

Draft Regulations laid before Parliament under section 201(2) of the Representation of the People Act 1983, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2023 No. 000

**REPRESENTATION OF THE
PEOPLE, NORTHERN IRELAND**

**The Representation of the People (Franchise Amendment
and Eligibility Review) (Northern Ireland) Regulations 2023**

Made - - - -

Coming into force in accordance with regulation 1(2)

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 10A(6), (7) and (9), 13(1), 53(1) and (3), 58(2)(a), 201(3) and 202(1) of, and paragraphs 1(2) and 3A(1), (2) and (3) of Schedule 2 to, the Representation of the People Act 1983(1).

The Secretary of State has consulted the Electoral Commission, in accordance with section 7(1) and (2)(e) of the Political Parties, Elections and Referendums Act 2000(2).

A draft of these Regulations has been laid before and approved by a resolution of each House of Parliament in accordance with section 201(2) of the Representation of the People Act 1983(3).

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- (1) 1983 c. 2. Section 10A was inserted by paragraph 4 of Schedule 1 to the Representation of the People Act 2000 (c. 2) and section 10A(6) was amended by paragraph 10(10) of Schedule 4 to Electoral Registration and Administration Act 2013 (c. 6). Section 13 was substituted by paragraph 6 of Schedule 1 to the Representation of the People Act 2000 (c. 2) (“the RPA 2000”), and subsection (1) was further substituted by section 5 of the Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33). See section 202(1) for the meaning of “prescribed” in section 13(1). Section 53(1) was amended by paragraph 13 of Schedule 1 to the RPA 2000 and by paragraph 1 of Schedule 2 to the Elections Act 2022 (c. 37). Section 53(3) was amended by paragraph 13 of Schedule 4 to the Representation of the People Act 1985 (c. 50). Section 201(3) was inserted by paragraph 21 of Schedule 1 to the RPA 2000 and was amended by paragraph 6 of Schedule 21 to the Political Parties, Elections and Referendums Act 2000 (c. 41). Paragraph 1(2) of Schedule 2 was amended by paragraph 24(2) of Schedule 1 to the RPA 2000 and by paragraph 20(2) of Schedule 4 to the 2013 Act. Paragraph 3A of Schedule 2 was substituted by paragraph 6 of Schedule 2 to the Elections Act 2022 (c. 37).
- (2) 2000 c. 41.
- (3) Section 201(2) was substituted by paragraph 69 of Schedule 4 to the Representation of the People Act 1985 (c. 50) and was amended by paragraph 6(1) and (7)(b) of Schedule 21 to the Political Parties, Elections and Referendums Act 2000 (c. 41); by section 13 of the Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13); by paragraph 1(9) of Schedule 8 to the Elections Act 2022 (c. 37); and by S.I. 1991/1728.

PART 1

Introduction

Citation, commencement, extent and savings

1.—(1) These Regulations may be cited as the Representation of the People (Franchise Amendment and Eligibility Review) (Northern Ireland) Regulations 2023.

(2) This regulation comes into force on the day after the day on which these Regulations are made and the remainder of these Regulations come into force on 7th May 2024.

(3) These Regulations extend to Northern Ireland only.

(4) The amendments made by regulations 18 and 19 do not apply to an application under section 10A(1)(a) or 13A(1)(a)(4) of the 1983 Act made before 7th May 2024.

Interpretation: general

2. In these Regulations—

“1983 Act” means the Representation of the People Act 1983;

“2008 Regulations” means the Representation of the People (Northern Ireland) Regulations 2008(5);

“Chief Electoral Officer” means the Chief Electoral Officer for Northern Ireland.

PART 2

Review of registration entitlement of relevant citizens of the Union in Northern Ireland

CHAPTER 1

Interpretation

Interpretation of Part 2

3. In this Part—

“notification of possible removal” has the meaning given by regulation 8(2);

“relevant person” means a relevant citizen of the Union(6) (“C”) who meets either of the following conditions—

(a) that, on the coming into force of this Part, C—

(i) is registered in a register of local electors in Northern Ireland, or

(ii) is a person whom the Chief Electoral Officer is required to enter in such a register in accordance with section 13A of the 1983 Act, or

(b) that C has submitted an application under section 13A(1)(a) of the 1983 Act for registration in a register of local electors before the coming into force of this Part, and that application is granted on or after the coming into force of this Part;

(4) Section 13A was substituted by paragraph 6 of Schedule 1 to the Representation of the People Act 2000 (c. 2). Section 13A(1) was amended by para.12(2)(b) of Schedule 4 to the Electoral Registration and Administration Act 2013 (c. 6).

(5) S.I. 2008/1741; relevant amending instruments are S.I. 2014/1808, S.I. 2018/699 and 2018/1310.

(6) “Relevant citizen of the Union” is defined in section 202(1) of the Representation of the People Act 1983 (c. 2). The definition was inserted by S.I. 1995/1948.

“revised registration criteria” means the criteria for registration set out in section 4(3)(c) of the 1983 Act(7).

Meaning of “address” in specified circumstances

- 4.—(1) This regulation applies where a relevant person is registered pursuant to—
- (a) a declaration of local connection under section 7B of the 1983 Act(8),
 - (b) an application for anonymous entry under section 9B(9) of the 1983 Act, or
 - (c) a service declaration(10).
- (2) Where this regulation applies, references in this Part to the relevant person’s address are to—
- (a) for a person who has made a declaration of local connection, the address stated by the person in that declaration pursuant to section 7B(3)(a)(i) of the 1983 Act, or the address of the Chief Electoral Officer’s office (as the case may be);
 - (b) for a person who is registered pursuant to an application for anonymous entry, the address given pursuant to regulation 27(1)(b) or 38A(6) of the 2008 Regulations (as the case may be);
 - (c) for a person who is registered pursuant to a service declaration, the address stated in the service declaration.

CHAPTER 2

Review of registration entitlement of relevant citizens of the Union in Northern Ireland

Duty to determine whether relevant citizens of the Union satisfy the revised registration criteria

5.—(1) The Chief Electoral Officer must, in accordance with regulations 6 to 14, determine in the case of each relevant person whether the person satisfies the revised registration criteria.

(2) Subject to paragraphs (3) and (4), the Chief Electoral Officer must make the determination by the end of 31st January 2025.

- (3) Paragraph (2) does not apply where at the end of 31st January 2025—
- (a) the Chief Electoral Officer has requested information from a relevant person under regulation 10, and the date for response specified in that request has not yet passed,
 - (b) the 14-day period within which the relevant person may require a review hearing following notification from the Chief Electoral Officer pursuant to regulation 12 has not yet expired, or
 - (c) the relevant person has required a hearing pursuant to regulation 12(4), and—
 - (i) the review has not yet been heard, or
 - (ii) the review has been heard but the subject of the review has not been notified of the outcome of the review,

(7) Section 4(3) was amended by paragraph 1 of Schedule 8 to the Elections Act 2022 (c. 2) and is applied with modifications to local elections in Northern Ireland by section 2 of, and Schedule 1 to, the Elected Authorities (Northern Ireland) Act 1989 (c. 3).

(8) Section 7B was inserted by section 6 of the Representation of the People Act 2000 (c. 2) and is applied with modifications to local elections in Northern Ireland by section 2 of, and Schedule 1 to, the Elected Authorities (Northern Ireland) Act 1989 (c. 3). Section 7B was amended by section 14(1)(a)(ii) of the Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), by paragraph 1(3) of Schedule 8 to the Elections Act 2022 and by S.I. 2007/1388.

(9) Section 9B was inserted by section 10(1) of the Electoral Administration Act 2006 (c. 22) and was amended by paragraph 7 of Schedule 4 to the Electoral Registration and Administration Act 2013 (c. 6).

(10) See section 202(1) of the 1983 Act for the meaning of “service declaration”.

and in consequence the Chief Electoral Officer has not made a determination.

(4) Where paragraph (3) applies, the Chief Electoral Officer must make the determination specified in paragraph (1) as soon as reasonably practicable after 31st January 2025.

(5) Nothing in this Chapter prevents the Chief Electoral Officer from reviewing the eligibility of a relevant person to be or to remain registered in accordance with section 10A of the 1983 Act for reasons other than that they are a relevant person.

Procedure for reviewing entitlement to registration – data-based review

6.—(1) The Chief Electoral Officer must in the case of each relevant person conduct a review to determine whether they continue to be a person who satisfies the revised registration criteria.

(2) As part of a review under paragraph (1), the Chief Electoral Officer may consider (amongst other things) any information provided in accordance with regulation 27(1)(caa)(11) of the 2008 Regulations as part of an application received from a relevant person pursuant to section 13A(1)(a) of the 1983 Act.

Procedure for reviewing entitlement to registration – correspondence-based review

7.—(1) Subject to paragraph (2), where the Chief Electoral Officer is not satisfied following a review under regulation 6 that a relevant person satisfies the revised registration criteria, the Chief Electoral Officer must—

- (a) give notice to that person containing the information specified at paragraph (3) (a “first review notice”), and
- (b) enter the review in the list kept pursuant to regulation 37 of the 2008 Regulations.

(2) Where the relevant person is registered pursuant to—

- (a) a declaration of local connection under section 7B of the 1983 Act,
- (b) an application for anonymous entry under section 9B of the 1983 Act, or
- (c) a service declaration,

and the date on which the relevant person’s entitlement to remain registered under (as the case may be) section 7C, 9C or 15 of the 1983 Act(12) expires is before the end of 31st January 2025, paragraph (1) is to be read as if for “must” there were substituted “may”.

(3) A first review notice must—

- (a) explain that the criteria under section 4(3) to (6) of the 1983 Act by which a citizen of a member State is eligible to be registered in the register of local electors have changed,
- (b) state that the Chief Electoral Officer is not satisfied that the relevant person remains entitled to be registered, and the grounds for the Chief Electoral Officer’s opinion,
- (c) specify any further information relating to whether that person satisfies the revised registration criteria that the Chief Electoral Officer requests the relevant person to provide,
- (d) provide information on how the relevant person may respond to the request for information, and

(11) Regulation 27(1)(caa) of the 2008 Regulations is inserted by regulation 18 of this instrument.

(12) Section 7C was inserted by section 6 of the Representation of the People Act 2000 (c. 2) and amended by section 14 of the Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), by section 12 of the Electoral Administration Act 2006 (c. 22), and by paragraph 4 of Schedule 4 to the Electoral Registration and Administration Act 2013 (c. 6). Section 9C was inserted by section 10(1) of the Electoral Administration Act 2006 and amended by paragraph 8 of Schedule 4 to the Electoral Registration and Administration Act 2013. Section 15 was amended by paragraph 8 of Schedule 1 to the Representation of the People Act 2000; by sections 12(7) and 13(1) of the Electoral Administration Act 2006; by paragraph 15 of Schedule 4 to the Electoral Registration and Administration Act 2013, by paragraph 1(4) of Schedule 8 to the Elections Act 2022 (c. 37) and by S.I. 1995/1948.

- (e) state that it is an offence to provide false information to the Chief Electoral Officer, and the maximum penalty for that offence.
- (4) Paragraph (5) applies where—
 - (a) the Chief Electoral Officer gives a first review notice to a relevant person, and
 - (b) that person does not respond within a reasonable time from the date on which that notice is given.
- (5) The Chief Electoral Officer must give a further notice to the relevant person, setting out the same information as at paragraph (3) (a “second review notice”).
- (6) Subject to paragraph (7), a first or second review notice may be given to a relevant person either—
 - (a) by sending it to the person’s address, or
 - (b) by electronic means.
- (7) Where the first review notice was given to a relevant person by electronic means, the second review notice must be sent to the person’s address.
- (8) The Chief Electoral Officer may contact the relevant person, either by telephone or by visiting the address to which a first or second review notice was delivered, in order to—
 - (a) obtain information requested in the notice, or
 - (b) encourage the relevant person to provide the information requested.

Notification of possible removal in the event of non-response

- 8.**—(1) Paragraph (2) applies where—
- (a) the Chief Electoral Officer has given a second review notice to a relevant person, and
 - (b) the relevant person has not responded within a reasonable time from the date on which that notice was given.
- (2) The Chief Electoral Officer must send a notice to the relevant person (a “notification of possible removal”) which must—
- (a) include the information set out in regulation 7(3),
 - (b) state the date of issue of the notice, and
 - (c) state that if within 14 days beginning with the date of issue the Chief Electoral Officer has not received the information requested—
 - (i) the Chief Electoral Officer may determine the review and remove the person’s entry from the register, and
 - (ii) the relevant person would not be entitled to appeal against the Chief Electoral Officer’s determination.
- (3) A notification of possible removal must be delivered to the relevant person by paper communication to the person’s address, accompanied by a pre-addressed reply envelope, return postage of which must be prepaid.

Requirement to attempt personal contact with relevant person

- 9.**—(1) This regulation applies where—
- (a) the Chief Electoral Officer has issued a notification of possible removal to a relevant person,
 - (b) the relevant person is not registered pursuant to—

- (i) a declaration of local connection under section 7B of the 1983 Act,
 - (ii) an application for anonymous entry under section 9B of the 1983 Act, or
 - (iii) a service declaration,
- (c) the relevant person has not responded to the notification of possible removal, and
- (d) the Chief Electoral Officer has not previously attempted to contact the relevant person by telephone or by visiting the address.
- (2) Where this regulation applies, within 7 days beginning with the date of issue of the notification of possible removal, the Chief Electoral Officer must attempt to contact the relevant person, either by telephone or by visiting the address, in order to—
- (a) obtain information requested in the notification, or
 - (b) encourage the relevant person to provide the information requested.
- (3) Where this regulation applies, the Chief Electoral Officer must not determine that the relevant person has ceased to satisfy the registration criteria before that Officer has attempted to contact the relevant person in accordance with paragraph (2).
- (4) In this regulation, the “address” means the address to which the first or second review notice under regulation 7(1) or (5) was delivered.

Request for further information

- 10.**—(1) Paragraph (2) applies where—
- (a) the Chief Electoral Officer has sent a first or second review notice or notification of possible removal to the relevant person, and
 - (b) the relevant person has responded.
- (2) If the Chief Electoral Officer requests further information from the relevant person for the purposes of the determination under regulation 5(1), the request must state that if by a specified date that is a reasonable time after the request was issued the Chief Electoral Officer has not received the information requested—
- (a) the Chief Electoral Officer may determine the review and remove the person’s entry from the register, and
 - (b) the relevant person would not be entitled to appeal against the Chief Electoral Officer’s determination.

Confirmation of continued registration following review

- 11.**—(1) Where, in accordance with this Chapter, the Chief Electoral Officer determines that a relevant person satisfies the revised registration criteria, the Chief Electoral Officer must—
- (a) send a confirmation notice to that person in accordance with paragraph (2), and
 - (b) mark that person’s name in accordance with regulation 51(3A) of the 2008 Regulations⁽¹³⁾.
- (2) A confirmation notice under paragraph (1) must—
- (a) be sent to the person’s address, or by electronic means,
 - (b) state that the criteria under section 4(3) to (6) of the 1983 Act by which a citizen of a member State is eligible to be registered in the register of local electors have changed, and

(13) Paragraph (3A) of regulation 51 is inserted by regulation 19(c).

- (c) state that the Chief Electoral Officer has determined that the relevant person satisfies those criteria.

Procedure for removal following response to communications

12.—(1) This regulation applies where—

- (a) a relevant person has responded to a notice, notification or request under regulations 7 to 10 or has provided requested information in response to the Chief Electoral Officer making contact with that person, and
 - (b) the Chief Electoral Officer is not satisfied that the relevant person satisfies the revised registration criteria.
- (2) The Chief Electoral Officer must send a notice to the relevant person’s address, which must—
- (a) state the date of issue of the notice,
 - (b) advise that the criteria under section 4(3) to (6) of the 1983 Act by which a citizen of a member State is eligible to be registered in the register of local electors have changed,
 - (c) state that the Chief Electoral Officer is of the opinion that the relevant person does not satisfy the revised registration criteria, and the grounds for the Chief Electoral Officer’s opinion,
 - (d) state that if the relevant person does not within 14 days beginning with the date of issue notify the Chief Electoral Officer that the relevant person requires a review hearing—
 - (i) the Chief Electoral Officer may determine the review and remove the relevant person’s entry from the register, and
 - (ii) the relevant person would not be entitled to appeal against the Chief Electoral Officer’s determination in those circumstances, and
 - (e) state that after 14 days beginning with the date of issue, the relevant person can contact the Chief Electoral Officer to find out if the Chief Electoral Officer has removed the relevant person’s entry from the register.

(3) Subject to paragraph (4), where the Chief Electoral Officer has delivered the notice under paragraph (2), that Officer may determine that the relevant person does not satisfy the revised registration criteria and (if such a determination is made) remove the relevant person’s entry from the register.

(4) The Chief Electoral Officer may not make a determination under paragraph (3) if, within 14 days beginning with the date of issue of the notice mentioned in that paragraph, the relevant person notifies the Chief Electoral Officer that the person requires a hearing.

(5) Where the relevant person requires a review hearing pursuant to paragraph (4), paragraphs (2) to (7) of regulation 38 of the 2008 Regulations apply (and see also regulation 13(2)).

Notification of outcome of reviews

13.—(1) This regulation applies where the Chief Electoral Officer has sent a notice to a relevant person’s address under regulation 12(2).

(2) If, within 14 days beginning with the date of issue of the notice, the relevant person requires the review to be heard the Chief Electoral Officer must notify the relevant person in writing of the outcome of the review hearing and when doing so—

- (a) state whether there is a right of appeal under section 58(1)(b) of the 1983 Act,
- (b) specify the time within which any notice of appeal under that section must be given (in accordance with regulation 39(2) of the 2008 Regulations), and

- (c) provide such other information about the appeal as the Chief Electoral Officer considers necessary.
- (3) If the relevant person does not within those 14 days require the review to be heard—
 - (a) the Chief Electoral Officer may notify the person of the outcome of the review, and
 - (b) if the Chief Electoral Officer makes in relation to that person a determination pursuant to regulation 12(3), that Officer may inform the person that (in accordance with section 58(2)(a) of the 1983 Act) there is no right of appeal against that determination.

Confirmation of ceased registration following non-response to communications

- 14.**—(1) This regulation applies where a relevant person does not respond—
- (a) to a notification of possible removal within the period of 14 days beginning with the date of issue of that notification, or
 - (b) to a request for further information under regulation 10(2) following a notification of possible removal, by the date specified in that request.
- (2) Where this regulation applies—
- (a) the Chief Electoral Officer may determine that the relevant person does not satisfy the revised registration criteria, and
 - (b) if the Chief Electoral Officer does so, that Officer must—
 - (i) send to the relevant person’s address a notification containing the information set out in paragraph (3), and
 - (ii) remove the relevant person’s entry from the register.
- (3) A notification under paragraph (2) must—
- (a) advise that the criteria under section 4(3) to (6) of the 1983 Act by which a citizen of a member State is eligible to be registered in the register of local electors have changed,
 - (b) state that the Chief Electoral Officer has determined that the relevant person does not satisfy those criteria, and the Chief Electoral Officer’s reasoning for that determination,
 - (c) state that there is no right of appeal against that determination,
 - (d) state that the relevant person’s entry has accordingly been removed from the register and that the person may apply to register again if they consider they are eligible to do so, and
 - (e) be accompanied by an electoral registration application form and by a pre-addressed reply envelope, return postage of which must be pre-paid.

CHAPTER 3

Supplementary provisions for Chapter 2

Applications to register during correspondence-based review

- 15.**—(1) This regulation applies where the Chief Electoral Officer receives an application from a relevant person pursuant to section 13A(1)(a) of the 1983 Act—
- (a) following the sending to that relevant person in accordance with Chapter 2 of a first or second review notice, notification of possible removal or request for further information, and
 - (b) before the Chief Electoral Officer has—
 - (i) issued a notice pursuant to regulation 11(1),
 - (ii) issued a notification pursuant to regulation 14(2), or

(iii) made a determination pursuant to regulation 12(3).

(2) The Chief Electoral Officer must treat information provided within the application in accordance with regulation 27(1)(caa)(14) of the 2008 Regulations as a response to a review notice, notification of possible removal or request for information (as the case may be).

PART 3

Additional provision related to the franchise change for EU citizens

Date for publication of revised registers for 2024

16. In the application of section 13(1) of the 1983 Act to the year 2024, the date prescribed for the purposes of paragraph (a) or (as the case may be) paragraph (b) of that subsection is 1 February 2025.

PART 4

Amendments relating to applications to register by qualifying EU citizens and EU citizens with retained rights

Amendment of the 2008 Regulations

17. The 2008 Regulations are amended in accordance with this Part.

Amendment of regulation 27 (applications for registration)

18.—(1) Regulation 27 (applications for registration) is amended as follows.

(2) In paragraph (1), after sub-paragraph (ca), insert—

“(caa) in the case of an applicant who is a citizen of a Member State of the European Union that is not listed in Schedule 6A to the 1983 Act(15), other than a citizen of Cyprus, Malta or the Republic of Ireland, an indication as to whether the applicant meets the requirements set out in section 203B(1) of the 1983 Act(16);”.

(3) After paragraph (3) insert—

“(3ZA) Where the registration officer provides the form on which an application for registration is made, the form must include—

(a) the following statements—

(i) that persons without lawful immigration status are ineligible to register to vote;

(ii) that the registration officer may request checks in relation to an applicant’s immigration status against Home Office records, and that, for persons applying to register as EU citizens with retained rights only, this may include checks in relation to historical immigration status;

(b) a statement that a person is ineligible to vote unless the person is—

(i) a qualifying Commonwealth citizen,

(14) Regulation 27(1)(caa) is inserted by regulation 18(2)

(15) Schedule 6A was inserted by paragraph 1 of Schedule 8 to the Elections Act 2022 (c. 37).

(16) Section 203B was inserted by paragraph 1(11) of Schedule 8 to the Elections Act 2022.

- (ii) a citizen of the Republic of Ireland,
- (iii) a qualifying EU citizen, or
- (iv) an EU citizen with retained rights;
- (c) a statement that the registration officer may require the applicant to provide additional information in relation to nationality, may carry out checks against Government records, and that, for persons applying to register as EU citizens with retained rights only, this may include checks in relation to historical nationality.”.

Amendment of regulation 51 (marking of names)

19. In regulation 51 (marking of names)—

- (a) in paragraph (1), for “(3),” substitute “(3A),”;
- (b) omit paragraph (3);
- (c) before paragraph (5), insert—

“(3A) To indicate that a qualifying EU citizen or an EU citizen with retained rights is registered only in the register of local electors, the letter “B” shall be placed against the person’s entry.”.

Date

Name
Minister of State
Northern Ireland Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision related to the change in franchise for citizens of the European Union for local government elections in Northern Ireland.

Part 2 provides, at Chapter 2, a process for the review of the entitlement of citizens of member States of the European Union to remain registered on the register of local electors in Northern Ireland following the change in registration criteria in section 4 of the Representation of the People Act 1983 (c. 2).

Part 3 provides for a revised date by which the Chief Electoral Officer for Northern Ireland must publish under section 13 of the Representation of the People Act 1983 revised versions of the Officer's electoral registers for 2024.

Part 4 makes amendments to the Representation of the People (Northern Ireland) Regulations 2008 (S.I. 2008/1741) regarding the content of applications for registration on the register of local electors in Northern Ireland, and the marking of certain entries in registers to indicate that an EU citizen is registered only in the register of local electors.

A full impact assessment of the effect that this instrument, and the corresponding instrument for local and Police and Crime Commissioner elections in England, will have on the costs of business, the voluntary sector and the public sector is available from the Department for Levelling Up, Housing and Communities at 2 Marsham Street, London, SW1P 4DF and published with the Explanatory Memorandum alongside this instrument on www.legislation.gov.uk.