STATUTORY INSTRUMENTS

2004 No. 293

The European Parliamentary Elections Regulations 2004

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.

Interpretation

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

"1983 Act" means the Representation of the People Act 1983(**1**);

"1985 Act" means the Representation of the People Act 1985(**2**);

"1986 (Scotland) Regulations" means the Representation of the People (Scotland) Regulations 1986(**3**);

"2000 Act" means the Political Parties, Elections and Referendums Act 2000(**4**);

"2001 Franchise Regulations" means the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001(**5**);

"2001 Regulations" means the Representation of the People (England and Wales) Regulations 2001(**6**);

"2001 (Scotland) Regulations" means the Representation of the People (Scotland) Regulations 2001(**7**);

"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,

(**1**) 1983 c. 2.
(**2**) 1985 c. 50
(**3**) S.I.1986/1111 (S. 93), to which there are amendments not relevant to these Regulations.
(**4**) 2000 c. 41; which was amended by S.I. 2004/366.
(**5**) S.I. 2001/1184, which was amended by S.I. 2003/1557. Other amendments are not relevant to these Regulations.
(**6**) S.I. 2001/341, which was amended by 2002/881 and S.I. 2001/1700. Other amendments are not relevant to these Regulations.
(**7**) 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.

(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(**8**);

"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(**9**), and "relevant citizen of the Union" means such a citizen who is not a Commonwealth citizen or a citizen of the Republic of Ireland;

"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(**10**);

"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(**11**);

"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;

(**8**) O. J. L 278, 08.10.1976, p. 21 (Cmnd. 6623).
(**9**) The reference to the Treaty is to it as renumbered in accordance with the Treaty of Amsterdam (Cmnd. 3780).
(**10**) S.I. 2004/294.
(**11**) Section 3 was amended by Schedule 2 to the Representation of the People Act 2000 (c. 2).

"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(**12**);

"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;

"person" includes (without prejudice to the provisions of the Interpretation Act 1978(**13**)) 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(**14**), or in Scotland section 235(5) of the Local Government (Scotland) Act 1973(**15**);

"referendum" means a referendum conducted under the Local Authorities (Conduct of Referendums) (England) Regulations 2001(**16**);

"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(**17**),

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(**18**) or, in relation to Gibraltar, the clerk of the House of Assembly of Gibraltar(**19**);

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

(**12**) S.I. 2002/185; which was amended by S.I. 2004/225.
(**13**) 1978 c. 30.
(**14**) 1972 c. 70.
(**15**) 1973 c. 65.
(**16**) S.I. 2001/1298; which was amended by S.I. 2004/226.
(**17**) *See* section 14(1) of the European Parliament (Representation) Act 2003 (c. 7).
(**18**) 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).
(**19**) *See* section 14(2) of the European Parliament (Representation) Act 2003 (c. 7).

"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(**20**) 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(**21**); 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).

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—

(**20**) O.J. L 236, 23.09.2003.
(**21**) 2000 c. 26.

(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(**22**);

"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(**23**);

"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.

(**22**) 1972 c. 70.
(**23**) 1994 c. 39.

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—

(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(**24**) 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.

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

(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.

(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(**25**),

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

(**25**) 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).

(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.

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(**26**) 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 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.

(**26**) 1946 c. 36.

(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(**27**), 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(**28**).

(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,

(**27**) Section 13 was amended by paragraphs 1 and 6 of Schedule 1 to the Representation of the People act 2000 (c. 2).
(**28**) Section 4 was amended by section 1(2) of the Representation of the People act 2000 (c. 2).

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)—

(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.