officer shall send to the Secretary of State a copy of the declaration made under paragraph (2) by any candidate who stands nominated either by virtue of the list of candidates which accompanied a registered party's nomination or as an individual candidate.

(5) In this rule "locality or constituency" and "competent administrative authorities" have the same meaning as they have in the directive of the Council of the European Communities No.93/109/EC(45).

Deposit

10.—(1) A person shall not be validly nominated as an individual candidate unless the sum of £5,000 is deposited by him or on his behalf with the returning officer at the place and during the time for delivery of nomination papers.

(2) A registered party shall not be validly nominated unless the sum of £5,000 is deposited on its behalf with the returning officer at the place and during the time for the delivery of nomination papers.

(3) The deposit may be made either—

- (a) by the deposit of any legal tender, or
- (b) by means of a banker's draft, or
- (c) with the returning officer's consent, in any other manner,

but the returning officer may refuse to accept a deposit sought to be made by means of a banker's draft if he does not know that the drawer carries on business as a banker in the United Kingdom.

(4) Where the deposit is made on behalf of the registered party or individual candidate, the person making the deposit shall at the time he makes it give his name and address to the returning officer (unless they have previously been given to him under regulation 33, 34 or 38 of these Regulations).

Place for delivery of nomination papers

11. The returning officer shall fix the place in the electoral region at which nomination papers are to be delivered to him, and shall attend there during the time for their delivery and for the making of objections to them.

(45) O. J. L 043, 20.02.1993 p. 42.

Right to attend nomination

12.—(1) Except for the purpose of delivering a nomination paper or of assisting the returning officer, no person is entitled to attend the proceedings during the time for delivery of nomination papers or for making objections to them unless he is—

- (a) a person standing nominated as an individual candidate or included in a list under rule 7,
- (b) the election agent of a registered party which has submitted a nomination or of an individual candidate, or
- (c) a person authorised in writing to deliver a nomination paper.

(2) The right to attend conferred by this rule includes the right—

- (a) to inspect, and
- (b) to object to the validity of,

any nomination paper or list of candidates.

Decisions as to validity of nomination papers

13.—(1) Where, in the case of an individual candidate, a nomination paper and the candidate's consent to it (and, where required, a declaration and certificate under rule 9(2) and (3)) are delivered and a deposit is made in accordance with these rules, the candidate shall be deemed to stand nominated unless and until—

- (a) the returning officer decides that the nomination paper is invalid; or
- (b) proof is given to the returning officer's satisfaction of the candidate's death; or
- (c) the candidate withdraws.

(2) Where, in the case of a registered party, a nomination paper and list under rule 7 are delivered and a deposit is made in accordance with these rules, the party and (subject to paragraph (5)) the candidates on its list shall be deemed to stand nominated unless and until the returning officer determines that the nomination paper or list is invalid.

(3) The returning officer is entitled to hold a nomination paper of an individual candidate invalid only on one of the following grounds—

- (a) that the particulars of the candidate are not as required by law;
- (b) that the candidate is disqualified by the Representation of the People Act 1981 (which applies in respect of the office of MEP by virtue of section 10(1)(a) of the 2002 Act⁽⁴⁶⁾) or any corresponding provision in respect of detained offenders in Gibraltar made under section 10(4A) of the 2002 Act⁽⁴⁷⁾.

(4) The returning officer is entitled to hold a nomination paper of a registered party, together with the list of candidates accompanying it, invalid only on one of the following grounds—

- (a) that the contents of the nomination paper are not as required by law; and;
- (b) that the number of candidates in the list breaches rule 7(1).

(5) Where—

- (a) the particulars of any candidate in the list of candidates accompanying the nomination paper of a political party are not as required by law;
- (b) the consent to nomination of any such candidate is not delivered in accordance with these rules, or

⁽⁴⁶⁾ Section 10 was amended by section 21(1)(a) of the European Parliament (Representation) Act 2003 (c. 7).

⁽⁴⁷⁾ Subsection 4A was inserted by section 21(1)(b) of the European Parliament (Representation) Act 2003 (c. 7).

Status: This is the original version (as it was originally made).

(c) any such candidate is a relevant citizen of the Union and a declaration and certificate under paragraphs (2) and (3) of rule 9 have not been delivered in accordance with that rule, the returning officer shall delete the name and address of that candidate from the list.

(6) The returning officer shall give his decision on any objection to a nomination paper as soon as practicable after it is made.

(7) Where the returning officer decides that a nomination paper is invalid, he shall endorse and sign on the paper the fact and the reasons for his decision.

(8) Where the returning officer deletes any name from the list of candidates of a registered party, he must endorse on the nomination paper the fact and the reasons for his decision to do so and sign the paper.

(9) The returning officer's decision that a nomination paper and, where applicable, its accompanying list, is valid shall be final and shall not be questioned in any proceeding whatsoever.

(10) Subject to paragraph (9) nothing in this rule prevents the validity of a nomination being questioned on a European Parliamentary election petition.

Withdrawal of candidates

14.—(1) An individual candidate may withdraw his candidature by notice of withdrawal—

(a) signed by him and attested by one witness, and

(b) delivered to the returning officer at the place for delivery of nomination papers.

(2) The nominating officer of a registered party or a person authorised in writing by him may withdraw that party's nomination by a notice of withdrawal signed by him and delivered to the returning officer at the place for delivery of nomination papers.

Publication of statement of persons nominated

15.—(1) The returning officer shall prepare and publish a statement ("the statement of parties and individual candidates nominated") showing—

(a) the registered parties which have been and stand nominated, together with the list of persons who stand as candidates of those parties;

(b) the persons who have been and stand nominated as individual candidates; and,

(c) any other persons who have been nominated (whether on a list of a registered party or as individual candidates) together with the reason why they no longer stand nominated.

(2) The statement shall show the registered parties which have been and stand nominated in alphabetical order, with the names and home addresses of the candidates who appear on the list of each party as given in that list and arranged in the order in which their names appear on that list.

(3) The statement shall show the names, addresses and descriptions of the persons nominated as individual candidates as given in their nomination papers.

(4) The statement shall show the persons standing nominated as individual candidates after the names of the registered parties standing nominated and the names of those candidates shall be arranged alphabetically in order of their surnames, and, if there are two or more of them with the same surname, of their other names.

(5) The returning officer shall send to the Electoral Commission a copy of the statement.

Local publication of statement under rule 15

16.—(1) Immediately following publication of the statement of parties and individual candidates nominated, the returning officer shall forward a copy of it to the local returning officer for each local counting area wholly or partly contained in the electoral region.

(2) As soon as practicable after receipt of the copy of the statement, each local returning officer shall publish it at a place within the area for which he acts.

Disqualification by Representation of the People Act 1981

17.—(1) If it appears to the returning officer that any of the persons nominated as an individual candidate might be disqualified by the Representation of the People Act 1981 (which applies in respect of the office of MEP by virtue of section 10(1)(a) of the 2002 Act) or any corresponding provision in respect of detained offenders in Gibraltar made under section 10(4A) of the 2002 Act he shall, as soon as practicable after the expiry of the time allowed for the delivery of nomination papers, prepare and publish a draft of the statement required under rule 15 but limited to persons standing as individual candidates only.

(2) The draft shall be headed “Draft statement of individual candidates nominated” but shall contain a notice stating that any person who wishes to object to the nomination of any individual candidate on the ground that he is disqualified for nomination under the Representation of the People Act 1981 or any corresponding provision in respect of detained offenders in Gibraltar made under section 10(4A) of the 2002 Act may do so between the hours of 10 in the morning and 4 in the afternoon on the day and at the place specified in the notice; and the day so specified shall be the day next after the last day for the delivery of nomination papers.

Adjournment of nomination proceedings in case of riot

18.—(1) Where the proceedings for or in connection with nomination are on any day interrupted or obstructed by riot or open violence—

- (a) the proceedings shall be abandoned for that day, and
- (b) if that day is the last day for the delivery of nomination papers, the proceedings shall be continued on the next day as if that were the last day of such delivery,

and that day shall be treated for the purposes of these rules as being the last day for such delivery (subject to any further application of this rule in the event of interruption or obstruction on that day).

(2) Where proceedings are abandoned by virtue of this rule nothing—

- (a) may be done after they are continued if the time for doing it had passed at the time of the abandonment;
- (b) done before the abandonment shall be invalidated by reason of the abandonment.

Method of election

19.—(1) If the statement of persons nominated shows more candidates than there are seats to be filled, a poll shall be taken in accordance with Part 3 of these rules.

(2) If the statement of persons nominated shows a number of candidates (whether on a registered party’s list or individual candidates) which is the same as, or less than, the number of seats to be filled, those candidates shall be declared to be elected in accordance with Part 4 of these rules.

PART 3

CONTESTED ELECTIONS

Poll to be taken by ballot

20. The votes at the poll shall be given by ballot in accordance with sub-section (4) of section 2 of the 2002 Act and the seats shall be allocated in accordance with sub-sections (5) to (9) of that section.

The ballot papers

21.—(1) The ballot of every voter shall consist of a ballot paper, and the registered parties, together with their candidates shown in the statement of parties and individual candidates nominated and the individual candidates so shown as standing nominated, and no others, shall be entitled to have their names inserted in the ballot paper.

(2) Every ballot paper shall be in the form in the Appendix, and shall be printed in accordance with the directions in that Appendix, and—

- (a) shall contain the names of the registered parties shown in the statement of parties and individual candidates nominated, together with the names of the candidates of those parties as so shown, and the names and description, if any, of the individual candidates so shown;
- (b) shall be capable of being folded up;
- (c) shall have a number printed on the back;
- (d) shall have attached a counterfoil with the same number printed on it.

(3) If a request is made by or on behalf of a nominating officer of a registered party, the ballot paper shall contain adjacent to the party's name the party's registered emblem (or, as the case may be, one of the party's registered emblems).

(4) The request must—

- (a) be made in writing to the returning officer, and
- (b) be received by him during the period for delivery of nomination papers set out in the Table in rule 1.

(5) The order of the names of the registered parties, together with their candidates, and of the individual candidates in the ballot paper shall be the same as in the statement of parties and individual candidates nominated.

The official mark

22.—(1) Every ballot paper shall be marked with an official mark, which shall perforate the ballot paper.

(2) The official mark shall be kept secret, and an interval of not less than seven years shall intervene between the use of the same official mark at elections for the same local counting area.

(3) The official mark used for ballot papers issued for the purpose of voting by post shall not be used at the same election for ballot papers issued for the purpose of voting in person.

Prohibition of disclosure of vote

23. No person who has voted at the election shall, in any legal proceeding to question the election or return, be required to state the way in which he voted.

Use of schools and public rooms

- 24.**—(1) The local returning officer may use, free of charge, for the purpose of taking the poll—
- (a) a room in a school to which this rule applies;
 - (b) a room the expense of maintaining which is payable out of any rate.

This rule applies—

- (i) in England and Wales, to a school maintained or assisted by a local education authority or a school in respect of which grants are made out of moneys provided by Parliament to the person or body of persons responsible for the management of the school;
- (ii) in Scotland, to a school other than an independent school within the meaning of the Education (Scotland) Act 1980(48);
- (iii) in Gibraltar, to a school the expense of maintaining which is payable wholly or partly out of public funds or out of any rate, or by a body whose expenses are so payable.

(2) The local returning officer shall make good any damage done to, and defray any expense incurred by the persons having control over, any such room as mentioned above by reason of its being used for the purpose of taking the poll.

Notice of poll

25.—(1) The returning officer shall in the statement of persons nominated include a notice of the poll, stating the day on which and hours during which the poll will be taken.

(2) In respect of each local counting area or part of an area contained in the electoral region, the local returning officer shall also give public notice of—

- (a) the situation of each polling station;
- (b) the description of voters entitled to vote there;

and he shall as soon as practicable after giving such notice give a copy of it to each of the election agents.

Postal ballot papers

26. The local returning officer shall, in accordance with Schedule 2, issue to those entitled to vote by post a ballot paper and a declaration of identity in the form prescribed by paragraph 28 of that Schedule, together with such envelopes for their return (whether free of charge or otherwise) as are required for the purposes of paragraph 36 of that Schedule.

Provision of polling stations

27.—(1) The local returning officer shall provide a sufficient number of polling stations and, subject to the following provisions of this rule, shall allot the electors to the polling stations in such manner as he thinks most convenient.

(2) One or more polling stations may be provided in the same room.

(3) The polling station allotted to electors from any polling district shall be in the polling place for that district.

(4) The local returning officer shall provide each polling station with such number of compartments as may be necessary in which the voters can mark their votes screened from observation.

(48) 1980 c. 44.

Appointment of presiding officers and clerks

28.—(1) The local returning officer shall appoint and pay a presiding officer to attend at each polling station and such clerks as may be necessary for the purposes of the election, but he shall not appoint any person who has been employed by or on behalf of a registered party or individual candidate in or about the election.

(2) The local returning officer may, if he thinks fit, preside at a polling station and the provisions of these rules relating to a presiding officer shall apply to a local returning officer so presiding with the necessary modifications as to things to be done by the local returning officer to the presiding officer or by the presiding officer to the local returning officer.

(3) A presiding officer may do, by the clerks appointed to assist him, any act (including the asking of questions) which he is required or authorised by these rules to do at a polling station except order the arrest, exclusion or removal of any person from the polling station.

Issue of official poll cards

29.—(1) The local returning officer shall as soon as practicable send to electors and their proxies an official poll card, but a card need not be sent to any person—

- (a) as an elector if he is placed on the absent voters list for the election; or
- (b) as a proxy if he is entitled to vote by post as proxy at the election

and a card shall not be sent to any person registered, or to be registered, in pursuance of an overseas elector's declaration.

(2) An elector's official poll card shall be sent or delivered to his qualifying address, and a proxy's to his address as shown in the list of proxies.

(3) The official poll cards shall be in the forms in the Appendix, or forms to the like effect, and shall set out—

- (a) the name of the electoral region;
- (b) the elector's name, qualifying address and number on the register;
- (c) the date and hours of the poll and the situation of the elector's polling station.

(4) In this rule—

“elector” has the same meaning as in regulation 63(5) of these Regulations; and, pending publication of the register, the elector's number in the register includes his number (if any) in the electors list for that register.

Equipment of polling stations

30.—(1) The local returning officer shall provide each presiding officer with such number of ballot boxes and ballot papers as in the local returning officer's opinion may be necessary.

(2) Every ballot box shall be so constructed that the ballot papers can be put in it, but cannot be withdrawn from it, without the box being unlocked or, where the box has no lock, the seal being broken.

(3) The local returning officer shall provide each polling station with—

- (a) materials to enable voters to mark the ballot papers;
- (b) instruments for stamping on them the official mark;
- (c) copies of the register of electors or such part of it as contains the names of the electors allotted to the station;
- (d) the parts of any special lists prepared for the election corresponding to the register of electors or the part of it provided under sub-paragraph (c).

- (4) The local returning officer shall also provide each polling station with—
- (a) at least one large version of the ballot paper which shall be displayed inside the polling station for the assistance of voters who are partially-sighted; and
 - (b) a device of such description as is set out in sub-paragraph (9) for enabling voters who are blind or partially-sighted to vote without any need for assistance from the presiding officer or any companion (within the meaning of rule 40(1)).

(5) A notice in the form in the Appendix, giving directions for the guidance of the voters in voting, shall be printed in conspicuous characters and exhibited inside and outside every polling station.

(6) The local returning officer may also provide such notices in Braille or in languages other than English that are an accurate translation of the notice referred to in paragraph (5) as he considers appropriate, which may be exhibited inside and outside every polling station.

(7) In every compartment of every polling station there shall be exhibited the notice “Put only one cross on the ballot paper. Put no other mark on the ballot paper, or your vote may not be counted”.

(8) Where proof has been given to the returning officer’s satisfaction of the death of a candidate on a registered party’s list or an individual candidate, he shall request each local returning officer to provide each presiding officer with a sufficient number of notices to this effect for display in every compartment of every polling station.

- (9) The device referred to in paragraph (4)(b) must—
- (a) allow a ballot a paper to be inserted into and removed from or attached to and detached from the device, easily and without damage to the paper;
 - (b) keep the ballot paper firmly in place during use;
 - (c) provide suitable means for the voter to—
 - (i) identify the spaces on the ballot paper on which he may mark his vote;
 - (ii) identify the registered party or individual candidate to which each such space refers; and
 - (iii) mark his vote on the space he has chosen.

Appointment of polling and counting agents

31.—(1) The election agent or sub-agent of a registered party standing nominated or an individual candidate or any person authorised in writing by such an agent or that candidate may, before the commencement of the poll, appoint—

- (a) polling agents to attend at polling stations for the purpose of detecting personation; and
- (b) counting agents to attend at the verification of the ballot paper accounts and the counting of the votes.

(2) For each count one (but no more than one) counting agent of each registered party or individual candidate may be authorised by the terms of his appointment to require a re-count at that count.

- (3) The local returning officer may limit the number of counting agents, so however that—
- (a) the number shall be the same in the case of each registered party standing nominated or individual candidate; and
 - (b) the number allowed to a registered party standing nominated or individual candidate shall not (except in special circumstances) be less than the number obtained by dividing the number of clerks employed on the verification of the ballot paper accounts or the counting of the votes by the number obtained by adding the number of registered parties standing nominated and the number of individual candidates.

Status: This is the original version (as it was originally made).

(4) Notice in writing of the appointment, stating the names and addresses of the persons appointed, shall be given by the person by whom the appointment was made to the local returning officer and shall be so given not later than the fifth day (computed like any period of time in the Timetable) before the day of the poll.

(5) If an agent dies, or becomes incapable of acting, the person by whom the appointment was made may appoint another agent in his place, and shall forthwith give to the local returning officer notice in writing of the name and address of the agent appointed.

(6) In the following provisions of these rules references to polling and counting agents shall be taken as references to agents—

- (a) whose appointments have been duly made and notified; and
- (b) where the number of agents is restricted, who are within the permitted number.

(7) Any notice required to be given to a counting agent by the local returning officer may be delivered at or sent by post to the address stated in the notice of appointment.

(8) A candidate may himself do any act or thing which any polling or counting agent of his or of his registered party, if appointed, would have been authorised to do, or may assist any such agent in doing any such act or thing.

(9) An election agent or sub-agent of a registered party standing nominated or the election agent or sub-agent of an individual candidate may do or assist in doing anything which a polling or counting agent of that party or candidate is authorised to do; and anything required or authorised by these rules to be done in the presence of the polling or counting agents may be done in the presence of an election agent or sub-agent of a registered party standing nominated or the election agent or sub-agent of an individual candidate instead of that party's or candidate's polling agent or counting agents.

(10) Where by these rules any act or thing is required or authorised to be done in the presence of the polling or counting agents, the non-attendance of any agents or agent at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

Notification of requirement of secrecy

32. The local 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 voter with disabilities to vote or as a constable on duty there) has been given a copy in writing of the provisions of paragraphs (1), (4) and (7) of regulation 29 of these Regulations; and
- (b) every person attending at the verification of the ballot paper accounts or 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 paragraphs (2), (3) and (7) of that regulation.

Admission to polling station

33.—(1) The presiding officer shall regulate the number of voters to be admitted to the polling station at the same time, and shall exclude all other persons except—

- (a) the candidates and the election agents of any registered party standing nominated and any individual candidate;
- (b) the polling agents appointed to attend at the polling station;
- (c) the clerks appointed to attend at the polling station;
- (d) the constables on duty;
- (e) the companions of voters with disabilities; and

(f) representatives of the Electoral Commission.

(2) Not more than one polling agent shall be admitted at the same time to a polling station on behalf of the same registered party standing nominated and any individual candidate.

(3) A constable or person employed by a local returning officer shall not be admitted to vote in person elsewhere than at his own polling station under the relevant provision of these Regulations, except on production and surrender of a certificate as to his employment, which shall be in the form in the Appendix and signed by an officer of police of or above the rank of inspector or by the local returning officer, as the case may be.

(4) Any certificate surrendered under this rule shall forthwith be cancelled.

Keeping of order in station

34.—(1) It is the presiding officer's duty to keep order at his polling station.

(2) If a person misconducts himself in a polling station, or fails to obey the presiding officer's lawful orders, he may immediately, by the presiding officer's order, be removed from the polling station—

(a) by a constable in or near that station, or

(b) by any other person authorised in writing by the local returning officer to remove him, and the person so removed shall not, without the presiding officer's permission, again enter the polling station during the day.

(3) Any person so removed may, if charged with the commission in the polling station of an offence, be dealt with as a person taken into custody by a constable for an offence without a warrant.

(4) The powers conferred by this rule shall not be exercised so as to prevent a voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

Sealing of ballot boxes

35. Immediately before the commencement of the poll, the presiding officer shall show the ballot box empty to such persons, if any, as are present in the polling station, so that they may see that it is empty, and shall then lock it up, if it has a lock, and place his seal on it in such a manner as to prevent its being opened without breaking the seal, and shall place it in his view for the receipt of ballot papers, and keep it so locked, if it has a lock, and sealed.

Questions to be put to voters

36.—(1) The presiding officer may, and if required by a candidate or the election or polling agent of a registered party standing nominated or of an individual candidate shall, put to any person applying for a ballot paper at the time of his application, but not afterwards, the following questions, or either of them—

(a) in the case of a person applying as an elector—

(i) "Are you the person registered in the register of electors for this election as follows?" (read the whole entry from the register.)

(ii) "Have you already voted, here or elsewhere, at this by-election (general election of MEPs), otherwise than as proxy for some other person?"

(b) in the case of a person applying as proxy—

(i) "Are you the person whose name appears as AB in the list of proxies for this election as entitled to vote as proxy on behalf of CD?"

Status: This is the original version (as it was originally made).

(ii) “Have you already voted here or elsewhere at this by-election (general election of MEPs) as proxy on behalf of CD?”

(2) In the case of a person applying as proxy, the presiding officer may, and if required as mentioned in paragraph (1) shall, put the following additional question—

“Are you the husband (wife), parent, grandparent, brother (sister), child or grandchild of CD?”
and if that question is not answered in the affirmative the following question—

“Have you at this election already voted in this electoral region on behalf of two persons of whom you are not the husband (wife), parent, grandparent, brother (sister), child or grandchild?”

(3) A ballot paper shall not be delivered to any person required to answer the above questions or any of them unless he has answered the questions or question satisfactorily.

(4) No inquiry shall be permitted as to the right of any person to vote, except as authorised by this rule.

Challenge of voter

37.—(1) If at the time a person applies for a ballot paper for the purpose of voting in person, or after he has applied for a ballot paper for that purpose and before he has left the polling station, a candidate or the election or polling agent of a registered party standing nominated or of an individual candidate—

- (a) declares to the presiding officer that he has reasonable cause to believe that the applicant has committed an offence of personation, and
- (b) undertakes to substantiate the charge in a court of law,

the presiding officer may order a constable to arrest the applicant, and the order of the presiding officer shall be sufficient authority for the constable so to do.

(2) A person against whom a declaration is made under this rule shall not by reason of it be prevented from voting.

(3) A person arrested under the provisions of this rule shall be dealt with as a person taken into custody by a constable for an offence without a warrant.

Voting procedure

38.—(1) A ballot paper shall be delivered to a voter who applies for one, and immediately before delivery—

- (a) the ballot paper shall be stamped with the official mark;
- (b) the number and name of the elector as stated in the copy of the register of electors shall be called out;
- (c) the number of the elector shall be marked on the counterfoil;
- (d) a mark shall be placed in the register of electors against the number of the elector to denote that a ballot paper has been received but without showing the particular ballot paper which has been received; and
- (e) in the case of a person applying for a ballot paper as proxy, a mark shall also be placed against his name in the list of proxies.

(2) The voter, on receiving the ballot paper, shall forthwith proceed into one of the compartments in the polling station and there secretly mark his paper and fold it up so as to conceal his vote, and shall then show to the presiding officer the back of the paper, so as to disclose the official mark, and put the ballot paper so folded up into the ballot box in the presiding officer’s presence.

(3) The voter shall vote without undue delay, and shall leave the polling station as soon as he has put his ballot paper into the ballot box.

Votes marked by presiding officer

39.—(1) The presiding officer, on the application of a voter—

- (a) who is incapacitated by blindness or other physical cause from voting in manner directed by these rules, or
- (b) who declares orally that he is unable to read,

shall, in the presence of the polling agents, cause the voter's vote to be marked on a ballot paper in manner directed by the voter, and the ballot paper to be placed in the ballot box.

(2) The name and number on the register of electors of every voter whose vote is marked in pursuance of this rule, and the reason why it is so marked, shall be entered on a list (in these rules called "the list of votes marked by the presiding officer").

In the case of a person voting as proxy for an elector, the number to be entered together with the voter's name shall be the elector's number.

Voting by persons with disabilities

40.—(1) If a voter makes an application to the presiding officer to be allowed, on the ground of—

- (a) blindness or other physical incapacity, or
- (b) inability to read,

to vote with the assistance of another person by whom he is accompanied (in these rules referred to as "the companion"), the presiding officer shall require the voter to declare, orally or in writing, whether he is so incapacitated by his blindness or other incapacity, or by his inability to read, as to be unable to vote without assistance.

(2) If the presiding officer—

- (a) is satisfied that the voter is so incapacitated, and
- (b) is also satisfied by a written declaration made by the companion (in these rules referred to as "the declaration made by the companion of a voter with disabilities") that the companion—
 - (i) is a qualified person within the meaning of this rule, and
 - (ii) has not previously assisted more than one voter with disabilities to vote at the election,

the presiding officer shall grant the application, and then anything which is by these rules required to be done to or by that voter in connection with the giving of his vote may be done to, or with the assistance of, the companion.

(3) For the purposes of these rules, a person is a voter with disabilities if he has made such a declaration as is mentioned in paragraph (1), and a person shall be qualified to assist a voter with disabilities to vote if that person—

- (a) is a person who is entitled to vote as an elector at the election; or
- (b) is the father, mother, brother, sister, husband, wife, son or daughter of the voter and has attained the age of 18 years.

(4) The name and number in the register of electors of every voter whose vote is given in accordance with this rule and the name and address of the companion shall be entered on a list (in these rules referred to as "the list of voters with disabilities assisted by companions").

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In the case of a person voting as proxy for an elector, the number to be entered together with the voter's name shall be the elector's number.

- (5) The declaration made by the companion—
 - (a) shall be in the form in the Appendix; and
 - (b) shall be made before the presiding officer at the time when the voter applies to vote with the assistance of a companion and shall forthwith be given to the presiding officer who shall attest and retain it.
- (6) No fee or other payment shall be charged in respect of the declaration.

Tendered ballot papers

- 41.**—(1) If a person, representing himself to be—
- (a) a particular elector named on the register and not named in the absent voters list, or
 - (b) a particular person named in the list of proxies as proxy for an elector and not entitled to vote by post as proxy,

applies for a ballot paper after another person has voted in person either as the elector or his proxy, the applicant shall, on satisfactorily answering the questions permitted by law to be asked at the poll, be entitled, subject to the following provisions of this rule, to mark a ballot paper (in these rules referred to as “a tendered ballot paper”) in the same manner as any other voter.

- (2) A tendered ballot paper shall—
 - (a) be of a colour differing from the other ballot papers;
 - (b) instead of being put into the ballot box, be given to the presiding officer and endorsed by him with the name of the voter and his number in the register of electors, and set aside in a separate packet.
- (3) The name of the voter and his number on the register of electors shall be entered on a list (in these rules referred to as the “tendered votes list”).
- (4) In the case of a person voting as proxy for an elector, the number to be endorsed or entered together with the voter's name shall be the number of that elector.

Spoilt ballot papers

42. A voter who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper may, on delivering it to the presiding officer and proving to his satisfaction the fact of the inadvertence, obtain another ballot paper in the place of the ballot paper so delivered (in these rules referred to as “a spoilt ballot paper”), and the spoilt ballot paper shall be immediately cancelled.

Adjournment of poll in case of riot

- 43.**—(1) Where the proceedings at any polling station are interrupted or obstructed by riot or open violence, the presiding officer shall adjourn the proceedings till the following day and shall forthwith give notice to the local returning officer.
- (2) Where the poll is adjourned at any polling station—
 - (a) the hours of polling on the day to which it is adjourned shall be the same as for the original day; and
 - (b) references in these Regulations to the close of the poll shall be construed accordingly.

Procedure on close of poll

44.—(1) As soon as practicable after the close of the poll, the presiding officer shall, in the presence of the polling agents, make up into separate packets, sealed with his own seal and the seals of such polling agents as desire to affix their seals—

- (a) each ballot box in use at the station, sealed so as to prevent the introduction of additional ballot papers and unopened, but with the key, if any, attached,
- (b) the unused and spoiled ballot papers placed together,
- (c) the tendered ballot papers,
- (d) the marked copies of the register of electors and of the list of proxies,
- (e) the counterfoils of the used ballot papers and the certificates as to employment on duty on the day of the poll,
- (f) the tendered votes list, the list of voters with disabilities assisted by companions, the list of votes marked by the presiding officer, a statement of the number of voters whose votes are so marked by the presiding officer under the heads “physical incapacity” and “unable to read”, and the declarations made by the companions of voters with disabilities,

and shall deliver the packets or cause them to be delivered to the local returning officer to be taken charge of by him; but if the packets are not delivered by the presiding officer personally to the local returning officer, the arrangements for their delivery shall require the local returning officer’s approval.

(2) The marked copies of the register of electors and of the list of proxies shall be in one packet but shall not be in the same packet as the counterfoils of the used ballot papers and the certificates as to employment on duty on the day of the poll.

(3) The packets shall be accompanied by a statement (in these rules referred to as “the ballot paper account”) made by the presiding officer showing the number of ballot papers entrusted to him, and accounting for them under the heads of ballot papers issued and not otherwise accounted for, unused, spoiled and tendered ballot papers.

Attendance at verification of ballot paper accounts

45.—(1) The local returning officer shall make arrangements for the verification of the ballot paper accounts in the presence of the counting agents as soon as practicable after the close of the poll, and shall give to the returning officer and the counting agents notice in writing of the time and place at which he will begin such verification.

(2) No person other than—

- (a) the returning officer, the local returning officer and his clerks,
- (b) the candidates and—
 - (i) in England and Wales, their spouses; or
 - (ii) in Scotland, one guest each,
- (c) the election agents,
- (d) the counting agents,
- (e) representatives of the Electoral Commission,

may attend the verification of the ballot paper accounts, unless permitted by the local returning officer to attend; and that officer shall not permit a person to attend unless he is satisfied that the efficient verification of the ballot paper accounts will not be impeded.

(3) The local returning officer shall give the counting agents all such reasonable facilities for observing the proceedings, and all such information with respect to them, as he can give them

Status: This is the original version (as it was originally made).

consistent with the orderly conduct of the proceedings and the discharge of his duties in connection with them.

Procedure at verification of ballot paper accounts

- 46.—(1) The local returning officer shall in the presence of the counting agents—
- (a) open each ballot box and count and record the number of ballot papers in it and verify each ballot paper account; and
 - (b) count such of the postal ballot papers as have been duly returned and record the number counted.
- (2) A postal ballot paper shall not be deemed to be duly returned unless it is returned in the manner prescribed in paragraph 41 of Schedule 2 so as to reach the local returning officer or any polling station in the local counting area in question before the close of the poll and the declaration of identity duly signed and authenticated is also returned in that manner before that time.
- (3) The local returning officer shall not count any tendered ballot paper.
- (4) The local returning officer, while counting and recording the number of ballot papers, shall keep the ballot papers with their faces downwards.
- (5) The local returning officer shall verify each ballot paper account by comparing it with the number of ballot papers recorded by him, the unused and spoilt ballot papers in his possession and the tendered votes list (opening and resealing the packets containing the unused and spoilt ballot papers and the tendered votes list) and shall draw up a statement as to the result of the verification, which any counting agent may copy.
- (6) The local returning officer shall determine the hours during which the procedure under this rule is proceeded with.
- (7) The local returning officer shall take proper precautions for the security of the ballot papers and documents.
- (8) On completion of the procedure under this rule, the local returning officer shall—
- (a) place the ballot papers and other documents relating to the election in packets under his own seal and the seals of such counting agents as desire to affix their seals, unless he proceeds immediately to the counting of the votes under rule 48;
 - (b) otherwise take proper precautions for the security of the papers and documents; and;
 - (c) inform the returning officer of the total number of ballot papers counted.

Attendance at counting of votes

- 47.—(1) The local returning officer shall make arrangements for counting the votes in the presence of the counting agents—
- (a) in the case of a general election of MEPs, before or after the material time and in either case so that the requirements of rule 52(1) are satisfied as soon as practicable after the material time,
 - (b) in the case of a by-election, as soon as practicable after the close of the poll,
- and shall give to the counting agents and the returning officer notice in writing of the time and place at which he will begin to count the votes.

For the purposes of this paragraph the “material time” means in relation to a general election of MEPs, the close of the polling in the Member State whose electors are the last to vote in the election.

- (2) No person other than—
- (a) the returning officer, the local returning officer and his clerks,

- (b) the candidates and—
 - (i) in England and Wales, their spouses; or
 - (ii) in Scotland, one guest each,
- (c) the election agents,
- (d) the counting agents,
- (e) representatives of the Electoral Commission,

may be present at the counting of the votes, unless permitted by the local returning officer to attend.

(3) A person not entitled to attend at the counting of the votes shall not be permitted to do so by the local returning officer unless he—

- (a) is satisfied that the efficient counting of the votes will not be impeded; and
- (b) has either consulted the election agents or thought it impracticable to do so.

(4) The local returning officer shall give the counting agents all such reasonable facilities for overseeing the proceedings, and all such information with respect to them, as he can give them consistently with the orderly conduct of the proceedings and the discharge of his duties in connection with them.

(5) In particular, where the votes are counted by sorting the ballot papers according to the registered party or individual candidate for whom the vote is given and then counting the number of ballot papers for each registered party or individual candidate, the counting agents shall be entitled to satisfy themselves that the ballot papers are correctly sorted.

(6) If the amendments made to the Act annexed to Council Decision 76/787 contained in Council Decision 2002/787/ECSC, EEC, Euratom(49) have not entered into force by the close of the poll, paragraph (1)(a) shall have effect as if the words “before or” and “in either case” were omitted.

The count

48.—(1) The local returning officer shall—

- (a) where the ballot papers and other documents have been placed in packets under rule 46(8), open the packets of ballot papers other than unused, spoilt and tendered ballot papers;
- (b) mix together all of the ballot papers other than unused, spoilt and tendered ballot papers.

(2) The local returning officer shall not count any tendered ballot paper.

(3) The local returning officer, while counting the votes, shall keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers printed on the back of the papers.

(4) The local returning officer shall so far as practicable proceed continuously with counting the votes, allowing only time for refreshment, except that he may, in so far as he and the agents agree, exclude the hours between 7 in the evening and 9 on the following morning.

For the purposes of this exception the agreement of an individual candidate or the election agent of a registered party shall be as effective as the agreement of the counting agents of that counting agent or party.

(5) During the time so excluded the local returning officer shall—

- (a) place the ballot papers and other documents relating to the election under his own seal and the seals of such of the counting agents as desire to affix their seals; and
- (b) otherwise take proper precautions for the security of the papers and documents.

(49) 1980 c. 44.

Status: This is the original version (as it was originally made).

(6) In the case of a general election of MEPs, if the counting of the votes has commenced before the material time (within the meaning of rule 47(1)) the local returning officer or his clerks shall not disclose the number of votes given for each registered party and individual candidate to anyone other than the returning officer or his clerks until after that time, and the counting of the votes shall be deemed not to have been completed until after that time.

Re-count

49.—(1) A candidate, the election agent of a registered party or individual candidate or a counting agent authorised under rule 31(2) may, if present when the counting of the votes is completed (or, if later, deemed to be completed under rule 48(6)) or any re-count of the votes is completed, require the local returning officer to have the votes re-counted or again re-counted but the local returning officer may refuse to do so if in his opinion the request is unreasonable.

(2) No step shall be taken on the completion of the counting (or, if later, its deemed completion) or any re-count of votes until any persons referred to in paragraph (1) who are present at its completion (or, if later, its deemed completion) have been given a reasonable opportunity to exercise the right conferred by this rule.

Rejected ballot papers

50.—(1) Any ballot paper—

- (a) which does not bear the official mark, or
- (b) on which votes are given for more than one registered party or individual candidate or for a registered party and an individual candidate, or
- (c) on which anything is written or marked by which the voter can be identified except the printed number on the back, or
- (d) which is unmarked or void for uncertainty,

shall, subject to the provisions of the next following paragraph, be void and not counted.

(2) A ballot paper on which the vote is marked—

- (a) elsewhere than in the proper place, or
- (b) otherwise than by means of a cross, or
- (c) by more than one mark,

shall not for such reason be deemed to be void if an intention that the vote shall be for one or other of the registered parties or individual candidates clearly appears, and the way the paper is marked does not itself identify the voter and it is not shown that he can be identified by it.

(3) A ballot paper on which a vote is marked for a particular candidate on a party's list of candidates shall, if otherwise valid, be treated as a vote for that party, whether or not there is also a vote for that party.

(4) The local returning officer shall endorse the word "rejected" on any ballot paper which under this rule is not to be counted, and shall add to the endorsement the words "rejection objected to" if an objection is made by a counting agent to his decision.

(5) The local returning officer shall draw up a statement showing the number of ballot papers rejected under the several heads of—

- (a) want of official mark;
- (b) voting for more than one registered party or candidate;
- (c) writing or mark by which voter could be identified;
- (d) unmarked or void for uncertainty.

Decisions on ballot papers

51. The decision of the local returning officer on any question arising in respect of a ballot paper shall be final, but shall be subject to review on an election petition.

Notification of local result

52.—(1) As soon as practicable after the completion of the count (or, if later, its deemed completion under rule 48(6)), the local returning officer shall draw up a statement showing the number of votes given for each registered party and individual candidate, excluding any votes given on ballot papers rejected under rule 50.

(2) The local returning officer shall forthwith inform the returning officer of the contents of that statement.

(3) The local returning officer shall give public notice of the statements prepared under this rule and under rule 50 as soon as practicable after the returning officer has agreed that he should do so.

Attendance at allocation of seats

53.—(1) The returning officer shall make arrangements for making the calculation and allocation required by rule 54.

(2) No person other than—

- (a) the returning officer and his clerks,
- (b) the election agent of each registered party standing at the election or a person acting on his behalf,
- (c) each candidate on the list of such a party and—
 - (i) in England and Wales, the candidate's spouse or;
 - (ii) in Scotland, one guest each,
- (d) the election agent of each individual candidate or a person acting on his behalf,
- (e) each individual candidate and—
 - (i) in England and Wales, his spouse or;
 - (ii) in Scotland, one guest each,
- (f) representatives of the Electoral Commission,

may be present at that calculation and allocation unless permitted by the returning officer to attend.

(3) The returning officer shall give to—

- (a) the election agent of each registered party standing at the election, and
- (b) each individual candidate,

notice in writing of the place at which he will conduct the proceedings under rule 54 and of the time after which he will begin those proceedings.

Allocation of seats

54.—(1) The returning officer, as soon as practicable after he has been informed of the contents of the statements prepared under rule 52(1) by local returning officers in his region shall calculate the total number of votes given to each registered party and individual candidate in all of the local counting areas wholly or partly contained within the electoral region, as shown in those statements.

(2) Subject to paragraph (4) and rule 55, the returning officer shall then allocate the seats in accordance with subsections (5) to (9) of section 2 of the 2002 Act.

Status: This is the original version (as it was originally made).

(3) The returning officer shall give the persons entitled to be present reasonable facilities for satisfying themselves that the results of the calculation and allocation which he is required to make are accurate; and, in particular, a person entitled to be present may require the returning officer to make a calculation or allocation again but the returning officer may refuse to do so if in his opinion the request is unreasonable.

(4) At a by-election at which there is only one vacancy, subsections (5) to (9) of section 2 of the 2002 Act shall have effect as though they provided that the party or individual candidate to whom the majority of the votes have been given shall be declared to be elected.

Equality of seats

55.—(1) Where in the case of the last seat to be allocated, two or more registered parties or individual candidates have an equal number of votes and that number is greater than the number of votes of any other party or candidate, one vote shall be added to the votes of each party or individual candidate having such an equal number and the rules in subsections (5) to (9) of section 2 of the 2002 Act shall be applied again.

(2) Where, after the application of the procedure set out in paragraph (1), two or more parties or individual candidates still have an equal number of votes and that number is greater than the number of votes of any other party or candidate, the returning officer shall forthwith decide between the parties and individual candidates having such an equal number by lot, and allocate the seat to the party or candidate on whom the lot falls.

(3) Where the lot falls on a party, the returning officer shall comply with section 2(8) of the 2002 Act.

PART 4

Final Proceedings

Declaration of result

56.—(1) In a contested election, when the result of the allocation and filling of seats has been ascertained, the returning officer shall—

- (a) forthwith declare to be elected those candidates on a registered party's list by whom seats are filled and those individual candidates to whom seats are allocated under rules 54 and 55;
- (b) prepare a statement setting out—
 - (i) the total number of valid votes (as notified to him) given to each registered party and individual candidate;
 - (ii) the number of votes which such a party or candidate had, after the application of subsections (4) to (9) of section 2 of the 2002 Act, at any stage when a seat was allocated to that party or candidate;
 - (iii) the names in full and home address in full of each candidate who fills a seat or to whom a seat has been allocated; and
 - (iv) whether, in the case of a party, there are remaining candidates on that party's list who have not been declared to be elected; and
- (c) give public notice of that statement and send a copy to the Secretary of State.

(2) In the case of an uncontested election, the statement of parties and individual candidates nominated, in addition to showing the registered parties, the candidates on the list of those parties and

individual candidates standing nominated, shall also declare to be elected any candidate so shown; and the returning officer shall send a copy of that statement and declaration to the Secretary of State.

Return or forfeiture of candidate's deposit

57.—(1) The deposit made under rule 10 of these rules shall either be returned to the person making it or his personal representatives or be forfeited to Her Majesty.

(2) Except in the cases mentioned below in this rule, the deposit shall be returned not later than the next day after that on which the result of the election is declared.

(3) For the purposes of paragraph (2)—

- (a) a day shall be disregarded if it would be disregarded under rule 2 in computing any period of time for the purposes of the timetable for an election of the kind in question; and
- (b) the deposit shall be treated as being returned on a day if a cheque for the amount of the deposit is posted on that day.

(4) Where—

- (a) a registered party or an individual candidate is not shown as standing nominated in the statement of parties and individual candidates nominated, or
- (b) in the case of an individual candidate, the candidate has died,

the deposit shall be returned as soon as practicable after the publication of that statement or the time when the returning officer is satisfied of the candidate's death, as the case may be.

(5) Subject to paragraph (3) the deposit shall be forfeited if a poll is taken and, after the total number of valid votes for each registered party and individual candidate has been ascertained under rule 54(1), the party or candidate is found not to have polled more than one-fortieth of the total number of votes polled by all the parties and candidates.

PART 5

Disposal of Documents

Sealing up of ballot papers

58.—(1) On the completion of the counting at a contested election (or, if later, its deemed completion under rule 48(6)) the local returning officer shall seal up in separate packets the counted and rejected ballot papers.

(2) The local returning officer shall not open the sealed packets of tendered ballot papers or of counterfoils and certificates as to employment on duty on the day of the poll.

Retention of documents by the local returning officer

59. The local returning officer shall then retain the following documents—

- (a) the packets of ballot papers in his possession,
- (b) the ballot paper accounts and the statements of rejected ballot papers and of the result of the verification of the ballot paper accounts,
- (c) the tendered votes lists, the lists of voters with disabilities assisted by companions, the lists of votes marked by the presiding officer and the related statements, and the declarations made by the companions of voters with disabilities,
- (d) the packets of counterfoils and certificates as to employment on duty on the day of the poll,

(e) the packets containing marked copies of registers and of lists of proxies, endorsing on each packet a description of its contents.

Orders for production of documents

60.—(1) An order—

- (a) for the inspection or production of any rejected ballot papers in the custody of the local returning officer, or
- (b) for the opening of a sealed packet of counterfoils and certificates as to employment on duty on the day of the poll or the inspection of any counted ballot papers in his custody,

may be made, if satisfied by evidence on oath that the order is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of a European Parliamentary election petition, by the High Court or a county court.

(2) An order for the opening of a sealed packet of counterfoils and certificates or for the inspection of any counted ballot papers in the local returning officer's custody may be made by an election court.

(3) An order under this rule may be made subject to such conditions as to—

- (a) persons,
- (b) time,
- (c) place and mode of inspection,
- (d) production or opening,

as the court making the order may think expedient; but in making and carrying into effect an order for the opening of a packet of counterfoils and certificates or for the inspection of counted ballot papers, care shall be taken that the way in which the vote of any particular elector has been given shall not be disclosed until it has been proved—

- (i) that his vote was given; and
- (ii) that the vote has been declared by a competent court to be invalid.

(4) An appeal lies to the High Court from any order of a county court under this rule.

(5) Any power given under this rule to the High Court or to a county court, may be exercised by any judge of the court otherwise than in open court.

(6) Where an order is made for the production by the local returning officer of any document in his possession relating to any specified election—

- (a) the production by him or his agent of the document ordered in such manner as may be directed by that order shall be conclusive evidence that the document relates to the specified election; and
- (b) any endorsement on any packet of ballot papers so produced shall be prima facie evidence that the ballot papers are what they are stated to be by the endorsement.

(7) The production from proper custody of a ballot paper purporting to have been used at any election, and of a counterfoil marked with the same printed number and having a number marked on it in writing, shall be prima facie evidence that the elector whose vote was given by that ballot paper was the person who at the time of the election had affixed to his name in the register of electors the same number as the number written on the counterfoil.

(8) Save as by this rule provided, no person shall be allowed to inspect any rejected or counted ballot papers in the possession of the local returning officer or to open any sealed packets of counterfoils and certificates.

(9) In the application of this rule to documents retained by the local returning officer for the Gibraltar local counting area, the references to the county court, except in paragraph (5)(b), and to the High Court in paragraph (4) shall be construed as references to the Gibraltar court.

Retention and public inspection of documents

61.—(1) The local returning officer shall retain for a year all documents relating to an election to which rule 59 applies, and then, unless otherwise directed by order of the High Court, shall cause them to be destroyed.






(2) Those documents, except ballot papers, counterfoils and certificates as to employment on duty on the day of the poll, shall be open to public inspection at such time and subject to such conditions as may be prescribed by the local returning officer.

(3) The local returning officer may, on request, supply copies of or extracts from the documents open to public inspection on payment of such fees and subject to such conditions as may be sanctioned by the local authority by which he is employed.

Status: This is the original version (as it was originally made).

APPENDIX OF FORMS

Form of front of ballot paper (see next page)

<p style="text-align: center;">Election for the European Parliament NORTH WEST REGION You have one vote</p>		
1	Conservative Party	
	<p>1. Arthur John Briggs 2. Edith Pickering 3. David Hamish Scott 4. Ibrahim Malik 5. Douglas Alasdair Chapman</p> <p>6. Christopher Paul Hampton 7. Derek Holloway-Jones 8. Russell Montgomery Johnsons 9. Anita Patel 10. Stella Hammond-Amstrong</p>	
2	Green Party	
	<p>1. James Edward Wellingborough 2. Kathleen Mary Fenner 3. Mary Jean Chandler 4. Frank Probert 5. Samuel James Winstanley</p> <p>6. William Anderson 7. Paul Alfred Mackenzie 8. Kathleen Siobhan Murphy 9. Maximus Paul Alexander 10. Philip Paul Holland</p>	
3	Labour Party	
	<p>1. Eileen McAlp 2. Indra Anila Gupta 3. Robert Henry Anderton 4. Victor Daniel Amos 5. Annabelle Susannah Riley-Bowles</p> <p>6. Andrew Wilson 7. Harry Townsend 8. Eric Harvey Williamson 9. Monica Christine Mackison 10. Gareth Geatrey Hardman</p>	
4	Liberal Democrat Party	
	<p>1. Peggy Verchica Greenburgh 2. David Loyd-Peiry 3. Simon Daniel Gabrielson 4. Julia Mervetta Drake-Henderson 5. Francesca Mirend Pezison</p> <p>6. Ayoba Ajoku 7. Geraldine Mary Jennings 8. Barnaby James Scrimson 9. Patricia Jude Hendryka 10. Gustav Arthur Jones</p>	
5	United Kingdom Independence Party	
	<p>1. Peter Hamilton Puck 2. Gordon Harold Bradley 3. Cerrie Stephane Urewater 4. Leonard David Atherton 5. Charles Henry Robinson-Browne</p> <p>6. Jose Davidson 7. Camille Jocelyn Stuart 8. Richard Annibald Butler 9. Carlos Philippe Jameson 10. Brian Atkinson</p>	
6	<p>Elizabeth Penelope Nightingale Independent</p>	
7	<p>Manmeet Singh Independent</p>	

Directions as to printing the ballot paper

1. Nothing is to be printed on the ballot paper except in accordance with these directions.
2. So far as is practicable, the arrangements set out in paragraphs 3 to 16 below shall be observed in the printing of the ballot paper.
3. No word shall be printed on the face of the ballot paper except the words “Election for the European Parliament”, the name of the electoral region, the statement “You have one vote”, the names of registered political parties, the names and descriptions of individual candidates, the names of candidates on a party list, the number of each registered party or individual candidate and a number for each candidate on a party list and words forming parts of emblems.
4. The words “Election for the European Parliament”, the name of the region and the statement referred to in paragraph 3 above shall appear above the higher horizontal rule.
5. No horizontal rule shall be printed on the face except—
 - (a) the higher horizontal rule immediately below the statement mentioned in paragraph 3 above,
 - (b) a horizontal rule between the entry for each registered party or individual candidate, and
 - (c) the lower horizontal rule at the foot of the ballot paper.
6. No vertical rule shall be printed on the face except—
 - (a) the vertical rule separating the number of the registered parties or individual candidates from their names, and
 - (b) the vertical rule separating the names of the parties or individual candidates from the space where a vote may be marked.
7. The space on the ballot paper between the horizontal rule referred to in paragraph 5(a) and each horizontal rule below it shall be 3.5 centimetres.
8. Where a registered emblem of a registered political party is to be included with that party’s name—
 - (a) it shall be printed adjacent and to the right of the registered party’s name, and
 - (b) its size as printed shall not exceed two centimetres square.
9. Subject to paragraphs 10 to 15 below, all of the words on the ballot paper shall appear in the same large type.
10. The words “Election for the European Parliament” shall appear in very large type.
11. The name of the electoral region shall appear in bold capitals.
12. The word “one” in the statement referred to in paragraph 3 shall be in bold type.
13. No other capitals shall be used except initial capitals for names of parties and candidates and the first word in the statement and in the direction referred to in paragraph 3 above.
14. The names of the candidates on a party’s list of candidates shall appear in the same order as on the party’s list of candidates and they shall be numbered in that order.
15. The description of individual candidates shall appear in ordinary type.
16. The number on the back of the ballot paper shall be printed in small characters.

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Form of Back of Ballot Paper

No.

Election for theelectoral region

on20

Note:- The number on the ballot paper is to correspond with that on the counterfoil.

Rule 29

Elector's official poll card

Front of card

EUROPEAN PARLIAMENTARY ELECTION

OFFICIAL POLL CARD

Electoral Region.....

Number on register.....

Polling day.....

Name.....

Your polling station will be

Address.....

.....

.....

.....

.....

Polling hours, 7 a.m. to 10 p.m.

Back of card

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EUROPEAN PARLIAMENTARY ELECTION

This card is for information only. You can vote without it, but it will save time if you take it to the polling station and show it to the clerk there.

When you go to the polling station, tell the clerk your name and address, as shown on the front of the card. The presiding officer will give you a ballot paper; see that he stamps the official mark on it before he gives it to you.

Go to one of the compartments. Mark a cross (X) to the right of the name of the party or individual candidate you are voting for.

Hold the ballot paper in two. Show the official mark to the presiding officer, but do not let anyone see your vote. Put the ballot paper in the ballot box and leave the polling station.

Vote for one party or individual candidate only. Put no other mark on the ballot paper, or your vote may not be counted.

If by mistake you spoil a ballot paper, show it to the presiding officer and ask for another one.

If you have appointed a proxy to vote in person for you, you may nevertheless vote at this election if you do so before your proxy has voted on your behalf.

If you have been granted a postal vote, you will not be entitled to vote in person at this election, so please ignore this poll card.

ISSUED BY THE LOCAL RETURNING OFFICER

Rule 29

Proxy's Official Poll Card

Front of card

EUROPEAN PARLIAMENTARY ELECTION

PROXY'S OFFICIAL POLL CARD

Proxy's name

Proxy's address

.

EUROPEAN PARLIAMENTARY ELECTION

. Electoral Region

Polling day

The poll will be open from 7 am to 10 pm.

Back of card

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The elector named below whose proxy you are is entitled to vote at the polling station

.....

To vote as proxy you must go to that polling station. Tell the clerk that you wish to vote as proxy: give the name and qualifying address of the elector, as follows:

Number on register

Name (of elector)

Address

The presiding officer will give you the elector's ballot paper. The method of voting as proxy is the same as for casting your own vote.

It is an offence to vote as proxy for some other person if you know that that person is subject to a legal incapacity to vote, eg if that person has been convicted and is detained in a penal institution in pursuance of his sentence. It is also an offence to vote at this election for more than two persons of whom you are not the husband, wife, parent, grandparent, brother, sister, child or grandchild.

The person who appointed you as proxy may himself vote in person at this election if he is able, and wishes, to do so and if he votes before you on his behalf.

ISSUED BY THE LOCAL RETURNING OFFICER

Rule 30

Form of directions for the guidance of the voters in voting

GUIDANCE FOR VOTERS

1. When you are given a ballot paper make sure it is stamped with the official mark.
2. Go to one of the compartments. Mark a cross (X) to the right of the name of the party or individual candidate for whom you are voting.
3. Fold the ballot paper in two. Show the official mark to the presiding officer, but do not let anyone see your vote. Put the ballot paper in the ballot box and leave the polling station.
4. Vote for one party or party or individual candidate only. Put no other mark on the ballot paper, or your votes may not be counted.
5. If by mistake you spoil a ballot paper, show it to the presiding officer and ask for another one.

Rule 33

Certificate of Employment
EUROPEAN PARLIAMENTARY ELECTION

ELECTION IN THE..... ELECTORAL REGION

I certify that (name)

who is numbered.....in the register of electors for the

..... [parliamentary constituency] cannot reasonably be expected to go in person to the

polling station allocated to him or her at the election on (date of poll)

by reason of the particular circumstances of his or her employment on that date for a purpose connected with the election—

*Delete whichever *(a) as a constable
is inappropriate *(b) by me.

Signature

^Returning officer/pollin officer (inspector or above)

Date.....

Note: The person named above is entitled to vote at any polling station in the electoral region on production and surrender of this certificate to the presiding officer.

Rule 40(5)

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Form of declaration to be made by the companion of a voter with disabilities

I, AB, of ... having been requested to assist CD, (in the case of a voter with disabilities voting as proxy and voting as proxy for MN) whose number on the register is ... to record his vote at the election now being held in this electoral region, hereby declare that I am entitled to vote as an elector at the said election) (I am the ... (State the relationship of the companion to the voter); ... of the said voter and have attained the age of ... years), and that I have not previously assisted any voter with disabilities (except EF, of ...) to vote at the said election.

(Signed) AB,

day of ... 20...

I, the undersigned, being the presiding officer for the ... polling station for the ... local counting area, hereby certify that the above declaration, having been first read to the above-named declarant, was signed by the declarant in my presence

(Signed) GH,

day of ... 20...

minutes past ... o'clock (am) (pm)

NOTICE—

1. If the person making the above declaration knowingly and wilfully makes therein a statement false in a material particular, he will be guilty of an offence.

2. A voter with disabilities is a voter who has made a declaration under the European Parliamentary elections rules that he is so incapacitated by his blindness or other incapacity, or by his inability to read, as to be unable to vote without assistance

SCHEDULE 2

Regulation 10

ABSENT VOTING

PART 1

ENTITLEMENT

Interpretation

1.—(1) In this Schedule—

“allotted polling station” has the meaning set out in paragraph 16(7) of this Schedule.

(2) A reference in this Schedule to a form identified by means of a letter shall be construed as a reference to the form so identified in the Appendix to this Schedule.

Manner of voting at European Parliamentary elections

2.—(1) This paragraph applies to determine the manner of voting of a person entitled to vote as an elector at a European Parliamentary election.

(2) He may vote in person at the polling station allotted to him under the European Parliamentary elections rules, unless he is entitled as an elector to an absent vote at the election.

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

(4) If he is entitled to vote by proxy at the 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 the European Parliamentary elections rules for a ballot paper for the purpose of voting in person, in which case he may vote in person there.

(5) If—

(a) he is not entitled as an elector to an absent vote at the election, but

(b) he cannot reasonably be expected to go in person to the polling station allotted to him under the European Parliamentary elections rules by reason of the particular circumstances of his employment, either as a constable or by the local 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 local counting area.

(6) Nothing in the preceding provisions of this paragraph applies to—

(a) a person to whom section 7 of the 1983 Act⁽⁵⁰⁾ (mental patients who are not detained offenders) or, in Gibraltar, paragraph 10 of Schedule 4 applies and who is liable, by virtue of any enactment, to be detained in the mental hospital in question, or

(b) a person to whom section 7A of that Act⁽⁵¹⁾ (persons remanded in custody) or, in Gibraltar, paragraph 11 of Schedule 4 applies,

whether he is registered by virtue of that provision or not; and such a person may only vote by post or by proxy (where he is entitled as an elector to vote by post or, as the case may be, by proxy at the election).

(7) For the purposes of the provisions of—

(a) these Regulations, and

(b) the 1983 Act, the 2002 Act and the 2003 Act,

a person entitled to vote as an elector at a European Parliamentary 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 European Parliamentary election are references to entitlement as an elector to vote by post or entitlement to vote by proxy at the election.

Absent vote at elections for definite or indefinite period

3.—(1) Where a person applies to the registration officer to vote by post at European Parliamentary elections (whether for an indefinite period or for a particular period specified in his application), the registration officer shall grant the application if—

(a) he is satisfied that the applicant is or will be registered in the register of electors, and

(b) the application meets the requirements of Part 2 of this Schedule.

⁽⁵⁰⁾ Amended by section 4 of the Representation of the People Act 2000 (c. 2).

⁽⁵¹⁾ Inserted by section 5 of the Representation of the People Act 2000 (c. 2).

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(2) Where a person applies to the registration officer to vote by proxy at European Parliamentary elections (whether for an indefinite period or for a particular period specified in his application), the registration officer shall grant the application if—

- (a) he is satisfied that the applicant is eligible to vote by proxy at European Parliamentary elections,
- (b) he is satisfied that the applicant is or will be registered in the register of electors, and
- (c) the application meets the requirements of Part 2 of this Schedule.

(3) For the purposes of this paragraph a person is eligible to vote by proxy at a European Parliamentary election—

- (a) if he is or will be registered as a service voter,
- (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 European Parliamentary elections rules, or
 - (ii) to vote unaided there,by reason of blindness or other physical incapacity,
- (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 by reason of his attendance on a course provided by an educational institution 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,

and a person is also eligible to vote by proxy at European Parliamentary elections if he is or will be registered in pursuance of an overseas elector's declaration or a European Parliamentary overseas elector's declaration.

(4) The registration officer shall keep a record of those whose applications under this paragraph have been granted showing—

- (a) whether their applications were to vote by post or proxy for an indefinite or a particular period (specifying that period),
- (b) 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
- (c) in the case of those who may vote by proxy, the names and addresses of those appointed as their proxies.

(5) The registration officer shall remove a person from the record—

- (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 in pursuance of—
 - (i) a service declaration,
 - (ii) a declaration of local connection, or
 - (iii) an overseas elector's declaration,
- (c) in the case of any person shown in the record as voting by proxy, if the registration officer gives notice that he has reason to believe there has been a material change of circumstances, or
- (d) in the case of a person who applied to vote by post or proxy for a particular period, once that period has expired.

(6) A person shown in the record as voting by post may subsequently alter his choice by applying to the registration officer to vote by proxy instead (whether for an indefinite period or for a particular period specified in his application); and, if the registration officer would be required to grant that application if it were one made under sub-paragraph (2), the registration officer shall amend the record accordingly.

(7) A person shown in the record as voting by proxy may subsequently alter his choice by applying to the registration officer to vote by post instead (whether for an indefinite period or for a particular period specified in his application); and, if the application meets the requirements of Part 2 of this Schedule, the registration officer shall amend the record accordingly.

Absent vote at particular election

4.—(1) Where a person applies to the registration officer to vote by post at a particular European Parliamentary election, the registration officer shall grant the application if—

- (a) he is satisfied that the applicant is or will be registered in the register of electors, and
- (b) the application meets the requirements of Part 2 of this Schedule.

(2) Where a person applies to the registration officer to vote by proxy at a particular European Parliamentary election, the registration officer shall 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 him under the European Parliamentary elections rules,
- (b) he is satisfied that the applicant is or will be registered in the register of electors, and
- (c) the application meets the requirements of Part 2 of this Schedule.

(3) Nothing in sub-paragraph (1) or (2) applies to a person who is included in the record kept under paragraph 3, but such a person may, in respect of a particular European Parliamentary election, apply to the registration officer—

- (a) for his ballot paper to be sent to a different address from that shown in the record, or
- (b) to vote by proxy,

if he is shown in the record as voting by post at elections of the kind in question.

(4) The registration officer shall grant an application under sub-paragraph (3) if—

- (a) (in the case of any application) it meets the requirements of Part 2 of this Schedule; and
- (b) (in the case of an application to vote by proxy) the registration officer 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 European Parliamentary elections rules.

Absent voters list

5.—(1) The registration officer shall, in respect of each European Parliamentary election, keep a special list ("the absent voters list") consisting of the two lists mentioned in sub-paragraphs (2) and (3) respectively.

(2) The first of those lists is a list of—

- (a) those whose applications under paragraph 4(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) those who are for the time being shown in the record kept under paragraph 3 as voting by post at European Parliamentary elections (excluding those so shown whose applications

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under paragraph 4(3)(b) to vote by proxy at the election have been granted), together with the addresses provided by them in their applications under paragraph 3 or, as the case may be, paragraph 4(3)(a) as the addresses to which their ballot papers are to be sent.

- (3) The second of the lists mentioned in sub-paragraph (1) is a list (“the list of proxies”) of—
- (a) those whose applications under paragraph 4(2) or (3) to vote by proxy at the election have been granted, and
 - (b) those who are for the time being shown in the record kept under paragraph 3 as voting by proxy at elections of the kind in question,

together with (in each case) the names and addresses of those appointed as their proxies.

(4) The registration officer shall, forthwith on completion of the compilation of that special list, supply to the local returning officer for any local counting area wholly or partly within the area for which he acts so much of that list as relates to that constituency.

Proxies at elections

6.—(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 7 referred to as “the elector”) at any European Parliamentary 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 elections (whether in the same electoral region or elsewhere).

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

(4) A person is not capable of voting as proxy at a European Parliamentary election unless on the date of the poll he has attained the age of 18.

(5) A person is not entitled to vote as proxy at the same European Parliamentary election in any electoral region on behalf of more than two electors of whom that person 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 European Parliamentary elections (whether for an indefinite period or for a particular period specified in his application), the registration officer shall make the appointment if the application meets the requirements of Part 2 of this Schedule and he is satisfied that the elector is or will be—

- (a) registered in the register of electors, and
- (b) shown in the record kept under paragraph 3 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 European Parliamentary election, the registration officer shall make the appointment if the application meets the requirements of Part 2 of this Schedule and he is satisfied that the elector is or will be—

- (a) registered in the register of electors, and
- (b) entitled to vote by proxy at that election by virtue of an application under paragraph 4(2) or (3),

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

(8) The appointment of a proxy under this paragraph is to be made by means of a proxy paper in Form A 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—

- (a) where the appointment related to a particular European Parliamentary election or elections, on the issue of a proxy paper appointing a different person to vote for him at a European Parliamentary election or elections (whether in the same electoral region or elsewhere),
- (b) where the appointment was for a particular period, once that period expires.

(10) Subject to sub-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 paragraph 3 in pursuance of the same application under that paragraph.

Voting as proxy

7.—(1) A person entitled to vote as proxy at a European Parliamentary election may do so in person at the polling station allotted to the elector under the European Parliamentary 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 these Regulations, the 1983 Act, the 2002 Act and the 2003 Act a person entitled to vote as proxy for another at a European Parliamentary 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 registration officer to vote by post—

- (a) as proxy at European Parliamentary elections (whether for an indefinite period or for a particular period specified in his application), or
- (b) as proxy at a particular European Parliamentary election,

the registration officer shall grant the application if the conditions set out in sub-paragraph (5) are satisfied.

(5) Those conditions are—

- (a) that the registration officer is satisfied that the elector is or will be registered in the register of electors,
- (b) that there is in force an appointment of the applicant as the elector's proxy to vote for him at European Parliamentary elections or, as the case may be, the election concerned; and
- (c) that the application meets the requirements of Part 2 of this Schedule.

(6) The registration officer shall keep a record of those whose applications under sub-paragraph (4)(a) have been granted showing—

- (a) whether their applications were to vote by post as proxy for an indefinite or a particular period (specifying that period), and
- (b) the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent.

(7) Where, in the case of a particular European Parliamentary election, a person included in the record kept under sub-paragraph (6) applies to the registration officer for his ballot paper to be sent to a different address from that shown in the record, the registration officer shall grant the application if it meets the requirements of Part 2 of this Schedule.

(8) The registration officer shall, in respect of each European Parliamentary election, keep a special list of—

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- (a) those who are for the time being included in the record kept under sub-paragraph (6), together with the addresses provided by them in their applications under sub-paragraph (4) (a) 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 (4)(b) 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,

and, forthwith on completion of the compilation of that list, supply to the local returning officer for any local counting area wholly or partly within the area for which he acts so much of that list as relates to any such constituency.

- (9) The registration officer shall remove a person from the record kept under sub-paragraph (6)—
 - (a) if he applies to the registration officer to be removed,
 - (b) if the elector ceases to be registered as mentioned in sub-paragraph (5)(a),
 - (c) if the appointment of the person concerned as the elector's proxy ceases to be in force (whether or not he is re-appointed), or
 - (d) in the case of a person who applied to vote by post as proxy for a particular period, once that period expires.

Offences

- 8. A person who—
 - (a) in any declaration or form used for any of the purposes of this Schedule, makes a statement which he knows to be false, or
 - (b) attests an application under paragraph 3 or 4 when he knows that he is not authorised to do so or that it contains a statement which is false,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

PART 2

APPLICATIONS

Forms

9.—(1) The registration officer shall supply free of charge as many forms for use in connection with applications made under this Part and Part 3 of this Schedule 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.

(2) The forms set out in this Part and Part 3 of this Schedule or forms substantially to the like effect may be used with such variations as the circumstances may require.

Communication of applications, notices etc

10. The requirement in this Part and Part 3 of this Schedule that any application, notice or objection should be in writing is satisfied where (apart from the usual meaning of that expression) the text of it—

- (a) is transmitted by electronic means,
- (b) is received in legible form, and

- (c) is capable of being used for subsequent reference.

Electronic signatures and related certificates

11.—(1) A requirement in this Part and Part 3 of this Schedule for an application, notice or objection to be signed is satisfied (as an alternative to the signature given by hand) where there is—

- (a) an electronic signature incorporated into or logically associated with a particular electronic communication, and
- (b) the certification by any person of such a signature.

(2) For the purposes of this paragraph an electronic signature is so much of anything in electronic form as—

- (a) is incorporated into or otherwise logically associated with any electronic communication or both; and
- (b) purports to be so incorporated or associated for the purpose of being used in establishing the authenticity of the communication, the integrity of the communication or both.

(3) For the purposes of this paragraph an electronic signature incorporated into or associated with a particular electronic communication is certified by any person if that person (whether before or after the making of the communication) has made a statement confirming that—

- (a) the signature,
- (b) a means of producing, communicating or verifying the signature, or
- (c) a procedure applied to the signature,

is (either alone or in combination with other factors) a valid means of establishing the authenticity of the communication, the integrity of the communication or both.

Time

12.—(1) Where the day or last day of the time allowed by this Part and Part 3 of this Schedule for the doing of any thing falls on any of the days mentioned in sub-paragraph (3) below, that time shall be extended until the next following day which is not one of those days.

(2) Subject to paragraph 19(6), in computing any period of not more than 7 days for the purposes of this Part and Part 3 of this Schedule any of the days mentioned in sub-paragraph (3) below shall be disregarded.

(3) The days referred to in sub-paragraphs (1) and (2) above are a Saturday, Sunday, Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a bank holiday.

(4) In sub-paragraph (3) above “bank holiday” means—

- (a) as respects the combined region, a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales and a Bank or Public Holiday in Gibraltar not otherwise falling within sub-paragraph (3);
- (b) as respects an electoral region other than Scotland or the combined region, a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales; and
- (c) as respects Scotland, a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in Scotland.

Interference with notices etc

13. If any person without lawful authority destroys, mutilates, defaces or removes any notice published by the registration officer in connection with his registration duties or any copies of a

document which have been made available for inspection in pursuance of those duties, he shall be liable on a summary conviction to a fine not exceeding level 3 on the standard scale or, in Gibraltar, not exceeding £1000.

General requirements for applications for an absent vote

14.—(1) An application under this Part of this Schedule must comply with the requirements of this paragraph and such further requirements in this Part of this Schedule as are relevant to the application.

(2) The application must state—

- (a) the full name of the applicant;
- (b) the address in respect of which the applicant is or will be registered in the register except in the case of an application under paragraph 7(4) or (7) of this Schedule;
- (c) in the case of such an application, the proxy's address, together with the name of the elector for whom he will act as proxy and the elector's address for the purposes of subparagraph (b) above;
- (d) in the case of a person applying to vote by post, the address to which the ballot paper should be sent; and
- (e) in the case of an application to vote by proxy, the grounds on which the elector claims to be entitled to an absent vote.

(3) The application shall be made in writing and be signed and dated by the applicant.

(4) An application under this Schedule which is made for an indefinite period or the period specified in the application must state—

- (a) that it is so made, and
- (b) that it is made for European Parliamentary elections.

(5) An application under this Schedule which is made for a particular European Parliamentary election must—

- (a) state that it is so made, and
- (b) identify the election in question.

(6) Where an application is made to vote by proxy, it shall include an application for the appointment of a proxy which meets the requirements of paragraph 15.

(7) An application under this Part of this Schedule may be combined with an application for an absent vote made under the 2001 Regulations⁽⁵²⁾, including those Regulations as applied by regulations under sections 44 and 105 or 45 and 105 of the Local Government Act 2000, or the 2001 (Scotland) Regulations⁽⁵³⁾.

Additional requirements for applications for the appointment of a proxy

15. An application for the appointment of a proxy under paragraphs 3 and 4 of this Schedule 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—

⁽⁵²⁾ Regulation 53 of the 2001 Regulations was amended by paragraph 21 of the Schedule to S.I. 2002/881 and Regulations 2 and 5 of S.I. 2001/1700, Regulation 54 was amended by Regulations 2 and 5 of S.I. 2001/1700, Regulation 56 was amended by Regulations 2 and 6 of S.I. 2001/1700 and Regulation 60 was amended by Regulations 2 and 7 of S.I. 2001/1700.

⁽⁵³⁾ Regulation 53 of the 2001 (Scotland) Regulations was amended by paragraph 23 of the Schedule to S.I. 2002/881, Regulation 56 was amended by Regulations 2 and 5 of S.I. 2001/1749(S. 11).

- (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 to vote 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 for a proxy vote for a definite or indefinite period on grounds of physical incapacity or blindness

16.—(1) An application to vote by proxy for a particular or indefinite period under paragraph 3(3)(b) of this Schedule shall specify the physical incapacity by reason of which it is made.

(2) Subject to sub-paragraph (3) below, such an application shall be attested and signed by—

- (a) a registered medical practitioner;
- (b) a nurse registered on the register maintained by the Nursing and Midwifery Council pursuant to paragraph 10 of the Nursing and Midwifery Order 2001⁽⁵⁴⁾ by virtue of qualifications in nursing or, in Scotland, a registered nurse within the meaning of section 7(7) of the Nurses, Midwives and Health Visitors Act 1997⁽⁵⁵⁾;
- (c) a Christian Science practitioner;
- (d) the person registered—
 - (i) in England and Wales, under the Care Standards Act 2000⁽⁵⁶⁾ as carrying on a care home within the meaning of section 3⁽⁵⁷⁾ of that Act, where the applicant states that he is resident in such a home; or
 - (ii) in Scotland, under the Regulation of Care (Scotland) Act 2001⁽⁵⁸⁾ as carrying on a care home service within the meaning of section 2 of that Act,where the applicant states that he is resident in such a home;

(e) the matron or other person in charge of residential accommodation provided by a local authority—

(i) in England and Wales, under section 21(1) of the National Assistance Act 1948⁽⁵⁹⁾;
or

(ii) in Scotland, under section 59(2) of the Social Work (Scotland) Act 1968⁽⁶⁰⁾,
where the applicant states that he is resident in such accommodation;

- (f) the warden of premises forming one of a group of premises provided for persons of pensionable age or physically disabled persons for which there is a resident warden, where the applicant states that he resides in such premises; or
- (g) in Gibraltar, in the case of an applicant who is resident in a residential home for persons of pensionable age or for physically disabled persons, the senior nursing officer of the home.

(3) A person who qualifies by virtue of sub-paragraph (a), (b) or (c) of sub-paragraph (2) above may not attest an application for this purpose unless he is treating the applicant for the physical

⁽⁵⁴⁾ S.I. 2002/253.

⁽⁵⁵⁾ 1997 c. 24.

⁽⁵⁶⁾ 2000 c. 14.

⁽⁵⁷⁾ Section 3 was amended by Regulation 3 of S.I. 2001/3965.

⁽⁵⁸⁾ 2001 c. 8.

⁽⁵⁹⁾ 1948 c. 29. Section 21(1) was amended by paragraph 2 of Schedule 23 to the Local Government Act 1972 (c. 70), paragraph 11(1) of Schedule 13 to the Children Act 1989 (c. 41), section 42(1) of the National Health Service and Community Care Act 1990 (c. 19) and the Schedule to the Housing (Homeless Persons) Act 1977 (c. 48). The section was repealed in relation to Scotland by part 1 of Schedule 9 to the Social Work (Scotland) Act 1968 (c. 49). The section has been amended in other ways not relevant to these Regulations.

⁽⁶⁰⁾ 1968 c. 49.

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incapacity specified in the application or the applicant is receiving care from him in respect of that incapacity.

- (4) The person attesting the application shall state—
- (a) his name and address and the qualification by virtue of which he attests the application, and where the person who attests the application is a person referred to in sub-paragraph (3) above, that he is treating the applicant for the physical incapacity specified in the application or the applicant is receiving care from him in respect of that incapacity;
 - (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.
- (5) Sub-paragraphs (2) to (4) above shall not apply where—
- (a) in England and Wales, the application is based on the applicant’s blindness and the applicant is registered as a blind person by the local authority which is specified in the application under section 29(4)(g) of the National Assistance Act 1948;
 - (b) in Scotland, the application is based on the applicant’s blindness and the applicant is registered as a blind person by the local authority which is specified in the application; or
 - (c) the application states that the applicant is in receipt of the higher rate of the mobility component of a disability living allowance (payable under section 73 of the Social Security Contributions and Benefits Act 1992⁽⁶¹⁾) because of the physical incapacity specified in the application.
- (6) The fact that an applicant is registered with a local authority as mentioned in sub-paragraph (5) shall be deemed sufficient evidence that he is eligible to vote by proxy on the grounds set out in paragraph 3(3)(b) of this Schedule.
- (7) In this paragraph and in paragraphs 17 and 18 “his allotted polling station”, in relation to an elector means the polling station allotted or likely to be allotted to him under the European Parliamentary elections rules.

Additional requirements for applications for a proxy vote for a definite or indefinite period based on occupation, service, employment or attendance on a course

17.—(1) An application to vote by proxy for a particular or indefinite period under paragraph 3(3)(c) of this Schedule shall state—

- (a) whether the occupation, service or employment in respect of which it is made is that of the applicant or his spouse or, as the case may be, it is the applicant or his spouse who is attending the course provided by an educational institution in respect of which the application is made;
- (b) the nature of the occupation, service or employment or course provided by an educational institution giving rise to the application;
- (c) where the person in respect of whose occupation, service or employment it is made (in this regulation referred to as “the employed person”) is self employed, that fact; and in any other case the name of that person’s employer;

(61) 1992 c. 4.

- (d) the reason, relevant to the general nature of the employment, service or occupation in question or the course provided by an educational institution, why the applicant cannot reasonably be expected to go in person to his allotted polling station.
- (2) Such an application shall be attested and signed—
- (a) where the person is self-employed, by a person who—
 - (i) is aged 18 years or over;
 - (ii) knows the self-employed person; and
 - (iii) is not related to him;
 - (b) by the employer of the employed person or by another employee to whom this function is delegated by the employer; and
 - (c) in the case of a course provided by an educational institution, by the director or tutor of that course or by the principal or head of that institution or an employee to whom this function is delegated by the head or principal.
- (3) The person attesting an application made under sub-paragraph (2) above shall—
- (a) where the applicant is the employed person or the person attending the course, certify that the statements required by sub-paragraphs (a) to (d) of sub-paragraph (1) above to be included in the application are true; or
 - (b) where the applicant is the spouse of the employed person or the person attending the course, certify that the statements included in the application in accordance with the requirements of sub-paragraphs (a) to (c) of sub-paragraph (1) above are true.
- (4) The person attesting an application under sub-paragraph (2) above shall also state—
- (a) his name and address, that he is aged 18 years or over, that he knows the employed person, self-employed person or person attending a course provided by an educational institution but is not related to him; and
 - (b) if he is attesting as or on behalf of the employer of the employed person, that he is the employer or the position he holds in the employment of that employer; or
 - (c) if he is attesting an application made on the grounds of attendance at a course provided by an educational institution, the post he holds at that institution.
- (5) For the purposes of this paragraph, one person is related to another if he is the husband, wife, parent, grandparent, brother, sister, child or grandchild of the other.

Additional requirements for applications for a proxy vote in respect of a particular election

18. An application under paragraph 4(2) of this Schedule to vote by proxy at a particular election shall set out why the applicant's circumstances on the date of the poll for that 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.

Closing date for applications

19.—(1) An application under paragraph 3(6) or (7) of this Schedule shall be disregarded for the purposes of a particular European Parliamentary election and an application under paragraph 4(3) of this Schedule shall be refused if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that election.

(2) An application under paragraph 3(1) or (2), or 6(6) or 7(4) of this Schedule shall be disregarded for the purposes of a particular European Parliamentary election if it is received by the registration officer after 5 pm on the sixth day before the date of the poll at that election.

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(3) An application under paragraph 4(1) or (2) or 6(7) of this Schedule shall be refused if it is received by the registration officer after 5 pm on the sixth day before the date of the poll at the election for which it is made.

(4) An application under paragraph 7(7) of this Schedule shall be refused if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at the election for which it is made.

(5) An application under—

(a) paragraph 3(5)(a) of this Schedule by an elector to be removed from the record kept under paragraph 3(4) of this Schedule, or

(b) paragraph 7(9)(a) of this Schedule by a proxy to be removed from the record kept under paragraph 7(6) of this Schedule,

and a notice under paragraph 6(9) of this Schedule by an elector cancelling a proxy's appointment shall be disregarded for the purposes of a particular European Parliamentary election if it is received by the registration officer after 5 pm on the eleventh 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, Christmas Day, Maundy Thursday, Good Friday or a bank holiday shall be disregarded.

(7) In sub-paragraph (6) above "bank holiday" means—

(a) in relation to a general election in the combined region a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom or a Bank or Public Holiday in Gibraltar not otherwise falling within sub-paragraph (6);

(b) in relation to a by-election in the combined region a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales or a Bank or Public Holiday in Gibraltar not otherwise falling within sub-paragraph (6),

(c) in relation to a general election in a region other than the combined region, a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom; and

(d) in relation to a by-election in a region other than the combined region a day which is a bank holiday under that Act in that part of the United Kingdom in which the electoral region is situated.

Grant or refusal of applications

20.—(1) Where the registration officer grants an application to vote by post, he shall, where practicable, notify the applicant of his decision.

(2) Where the registration officer grants an application for the appointment of a proxy, he shall confirm in writing to the elector that the proxy has been appointed, his name and address, and the duration of the appointment.

(3) Where the registration officer refuses an application under this Part of this Schedule, he shall notify the applicant of his decision and of the reason for it.

(4) Where, under paragraph 19, a registration officer disregards an application for the purposes of any particular European Parliamentary election, he shall, where practicable, notify the applicant of this.

(5) At a European Parliamentary election where the registration officer is not the local returning officer for any local counting area or part of such area in the area for which he is the registration officer, he shall send to that officer details of any application to vote by post which he has granted as soon as practicable after doing so.

Notice of appeal

21.—(1) A person desiring to appeal under regulation 21(1) against the decision of a registration officer must give notice of the appeal to the registration officer within 14 days of the receipt of the notice given under paragraph 20(3) specifying the grounds of appeal.

(2) The registration officer shall forward any such notice to the appropriate county court or, in Gibraltar, the Gibraltar court in the manner directed by rules of court together in each case with a statement of the material facts which in his opinion have been established in the case, of his decision upon the whole case and on any point which may be specified as a ground of appeal.

(3) In Scotland, the registration officer shall forward any such notice to the sheriff with a statement of the material facts which in his opinion have been established in the case, of his decision upon the whole case and on any point which may be specified as a ground of appeal; and he shall give to the sheriff any other information which the sheriff may require and which the registration officer is able to give.

(4) Where it appears to the registration officer that any notices of appeal given to him are based on similar grounds, he shall inform the county court, sheriff or, in Gibraltar, the Gibraltar court of this to enable the court or sheriff (if it or he thinks fit) to consolidate the appeals or select a case as a test case.

Cancellation of proxy appointment

22. Where the appointment of a proxy is cancelled by notice given to the registration officer under paragraph 6(9) of this Schedule or ceases to be in force under that provision or is no longer in force under paragraph 6(10)(b) of this Schedule, the registration officer shall—

- (a) notify the person whose appointment as proxy has been cancelled, expired, ceases to be or is no longer in force, unless the registration 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 3(4)(c) of this Schedule.

Inquiries by registration officer

23.—(1) The registration officer may, at such times as he thinks fit, make inquiries of a person who is shown as voting by proxy in the record kept under paragraph 3(4) of this Schedule in pursuance of an application granted on the grounds set out in paragraph 3(3)(b) and (c) of this Schedule for the purpose of determining whether there has been a material change of circumstances.

(2) Where the grant of an application for a proxy vote for an indefinite or particular period was based on the grounds referred to in paragraph 3(3)(c) of this Schedule, the registration officer shall make the inquiries referred to not later than three years after the granting of the application or the last such inquiries, as the case may be.

(3) The registration officer may treat the failure by a person of whom inquiries have been made 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 this Schedule

24.—(1) The registration officer shall, on request, supply free of charge a copy of the list kept under paragraphs 5 and 7(8) of this Schedule to the election agent of each registered party standing nominated and each individual candidate or his election agent.

(2) The registration officer shall make available for inspection at his office a copy of the records kept under paragraph 3(4) or 7(6) of this Schedule.

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(3) As soon as practicable after the sixth day before the day of the poll (calculated in accordance with paragraph 19) the registration officer shall—

- (a) publish the lists kept under paragraphs 5 and 7(8) of this Schedule by making a copy of them available for inspection at his office; and
- (b) at a European Parliamentary election if he is not the local returning officer for any local counting area or part of such area in the area for which he is the registration officer, send to that officer a copy of those lists.

Marked register for polling stations

25. 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.

PART 3

ISSUE AND RECEIPT OF POSTAL BALLOT PAPERS

Interpretation of Part 3

- 26.—**(1) For the purposes of this Part of this Schedule, unless the context otherwise requires—
- “absent voters list” means the list kept under paragraph 5 of this Schedule;
 - “agent” includes the election agent and a person appointed to attend in the election agent’s place;
 - “ballot paper envelope” and “covering envelope” mean the envelopes referred to in paragraph 36 of this Schedule;
 - “GLRO” means the Greater London returning officer, being the person who is for the time being the proper officer of the Greater London Authority for the purposes of section 35(2C) of the Representation of the People Act 1983⁽⁶²⁾;
 - “list of postal proxies” means the list kept under paragraph 7(8) of this Schedule;
 - “postal ballot paper” means a ballot paper issued to a postal voter;
 - “postal voter” means an elector or proxy who is entitled to vote by post;
 - “postal voters’ ballot box” means the ballot box referred to in paragraph 43(1)(a) of this Schedule;
 - “receptacle for ballot paper envelopes”, and other references to specified receptacles, means the receptacles referred to in paragraph 43(5) of this Schedule;
 - “relevant election or referendum” means one or more of the following—
 - (a) a parliamentary election,
 - (b) a local government election,
 - (c) a mayoral election,
 - (d) a referendum,the poll at which is taken together with the poll at the European Parliamentary election;
 - “spoilt postal ballot paper” means a ballot paper referred to in paragraph 39(1) of this Schedule;

⁽⁶²⁾ Subsection (2C) was inserted by paragraphs 1 and 3 of Schedule 3 to the 1999 Act.

“universal postal service provider” has the meaning given in the Postal Services Act 2000 to a “universal service provider”; and

“valid declaration of identity” means one falling within paragraph 47(1) of this Schedule.

(2) In the case of a referendum, a reference to—

- (a) a candidate shall be construed as a reference to a petition organiser, within the meaning of regulation 2(1) of the Local Authorities (Conduct of Referendums) (England) Regulations 2001(63);
- (b) an election agent or counting agent shall be construed as a reference to a counting observer, within the meaning of that regulation;
- (c) a polling agent shall be construed as a reference to a polling observer, within the meaning of that regulation; and
- (d) a returning officer shall be construed as a reference to a counting officer, within the meaning of that regulation.

Issue of Postal Ballot Papers

Combination of polls

27. Where the poll at the European Parliamentary election is to be taken together with—

- (a) the poll at an election under subsection (1) or (2) of section 15 of the 1985 Act (combination of polls at parliamentary, European Parliamentary and local government elections), or
- (b) the poll at a mayoral election or a referendum in accordance with regulations made under sections 44 and 105 or 45 and 105 of the Local Government Act 2000,

or two or more such polls, the proceedings on the issue and receipt of postal ballot papers in respect of each election or referendum may, if the returning officers concerned agree, be taken together.

Form of declaration of identity

28. The form of the declaration of identity for the purposes of rule 26 of the European Parliamentary elections rules in Schedule 1 to these Regulations shall be—

- (a) in Form B at a European Parliamentary election in England and Wales taken alone;
- (b) in Form C at a European Parliamentary election in England and Wales where the proceedings on the issue and receipt of postal ballot papers are taken together with those proceedings at a relevant election or referendum;
- (c) in Form D at a European Parliamentary election in England and Wales where the poll is taken together with the poll at a relevant election or referendum, but where the proceedings on the issue and receipt of postal ballot papers are not;
- (d) in Form E at a European Parliamentary election in Scotland taken alone;
- (e) in Form F at a European Parliamentary election in Scotland where the proceedings on the issue and receipt of postal ballot papers are taken together with those proceedings at another election; and
- (f) in Form G at a European Parliamentary election in Scotland where the poll is taken together with the poll at another election, but where the proceedings on the issue and receipt of postal ballot papers are not.

(63) S.I. 2001/1298; which was amended by S.I. 2004/226.

Persons entitled to be present at proceedings on issue of postal ballot papers

29. No person may be present at the proceedings on the issue of postal ballot papers other than the local returning officer and his clerks.

Persons entitled to be present at proceedings on receipt of postal ballot papers

30. No person may be present at the proceedings on the receipt of postal ballot papers other than—

- (a) the local returning officer and his clerks,
- (b) a candidate,
- (c) an election agent or a person appointed by him or a sub-agent to attend in his place,
- (d) any agents appointed under paragraph 31,
- (e) representatives of the Electoral Commission.,
- (f) where the proceedings on the receipt of postal ballot papers are taken together with the those proceedings for a relevant election or referendum, persons entitled to be present at the proceedings for the relevant election or referendum.

Agents of candidates who may attend proceedings on receipt of postal ballot papers

31.—(1) The election agent or sub-agent of each registered party standing nominated or each individual candidate may appoint one or more agents to attend the proceedings on the receipt of the postal ballot papers up to the number he may be authorised by the local returning officer to appoint so, however, that the number authorised shall be the same in the case of each registered party standing nominated or each individual candidate.

(2) Notice in writing of the appointment stating the names and addresses of the persons appointed shall be given by the election agent or sub-agent to the local returning officer before the time fixed for the opening of the postal voters' ballot box.

(3) Where postal ballot papers for more than one election or referendum are issued together under paragraph 27, the returning officer to whom notice shall be given under sub-paragraph (2) above and sub- paragraphs (4) and (5) is the returning officer who issues the postal ballot papers.

(4) If an agent dies or becomes incapable of acting, the candidate or election agent of a registered party may appoint another agent in his place and shall forthwith give to the local returning officer notice in writing of the name and address of the agent appointed.

(5) In this Part of this Schedule references to agents shall be taken as references to agents whose appointments have been duly made and notified and, in the case of agents appointed under sub-paragraph (1) above, who are within the number authorised by the local returning officer.

(6) A candidate may himself do any act or thing which any agent of his or his party, if appointed, would have been authorised to do, or may assist his agent or the agent of his party in doing any such act or thing.

(7) Where in this Part of this Schedule any act or thing is required or authorised to be done in the presence of the candidates or their agents, the non-attendance of any such persons or person at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

Notification of requirement of secrecy

32. The local returning officer shall make such arrangements as he thinks fit to ensure that every person attending the proceedings in connection with the issue or receipt of postal ballot papers has been given a copy in writing of the provisions of regulations 29(5) and (7).

Time when postal ballot papers are to be issued

33.—(1) In the case of a person shown in the record kept under—

- (a) paragraph 3(4), or
- (b) paragraph 7(6),

of this Schedule (electors and proxies entitled to vote by post for an indefinite or definite period), no postal ballot paper (and declaration of identity) shall be issued until after 5 pm on the eleventh day before the date of the poll (computed in accordance with paragraph 19(6)).

(2) In the case of any other person, the postal ballot paper (and declaration of identity) shall be issued by the local returning officer as soon as practicable after the application to vote by post has been granted.

Procedure on issue of postal ballot paper

34.—(1) Each postal ballot paper issued shall be stamped with the official mark.

(2) The number of the elector as stated in the register shall be marked on the counterfoil attached to the ballot paper.

(3) A mark shall be placed in the absent voters list or the list of postal proxies against the number of the elector to denote that a ballot paper has been issued to the elector or his proxy, but without showing the particular ballot paper issued.

(4) The number of a postal ballot paper shall be marked on the declaration of identity sent with that paper.

(5) Where postal ballot papers for the European Parliamentary election and a relevant election or referendum are issued together under paragraph 27—

- (a) one mark shall be placed in the absent voters list or the list of postal proxies under subparagraph (3) to denote that ballot papers have been issued in respect of each election or referendum; except that, where ballot papers are not so issued, a different mark shall be placed in the absent voters list or list of postal proxies to identify the election or referendum in respect of which the ballot paper was issued; and
- (b) the number of each ballot paper shall be marked on the declaration of identity under subparagraph (4).

(6) Where the poll at a European Parliamentary election is taken with the poll at a relevant election or referendum (under the provisions referred to in paragraph 27) but not the proceedings on the issue and receipt of postal ballot papers, the colour of the postal ballot paper shall also be marked on the declaration of identity sent with that paper.

(7) The address to which the postal ballot paper, declaration of identity and the envelopes referred to in paragraph 36 are to be sent is—

- (a) in the case of an elector, the address shown in the absent voters list;
- (b) in the case of a proxy, the address shown in the special list kept under paragraph 7(8) of this Schedule.

Refusal to issue postal ballot paper

35. Where a local returning officer is satisfied that two or more entries in the absent voters list, or the list of postal proxies or in each of those lists relate to the same elector, he shall not issue more than one ballot paper in respect of that elector at any one election.

Envelopes

36.—(1) Sub-paragraphs (2) and (3) below prescribe the envelopes which are to be issued to a postal voter in addition to the ballot paper and declaration of identity (which are issued under rule 26 of the European Parliamentary elections rules).

(2) There shall be issued an envelope for the return of the postal ballot paper or, as the case may be, ballot papers and the declaration of identity (referred to as a “covering envelope”) which shall be marked with the letter “B”.

(3) There shall also be issued a smaller envelope (referred to as a “ballot paper envelope”) which shall be marked with—

- (a) the letter “A”;
- (b) the words “ballot paper envelope”, and
- (c) the number of the ballot paper or, as the case may be, ballot papers.

(4) Where polls are taken together (under the provisions referred to in paragraph 27 of this Schedule) but not the proceedings on the issue and receipt of postal ballot papers—

- (a) the envelope referred to in sub-paragraph (2) shall also be marked “Covering envelope for the [*insert colour of ballot paper*] coloured ballot paper”, and
- (b) on the envelope referred to in sub-paragraph (3), after the words “Ballot paper envelope” there shall be added the words “for the [*insert colour of ballot paper*] coloured ballot paper”.

Sealing up of counterfoils and security of special lists

37.—(1) As soon as practicable after the issue of each batch of postal ballot papers, the local returning officer shall make up into a packet the counterfoils of those ballot papers which have been issued and shall seal such a packet.

(2) As soon as practicable after the last batch of postal ballot papers have been issued, the local returning officer shall make up into a packet the marked copy of the absent voters list and the list of postal proxies and shall seal such a packet.

(3) Until the time referred to in sub-paragraph (2) above, the local returning officer shall take proper precautions for the security of the lists referred to in that sub-paragraph.

Delivery of postal ballot papers

38.—(1) For the purposes of delivering postal ballot papers, the local returning officer may use—

- (a) a universal postal service provider or, in Gibraltar, the Gibraltar Post Office;
- (b) a commercial delivery firm, or
- (c) clerks appointed under rule 28(1) of the European Parliamentary elections rules.

(2) Where the services of a universal postal service provider, the Gibraltar Post Office or a commercial delivery firm are to be used, envelopes addressed to postal voters shall be counted and delivered by the local returning officer with such form of receipt to be endorsed by that provider or firm as may be arranged.

(3) Postage shall be prepaid on envelopes addressed to the postal voters (except where sub-paragraph (1)(c) applies).

(4) Return postage shall be prepaid on all covering envelopes where the address provided by the postal voter for the receipt of the postal ballot paper is within the United Kingdom or Gibraltar.

Spoilt postal ballot papers

39.—(1) If a postal voter has inadvertently dealt with his postal ballot paper in such manner that it cannot be conveniently used as a ballot paper (referred to as “a spoilt ballot paper”) he may return (either by hand or by post) to the local returning officer the spoilt ballot paper and the declaration of identity.

(2) Where postal ballot papers for more than one election or referendum have been issued together under paragraph 27, the postal voter shall, if he exercises the entitlement conferred by sub-paragraph (1), return all of the ballot papers so issued, whether spoilt or not.

(3) On receipt of the documents referred to in sub-paragraph (1) and, where applicable sub-paragraph (2), the local returning officer shall issue another postal ballot paper or, as the case may be, ballot papers except where those documents are received after 5 pm on the day before the day of the poll.

(4) Paragraphs 34 (except sub-paragraph (3)), 36, 37 and, subject to sub-paragraph (7) below, 38 shall apply to the issue of a replacement postal ballot paper under sub-paragraph (3).

(5) The spoilt postal ballot paper, and any other postal ballot paper issued with it, and the declaration of identity shall be immediately cancelled.

(6) The local returning officer, as soon as practicable after cancelling those documents, shall make up those documents in a separate packet and shall seal the packet; and if on any subsequent occasion documents are cancelled as mentioned above, the sealed packet shall be opened and the additional cancelled documents included in it and the packet shall be again made up and sealed.

(7) Where a postal voter applies in person, the local returning officer may hand a replacement postal ballot paper to him instead of delivering it in accordance with paragraph 38.

(8) The local returning officer shall enter in a list kept for the purpose (“the list of spoilt postal ballot papers”)—

- (a) the name and number of the elector as stated in the register;
- (b) the number of the postal ballot paper (or papers) issued under this paragraph; and
- (c) where the postal voter whose ballot paper is spoilt is a proxy, his name and address.

Lost postal ballot papers

40.—(1) Where a postal voter has not received his postal ballot paper by the fourth day before the day of the poll, or in Scotland by the third day before the day of the poll, he may apply (whether or not in person) to the local returning officer for a replacement ballot paper.

(2) Such an application shall include evidence of the voter’s identity.

(3) Where the application is received by the local returning officer before 5 pm on the day before the day of the poll and the local returning officer—

- (a) is satisfied as to the voter’s identity, and
 - (b) has no reason to doubt that the postal voter did not receive the original postal ballot paper,
- he shall issue another postal ballot paper or, as the case may be, postal ballot papers.

(4) The local returning officer shall enter in a list kept for the purpose (“the list of lost postal ballot papers”)—

- (a) the name and number of the elector as stated in the register;
- (b) the number of the postal ballot paper issued under this paragraph; and
- (c) where the postal voter whose ballot paper is lost is a proxy, his name and address.

(5) Paragraphs 34 (except sub-paragraph (3)), 36, 37 and, subject to sub-paragraph (6) below, 38 shall apply to the issue of a replacement postal ballot paper under sub-paragraph (3).

(6) Where a postal ballot voter applies in person, the local returning officer may hand a replacement ballot paper to him instead of delivering it in accordance with paragraph 38.

Receipt of Postal Ballot Papers

Alternative means of returning postal ballot paper or declaration of identity

41.—(1) For the purposes of rule 46(2) of the European Parliamentary elections rules in Schedule 1 to these Regulations the manner in which a postal ballot paper or declaration of identity may be returned to a polling station is by hand.

(2) For these purposes, the manner in which such a paper or declaration may be returned to the local returning officer is by post or by hand.

(3) The presiding officer of the polling station shall deliver, or cause to be delivered, any postal ballot paper or declaration of identity returned to that station to the local returning officer in the same manner and at the same time as he delivers, or causes to be delivered, the packets referred to in rule 44(1) of the European Parliamentary elections rules.

Notice of opening of postal ballot paper envelopes

42.—(1) The local returning officer shall give to each election agent, or where appointments have been made of a sub-agent, sub-agent not less than 48 hours' notice in writing of each occasion on which a postal voters' ballot box and the envelopes contained in it is to be opened.

(2) Such a notice shall specify—

- (a) the time and place at which such an opening is to take place, and
- (b) the number of agents the election agent or sub-agent may appoint under paragraph 31(1) to attend each opening.

Postal ballot boxes and receptacles

43.—(1) The local returning officer shall provide a separate ballot box for the reception of—

- (a) the covering envelopes when returned by the postal voters (“postal voters' ballot box”), and
- (b) postal ballot papers (“postal ballot box”).

(2) Each such ballot box shall be marked “postal voters' ballot box” or “postal ballot box”, as the case may be, and with the name of the local counting area or parliamentary constituency or electoral area (or areas) or voting area for which the election (or elections) or referendum is (or are) held.

(3) The postal ballot box shall be shown to the agents present on the occasion of opening the first postal voters' ballot box as being empty.

(4) The local returning officer shall then lock the ballot box, if it has a lock, and apply his seal in such manner as to prevent its being opened without breaking the seal; any of the agents present who wish to add their seals may then do likewise.

(5) The local returning officer shall provide the following receptacles—

- (a) the receptacle for rejected votes;
- (b) the receptacle for declarations of identity;
- (c) the receptacle for ballot paper envelopes; and
- (d) the receptacle for rejected ballot paper envelopes.

(6) The local returning officer shall take proper precautions for the safe custody of every ballot box and receptacle referred to in this paragraph.

Receipt of covering envelope

44.—(1) The local returning officer shall, immediately on receipt (whether by hand or by post) of a covering envelope (or an envelope which is stated to include a postal vote) before the close of the poll, place it unopened in a postal voters' ballot box.

(2) Where an envelope, other than a covering envelope issued by the local returning officer—

(a) has been opened, and

(b) contains a ballot paper envelope, declaration of identity or ballot paper,

the first-mentioned envelope, together with its contents, shall be placed in a postal voters' ballot box.

Opening of postal voters' ballot box

45.—(1) Each postal voters' ballot box shall be opened by the local returning officer in the presence of the agents, if in attendance.

(2) So long as the local returning officer ensures that there is at least one sealed postal voters' ballot box for the reception of covering envelopes up to the time of the close of the poll, the other postal voters' ballot boxes may previously be opened by him.

(3) The last postal voters' ballot box and the postal ballot box shall be opened at the verification of the ballot paper accounts under rule 46 of the European Parliamentary elections rules.

Opening of covering envelopes

46.—(1) When a postal voters' ballot box is opened, the local returning officer shall count and record the number of covering envelopes (including any envelope described in paragraph 44(2)), and shall then open each covering envelope separately.

(2) The procedure in paragraph 47 applies where a covering envelope (including an envelope to which paragraph 44(2) applies) contains both—

(a) a declaration of identity; and

(b) a ballot paper envelope, or if there is no ballot paper envelope, a ballot paper (or ballot papers).

(3) Where the covering envelope does not contain the declaration of identity separately, the local returning officer shall open the ballot paper envelope to ascertain whether the declaration of identity is inside.

(4) Where a covering envelope does not contain both—

(a) a declaration of identity (whether separately or not), and

(b) a ballot paper envelope or, if there is no ballot paper envelope, a ballot paper (or ballot papers),

the local returning officer shall mark the covering envelope “provisionally rejected”, attach its contents (if any) and place it in the receptacle for rejected votes.

Procedure in relation to declarations of identity

47.—(1) The local returning officer shall satisfy himself that the declaration of identity has been duly signed by the voter and authenticated by a witness who has signed the declaration and given his name (except in Scotland) and address (referred to as a “valid declaration of identity”).

(2) Where the local returning officer is not so satisfied, he shall mark the declaration “rejected”, attach to it the ballot paper envelope, or if there is no such envelope, the ballot paper (or ballot papers), and, subject to sub-paragraph (3) below, place it in the receptacle for rejected votes.

Status: This is the original version (as it was originally made).

(3) Before placing the declaration in the receptacle for rejected votes, the local returning officer shall show it to the agents and, if any of them object to his decision, he shall add the words “rejection objected to”.

(4) The local returning officer shall then examine the number (or numbers) on the declaration of identity against the number (or numbers) on the ballot paper envelope and, where they are the same, he shall place the declaration and the ballot paper envelope respectively in the receptacle for declarations of identity and the receptacle for ballot paper envelopes.

(5) Where—

- (a) the number (or numbers) on a valid declaration of identity is (or are) not the same as the number (or numbers) on the ballot paper envelope, or
- (b) that envelope has no number on it (or only one number when the declaration of identity has more than one),

the local returning officer shall open the envelope.

(6) Sub-paragraph (7) below applies where—

- (a) there is a valid declaration of identity but no ballot paper envelope; or
- (b) the ballot paper envelope has been opened under paragraph 46(3) or sub-paragraph (5).

(7) In the circumstances described in sub-paragraph (6), the local returning officer shall place—

- (a) in the postal ballot box, any ballot paper the number on which is the same as the number (or one of the numbers) on the valid declaration of identity;
- (b) in the receptacle for rejected votes, any other ballot paper, with the valid declaration of identity attached and marked “provisionally rejected”;
- (c) in the receptacle for rejected votes, any valid declaration of identity marked “provisionally rejected” where—
 - (i) there is no ballot paper, or
 - (ii) in the case of a declaration on which the number of more than one ballot paper appears, there is not a sufficient number of ballot papers and, in such a case, shall mark the declaration to indicate which ballot paper is missing;
- (d) in the receptacle for declarations of identity, any valid declaration not disposed of under sub-paragraph (b) or (c) above.

Opening of ballot paper envelopes

48.—(1) The local returning officer shall open separately each ballot paper envelope placed in the receptacle for ballot paper envelopes.

(2) He shall place—

- (a) in the postal ballot box, any ballot paper the number on which is the same as the number (or one of the numbers) on the ballot paper envelope;
- (b) in the receptacle for rejected votes, any other ballot paper which shall be marked “provisionally rejected” and to which shall be attached the ballot paper envelope; and
- (c) in the receptacle for rejected ballot paper envelopes, any ballot paper envelope which shall be marked “provisionally rejected” because it does not contain either a ballot paper or, where more than one number appears on the ballot paper envelope, a sufficient number of ballot papers (and indicating, in such a case, the missing ballot paper).

Lists of rejected postal ballot papers

49.—(1) In respect of any election, the local returning officer shall keep two separate lists of rejected postal ballot papers.

(2) In the first list, he shall record the ballot paper number of any postal ballot paper for which no valid declaration of identity was received with it.

(3) In the second list, he shall record the ballot paper number of any postal ballot paper which is entered on a valid declaration of identity where that ballot paper is not received with the declaration of identity.

Checking of lists kept under paragraph 49

50.—(1) Where the local returning officer receives a valid declaration of identity without the postal ballot paper (or papers or, as the case may be, all of the papers) to which it relates, he may, at any time prior to the close of the poll, check the list kept under paragraph 49(2) to see whether the number (or numbers) of a postal ballot paper to which the declaration relates is entered in that list.

(2) Where the local returning officer receives a postal ballot paper without the declaration of identity to which it relates, he may, at any time prior to the close of the poll, check the list kept under paragraph 49(3) to see whether the number of that ballot paper is entered in that list.

(3) The local returning officer shall conduct the checks required by sub-paragraphs (1) and (2) above as soon as practicable after the receipt of packets from every polling station in the local counting area, parliamentary constituency, electoral area or, as the case may be, voting area under rule 44(1) of the European Parliamentary elections rules.

(4) Where the ballot paper number in the list matches that number on a valid declaration of identity or, as the case may be, the postal ballot paper, the local returning officer shall retrieve that declaration or paper.

(5) The local returning officer shall then take the appropriate steps under this Part of this Schedule as though any document earlier marked “provisionally rejected” had not been so marked and shall amend the document accordingly.

Sealing of receptacles

51.—(1) As soon as practicable after the completion of the procedure under paragraph 50(3) and (4), the local returning officer shall make up into separate packets the contents of—

- (a) the receptacle of rejected votes,
- (b) the receptacle of declarations of identity,
- (c) the receptacle of rejected ballot paper envelopes, and
- (d) the lists of spoilt and lost postal ballot papers,

and shall seal up such packets.

(2) Any document in those packets marked “provisionally rejected” shall be deemed to be marked “rejected”.

Retention of documents

52.—(1) Subject to sub-paragraph (2), the local returning officer shall retain for one year after the date of the poll any packets referred to in paragraphs 37, 39(6) and 51 endorsing on each a description of its contents and, after the expiry of that period, cause those packets to be destroyed unless otherwise directed by the High Court or, in Scotland, the Court of Session.

Status: This is the original version (as it was originally made).

(2) Where the proceedings on the issue and receipt of postal ballot papers are taken together under paragraph 27, the returning officer discharging those functions shall forward the packets containing—

- (a) the marked copies of the absent voters list and list of postal proxies; and
- (b) the declarations of identity,

to the same person, and at the same time and in the same manner, as he is required to forward those documents as respects the election or referendum for which he is the returning officer.

(3) Where—

- (a) any covering envelopes are received by the local returning officer after the close of the poll (apart from those delivered in accordance with the provisions of paragraph 41(3));
- (b) any envelopes addressed to postal voters are returned as undelivered too late to be readdressed, or
- (c) any spoilt postal ballot papers are returned too late to enable other postal ballot papers to be issued,

the local returning officer shall put them unopened in a separate packet, seal up such packet and endorse and retain it and subsequently deal with it in the manner described in sub-paragraph (1) above.

(4) Rules 60 and 61 of the European Parliamentary elections rules shall apply to any packet or document retained under this regulation.

(5) A completed statement in Form H shall be provided by the local returning officer to the Secretary of State.

(6) The statement referred to in sub-paragraph (5) shall identify the local counting areas or parts of such areas within the electoral region for which it is prepared.

Paragraph 6(8)

APPENDIX OF FORMS

Status: This is the original version (as it was originally made).

Form A

Proxy Paper

REPRESENTATION OF THE PEOPLE ACTS

Constituency

Polling district

Local government electoral area(s)

European Parliamentary electoral region

Voting area

Name of Proxy

Address

is hereby appointed as proxy for

(Name of elector)

*who is qualified to be registered for

(Qualifying address)

*who qualifies as an overseas elector in respect of the above constituency to vote for him/her at
*the *parliamentary *local government *European Parliamentary *mayoral election *and referendum for
the above *constituency *electoral area *European Parliamentary electoral region *voting area on
(date).....

*any *parliamentary *local government *European Parliamentary *mayoral election *and referendum
for the above *constituency *electoral area *European Parliamentary electoral region *voting area

*This proxy appointment is not valid until

*This proxy appointment remains valid until

Signature
Electoral Registration Officer

Address

Date

*Delete whichever is inappropriate

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
overleaf. However, you may not vote as proxy at the same election or referendum for more than two
electors of whom you are not the husband, wife, parent, grandparent, brother, sister, child or grandchild.

(2) Your appointment as proxy may be for a particular election or referendum only, or it may be for
a definite or indefinite period.

If it is for a particular election or referendum, you have the right to vote as proxy only at the election or
referendum specified in the proxy paper.

If it is for an indefinite period, you have in general the right to vote as proxy at any parliamentary,
European Parliamentary, local government or mayoral election or referendum for which the elector is
qualified to vote until the electoral registration officer informs you to the contrary.

Form B

Declaration of Identity

(for use in England and Wales)

Front of form

**DECLARATION OF IDENTITY
EUROPEAN PARLIAMENTARY ELECTION**

Ballot Paper No.

I hereby declare that I am the person to whom the ballot paper numbered as above was sent.

Voter's signature (or mark)

The voter, who is personally known to me, has signed this declaration in my presence.

Witness's signature (or mark)

Name of witness
(WRITE CLEARLY)

Address of witness
(WRITE CLEARLY)

.....

SEE INSTRUCTIONS ON THE BACK OF THIS FORM

Back of form

INSTRUCTIONS TO THE VOTER

- (1) You must sign or mark this declaration of identity in the presence of a person known to you. That person should then sign or mark this declaration as a witness, adding his or her name and address. Without this the declaration will be invalid.
- (2) Vote for one party or individual candidate only. Put no other mark on the ballot paper or your vote may not be counted.
- (3) Mark a cross (X) to the right of the name of the party or individual candidate you are voting for. Do this secretly. If you cannot vote without assistance, the person assisting you must not disclose how you have voted.
- (4) Put the ballot paper in the small envelope marked "A" and seal it. Then put the envelope marked "A", together with the declaration of identity, in the larger envelope marked "B". Return it without delay. The ballot paper must be received by the returning officer not later than the close of the poll. Alternatively, it may be delivered to a polling station in this local counting area on polling day.
- (5) If you receive more than one ballot paper, remember that it is illegal to vote more than once (otherwise than as proxy) at the same election.
- (6) At this election you cannot vote in person at a polling station, even if you receive an official poll card.
- (7) If you inadvertently spoil your ballot paper, you can apply to the returning officer for another one. With your application you must return the spoiled ballot paper and the declaration of identity. Remember that there is little time available if a fresh postal ballot paper is to be issued and counted.

Status: This is the original version (as it was originally made).

Paragraph 28(b)

Form C

Declaration of identity

(for use in England and Wales when there is joint issue and receipt of postal ballots)

Front of form

REPRESENTATION OF THE PEOPLE ACTS

Ballot Paper No(s).....

I hereby declare that I am the person to whom the ballot paper(s) numbered as above were sent.

Voter's signature (or mark)

The voter, who is personally known to me, has signed (or marked) this declaration in my presence

Witness's signature (or mark)

Name of witness

(WRITE CLEARLY)

Address of witness

(WRITE CLEARLY)

.....

SEE INSTRUCTIONS ON THE BACK OF THIS FORM

Back of form

INSTRUCTIONS TO THE VOTER

1. You must sign or mark this declaration of identity in the presence of a person known to you. That person should then sign or mark this declaration as a witness, adding his or her name and address. Without this the declaration will be invalid.

2. [*When you are voting in a Parliamentary/ local government election* (*insert colour of ballot paper*) ballot paper], mark a cross (X) to the right of the name of the candidate of your choice. Vote for one candidate only/ Vote for no more than candidates*.]

3. When you are voting in a European Parliamentary election (*insert colour of ballot paper*) ballot paper), mark a cross (X) to the right of the name of the party or individual candidate of your choice. Vote once only.

4. [*When you are voting in a GLA election—

(a) [*in the constituency members election (*insert colour of ballot paper*) ballot paper), mark a cross (X) to the right of the name of the candidate of your choice. Vote for one candidate only.]

(b) [*in the London members election (*insert colour of ballot paper*) ballot paper), mark a cross (X) to the right of the name of the party or individual candidate of your choice. Vote once only.]

(c) [*in the London Mayoral election (*insert colour of ballot paper*) ballot paper), vote ONCE for your FIRST CHOICE and ONCE for your SECOND CHOICE.]]

5. [*When you are voting in a (*specify*) election (*insert colour of ballot paper*) ballot paper), mark a cross (X) to the right of the name of the candidate of your choice. Vote for one candidate only/ Vote once for your first choice and once for your second choice*]

6. [*When you are voting in a referendum, mark a cross (X) to the right of the answer of your choice. Vote once only.]

7. Put no other mark on the ballot paper(s) or your vote(s) may not be counted.

8. Mark all votes secretly. If you cannot vote without assistance, the person assisting you must not disclose how you have voted.

9. Put the ballot paper in the small envelope marked "A" and seal it. Then put the envelope, together with this declaration of identity, in the larger envelope marked "B". Return it without delay. The ballot papers, in order to be counted, must be received by the returning officer not later than the close of the poll.

Status: This is the original version (as it was originally made).

Paragraph 28(c)

Form D

Declaration of Identity

(for use in England and Wales where there is separate issue and receipt of postal ballots)

Front of form

**DECLARATION OF IDENTITY
EUROPEAN PARLIAMENTARY ELECTION**

To be returned with: *(insert colour of ballot paper)* coloured ballot paper.

(insert colour of ballot paper) coloured Ballot Paper No. . . .

I hereby declare that I am the person to whom the *(insert colour of ballot paper)* ballot paper(s) numbered as above was sent.

Voter's signature (or mark)

The voter, who is personally known to me, has signed (or marked) this declaration in my presence.

Witness's signature (or mark)

Name of witness:

(WRITE CLEARLY)

Address of witness

(WRITE CLEARLY)

.....

SEE INSTRUCTIONS ON THE BACK OF THIS FORM

Back of form

INSTRUCTIONS TO THE VOTER

(1) You must sign or mark this declaration of identity in the presence of a person known to you. *You are required to this even if you have already signed a similar declaration of identity in respect of another election or referendum to be held on the same day.* That person should then sign or mark this declaration as a witness, adding his or her name and address. Without this the declaration will be invalid.

(2) Vote for one party or individual candidate only. Put no other mark on the ballot paper or your vote may not be counted.

(3) **Mark a cross (X) in the column of the party or individual candidate you are voting for. Do this secretly.** If you cannot without assistance, the person assisting you must not disclose how you have voted.

(4) Different colours are used for the ballot papers for each election or referendum. Each ballot paper has its own ballot paper envelope (the smaller envelope marked "A"), declaration of identity and covering envelope (the larger envelope marked "B"). The covering envelope and declaration of identity for a particular ballot paper are those which refer to the colour of that ballot paper. It is important that you use the correct envelopes and declaration of identity, otherwise your vote may not be counted. You may find it helpful to sort the documents into separate sets, each consisting of a ballot paper, ballot paper envelope, declaration of identity and covering envelope. Then proceed as follows:

- (a) place each ballot paper in the correct smaller envelope and seal it,
- (b) put that envelope, together with the correct declaration of identity, in the correct covering envelope and seal it;
- (c) return the covering envelopes without delay. ¹²³Ballot papers must be received by the returning officer not later than the close of the poll.

*Alternatively they may be returned to any of the following polling stations on polling day

* *(insert polling station* *J. or*

Status: *This is the original version (as it was originally made).*

Paragraph 28(d)

Form E

DECLARATION OF IDENTITY

EUROPEAN PARLIAMENTARY ELECTION

DECLARATION OF IDENTITY

Ballot Paper No

I hereby declare that I am the person to whom the ballot paper numbered as above was sent.

Voter's signature

The voter, who is personally known to me, has signed this declaration in my presence.

Witness's signature

Address of witness,

.....

(WRITE CLEARLY)

SEE INSTRUCTIONS ON THE BACK OF THIS FORM

Back of form

INSTRUCTIONS TO THE VOTER

1. You must sign this declaration of identity in the presence of a person known to you. That person should then sign this declaration as a witness, adding his or her name and address. Without this the declaration will be invalid.
2. Vote for one party or individual candidate only. Put no other mark on the ballot paper or your vote may not be counted.
3. Mark a cross (X) in the box on the right hand side of the ballot paper opposite the name of the candidate you are voting for. Do this secretly. If you cannot vote without assistance, the person assisting you must not disclose how you have voted.
4. Put the ballot paper in the small envelope marked "A" and seal it. Then put the envelope marked "A", together with the declaration of identity, in the larger envelope marked "B". Return it without delay. The ballot paper must be received by the returning officer not later than the close of the poll. Alternatively, it may be delivered to a polling station in the constituency to which the ballot paper relates by the close of the poll on the day of the election.
5. If you receive more than one ballot paper, remember that it is illegal to vote more than once (otherwise than as proxy) at the same election.
6. At this election you cannot vote in person at a polling station, even if you receive an official poll card.
7. If you inadvertently spoil your ballot paper, you can apply to the returning officer for another one. With your application you must return, in your own envelope, the spoiled ballot paper and the declaration of identity. Remember that there is little time available if a fresh postal ballot paper is to be issued and counted.

Status: This is the original version (as it was originally made).

Paragraph 28(e)

Status: This is the original version (as it was originally made).

Form F

DECLARATION OF IDENTITY

(for use in Scotland when postal ballots are combined)

Front of form

REPRESENTATION OF THE PEOPLE ACTS

DECLARATION OF IDENTITY

Ballot Paper Nos

I hereby declare that I am the person to whom the ballot papers numbered as above were sent.

Voter's signature

The voter, who is personally known to me, has signed this declaration in my presence.

Witness's signature

Address of witness

.....

(WRITE CLEARLY)

SEE INSTRUCTIONS ON THE BACK OF THIS FORM

Back of form

INSTRUCTIONS TO THE VOTER

1. You must sign this declaration of identity in the presence of a person known to you. That person should then sign this declaration as a witness, adding his or her name and address. Without this the declaration will be invalid.

2. At the European Parliamentary election, vote for one party or individual candidate only.
*[At the election of, vote for no more than candidates.] Put no other marks on the ballot paper or your vote may not be counted.

***To be completed by the returning officer depending on the election to which paragraph 27 applies**

3. Mark a cross (X) in the box on the right hand side of the ballot paper opposite the name(s) of the candidate(s) you are voting for. Do this secretly. If you cannot vote without assistance, the person assisting you must not disclose how you have voted.

4. Put the ballot paper in the small envelope marked "A" and seal it. Then put the envelope marked "A", together with the declaration of identity, in the larger envelope marked "B". Return it without delay. The ballot paper must be received by the returning officer not later than the close of the poll. Alternatively, it may be delivered to a polling station in the constituency to which the ballot paper relates by the close of the poll on the day of the election.

5. If you receive more than one ballot paper relating to the same election, remember that it is illegal to vote more than once (otherwise than as proxy) at the same election.

6. At these elections you cannot vote in person at a polling station, even if you receive an official poll card.

Status: This is the original version (as it was originally made).

Paragraph 28(f)

Form G

DECLARATION OF IDENTITY

(for use in Scotland when a European Parliamentary poll is combined with another poll but the postal ballots are not combined)

Front of form

EUROPEAN PARLIAMENTARY ELECTION

DECLARATION OF IDENTITY

To be returned with the [insert colour of ballot paper] coloured ballot paper No

I hereby declare that I am the person to whom the [insert colour of ballot paper] coloured ballot paper numbered as above was sent.

Voter's signature

The voter, who is personally known to me, has signed this declaration in my presence

Witness's signature

Address of witness

(WRITE CLEARLY)

SEE INSTRUCTIONS ON THE BACK OF THIS FORM

Back of form

INSTRUCTIONS TO THE VOTER

1. You must sign this declaration of identity in the presence of a person known to you. You are required to do this even if you have already signed a similar declaration of identity in respect of another election to be held on the same day. That person should then sign this declaration as a witness, adding his or her name and address. Without this the declaration will be invalid.

2. Vote for one party or individual candidate only. Put no other mark on the ballot paper or your vote may not be counted.

3. Mark a cross (X) in the box on the right hand side of the ballot paper opposite the name of the candidate you are voting for. Do this secretly. If you cannot vote without assistance, the person assisting you must not disclose how you have voted.

4. Different colours are used for the ballot papers for each election. Each ballot paper has its own ballot paper envelope (the smaller envelope marked "A"), declaration of identity and covering envelope (the larger envelope marked "B"). The covering envelope and declaration of identity for a particular ballot paper are those which refer to the colour of that ballot paper. It is important that you use the correct envelopes and declaration of identity, otherwise your vote may not be counted. You may find it helpful to sort the documents into separate sets, each consisting of a ballot paper, ballot paper envelope, declaration of identity and covering envelope. Then proceed as follows:

- (a) place each ballot paper in the correct smaller envelope and seal it;
- (b) put that envelope, together with the correct declaration of identity, in the correct covering envelope and seal it;
- (c) return the covering envelopes without delay. Ballot papers must be received by the returning officer not later than the close of the poll. Alternatively, they may be delivered to a polling station in the constituency to which the ballot papers relate by the close of the poll on the day of the election.

5. If you receive more than one ballot paper, remember that it is illegal to vote more than once (otherwise than as proxy) at the same election. You are entitled to vote at different elections which are held on the same day.

Status: This is the original version (as it was originally made).

Paragraph 52(4)

Form H

Statement as to Postal Ballot Papers

EUROPEAN PARLIAMENTARY ELECTION

Local Counting Area:

Date of poll: 20.....

A Issue of postal ballot papers **Number**

- 1. Total number of postal ballot papers issued under paragraph 34
- 2. Total number of postal ballot papers issued under paragraph 39 (where the first ballot paper was spoilt and returned for cancellation)
- 3. Total number of postal ballot papers issued (1 + 2)

B Receipt of postal ballot papers **Number**

- 4. Number of covering envelopes received by the returning officer or at a polling station before the close of poll (excluding any undelivered or returned under paragraph 39(1) with spoilt ballot papers)
- 5. Number of covering envelopes received by the returning officer after the close of poll, excluding any returned as undelivered
- 6. Number of postal ballot papers returned spoilt for cancellation in time for another ballot paper to be issued
- 7. Number of postal ballot papers returned as spoilt too late for another ballot paper to be issued
- 8. Number of covering envelopes returned as undelivered (up to the date of this statement)
- 9. Number of covering envelopes not received by the returning officer by the date of this statement (0 Total Nos 4 to 9 (This number should be the same as that in 3 above))

C Count of postal ballot papers **Number**

- 11. Number of covering envelopes received by the returning officer before the close of poll (excluding any undelivered or returned under paragraph 39(1) with spoilt ballot papers)
- 12. Number of ballot papers returned by postal voters which were included in the count of ballot papers
- 13. Number of cases in which a covering envelope or its contents were marked "Rejected" (cancellations under paragraph 39(5) are not rejections and should be included in items 2 and 6 above)

Date:

Signed:

Local Returning Officer

Address:

SCHEDULE 3

Regulation 11

MODIFICATION OF EUROPEAN PARLIAMENTARY
ELECTIONS RULES FOR COMBINED POLLS

PART 1

ENGLAND AND WALES

1. This Part of this Schedule applies in the circumstances set out in regulation 11(i) of these Regulations.

2.—(1) In this Part of this Schedule, and in any provision of these Regulations modified by this Schedule—

“relevant election or referendum” means one or more of the following—

- (a) a parliamentary election,
- (b) a local government election,
- (c) a mayoral election,
- (d) a referendum,

the poll at which is taken together with the poll at the European Parliamentary election; and

“GLRO” means the Greater London Returning Officer, being the person who is for the time being the proper officer of the Greater London Authority for the purposes of section 35(2C) of the Representation of the People Act 1983.

(2) In the case of a referendum, a reference to—

- (a) an election agent or counting agent shall be construed as a reference to a counting observer, within the meaning of regulation 2(1) of the Local Authorities (Conduct of Referendums) (England) Regulations 2001⁽⁶⁴⁾;
- (b) a polling agent shall be construed as a reference to a polling observer, within the meaning of that regulation; and
- (c) a returning officer shall be construed as a reference to a counting officer, within the meaning of that regulation.

3. At the end of paragraph (2) of rule 21 (the ballot papers) insert the following sub-paragraph—

“(e) shall be of a different colour from that of any ballot papers used at any relevant election or referendum.”

4. At the end of rule 25 (notice of poll) insert the following paragraph—

“(3) The notice published under paragraph (2) above shall, in addition—

- (a) state that the poll at the European Parliamentary election is to be taken together with the poll at a relevant election or referendum;
- (b) specify the relevant parliamentary constituency, local authority or, as the case may be, voting area and, in the case of a local government election to fill a casual vacancy, the electoral area for which the election is held; and
- (c) where the polls are to be taken together in part of the local counting area only, specify that part.”

⁽⁶⁴⁾ S.I. 2001/1298; which was amended by S.I. 2004/226.

Status: This is the original version (as it was originally made).

5. At the end of rule 29 (issue of official poll cards) insert the following paragraph—
 - “(5) If the returning officer for each relevant election or referendum agrees, an official poll card issued under this rule may be combined with an official poll card issued at each relevant election or referendum, with necessary adaptations”.
6. After paragraph (1) of rule 30 (equipment of polling stations) insert—
 - “(1A) The same ballot box may be used for the poll at the European Parliamentary election and the poll at each relevant election or referendum, if the returning officer who discharges the functions specified in regulation 5 of the Combination of Polls Regulations thinks fit.
 - (1B) Where the same ballot box is not used under paragraph (1A), each ballot box shall be clearly marked with—
 - (a) the election or referendum to which it relates, as shown on the ballot papers for that election or referendum; and
 - (b) the words “Please insert the [*specify colour of ballot papers in question*] coloured ballot papers in here.”
7. After paragraph (4) of rule 30 (equipment of polling stations) insert the following paragraph—
 - “(4A) The large version of the ballot paper referred to in paragraph (4)(a) above shall be printed on paper of the same colour as that of the ballot papers for use at the European Parliamentary election.”
8. For paragraph (7) of rule 30 (equipment of polling stations) substitute the following paragraph—
 - “(7) In every compartment of every polling station there shall be exhibited the notice:

*PARLIAMENTARY ELECTION
(*[Specify colour]* ballot paper)
Vote for ONE candidate only

EUROPEAN PARLIAMENTARY ELECTION
(*[Specify colour]* ballot paper)
Vote for ONE party or individual candidate only

**[Specify name of council]*COUNCIL ELECTION
(*[Specify colour]* ballot paper)
*[Vote for no more thancandidates]
*[Vote for ONE candidate only]

*ELECTION OF THE MAYOR OF LONDON
(*[Specify colour]* ballot paper)
#On the ballot paper for the election of the Mayor, vote ONCE for your first choice and ONCE for your second choice.

*ELECTION OF THE LONDON ASSEMBLY
#On the constituency members ballot paper *[specify colour]* vote for ONE candidate only.
#On the London members ballot paper *[specify colour]* vote for ONE party or individual candidate only.

**[Specify other]* ELECTION/REFERENDUM
(*[Specify colour]* ballot paper)
*[Vote for ONE candidate only]
*[Vote ONCE for your FIRST CHOICE and ONCE for your SECOND CHOICE]

PUT NO OTHER MARK ON THE BALLOT PAPER
OR YOUR VOTE MAY NOT BE COUNTED

***[PLEASE DO NOT FOLD THE BALLOT PAPERS FOR *[specify the election(s) at which the votes are to be counted electronically]* *Post them, face downwards, in the *[*appropriate]* ballot box.]**
[Include the words in the brackets if the votes at some of the polls are to be counted electronically.]
*Complete or omit as necessary
#Alternatively, insert such information as the GLRO may decide

9. In paragraph (1)(b) of rule 31 (appointment of polling and counting agents) omit the words “the verification of the ballot paper accounts and” and in paragraph (3) of that rule omit the words “verification of the ballot papers accounts or”.

10. At the end of paragraph (4) of rule 31 (appointment of polling and counting agents) insert—
“Notices of the appointment of polling agents and counting agents which are required by this paragraph and paragraph (5) below to be given to the local returning officer shall be given to the returning officer who discharges the functions specified in regulation 5 of the Combination of Polls Regulations.”

11. In rule 32(b) (notification of requirement of secrecy) the words “the verification of the ballot paper accounts or” and “(3)” shall be omitted.

12. In rule 33(1) (admission to polling stations), at the end of sub-paragraph (f), insert the following sub-paragraph—

“(g) persons entitled to be admitted to the polling station at a relevant election or referendum.”

13. In question (ii) in sub-paragraphs (a) and (b) of paragraph (1) of rule 36 (questions to be put to voters) and in the second question in paragraph (2) of that rule, after the words “at this” insert “European Parliamentary”.

14. At the end of rule 38 (voting procedure) insert the following paragraph—

“(4) The same copy of the register may be used under paragraph (1) above for a relevant election or referendum and one mark may be placed in that register under paragraph (1)(d) above or in the list of proxies under paragraph (1)(e) above to denote that a ballot paper has been received in respect of each election or referendum; except that, where a ballot paper has not been issued in respect of a relevant election or referendum, a different mark shall be placed in the register or, as the case may be, list so as to identify each election or referendum in respect of which the ballot paper was issued.”

15. At the end of paragraph (2) of rule 39 (votes marked by presiding officer) insert—

“The same list may be used for each relevant election or referendum and, where it is so used, an entry in that list shall be taken to mean that the ballot papers were so marked in respect of each election or referendum, unless the list identifies the election or referendum at which the ballot paper was so marked.”

16. At the end of paragraph (4) of rule 40 (voting by person with disabilities) insert—

“The same list may be used for each relevant election or referendum and, where it is so used, an entry in that list shall be taken to mean that votes were so given in respect of each election or referendum, unless the list identifies the election or referendum at which the vote was given.”

17. At the end of paragraph (3) of rule 41 (tendered ballot papers) insert—

“The same list may be used for each relevant election or referendum and, where it is so used, an entry in that list shall be taken to mean that tendered ballot papers were marked in respect of each election or referendum, unless the list identifies the election or referendum at which a tendered ballot paper was marked.”

18. At the end of paragraph (1) of rule 43 (adjournment of poll in case of riot) insert “who discharges the functions specified in regulation 5 of the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004”.

19. In paragraph (1) of rule 44 (procedure on close of poll), after the words “polling agents”, in the first place where they occur, insert “appointed for the purposes of the European Parliamentary election and those appointed for the purposes of each relevant election or referendum”.

20. After paragraph (1) of rule 44 (procedure on close of poll) insert—

“(1A) The contents of the packets referred to in sub-paragraphs (b), (c) and (e) of paragraph (1) above shall not be combined with the contents of packets made under the corresponding rule that applies at each relevant election or referendum; nor shall the statement prepared under paragraph (3) below be so combined.

(1B) References to the local returning officer in paragraph (1) above are references to the returning officer who discharges the functions specified in regulation 5 of the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004.”

21. Omit rules 45 (attendance at verification of the ballot paper accounts) and 46 (procedure at verification of the ballot paper accounts).

22. For paragraph (1) of rule 47 (attendance at counting of votes) substitute the following paragraph—

“(1) The local returning officer shall make arrangements for counting the votes in the presence of the counting agents after the delivery of the ballot papers to him by the returning officer who discharges the functions specified in regulation 5 of the Combination of Polls Regulations—

(a) in the case of a general election of MEPs, before or after the material time and in either case so that the requirements of rule 52(1) are satisfied as soon as practicable after the material time,

(b) in the case of a by-election, as soon as practicable after that delivery,

and shall give to the counting agents and the returning officer notice in writing of the time after which he will begin to count the votes if by then he has received the ballot papers and of the place at which the count will take place.

For the purposes of this paragraph the “material time” means in relation to a general election of MEPs, the close of the polling in the Member State whose electors are the last to vote in the election.”

23. For paragraph (1) of rule 48 (the count) substitute—

“(1) The local returning officer shall—

(a) on receipt of the containers of ballot papers from the returning officer who discharges the functions specified in regulation 5 of the Combination of Polls Regulations and after the time specified in the notice given under rule 47(1) in the presence of the counting agents open each container;

(b) where the proceedings on the issue and receipt of postal ballot papers are not taken together with those proceedings at each relevant election or referendum under paragraph 27 of Schedule 2 count such of the postal ballot papers as have been duly returned and record the number counted; and

(c) mix together the postal ballot papers and the ballot papers from all of the containers and count the votes given on them.

(1A) Where separate ballot boxes have been used, no vote for any individual candidate or registered party shall be rendered invalid by the ballot paper being placed in the ballot box used at any relevant election or referendum.

(1B) A postal ballot paper shall not be deemed to be duly returned unless it is returned in the manner prescribed in paragraph 41 of Schedule 2 so as to reach the local returning officer or any polling station in the appropriate area before the close of the poll and the declaration of identity duly signed and authenticated is also returned in that manner before that time.

(1C) In paragraph (1A) the “appropriate area” means—

(a) the area in the local counting area common to the parliamentary constituency, electoral area or voting area (as the case may be) in which the polls at the European Parliamentary election and a relevant election or referendum are being taken together; and

(b) in respect of which polls the voter has been issued with a postal ballot paper.”

24. In paragraph (3) of rule 48 (the count) after the word “while” insert “counting and recording the number of postal ballot papers and”.

Status: This is the original version (as it was originally made).

25. In paragraph (4) of rule 48 (the count), omit the words “, in so far as he and the agents agree,” and the words from “For the purposes” to the end.

26. In paragraph (1) of rule 59 (retention of documents) omit sub-paragraphs (c) and (e).

27. In the Appendix of forms for the form of direction for the guidance of the voters in voting substitute—

“Form of directions for the guidance of the voters in voting

GUIDANCE FOR VOTERS AT COMBINED POLLS

1. Make sure the ballot papers you are given are [stamped with the official mark/have the official mark*].

2. Go to one of the compartments.

3.A. [At the [Parliamentary/local government election(s)*] mark a cross (X) in the box on the right hand side of each ballot paper opposite the name of each candidate for whom you are voting. [Vote once only/Vote for no more than candidates.*]]

B. At the European Parliamentary election, mark a cross (X) to the right of the name of the party or individual candidate for whom you are voting*. Vote once only.

[#C. At the Greater London Authority election—

[(i) in the election for the constituency members of the London assembly, vote for ONE candidate only;]* #

[(ii) in the election of the London members of the London Assembly, vote for ONE party or candidate only]*#

[(iii) in the Mayoral election VOTE ONCE FOR YOUR FIRST CHOICE AND ONCE FOR YOUR SECOND CHOICE.* #]]

D. [At the [specify other] election/referendum* mark a cross (X) to the right of [the candidate/the answer*] for which you are voting. [*Vote once only][*VOTE ONCE for your FIRST CHOICE and ONCE for your SECOND CHOICE.]]

4. [Please do not fold the ballot papers for the [*specify the election(s) at which the votes are to be counted electronically*]*] [Fold [each/any other*] ballot paper(s) in two and show the official mark on it to the presiding officer.*] Do not let anyone see your vote. Put each ballot paper in the [*appropriate] ballot box and leave the polling station.

Include the words in the first of square brackets, and the corresponding amendment in the following sentence if the votes are to be counted electronically at one or more of the elections.

5. Vote only for the number of candidates specified on each ballot paper [and only one of the answers available in the referendum*]. Put no other mark on the ballot papers, or your votes may not be counted.

6. If by mistake you spoil a ballot paper, show it to the presiding officer and ask for another one.

**Complete or omit as necessary*

#Alternatively, insert such information as to the manner of voting as the GLRO may decide.”

28. In the Appendix of forms, for the form of declaration to be made by the companion of a voter with disabilities substitute—

“Form of declaration to be made by the companion of a voter with disabilities

Rule 40(5)

I, A. B., of.....having been requested to assist C.D. (*in the case of a voter with disabilities voting as proxy add voting as proxy for M.N.*) whose number on the register isto record his vote at the election[s]* and [*referendum[s]]* now being held in this *parliamentary constituency/*European Parliamentary electoral region/*Greater London Authority constituency/*district/*London borough/*parish or community/*local government area (**delete those which are inappropriate*) hereby declare that (I am entitled to vote as an elector at the said election[s]* [*and referendum[s]] (I am the #.....of the said voter and have attained the age of 18 years), and that I have not previously assisted any voter with disabilities (except E.F., of) to vote at the said elections.

(Signed) AB,

day of 20

#State the relationship of the companion to the voter.

I, the undersigned, being the presiding officer for the..... polling station for the..... local counting area, hereby certify that the above declaration, having been first read to the above-named declarant, was signed by the declarant in my presence.

(Signed) GH,

day of..... 20.....

minutes past o'clock (am) (pm)

NOTE—

1. If the person making the above declaration knowingly and wilfully makes therein a statement false in a material particular, he will be guilty of an offence.
2. A voter with disabilities is a voter who has made a declaration under the European Parliamentary elections rule that he is so incapacitated by his blindness or other incapacity, or by his inability to read, as to be unable to vote without assistance

PART 2

SCOTLAND

1. This Part of this Schedule applies in the circumstances set out in regulation 11(ii) of these Regulations.
2. At the end of paragraph (2) of rule 21 (the ballot papers) insert the following sub-paragraph—

“(e) shall be of a different colour from that of any ballot papers used at an election the poll for which is taken together with the poll for the European Parliamentary election.”
3. At the end of rule 25 (notice of poll) insert the following paragraph—

“(3) The notice published under paragraph (2) above shall, in addition:

 - (a) state that the poll at the European Parliamentary election is to be taken together with the poll at a parliamentary or, as the case may be, local government election;
 - (b) specify the relevant parliamentary constituency or, as the case may be, local authority and, in the case of a local government election to fill a casual vacancy, the electoral area for which the election is held; and
 - (c) where the polls are to be taken together in part of the European Parliamentary electoral region only, specify that part.”

Status: This is the original version (as it was originally made).

4. At the end of rule 29 (issue of official poll cards) insert the following paragraph—

“(5) An official poll card issued under this rule may be combined with an official poll card issued at a parliamentary election or, as the case may be, local government election.”
5. After paragraph (1) of rule 30 (equipment of polling stations) insert the following paragraph—

“(1A) The same ballot box shall be used for the poll at the European Parliamentary election and the poll at the parliamentary election or, as the case may be, local government election.”
6. After paragraph (4) of rule 30 (equipment of polling stations) insert the following paragraph—

“(4A) The large version of the ballot paper referred to in paragraph (4)(a) above shall be printed on paper of the same colour as that of the ballot papers for use at the European Parliamentary election.”
7. For paragraph (7) of rule 30 (equipment of polling stations) substitute the following paragraph—

“(7) In every compartment of every polling station there shall be exhibited the notice:

EUROPEAN PARLIAMENTARY ELECTION
 ([Specify colour] ballot paper)
 vote for one party or individual candidate only

*PARLIAMENTARY ELECTION
 ([Specify colour] ballot paper)
 vote for one candidate only

*[Specify name of council]*COUNCIL ELECTION
 ([Specify colour] ballot paper)
 *[vote for no more than ...candidates]
 *[vote for one candidate only]

PUT NO OTHER MARK ON THE BALLOT PAPER
 OR YOUR VOTE MAY NOT BE COUNTED
 *Delete as necessary
8. In paragraph (1)(b) of rule 31 (appointment of polling and counting agents) omit the words “the verification of the ballot paper accounts and” and in paragraph (3) of that rule omit the words “verification of the ballot papers accounts or”.
9. At the end of paragraph (4) of rule 31 (appointment of polling and counting agents) insert—

“Notices of the appointment of polling agents and counting agents which are required by this paragraph and paragraph (5) below to be given to the local returning officer shall be given to the returning officer who discharges the functions specified in regulation 96 of the 1986 (Scotland) Regulations.”
10. In rule 32(b) (notification of requirement of secrecy) the words “the verification of the ballot paper accounts or” and “(3)” shall be omitted.
11. In question (ii) in sub-paragraphs (a) and (b) of paragraph (1) of rule 36 (questions to be put to voters) and in the second question in paragraph (2) of that rule, after the words “at this” insert “European Parliamentary”.
12. At the end of rule 38 (voting procedure) insert the following paragraph—

“(4) The same copy of the register may be used under paragraph (1) above for each election and one mark may be placed in that register under paragraph (1)(d) above or in the list of proxies under paragraph (1)(e) above to denote that a ballot paper has been received in respect of each election; except that, where a ballot paper has been issued in respect of one election only, a different mark shall be placed in the register or, as the case may be, list so as to identify the election in respect of which the ballot paper was issued.”

13. At the end of paragraph (2) of rule 39 (votes marked by presiding officer) insert—

“The same list may be used for each election and, where it is so used, an entry in that list shall be taken to mean that the ballot papers were so marked in respect of each election, unless the list identifies the election at which the ballot paper was so marked.”

14. At the end of paragraph (4) of rule 40 (voting by person with disabilities) insert—

“The same list may be used for each election and, where it is so used, an entry in that list shall be taken to mean that votes were so given in respect of each election, unless the list identifies the election at which the vote was given.”

15. At the end of paragraph (3) of rule 41 (tendered ballot papers) insert—

“The same list may be used for each election and, where it is so used, an entry in that list shall be taken to mean that tendered ballot papers were marked in respect of each election, unless the list identifies the election at which a tendered ballot paper was marked.”

16. At the end of paragraph (1) of rule 43 (adjournment of poll in case of riot) insert “who discharges the functions specified in regulation 96 of the 1986 (Scotland) Regulations”.

17. In rule 44(1) (procedure on close of poll), after the words “polling agents”, in the first place where they occur, insert “for the European Parliamentary election and for the parliamentary, or as the case may be, local government election”.

18. After paragraph (1) of rule 44 (procedure on close of poll) insert—

“(1A) The contents of the packets referred to in sub-paragraphs (b), (c) and (e) of paragraph (1) above shall not be combined with the contents of packets made under the corresponding rule that applies at a parliamentary election or, as the case may be, local government election; nor shall the statement prepared under paragraph (3) below be so combined.

(1B) References to the local returning officer in paragraph (1) above are references to the returning officer who discharges the functions specified in regulation 96 of the 1986 (Scotland) Regulations.”

19. Omit rules 45 (attendance at verification of the ballot paper accounts) and 46 (procedure at verification of the ballot paper accounts).

20. For paragraph (1) of rule 47 (attendance at counting of votes) substitute the following paragraph—

“(1) The local returning officer shall make arrangements for counting the votes in the presence of the counting agents after the delivery of the ballot papers to him by the returning officer who discharges the functions specified in regulation 96 of the 1986 (Scotland) Regulations—

(a) in the case of a general election of MEPs, before or after the material time and in either case so that the requirements of rule 52(1) are satisfied as soon as practicable after the material time,

(b) in the case of a by-election, as soon as practicable after that delivery,

Status: This is the original version (as it was originally made).

and shall give to the counting agents and the returning officer notice in writing of the time after which he will begin to count the votes if by then he has received the ballot papers and of the place at which the count will take place.

For the purposes of this paragraph the “material time” means in relation to a general election of MEPs, the close of the polling in the Member State whose electors are the last to vote in the election.”

21. For paragraph (1) of rule 48 (the count) substitute—

“(1) The local returning officer shall—

- (a) on receipt of the containers of ballot papers from the returning officer who discharges the functions specified in regulation 96 of the 1986 (Scotland) Regulations and after the time specified in the notice given under rule 47(1) in the presence of the counting agents open each container;
- (b) where the proceedings on the issue and receipt of postal ballot papers are not taken together with those proceedings at another election under paragraph 27 of Schedule 2 count such of the postal ballot papers as have been duly returned and record the number counted; and
- (c) mix together the postal ballot papers and the ballot papers from all of the containers and count the votes given on them.

(1A) A postal ballot paper shall not be deemed to be duly returned unless it is returned in the manner prescribed in paragraph 41 of Schedule 2 so as to reach the local returning officer or any polling station in the local counting area before the close of the poll and the declaration of identity duly signed and authenticated is also returned in that manner before that time.”

22. In paragraph (3) of rule 48 (the count) after the word “while” insert “counting and recording the number of postal ballot papers and”.

23. In paragraph (1) of rule 59 (retention of documents) omit sub-paragraphs (c) and (e).

24. In the Appendix of forms for the form of direction for the guidance of the voters in voting substitute—

“Form of directions for the guidance of the voters in voting

GUIDANCE FOR VOTERS AT COMBINED POLLS

- 1.** Make sure the ballot papers you are given are stamped with the official mark.
- 2.** Go to one of the compartments. At a [parliamentary] [local government] election, mark a cross (X) in the box on the right hand side of each ballot paper opposite the name of each candidate you are voting for. At a European Parliamentary election, mark a cross (X) to the right of the name of the party or individual candidate you are voting for.
- 3.** Fold each ballot paper in two. Show the official mark on each ballot paper to the presiding officer, but do not let anyone see your vote. Put each ballot paper in the ballot box and leave the polling station.
- 4.** Place only one other mark on the ballot papers, or your votes may not be counted.
- 5.** If by mistake you spoil a ballot paper, show it to the presiding officer and ask for another one.”.

25. In the Appendix of forms, in the form of declaration to be made by the companion of a voter with disabilities—

- (a) after the words “election now being held in this European Parliamentary electoral region” insert “and the election now being held in this *parliamentary constituency/*electoral area (* delete whichever is inappropriate)”; and
- (b) for the words “said election” in both places where they occur substitute “said elections”.

SCHEDULE 4

Regulation 12

ENTITLEMENT TO REGISTRATION AND LEGAL INCAPACITY TO VOTE IN GIBRALTAR

PART 1

GENERAL APPLICATION AND INTERPRETATION

General application and interpretation

- 1.—(1) This Schedule makes provision as to—
 - (a) legal incapacity to vote in Gibraltar as an elector at a European Parliamentary election; and
 - (b) entitlement to registration in the Gibraltar register.
- (2) For the purposes of this Schedule, “the register” means the Gibraltar register.

Time

- 2.—(1) Where the day or last day of the time allowed by this Schedule for the doing of any thing falls on any of the days mentioned in sub-paragraph (3), that time shall be extended until the next following day which is not one of those days.
- (2) In computing any period of not more than 7 days for the purposes of this Schedule any of the days mentioned in sub-paragraph (3) shall be disregarded.
- (3) The days referred to in sub-paragraphs (1) and (2) are a Saturday, Sunday, Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a bank holiday.
- (4) In this regulation “bank holiday” means a day which is a Bank or Public Holiday in Gibraltar not otherwise falling within sub-paragraph (3).

PART 2

ENTITLEMENT TO REGISTRATION AND LEGAL INCAPACITY

Legal incapacity

Legal incapacity to vote of offenders in prison etc

- 3.—(1) A convicted person during the time that he is detained in a penal institution in Gibraltar in pursuance of his sentence or unlawfully at large when he would otherwise be so detained is legally incapable of voting at any European Parliamentary election.
- (2) For this purpose—

Status: This is the original version (as it was originally made).

- (a) “convicted person” means any person found guilty of an offence (whether under the law of Gibraltar or not), including a person found guilty by a court-martial, but not including a person dealt with by committal or other summary process for contempt of court; and
 - (b) a person detained for default in complying with his sentence shall not be treated as detained in pursuance of the sentence, whether or not the sentence provided for detention in the event of default, but a person detained by virtue of a conditional pardon in respect of an offence shall be treated as detained in pursuance of his sentence for the offence.
- (3) It is immaterial for the purposes of this paragraph whether a conviction or sentence was before or after the coming into force of these Regulations.

Legal incapacity to vote of offenders detained in mental hospitals

- 4.—(1) A person to whom this paragraph applies is, during the time that he is—
- (a) detained at any place in pursuance of the order by virtue of which this paragraph applies to him, or
 - (b) unlawfully at large when he would otherwise be so detained,
- legally incapable of voting at any European Parliamentary election.
- (2) This paragraph applies to the following persons—
- (a) any person in respect of whom an order has been made under section 251, 252 or 256(1) of the Criminal Procedure Ordinance;
 - (b) a convicted person, within the meaning of paragraph 3, in respect of whom an order has been made under section 257 of the Criminal Procedure Ordinance; and
 - (c) any person in respect of whom an admission order has been made under section 116B of the Army Act 1955⁽⁶⁵⁾.
- (3) Any reference in any of sub-paragraphs (2)(a) to (c) to a provision of any Ordinance or Act includes a reference to any earlier provision (whether of that Ordinance or Act as originally enacted or made or as previously amended, or otherwise) to the like effect.

Persons under the age of 18

Entitlement to registration of person under the age of 18

- 5.—(1) A person otherwise qualified for registration is (despite sections 15(1)(d) and 16(1)(d) and (2)(d) of the 2003 Act) entitled to be registered in the register if he will attain voting age before the end of the period of 12 months beginning with the 1st December next following the relevant date, but—
- (a) his entry in the register shall give the date on which he will attain that age; and
 - (b) until the date given in the entry he shall not by virtue of the entry be treated as an elector for any purposes other than those of an election the date of the poll for which is the date so given or any later date.
- (2) In this paragraph “the relevant date”, in relation to a person, means—
- (a) the date on which an application for registration is made (or, by virtue of paragraph 6, is treated as having been made) by him;
 - (b) in the case of a person applying for registration in pursuance of a declaration of local connection or a service declaration, the date on which the declaration was made.

⁽⁶⁵⁾ 1955 c. 18; section 116B was inserted by paragraph 1 to Schedule 2 to the Armed Forces Act 1996 (c. 46).

Circumstances in which an application for registration in the Gibraltar register may be treated as having been made

6. Where—

- (a) in connection with a canvass under paragraph 9 of Schedule 1 to the European Parliamentary Elections Ordinance 2004, the form completed in respect of any address specifies any person as a person who is entitled to be registered in the register, and
- (b) that person is not for the time being registered in the register in respect of that address,

he shall be treated as having made, on the canvass date (within the meaning of that Ordinance) in question, an application for registration in the register in respect of that address.

Alteration of Gibraltar register: pending elections

7.—(1) An alteration in a published version of the register which takes effect under paragraph 12(2) of Schedule 1 to the European Parliamentary Elections Ordinance 2004 after the final nomination day for a European Parliamentary election shall not have effect for the purposes of that election unless the alteration—

- (a) is made in consequence of a decision or determination falling within paragraph 12(1)(c) or (d) of that Schedule; and
- (b) takes effect on or before the fifth day before the date of the poll.

(2) In this paragraph—

“the final nomination day”, in relation to such an election, means the last day on which nomination papers may be delivered to the returning officer for the purposes of the election.

Residence

Residence: general

8.—(1) This paragraph applies where the question whether a person is resident at a particular address on the relevant date for the purposes of section 16(1)(a) of the 2003 Act falls to be determined for the purposes of that section.

(2) Regard shall be had, in particular, to the purpose and other circumstances, as well as to the fact, of his presence at, or absence from, the address on that date.

For example, where at a particular time a person is staying at any place otherwise than on a permanent basis, he may in all the circumstances be taken to be at that time—

- (a) resident there if he has no home elsewhere, or
- (b) not resident there if he does have a home elsewhere.

(3) For the purpose of determining whether a person is resident in a dwelling on the relevant date for the purposes of section 16(1)(a) of the 2003 Act, his residence in the dwelling shall not be taken to have been interrupted by reason of his absence in the performance of any duty arising from or incidental to any office, service or employment held or undertaken by him if—

- (a) he intends to resume actual residence within six months of giving up such residence, and will not be prevented from doing so by the performance of that duty; or
- (b) the dwelling serves as a permanent place of residence (whether for himself or for himself and other persons) and he would be in actual residence there but for his absence in the performance of that duty.

(4) For the purposes of sub-paragraph (3) any temporary period of unemployment shall be disregarded.

Status: This is the original version (as it was originally made).

(5) Sub-paragraph (3) shall apply in relation to a person's absence by reason of his attendance on a course provided by an educational institution as it applies in relation to a person's absence in the performance of any duty such as is mentioned in that subsection.

(6) Subject to paragraphs 10 and 11, a person who is detained at any place in legal custody shall not, by reason of his presence there, be treated for the purposes of section 16(1)(a) of the 2003 Act as resident there.

Residence: merchant seamen

9. At any time when a merchant seaman is not resident in Gibraltar and would have been resident there but for the nature of his occupation, he shall be entitled to be treated for the purposes of section 16(1)(a) of the 2003 Act as resident—

- (a) at any place at which he would have been resident but for the nature of his occupation; or
- (b) at any hostel or club providing accommodation for merchant seamen at which he commonly stays in the course of his occupation.

For this purpose "merchant seaman" means any person not having a service qualification whose employment or the greater part of it is carried out on board seagoing ships, and includes any such person while temporarily without employment.

Residence: patients in mental hospitals who are not detained offenders or on remand

10.—(1) This paragraph applies to a person who—

- (a) is a patient in a mental hospital in Gibraltar (whether or not he is liable to be detained there), but
- (b) is not a person to whom paragraph 4 or paragraph 11 applies.

(2) A person to whom this paragraph applies shall (subject to sub-paragraph (5)) be regarded for the purposes of section 16(1)(a) of the 2003 Act as resident at the mental hospital in question if the length of the period which he is likely to spend at the hospital is sufficient for him to be regarded as being resident there for the purposes of electoral registration.

(3) A person registered in the register in pursuance of an application for registration made by virtue of sub-paragraph (2) is entitled to remain so registered until—

- (a) the end of the period of 12 months beginning with the date when the entry in the register first takes effect, or
- (b) another entry made in respect of him in the register takes effect (whether or not in pursuance of an application made by virtue of sub-paragraph (2)),

whichever first occurs.

(4) Where the entitlement of such a person to remain so registered terminates by virtue of sub-paragraph (3), the registration officer concerned shall remove that person's entry from the register, unless he is entitled to remain registered in pursuance of a further application made by virtue of sub-paragraph (2).

(5) Sub-paragraph (2) shall not be taken as precluding the registration of a person to whom this paragraph applies—

- (a) by virtue of his residence at some place other than the mental hospital in which he is a patient, or
- (b) in pursuance of a declaration of local connection.

(6) In this paragraph "mental hospital" means any establishment (or part of an establishment) maintained wholly or mainly for the reception and treatment of persons suffering from any form of

mental disorder; and for this purpose “mental disorder”, has the same meaning as in section 3(1) of the Mental Health Ordinance.

Residence: persons remanded in custody etc

11.—(1) This paragraph applies to a person who is detained at any place in Gibraltar pursuant to a relevant order or direction and is so detained otherwise than after—

- (a) being convicted of any offence, or
- (b) a finding in criminal proceedings that he did the act or made the omission charged.

(2) A person to whom this paragraph applies shall (subject to sub-paragraph (5)) be regarded for the purposes of section 16(1)(a) of the 2003 Act as resident at the place at which he is detained if the length of the period which he is likely to spend at that place is sufficient for him to be regarded as being resident there for the purposes of electoral registration.

(3) A person registered in the register in pursuance of an application for registration made by virtue of sub-paragraph (2) is entitled to remain so registered until—

- (a) the end of the period of 12 months beginning with the date when the entry in the register first takes effect, or
- (b) another entry made in respect of him in the register takes effect (whether or not in pursuance of an application made by virtue of sub-paragraph (2)),

whichever first occurs.

(4) Where the entitlement of such a person to remain so registered terminates by virtue of sub-paragraph (3), the registration officer concerned shall remove that person’s entry from the register, unless he is entitled to remain registered in pursuance of a further application made by virtue of sub-paragraph (2).

(5) Sub-paragraph (2) shall not be taken as precluding the registration of a person to whom this section applies—

- (a) by virtue of his residence at some place other than the place at which he is detained, or
- (b) in pursuance of a declaration of local connection.

(6) In this section “a relevant order or direction” means—

- (a) a remand or committal in custody;
- (b) a remand to a hospital under section 249(6)(c), 250(4) or (5) of the Criminal Procedure Ordinance;
- (c) a direction for removal to a hospital under section 257 of that Ordinance.

Notional residence: declarations of local connection

12.—(1) A declaration under this paragraph (“a declaration of local connection”)—

- (a) may be made only by a person to whom this paragraph applies, but
- (b) may be made by such a person despite the fact that by reason of his age he is not entitled to vote.

(2) This paragraph applies to any person who on the date when he makes such a declaration is—

- (a) a person to whom paragraph 10 applies and who would not be entitled to be registered by virtue of residence at any place other than the mental hospital (within the meaning of that paragraph) at which he is a patient, or

Status: This is the original version (as it was originally made).

- (b) a person to whom paragraph 11 applies and who would not be entitled to be registered by virtue of residence at any place other than the place at which he is detained as mentioned in sub-paragraph (1) of that paragraph, or
 - (c) a person who does not fall within paragraph (a) or (b) (and is not otherwise in legal custody) and who is not, for the purposes of section 16(1)(a) of the 2003 Act, resident at any address in Gibraltar (a “homeless person”).
- (3) A declaration of local connection shall state—
- (a) the name of the declarant and either—
 - (i) an address to which correspondence for him from the registration officer or the returning officer can be delivered, or
 - (ii) that he is willing to collect such correspondence periodically from the registration officer’s office;
 - (b) the date of the declaration;
 - (c) that on the date of the declaration the declarant falls into one of the categories of persons to whom this paragraph applies, specifying—
 - (i) the category in question, and
 - (ii) (in the case of a person falling within sub-paragraph (2)(a) or (b)) the name and address of the mental hospital at which he is a patient or (as the case may be) of the place at which he is detained;
 - (d) the required address (as defined by sub-paragraph (4));
 - (e) the nationality of the declarant on the date of the declaration confirming that he is a Commonwealth citizen or a relevant citizen of the Union;
 - (f) whether the declarant has on the date of the declaration attained the age of 18 years, and, if he has not, the date of his birth.
- (4) For the purposes of this paragraph “the required address” is—
- (a) in the case of a person falling within sub-paragraph (2)(a) or (b)—
 - (i) the address in Gibraltar where he would be residing if he were not such a patient, or detained, as mentioned in that provision, or
 - (ii) if he cannot give such an address, an address in Gibraltar at which he has resided;
 - (b) in the case of a homeless person, the address of, or which is nearest to, a place in Gibraltar where he commonly spends a substantial part of his time (whether during the day or at night).
- (5) If a person—
- (a) makes a declaration of local connection stating more than one address under sub-paragraph (3)(d), or
 - (b) makes more than one declaration of local connection bearing the same date and stating different addresses under that provision,
- the declaration or declarations shall be void.
- (6) A declaration of local connection may be cancelled at any time by the declarant.
 - (7) A declaration of local connection shall be of no effect unless it is received by the registration officer within the period of three months beginning with the date of the declaration.

Effect of declaration of local connection

13.—(1) Where a person's declaration of local connection is in force when he applies for registration, he shall be regarded for the purposes of section 16(1)(a) of the 2003 Act as resident on the date of the declaration at the address stated in it in accordance with paragraph 12.

(2) A person registered in the register in pursuance of a declaration of local connection is entitled to remain so registered until—

- (a) the end of the period of 12 months beginning with the date when the entry in the register first takes effect,
- (b) the declaration is cancelled under paragraph 12(6), or
- (c) another entry made in respect of him in the register takes effect (whether or not in pursuance of a declaration of local connection),

whichever first occurs.

(3) Where the entitlement of such a person to remain so registered terminates by virtue of subparagraph (2), the registration officer shall remove that person's entry from the register, unless he is entitled to remain registered in pursuance of a further declaration of local connection.

(4) This paragraph shall not be taken as precluding the registration of a person falling within paragraph 12(2)(a) or (b) in pursuance of an application made by virtue of paragraph 10(2) or 11(2).

Overseas electors

Registration of overseas electors

14.—(1) A person qualifies for registration in Gibraltar as an overseas elector, for the purposes of section 16(2)(a) of the 2003 Act and these Regulations, if—

- (a) he makes a declaration under and in accordance with paragraph 15; and
- (b) on that date ("the relevant date")—
 - (i) he is not resident in Gibraltar; and
 - (ii) he satisfies one of the following sets of conditions.

(2) The first set of conditions is that—

- (a) he was included in the register in respect of an address at a place that is situated within Gibraltar,
- (b) that entry in the register was made on the basis that he was resident, or to be treated for the purposes of registration as resident, at that address,
- (c) that entry in the register was in force at any time falling within the period of 15 years ending immediately before the relevant date, and
- (d) subsequent to that entry ceasing to have effect no entry was made in the register on the basis that he was resident, or to be treated for the purposes of registration as resident, at any other address.

(3) The second set of conditions is that—

- (a) he was last resident in Gibraltar within the period of 15 years ending immediately before the relevant date,
- (b) he was by reason only of his age incapable of being included in the register in force on the last day on which he was resident in Gibraltar, and

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- (c) the address at which he was resident on that day was at a place that is situated within Gibraltar and a parent or guardian of his was included, in respect of that address, in the register in force on that day.

Overseas elector's declaration

15.—(1) A declaration made by an elector under and in accordance with this paragraph is referred to in these Regulations as an “overseas elector's declaration”.

(2) A person registered in the register in pursuance of an overseas elector's declaration is entitled to remain so registered until—

- (a) the end of the period of 12 months beginning with the date when the entry in the register first takes effect,
- (b) the declaration is cancelled under sub-paragraph (5), or
- (c) any entry made in respect of him in the register takes effect otherwise than in pursuance of an overseas elector's declaration,

whichever first occurs; and, where the entitlement of such a person to remain so registered terminates by virtue of this sub-paragraph, the registration officer shall remove that person's entry from the register, unless he is entitled to remain registered in pursuance of a further overseas elector's declaration.

(3) An overseas elector's declaration must state—

- (a) the date of the declaration,
- (b) the declarant's nationality confirming that he is a Commonwealth citizen,
- (c) that the declarant is not resident in Gibraltar on the relevant date, and
- (d) when he ceased to be so resident or, in the case of a person relying on registration in pursuance of a service declaration, when he ceased to have a service qualification or, if later, ceased to be so resident,

and must also satisfy the requirements of sub-paragraph (4) and paragraph 14 of Schedule 1 to the European Parliamentary Elections Ordinance 2004.

(4) An overseas elector's declaration must—

- (a) show which set of conditions in paragraph 14 the declarant claims to satisfy,
- (b) in the case of the first set of conditions, specify the address in respect of which he was registered, and
- (c) in the case of the second set of conditions, specify—
 - (i) the date of the declarant's birth,
 - (ii) the address in Gibraltar at which he was resident, and
 - (iii) the name of the parent or guardian on whose registration in respect of that address he relies, and whether the person named was a parent or guardian,

and may not, in the case of either set of conditions, specify more than one such address; and if the declarant makes more than one such declaration bearing the same date and specifying different addresses in Gibraltar as the address in respect of which he was registered or, as the case may be, at which he was resident the declarations shall be void.

(5) An overseas elector's declaration may be cancelled at any time by the declarant.

(6) An overseas elector's declaration shall be of no effect unless it is received by the registration officer concerned within the period of three months beginning with the relevant date.

(7) For the purposes of paragraph 12, where a person is registered in the register in pursuance of an overseas elector's declaration, it shall be conclusively presumed that he was not resident in Gibraltar on the relevant date.

(8) In this paragraph "the relevant date" has the meaning given by paragraph 14(1).

Service Voters

Service qualification

16. A person has a service qualification for the purposes of these Regulations who—

- (a) is a member of the Royal Gibraltar regiment,
- (b) is the wife or husband of a member of the Royal Gibraltar regiment.

Service declaration

17.—(1) A service declaration shall be made only by a person who has a service qualification, and a service declaration may be made by such a person notwithstanding the fact that by reason of his age he is not yet entitled to vote.

(2) Where a person is registered in the Gibraltar register in pursuance of a service declaration, the person is entitled to remain so registered until—

- (a) the end of the period of 12 months beginning with the date when the entry in the register first takes effect,
- (b) the declaration is cancelled under sub-paragraph (5), or
- (c) another entry made in respect of him in the register takes effect (whether or not in pursuance of a service declaration),

whichever first occurs.

(3) Where the entitlement of such a person to remain so registered terminates by virtue of sub-paragraph (2), the registration officer shall remove that person's entry from the register, unless he is entitled to remain registered in pursuance of a further service declaration.

(4) If a person—

- (a) makes a service declaration declaring to more than one address, or
- (b) makes more than one service declaration bearing the same date and declaring to different addresses,

the declaration or declarations shall be void.

(5) A service declaration may at any time be cancelled by the declarant.

(6) A service declaration shall be of no effect unless it is received by the registration officer within the period of three months beginning with the date of the declaration.

(7) Arrangements shall be made by the Gibraltar Ministry of Defence for securing that (so far as circumstances permit) every person having a service qualification by virtue of sub-paragraph (a) or (b) of paragraph 16 shall—

- (a) have an effective opportunity of exercising from time to time as occasion may require the rights conferred on him by these Regulations in relation to the making and cancellation of service declarations and of appointments of a proxy, and in relation to voting by post; and
- (b) receive such instructions as to the effect of these Regulations, and such other assistance, as may be reasonably sufficient in connection with the exercise by him and any wife of his or, as the case may be, by her and any husband of hers, of any rights conferred on them as mentioned above.

Contents of service declaration

18. A service declaration shall state—

- (a) the date of the declaration,
- (b) that on that date the declarant is, or but for the circumstances entitling him to make the declaration would have been, residing in Gibraltar,
- (c) the address where the declarant is or, as the case may be, would have been residing in Gibraltar or, if he cannot give any such address, an address at which he has resided in Gibraltar,
- (d) the nationality of the declarant on the date of the declaration confirming that he is a Commonwealth citizen or a relevant citizen of the Union,
- (e) whether the declarant had on the date of the declaration attained the age of 18 years, and, if he had not, the date of his birth, and
- (f) such particulars (if any) of the declarant's identity and service qualifications as are required by paragraph 19 of Schedule 1 to the European Parliamentary Elections Ordinance 2004.

Effect of service declaration

19.—(1) Where a person's service declaration is in force when he applies for registration, he shall be regarded for the purposes of section 16(1)(a) of the 2003 Act as—

- (a) resident on the date of the declaration at the address specified in it in accordance with paragraph 18(c);
- (b) until the contrary is proved, as being a Commonwealth citizen or a relevant citizen of the Union of the age appearing from the declaration and as not being subject to any legal incapacity except as so appearing.

(2) Where a service declaration appearing to be properly made out and (where required) attested is transmitted to the registration officer in the proper manner, the declarant shall, until the contrary is proved, be treated for the purposes of registration as having had from the date of the declaration or such later date, if any, as appears from it, and as continuing to have, a service qualification.

*Relevant citizens of the Union***Notification of and removal of names of relevant citizens of the Union from the register**

20.—(1) As soon as practicable after the registration officer has entered the name of a relevant citizen of the Union in the register where he would be entitled to vote at a European Parliamentary election in pursuance of the registration, he shall send a copy of the application and declaration by virtue of which he entered the name in the register to the person shown as the representative of the State in respect of which the applicant is a national in a direction containing a list of such representatives issued by the Lord Chancellor under regulation 8(3) of the 2001 Franchise Regulations⁽⁶⁶⁾.

(2) A declaration under paragraph 25(3)(b) of Schedule 1 to the European Parliamentary Elections Ordinance 2004 may be cancelled at any time by the declarant.

(3) A relevant citizen of the Union registered in the register is entitled to remain so registered until—

- (a) the end of the period of 12 months beginning with the date when the entry in the register first takes effect;

⁽⁶⁶⁾ Regulation 8(1) was amended and Regulation 8(3) was inserted by Regulation 5(a) and (b) of S.I. 2003/1557, respectively.

(b) the declaration under paragraph 25(3)(b) of Schedule 1 to the European Parliamentary Elections Ordinance 2004 is cancelled under sub-paragraph (2);

(c) the citizen applies for his name to be removed,

whichever first occurs.

(4) Where the entitlement of such a person to remain registered terminates by virtue of sub-paragraph (3), the registration officer shall remove the person's entry from the register, unless he is entitled to remain in pursuance of a further application and declaration under paragraph 25 of Schedule 1 to the European Parliamentary Elections Ordinance.

(5) The registration officer shall remove the name of a relevant citizen of the Union from the register where the Secretary of State sends to that officer a copy of information provided by the Member State of which that citizen is a national to show that he has lost the right to vote there.

PART 3

DISCHARGE OF REGISTRATION DUTIES

Discharge of registration duties

21.—(1) The registration officer shall comply with any general or special directions which may be given by the Secretary of State with respect to the arrangements to be made by the registration officer for carrying out his functions under this Schedule.

(2) Without prejudice to the generality of sub-paragraph (1), the directions which may be given under sub-paragraph (1) include directions requiring the registration officer to maintain the register in a specified electronic form; and any such directions may in particular specify—

- (a) the software which is to be used in connection with the maintenance of the register in that form;
- (b) the standards in accordance with which that software is to be maintained and updated;
- (c) how information required by this Schedule to be included in the register is to be recorded and stored in that form.

SCHEDULE 5

Regulation 13

MODIFICATIONS FOR RELEVANT CITIZENS OF THE ACCESSION STATES IN 2004

1. This Schedule applies in the circumstances set out in regulation 13 of these Regulations.

2. In section 16 of the 2003 Act (entitlement to be registered in Gibraltar)—

(a) in subsection (1)(c), after “is a citizen of the European Union (other than a qualifying Commonwealth citizen)” insert “or, subject to paragraph (1C), a relevant citizen of an Accession State”; and

(b) after subsection (1), insert—

“(1A) The entry in the Gibraltar register for a relevant citizen of an Accession State shall, subject to subsection (1B), include a mark against his name in the register consisting of the letter “Y” to indicate that he is registered as a relevant citizen of an Accession State and, before the date on which that State accedes to the European Union, he shall not be treated as an elector for any purposes other than those of an election the poll for which is held on or after that date.

Status: This is the original version (as it was originally made).

(1B) Where a relevant citizen of an Accession State is registered in the Gibraltar register, and that State accedes to the European Union on 1st May 2004, the mark referred to in subsection (1A) shall be removed from his entry in the register.

(1C) From 1st May 2004, no relevant citizen of an Accession State shall be entitled to be registered in the Gibraltar register unless he has become a citizen of the European Union following the accession to the European Union of the Accession State of which he is a national.”

3. In section 27(1) (interpretation) of the 2003 Act insert, at the appropriate places, the following definitions—

““Accession State” means any of the following states—

- (a) the Czech Republic,
- (b) the Republic of Estonia,
- (c) the Republic of Cyprus,
- (d) the Republic of Latvia,
- (e) the Republic of Lithuania,
- (f) the Republic of Hungary,
- (g) the Republic of Malta,
- (h) the Republic of Poland,
- (i) the Republic of Slovenia, or
- (j) the Slovak Republic;” and

““citizen of an Accession State” means a national of one of the Accession States and “relevant citizen of an Accession State” means such a citizen who is not a Commonwealth citizen or a citizen of the Republic of Ireland”.

4. In regulation 2, in the definition of “elector”, after the word “age”, insert “, or, subject to regulation 4(1A) of the 2001 Franchise Regulations and section 16(1A) of the 2003 Act, those shown in the register as a relevant citizen of an Accession State,”.

5. In regulation 17, insert after paragraph (4)—

“(5) Nothing in paragraph (2) shall prevent a relevant citizen of an Accession State from being excluded from voting on the ground that the Accession State of which he is a national has not acceded to the European Union.”

6. In regulation 24(1), for the words “For the purposes of this paragraph” to the end of the paragraph, substitute—

“For the purposes of this 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—

- (i) include his being below voting age if he will be of voting age on that day;
- (ii) include his being a citizen of an Accession State, and therefore not entitled to vote until the Accession State in question accedes to the European Union on 1st May 2004.”

7. In paragraph 33 of Schedule 2—

- (a) insert at the beginning of sub-paragraph (2) “Subject to sub-paragraph (3),”; and
- (b) after sub-paragraph (2), insert—

“(3) In the case of a relevant citizen of an Accession State, no postal ballot paper or declaration of identity may be issued by the returning officer before he has been informed

by the Lord Chancellor that the Accession State in question has ratified the Treaty of Athens.”

8. In paragraph 12(3)(e) of Schedule 4, after “relevant citizen of the Union”, insert “or of an Accession State”.

9. In paragraph 18(d) of Schedule 4, after “relevant citizen of the Union”, insert “or of an Accession State”.

10. In paragraph 19(1)(b) of Schedule 4, after “relevant citizen of the Union”, insert “or of an Accession State”.

11. In paragraph 20 of Schedule 4 (notification of and removal of names of relevant citizens of the Union from the register)—

(a) in sub-paragraph (1) after “relevant citizen of the Union” insert “or of an Accession State”;

(b) in sub-paragraph (3), after “relevant citizen of the Union” insert “and, subject to paragraph (6), a relevant citizen of an Accession State”;

(c) in sub-paragraph (5)—

(i) after “relevant citizen of the Union” insert “or of an Accession State”; and

(ii) after “Member State” insert “and Accession State”; and

(d) after sub-paragraph (5), insert—

“(6) The registration officer shall remove the name of a relevant citizen of an Accession State registered in the Gibraltar register if the Accession State of which he is a citizen does not accede to the European Union on 1st May 2004.”

SCHEDULE 6

Regulation 42

CONTROL OF DONATIONS TO INDIVIDUAL CANDIDATES

PART 1

INTRODUCTORY

Operation and interpretation of Schedule

1.—(1) This Schedule has effect for controlling donations to individual candidates at an election.

(2) The following provisions have effect for the purposes of this Schedule.

(3) In accordance with sub-paragraph (1), references to a candidate are to an individual candidate.

(4) “Relevant donation”, in relation to a candidate at an election, means a donation to the candidate or his election agent for the purpose of meeting election expenses incurred by or on behalf of the candidate.

(5) In sub-paragraph (4) above the reference to a donation for the purpose of meeting election expenses incurred by or on behalf of a candidate includes a reference to a donation for the purpose of securing that any such expenses are not so incurred; and a donation shall be taken to be a donation for either of those purposes if, having regard to all the circumstances, it must be reasonably assumed to be such a donation.

(6) “Donation” shall be construed in accordance with paragraphs 2 to 4 below.

(7) Where—

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- (a) at a time when any order is in force under section 70(1) of the 2000 Act a donation is received by a candidate at a European Parliamentary election in Great Britain or Gibraltar, and
- (b) the order provides for sub-paragraph (7) of paragraph 1 of Schedule 2A to the 1983 Act⁽⁶⁷⁾ to apply to any such donation,

references to a permissible donor falling within section 54(2) of that Act⁽⁶⁸⁾ in relation to the donation, as not including a registered party which is registered in the Northern Ireland register maintained by the Commission under Part 2 of that Act⁽⁶⁹⁾.

- (8) “The Commission” means the Electoral Commission established by section 1 of that Act.

Donations: general rules

2.—(1) “Donation”, in relation to an individual candidate at an election, means (subject to paragraph 4 below)—

- (a) any gift to the candidate or his election agent of money or other property;
- (b) any sponsorship provided in relation to the candidate (as defined by paragraph 3 below);
- (c) any money spent (otherwise than by the candidate, his election agent or any sub-agent) in paying any election expenses incurred by or on behalf of the candidate;
- (d) any money lent to the candidate or his election agent otherwise than on commercial terms;
- (e) the provision otherwise than on commercial terms of any property, services or facilities for the use or benefit of the candidate (including the services of any person).

(2) Where—

- (a) any money or other property is transferred to a candidate or his election agent pursuant to any transaction or arrangement involving the provision by or on behalf of the candidate of any property, services or facilities or other consideration of monetary value, and
- (b) the total value in monetary terms of the consideration so provided by or on behalf of the candidate is less than the value of the money or (as the case may be) the market value of the property transferred,

the transfer of the money or property shall (subject to sub-paragraph (4) below) constitute a gift to the candidate or (as the case may be) his election agent for the purposes of sub-paragraph (1)(a) above.

(3) In determining—

- (a) for the purposes of sub-paragraph (1)(d) above, whether any money lent to a candidate or his election agent is so lent otherwise than on commercial terms, or
- (b) for the purposes of sub-paragraph (1)(e) above, whether any property, services or facilities provided for the use or benefit of a candidate is or are so provided otherwise than on such terms,

regard shall be had to the total value in monetary terms of the consideration provided by or on behalf of the candidate in respect of the loan or the provision of the property, services or facilities.

(4) Where (apart from this sub-paragraph) anything would be a donation both by virtue of sub-paragraph (1)(b) above and by virtue of any other provision of this paragraph, sub-paragraph (1)(b) (together with paragraph 3 below) shall apply in relation to it to the exclusion of the other provision of this paragraph.

(5) The reference in sub-paragraph (1)(c) above to money spent as mentioned in that provision is a reference to money so spent by a person, other than the candidate, his election agent or any sub-

⁽⁶⁷⁾ Schedule 2A was inserted by section 130 of, and Schedule 16 to, the 2000 Act.

⁽⁶⁸⁾ Section 54(2) was amended by Regulation 11(b) of the 2001 Regulations.

⁽⁶⁹⁾ Schedule 2A was inserted by section 130 of, and Schedule 16 to, the 2000 Act.

agent, out of his own resources (with no right to reimbursement out of the resources of any such other person); and where, by virtue of sub-paragraph (1)(c) above, money so spent constitutes a donation to the candidate, the candidate shall be treated as receiving an equivalent amount on the date on which the money is paid to the creditor in respect of the expenses in question.

(6) In this paragraph—

- (a) any reference to anything being given or transferred to a candidate or his election agent includes a reference to its being given or transferred either directly or indirectly through any third person;
- (b) “gift” includes a bequest or any other form of testamentary disposition.

Sponsorship

3.—(1) For the purposes of this Schedule sponsorship is provided in relation to a candidate if—

- (a) any money or other property is transferred to the candidate or to any person for the benefit of the candidate, and
- (b) the purpose (or one of the purposes) of the transfer is (or must, having regard to all the circumstances, reasonably be assumed to be)—
 - (i) to help the candidate with meeting, or to meet, to any extent any defined expenses incurred or to be incurred by or on behalf of the candidate, or
 - (ii) to secure that to any extent any such expenses are not so incurred.

(2) In sub-paragraph (1) above “defined expenses” means expenses in connection with—

- (a) any conference, meeting or other event organised by or on behalf of the candidate,
- (b) the preparation, production or dissemination of any publication by or on behalf of the candidate, or
- (c) any study or research organised by or on behalf of the candidate.

(3) The following do not, however, constitute sponsorship by virtue of sub-paragraph (1) above—

- (a) the making of any payment in respect of—
 - (i) any charge for admission to any conference, meeting or other event, or
 - (ii) the purchase price of, or any other charge for access to, any publication;
- (b) the making of any payment in respect of the inclusion of an advertisement in any publication where the payment is made at the commercial rate payable for the inclusion of such an advertisement in any such publication.

(4) In this paragraph “publication” means a publication made available in whatever form and by whatever means (whether or not to the public at large or any section of the public).

Payments etc not to be regarded as donations

4.—(1) None of the following shall be regarded as a donation—

- (a) the provision of any facilities provided in pursuance of any right conferred on a candidate at an election by these Regulations;
- (b) the provision by an individual of his own services which he provides voluntarily in his own time and free of charge;
- (c) any interest accruing to a candidate or his election agent in respect of any donation which is dealt with by the candidate or (as the case may be) his election agent in accordance with section 56(2)(a) or (b) of the 2000 Act (as applied by paragraph 7 below).

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(2) There shall also be disregarded any donation whose value (determined in accordance with paragraph 5 below) is not more than £50.

Value of donations

5.—(1) The value of any donation falling within paragraph 2(1)(a) above (other than money) shall be taken to be the market value of the property in question.

(2) Where, however, paragraph 2(1)(a) above applies by virtue of paragraph 2(2) above, the value of the donation shall be taken to be the difference between—

- (a) the value of the money, or the market value of the property, in question, and
- (b) the total value in monetary terms of the consideration provided by or on behalf of the candidate or his election agent.

(3) The value of any donation falling within paragraph 2(1)(b) above shall be taken to be the value of the money, or (as the case may be) the market value of the property, transferred as mentioned in paragraph 3(1) above; and accordingly any value in monetary terms of any benefit conferred on the person providing the sponsorship in question shall be disregarded.

(4) The value of any donation falling within paragraph 2(1)(d) or (e) above shall be taken to be the amount representing the difference between—

- (a) the total value in monetary terms of the consideration that would have had to be provided by or on behalf of the candidate or his election agent in respect of the loan or the provision of the property, services or facilities if—
 - (i) the loan had been made, or
 - (ii) the property, services or facilities had been provided, on commercial terms, and
- (b) the total value in monetary terms of the consideration (if any) actually so provided by or on behalf of the candidate or his election agent.

(5) Where a donation such as is mentioned in sub-paragraph (4) above confers an enduring benefit on the donee over a particular period, the value of the donation—

- (a) shall be determined at the time when it is made, but
- (b) shall be so determined by reference to the total benefit accruing to the donee over that period.

(6) In this paragraph “market value” in relation to any property, means the price which might reasonably be expected to be paid for the property on a sale in the open market.

PART 2

CONTROLS ON DONATIONS

Prohibition on accepting donations from impermissible donors

6.—(1) A relevant donation received by an individual candidate or his election agent must not be accepted if—

- (a) the person by whom the donation would be made is not, at the time of its receipt by the candidate or (as the case may be) his election agent, a permissible donor falling within section 54(2) of the 2000 Act; or

- (b) the candidate or (as the case may be) his election agent is (whether because the donation is given anonymously or by reason of any deception or concealment or otherwise) unable to ascertain the identity of the person offering the donation.

(2) For the purposes of this Schedule any relevant donation received by a candidate or his election agent which is an exempt trust donation shall be regarded as a relevant donation received by the candidate or his election agent from a permissible donor; and section 162 of the 2000 Act (interpretation: exempt trust donations) shall apply for the purposes of this Schedule as it applies for the purposes of that Act.

(3) But, for the purposes of this Schedule, any relevant donation received by a candidate or his election agent from a trustee of any property (in his capacity as such) which is not—

- (a) an exempt trust donation, or
- (b) a relevant donation transmitted by the trustee to the candidate or his election agent on behalf of beneficiaries under the trust who are—
 - (i) persons who at the time of its receipt by the candidate or his election agent are permissible donors falling within section 54(2) of the 2000 Act, or
 - (ii) the members of an unincorporated association which at that time is such a permissible donor,

shall be regarded as a relevant donation received by the candidate or his election agent from a person who is not such a permissible donor.

(4) Where any person (“the principal donor”) causes an amount (“the principal donation”) to be received by a candidate or his election agent by way of a relevant donation—

- (a) on behalf of himself and one or more other persons, or
- (b) on behalf of two or more other persons,

then for the purposes of this Part each individual contribution by a person falling within paragraph (a) or (b) of more than £50 shall be treated as if it were a separate donation received from that person.

(5) In relation to each such separate donation, the principal donor must ensure that, at the time when the principal donation is received by the candidate or his election agent, the candidate or (as the case may be) his election agent is given—

- (a) (except in the case of a donation which the principal donor is treated as making) all such details in respect of the person treated as making the donation as are required by virtue of paragraph 11(c) below; and
- (b) (in any case) all such details in respect of the donation as are required by virtue of paragraph 11(a) below.

(6) Where—

- (a) any person (“the agent”) causes an amount to be received by a candidate or his election agent by way of a donation on behalf of another person (“the donor”), and
- (b) the amount of the donation is more than £50,

the agent must ensure that, at the time when the donation is received by the candidate or his election agent, the candidate or (as the case may be) his election agent is given all such details in respect of the donor as are required by virtue of paragraph 11(c) below.

(7) A person commits an offence if, without reasonable excuse, he fails to comply with sub-paragraph (5) or (6) above.

(8) A person guilty of an offence under sub-paragraph (7) shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum or to a term of imprisonment not exceeding 6 months (or both);

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- (b) on conviction on indictment, to a fine or to a term of imprisonment not exceeding one year (or both).
- (9) In the application of this paragraph to an individual candidate (or his election agent) at an election in the combined region—
 - (a) the references in sub-paragraphs (1)(a) and (3)(b)(i) to a permissible donor falling within section 54(2) include references to persons listed in section 54(2A)(a) to (g) of the 2000 Act;
 - (b) in sub-paragraph (3)(b)(ii) the reference to an unincorporated association which is a permissible donor includes a reference to an unincorporated association falling within section 54(2A)(g) of the 2000 Act; and
 - (c) in sub-paragraph (2) and (3)(a) the references to an exempt trust donation include a reference to an exempt Gibraltar trust donation (within the meaning of section 162 of the 2000 Act).

Acceptance or return of donations

7.—(1) Sections 56 to 60 of the 2000 Act shall apply for the purposes of this Schedule in relation to—

- (a) a relevant donation received by a candidate or his election agent, and
- (b) the candidate or (as the case may be) the election agent,

as they apply in relation to a donation received by a registered party and the registered party.

(2) In the application of sections 56 to 60 of that Act in accordance with sub-paragraph (1)—

- (a) section 56(1) shall have effect as if the reference to the particulars relating to a donor which would be required to be included in a donation report by virtue of paragraph 2 of Schedule 6 (if the donation were a recordable donation within the meaning of that Schedule) were construed as a reference to the particulars which are required to be included in a return by virtue of paragraph 11(c) below;
- (b) section 56(3) shall have effect as if the reference to the party were omitted and the reference to the treasurer of the party were construed as a reference to the candidate or (as the case may be) his election agent; and
- (c) section 56(4) shall have effect as if the reference to the treasurer of the party were construed as a reference to the candidate or (as the case may be) his election agent.

Transfer of donations received by candidate to election agent

8.—(1) Sub-paragraph (2) below applies in relation to any relevant donation received by a candidate after the deadline for appointing an election agent (unless the candidate is, or is deemed to be, his own election agent at the time of receipt of the donation).

(2) The candidate shall, on receipt of any such donation as is mentioned in sub-paragraph (1) above, forthwith deliver to his election agent—

- (a) the donation,
- (b) where paragraph 6(5) or (6) above applies in relation to the donation, the information provided to the candidate in pursuance of that provision, and
- (c) any other information which the candidate has about the donation and its donor which might reasonably be expected to assist the election agent in the discharge of any duties imposed on him, in relation to the donation, under this Part or Part 3 of this Schedule.

(3) Where a donation is delivered to an election agent in accordance with sub-paragraph (2) above, the donation shall be treated for the purposes of paragraph 6(1) to (4) above and the provisions applied by paragraph 7 above as if it had been—

- (a) originally received by the election agent, and
- (b) so received by him on the date on which it was received by the candidate.

(4) Where a candidate receives a relevant donation before the deadline for appointing an election agent but at a time when an appointment of a person (other than the candidate himself) as election agent is in force he shall either—

- (a) forthwith deliver the donation and the information mentioned in sub-paragraph (2)(b) and (c) above to the agent, or
- (b) (if he fails to do so) deal with the donation in accordance with section 56 of the 2000 Act.

(5) Sub-paragraph (3) above shall have effect in relation to any relevant donation delivered to an election agent in accordance with sub-paragraph (4)(a) above as it has effect in relation to a donation delivered to him in accordance with sub-paragraph (2) above.

(6) Sub-paragraph (7) below applies where—

- (a) a relevant donation received by a candidate before the deadline for appointing an election agent has been dealt with by the candidate in accordance with section 56 of the 2000 Act either because—
 - (i) it was received by him at a time when no appointment of another person as his election agent was in force, or
 - (ii) although such an appointment was in force, he was by virtue of sub-paragraph (4)(b) required to deal with the donation; and
- (b) an appointment of a person (other than the candidate himself) as election agent is in force at, or at any time after—
 - (i) the deadline for appointing an election agent, or
 - (ii) if later, the time when the candidate has dealt with the donation in accordance with section 56 of the 2000 Act.

(7) Subject to sub-paragraph (9) below, the candidate shall, as soon as reasonably practicable after the relevant time, deliver to the election agent—

- (a) the donation (if it has been accepted by him), and
- (b) any information which he has about the donation and the donor which might reasonably be expected to assist the election agent in the discharge of any duties imposed on him, in relation to the donation, under Part 3 of this Schedule.

(8) The relevant time for the purposes of sub-paragraph (7) above is—

- (a) the time mentioned in sub-paragraph (6)(b)(i) or (ii) (as the case may be) if the appointment of another person as election agent is in force at that time, or
- (b) otherwise, the time when any such appointment subsequently comes into force.

(9) The duty imposed on a candidate by sub-paragraph (7)(a) above does not apply to any relevant donation to the extent to which it has been lawfully used by the candidate for the purpose of paying election expenses.

(10) In this paragraph—

- (a) any reference to the deadline for appointing an election agent is a reference to the latest time by which an election agent may in accordance with regulation 38(1) be named as election agent by the candidate; and

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- (b) any reference to any provision of section 56 of the 2000 Act is a reference to that provision as applied by paragraph 7 above.

Evasion of restrictions on donations

- 9. Section 61 of the 2000 Act shall apply for the purposes of this Schedule as if—
 - (a) any reference to donations were to relevant donations;
 - (b) any reference to a registered party were, in relation to a relevant donation, a reference to an individual candidate or (as the case may be) his election agent; and
 - (c) any reference in subsection (2) to the treasurer of a registered party were, in relation to a relevant donation, a reference to either the candidate or his election agent (or both).

PART 3

REPORTING OF DONATIONS

Statement of relevant donations

10. The candidate’s election agent must include in any return required to be delivered under regulation 51 a statement of relevant donations which complies with paragraphs 11 and 12 below.

Donations from permissible donors

- 11. The statement must record, in relation to each relevant donation accepted by the candidate or his election agent—
 - (a) the amount of the donation (if a donation of money, in cash or otherwise) or (in any other case) the nature of the donation and its value as determined in accordance with paragraph 5 above;
 - (b) the date when the donation was accepted by the candidate or his election agent;
 - (c) the information about the donor which is, in connection with recordable donations to registered parties, required to be recorded in donation reports by virtue of paragraph 2 of Schedule 6 to the 2000 Act; and
 - (d) such other information as may be required by regulations made by the Commission.

Donations from impermissible donors

- 12.—(1) This paragraph applies to relevant donations falling within paragraph 6(1)(a) or (b) above.
- (2) Where paragraph 6(1)(a) above applies, the statement must record—
 - (a) the name and address of the donor;
 - (b) the amount of the donation (if a donation of money, in cash or otherwise) or (in any other case) the nature of the donation and its value as determined in accordance with paragraph 5 above;
 - (c) the date when the donation was received, and the date when, and the manner in which, it was dealt with in accordance with section 56(2)(a) of the 2000 Act; and
 - (d) such other information as is required by regulations made by the Commission.
- (3) Where paragraph 6(1)(b) above applies, the statement must record—
 - (a) details of the manner in which the donation was made;

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- (b) the amount of the donation (if a donation of money, in cash or otherwise) or (in any other case) the nature of the donation and its value as determined in accordance with paragraph 5 above;
 - (c) the date when the donation was received, and the date when, and the manner in which, it was dealt with in accordance with section 56(2)(b) of the 2000 Act; and
 - (d) such other information as is required by regulations made by the Commission.
- (4) In this paragraph any reference to any provision of section 56 of the 2000 Act is a reference to that provision as applied by paragraph 7 above.

SCHEDULE 7

Regulation 51

DECLARATION AS TO ELECTION EXPENSES

FORM OF DECLARATION

*[General election of MEPs on *(insert date of poll)*]

*[European Parliamentary election in electoral region on *(insert date of poll)*]

[Name of candidate]

I solemnly and sincerely declare as follows:-

1. I am the person named above as a candidate at this election (and was my own election agent) or was at this election the election agent of the person named above as a candidate.
2. I have examined the return of election expenses (about to be) delivered by my election agent (by me) to the returning officer, of which a copy is now shown to me and marked, and to the best of my knowledge and belief it is a complete and correct return as required by law.
3. To the best of my knowledge and belief, all expenses shown in the return as paid were paid by my election agent (by me), except as otherwise stated.

Signature of declarant

Signed and declared by the above named declarant on the day of before me,

(Signed)

(NOTE:- Where there has been a change of election agent, suitable variations may be introduced into the declaration as to expenses.)

SCHEDULE 8

Regulation 66

USE FOR EUROPEAN PARLIAMENTARY ELECTION MEETINGS OF ROOMS IN SCHOOL PREMISES AND OF MEETING ROOMS

1. Any arrangements for the use of a room in school premises shall be made with the local education authority maintaining the school or, in the case of a room in the premises of a foundation or voluntary aided school, with the governing body of the school.

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2. Any question as to the rooms in school premises which a candidate in any local counting area is entitled to use, or as to the times at which he is entitled to use them, or as to the notice which is reasonable, shall be determined by the Secretary of State.

3. Any person stating himself to be, or to be authorised by, a candidate or the election agent of a registered party or an individual candidate shall be entitled at all reasonable hours to inspect the lists of rooms in school premises and of meeting rooms prepared under Schedule 5 to the 1983 Act, or a copy of those lists.

4. In the application of this Schedule to Scotland, for any reference to a local education authority substitute a reference to an education authority.

5. In the application of this Schedule to Gibraltar—

- (a) in paragraph 1, for the reference to the local education authority substitute a reference to the Department of Education and Training;
- (b) in paragraph 2, for the reference to the Secretary of State substitute a reference to the Government of Gibraltar;
- (c) for paragraph 3, substitute the following paragraph—

“3.—(1) The Department of Education and Training shall prepare and revise lists of the rooms in school premises in Gibraltar which candidates are entitled to use.

(2) The Government of Gibraltar shall prepare and revise lists of the meeting rooms in Gibraltar which candidates are entitled to use, and the list shall—

- (a) indicate the person to whom applications for the use of the room are to be made in each case; and
- (b) not include any room if the person maintaining it disputes the right of candidates to use it.

(3) The list of rooms in school premises and of meeting rooms prepared under sub-paragraphs (1) and (2) shall be kept by the European Parliamentary electoral registration officer for Gibraltar, and those lists and particulars of any change made on their revision shall be forwarded to him accordingly.

(4) Any person stating himself to be, or to be authorised by, a candidate or the election agent of a registered party or an individual candidate shall be entitled at all reasonable hours to inspect the lists of rooms in school premises and of meeting rooms prepared under this paragraph.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply to England, Wales, Scotland and Gibraltar. They revoke the European Parliamentary Elections Regulations 1999.

Those Regulations made provision dealing with the conduct of the elections, supplementary provisions about the election campaign and registered parties and about what happens where there is a vacancy. They applied the provisions of the Representation of the People Acts and

regulations made under them with appropriate modifications, for the purposes of the conduct of European Parliamentary elections and related matters, including the consequences of irregularities and challenges to the result.

Many of the provisions of these Regulations are similar in effect to provisions which were made for the European Parliamentary elections of 1999. However, they also take into account changes in legislation since that time, including the effects of the Political Parties, Elections and Referendums Act 2000, the Representation of the People Act 2000 and the European Parliament (Representation) Act 2003.

By virtue of the European Parliament (Representation) Act 2003, provision is made to enable Gibraltar electors, for the first time, to vote in European Parliamentary elections. This requires a number of modifications throughout the Regulations to take account of practical differences. At Schedule 4 provision is also made in relation to the entitlement to vote in Gibraltar and to be on the Gibraltar register of European Parliamentary electors. In addition, a Gibraltar Ordinance will make provision about the maintenance of the Gibraltar register.

Provisions covering absent voting in parliamentary and local government elections have been revised since the last European Parliamentary elections, by the Representation of the People Act 2000, the Representation of the People (England and Wales) Regulations 2001 and the Representation of the People (Scotland) Regulations 2001. Those changes enabled electors to vote by post more easily and these Regulations reflect those changes, taking a similar approach for European Parliamentary elections.

It is expected that 10 further states will have become part of the European Union by the time of the European Parliamentary election in June 2004. Citizens of those States who are resident in the United Kingdom are to be enabled to vote in those elections, in pursuance of Council Directive [93/109/EC](#). That Directive provides for citizens of the Union to be able to vote in the Member States in which they reside under similar conditions to the nationals of the State in which they reside. A Transposition Note laid before Parliament with these Regulations sets this out, and how it has been transposed under section 2(2) of the European Communities Act 1972, in more detail. Schedule 5 makes provision about the citizens of Accession States. Other provisions made specifically giving effect to that Directive in relation to existing citizens of the European Union are in regulations 17(2)(b)(iv) and 28(1), rule 9 of Schedule 1, the references to that rule in rules 13(1) and (5)(c), and in paragraphs 12(3)(e), 18(d), 19(1)(b) and 20(1) and (5) of Schedule 4.

The Rules relating to verification and counting of the votes and notification of the local result take into account the amendments to the Act concerning the election of the representatives of the European Parliament by direct universal suffrage, annexed to Council Decision [77/787/ECSC](#), EEC, Euratom to be made by Council Decision [2002/772/EC](#). Once those amendments are in force it will be possible to commence counting the votes before the close of the poll in other Member States, although the result will not be made available to the public until after all polls have closed across Europe.

Other changes as a result of legislation subsequent to the 1999 European Parliamentary elections include: publication of exit polls before the close of poll will be an offence, liable to fine or imprisonment (*regulation 30*); as the Political Parties, Elections and Referendums Act 2000 now controls campaign expenditure by political parties, the Regulations control the election expenses of individual candidates only (*Part 2*); controls on broadcasting in the amended section 93 of the Representation of the People Act 1983 will be reflected (*regulation 64*); provision is made for a tactile voting device to assist visually impaired voters, and for large-print display ballot papers and assistance for voters who are physically incapacitated or unable to read (*Schedule 1, rules 30 and 40*); and postal voters will be permitted to return postal ballot papers by hand to polling stations in the local counting area (*Schedule 2, rule 41*).

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The Regulations refer to a number of Gibraltar Ordinances. They can be obtained from: Publications, Government Secretariat, No 6 Convent Place, Gibraltar. Telephone: 00 350 47932. Fax: 00 350 74524. email: legisunit2@gibnynex.gi