

# **ELECTORAL REGISTRATION AND ADMINISTRATION ACT 2013**

---

## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### *Schedules*

#### *Schedule 1: Register of electors: alterations and removal*

84. *Paragraph 1* inserts two new sections in the 1983 Act which set out when a registration officer must alter the name or address of an elector, or remove an elector's entry from the register, in the new registration system in Great Britain. It does not affect registration officers' ability to correct clerical errors.
85. *Section 10ZD* states the circumstances in which a registration officer must alter the name or address of a person on the register. *Subsection (1)* provides that an application must have been made to that effect, and it must appear to the registration officer that the person is entitled to be registered in respect of the new name or address and that the application is made by that person. *Subsection (2)* stipulates that in determining an application under this section registration officers must consider any objection made within the prescribed requirements. *Subsection (3)* provides that regulations may make provision about the process for determining applications.
86. *Section 10ZE(1) and (2)* state that a registration officer must remove a person from the register if that person was not or has ceased to be entitled to be registered at the address in respect of which they are registered (whether because they have moved house or for any other reason), or if the person's current registration is the result of an application made by someone else. The requirements for being entitled to be registered are set out at section 4 of the 1983 Act.
87. *Section 10ZE(3)* enables a registration officer to make use of house to house inquiries when deciding whether to remove an entry from the register.
88. *Section 10ZE(4)* confers a power to make regulations to support the process of removing entries from the electoral register, including steps that a registration officer must take before concluding that a person is not entitled to remain registered. For example, regulations could require that in certain circumstances the registration officer must attempt to contact the person before determining that they are not entitled to remain registered.
89. *Section 10ZE(5) and (6)* state that a registration officer must consider whether to remove a person from the electoral register if they receive an objection from another registered person about that person's registration (unless it is an anonymous registration) or if they become aware of information that causes them to suspect that the person may not be entitled to remain registered (for example because of information obtained during the annual canvass).

90. *Section 10ZE(7)* states that the requirement to remove people from the register does not apply to the registration of people for whom there are separate rules about removal from the register (including those on remand in prison, patients in mental hospitals, those without a fixed address, service personnel and British citizens resident overseas).
91. *Paragraph 2(1) and 2(2)* state that registration officers must have regard to any guidance given by the Minister about determining any applications to alter a name or address, and that this guidance may include guidance about the process for determining whether the conditions have been met, and the relative weight to be given to different kinds of evidence. *Paragraph 2(3)* provides that the requirement for registration officers to have regard to this guidance will cease 5 years after coming into force. This provision is included because, after five years the new registration system, and the process for determining applications, is likely to have reached a steady state and guidance will no longer be necessary.
92. *Paragraph 3* amends section 13A of the 1983 Act to enable a registration officer to correct information in a register in Great Britain if they determine that it is incorrect. This would not remove the requirement to remove an entry from the register if the circumstances in new section 10ZE(1) are met, but would allow a registration officer to correct an error that has not resulted from a clerical error where those circumstances are not met (for example, where a person has changed their name but has not informed the registration officer). Section 13A(6) of the 1983 Act enables regulations to put in place procedures for the making of a correction under this provision.

## ***Schedule 2: Sharing and checking information***

93. *Paragraph 2* inserts new paragraph 1A in Schedule 2 to the 1983 Act to enable regulations to be made authorising or requiring a person to disclose to another person information that will assist a registration officer to verify information that an individual has provided in a new application, to ascertain the names and addresses of eligible people who are not registered, or to identify people who are registered but are not entitled. The powers inserted by this paragraph could for example be used to set up a system whereby information provided with applications for registration and information held by specified public authorities are passed to another person for comparison, with the results passed to registration officers and used to verify applications for registration.
94. *New paragraph 1A(2)* provides that the person to whom the information is disclosed may be required or authorised to compare it with other information and to inform the registration officer of the results of the comparison.
95. *New paragraph 1A(3)* states that regulations made under *paragraph 1A(1) and (2)* may include related provisions to confer other functions on a person, authorise the Secretary of State to make grants to such a person, require information to be retained or disposed of, and restrict disclosure or processing of information so that this can only happen in accordance with an agreement or with requirements imposed by the Secretary of State. Regulations may also regulate how information is disclosed and how it is dealt with thereafter.
96. *New paragraph 1A(4)* states that provision under *paragraph 1A* overrules any statutory or other restriction on the disclosure of information.
97. *Paragraph 3* enables regulations to be made requiring information relating to applications for registration to be retained or disposed of, and about how such information may be dealt with.
98. *Paragraph 4* enables regulations to provide for a criminal offence of disclosing or otherwise dealing with information in breach of regulations, subject to specified maximum penalties.

99. *Paragraph 5* states that before making regulations providing for information to be shared under paragraph 1A of Schedule 2 the Secretary of State must consult the Electoral Commission, the Information Commissioner and any other person the Secretary of State thinks appropriate. The Secretary of State may also require the Commission to prepare a report on how data sharing arrangements have worked by a specified date. If a report is required, it must be published by the Secretary of State and registration officers must comply with any reasonable request for information made by the Commission in connection with preparing the report.

***Schedule 3: Civil penalty for failing to make application when required by registration officer***

100. *Schedule 3* inserts a new Schedule ZA1 into the 1983 Act about civil penalties. *Paragraph 2 of the new Schedule* states that the amount of the civil penalty is to be specified in regulations.
101. *Paragraphs 3 and 4* provide for the procedure for imposing a civil penalty to be set out in regulations, which may specify steps that a registration officer must take before imposing a civil penalty. The regulations must require a registration officer who issues a civil penalty to a person to give the person a written notice specifying the amount of the penalty, the reasons for imposing it, and how and when it must be paid.
102. *Paragraph 5* provides that regulations may give a person who has been issued a civil penalty a right to request a review of the decision, and a right of appeal against the decision to the First-tier Tribunal. These regulations may in particular set out the grounds for a review or appeal, the time in which a person can request a review or appeal, require a person to request a review before an appeal, and make further provision about reviews and appeals, including the procedure for a review.
103. *Paragraph 6* enables regulations to specify circumstances in which a civil penalty may not be imposed, or where a civil penalty once issued can be cancelled.
104. *Paragraphs 8 to 11* deal with the recovery of civil penalties and late payments. Regulations may allow interest to be charged on a civil penalty that is paid late, and allow an additional penalty to be imposed for the late payment of a civil penalty. Civil penalties are to be paid into the Consolidated Fund.

***Schedule 4: Amendments to do with Part 1***

105. *Paragraphs 1 to 20* make amendments to the 1983 Act. Several of these amendments restrict the application of sections of the 1983 Act which currently apply to all of the United Kingdom so that they apply only in Northern Ireland, since those sections are replaced by the new sections inserted by sections 1, 4 and 5 and Schedule 1 which apply in Great Britain.
106. *Paragraphs 2, 3, 4, 15 and 21* make amendments to the 1983 Act and the Representation of the People Act 1985 so that a registration officer must remove a person from the register if the person's current registration is the result of an application made under the new system by someone else. The effect is similar to the effect of section 10ZE(1)(c) of the 1983 Act (inserted by paragraph 1 of Schedule 1 to the Act), but these amendments apply that effect to the special types of registration to which that new section does not apply.
107. *Paragraph 5* amends section 9(2) of the 1983 Act so that it is clear that a person will only be included on a register in the United Kingdom pursuant to an application for registration.
108. *Paragraph 6* amends section 9A(1) of the 1983 Act to set out the scope of the general duty on registration officers, which could otherwise be reduced by the amendment made by paragraph 5(2).

109. *Paragraphs 7 and 8* amend the requirements for the renewal of anonymous registrations in Great Britain so that it will not be necessary to make a complete application for registration each year as at present. Instead, once the anonymous registration is in place it will only be necessary to make an application for anonymity under section 9B of the 1983 Act in order to renew the entry each year. This means that it will only be necessary for the full verification process to apply to an application for a new anonymous registration, or for an anonymous registration under a different name or address.
110. *Paragraph 12(2)* inserts provisions into section 13A of the 1983 Act to provide for the manner in which registration officers must give effect to changes to registers in Great Britain resulting from the new provisions relating to applications for registration and alterations to registers. *Paragraph 12(3)* allows certain successful applicants to be added to the register up to the date of publication of the revised register instead of having to wait to the update published the following month.
111. *Paragraph 20* gives additional powers to make regulations for Great Britain in relation to the conduct of canvasses, following up canvass requests and invitations for applications to which no responses have been received, and enabling registration officers to share information to ensure that proxies meet the requirement to be registered before they are appointed (see section 3). The existing criminal offence for non-disclosure of information to a registration officer will continue to have effect.
112. *Paragraph 24* repeals sections 23(1) and 30 to 37 of the Political Parties and Elections Act 2009 concerning the previous voluntary and compulsory schemes of individual electoral registration in Great Britain which are being replaced by this Act, and the previous powers on data schemes, which will be superseded by those contained in the Act.

#### ***Schedule 5: Transitional provision to do with Part 1***

113. *Schedule 5* sets out how the move from the old system of electoral registration to the new system of individual electoral registration in Great Britain will operate once sections 1 and 4 and Schedule 1 come into force (referred to in this Schedule as “the commencement date”).

#### **Part 1: Introduction**

114. *Paragraph 1* stipulates that applications made before the commencement date are to be dealt with under the old system even if the application is determined after that date.
115. *Paragraph 4(1)* enables the Secretary of State or Lord President of the Council to make an order requiring registration officers to check for evidence as to whether the people on their registers are entitled to remain registered. Subsequent provisions in the Schedule ensure that people whose entries are confirmed under such an order do not have to make a separate application under the new system to remain on the register (unless their details change).
116. *Paragraph 4(3)* enables the order to authorise data to be shared for this check. For example a person may be authorised to compare entries on the electoral register with other information that has been disclosed. *Paragraph 4(3)* also provides that an order may state that where a registration officer has confirmed a person’s entitlement they must notify them in a specified manner, and that this notification may be accompanied by and combined with other documents.
117. *Paragraph 4(4)* provides that where an order authorises or requires the disclosure of information the Secretary of State must consult the Electoral Commission, the Information Commissioner and others and may require the Electoral Commission to produce a report.

118. *Paragraph 4(5)* states that a registration officer will not be required to confirm that a person who is on the register they maintain is still eligible if that person was on the register because they were carried forward at the final old canvass (that is, they did not respond to the last canvass and were left on the register by virtue of the carry forward provision), if the person has already made a successful new application for registration, or if the person is registered under the special arrangements referred to at paragraph 121 below.

## **Part 2: Removal of existing registrations by end of the third new canvass**

119. *Paragraph 5* stipulates that, after the first canvass under the new system (likely to be in late 2014), registration officers must remove from the register each entry that was carried forward after the last canvass carried out under the old system despite not responding to that canvass, unless the elector has made an application under the new system or responded to the first canvass under the new system.
120. *Paragraph 6* states that, after the third new canvass (likely to be in late 2016), a registration officer must remove from the register the entry of each person who has not made a successful application for registration under the new system or has not had their entitlement to remain registered confirmed under paragraph 4. It will only be possible for a person to be added to the register after this point if they have made an application under the new system and that application has been successful. (See also *paragraph 28* of this Schedule).
121. *Paragraph 7* states that the provisions about removal from the register in paragraphs 5 and 6 do not apply to people who are registered under a special registration system (and have been since immediately before the commencement date). This includes those on remand in prison, patients in mental hospitals, those without a fixed address, service personnel, British citizens resident overseas and those registered anonymously for their safety. Parts 5 and 6 of Schedule 5 make separate provision for those people.

## **Part 3: Encouraging new applications**

122. *Paragraph 8* states that a registration officer must, within a prescribed period, send an invitation to make a new application for registration to all persons listed on the register who have not made an application under the new system or have not had their entitlement to remain registered confirmed under paragraph 4. An invitation does not have to be sent where the officer has reason to believe that the person is no longer resident at the relevant address.
123. *Paragraph 9* relates to the timing of canvasses before and during the transition to the new system. *Sub-paragraph (1)* enables the Minister to make an order postponing canvasses in advance of the transition to the new system, and requiring canvass forms to be sent out at a particular time. For example, the 2013 canvass could be postponed so that it takes place in the first quarter of 2014.
124. *Paragraphs 9(2) and (4)* provide that the Minister may make an order postponing the first canvass under the new system (the canvass forms for that canvass are to be sent out at the same time as invitations under paragraph 8), and requiring canvass forms for the second canvass under the new system to be sent out at a specified time.
125. *Paragraph 9(6)* stipulates that any order to postpone an old or new style canvass must specify the period in which the canvass is to be carried out, and that that period must not end later than the 1 April after it begins.
126. *Paragraph 10* provides that registration officers need not send canvass forms for the first new canvass to addresses at which people have been sent individual invitations to register, or have had their entries confirmed under paragraph 4. However registration officers must consider whether to send a canvass form despite there being no requirement to do so.

127. *Paragraph 11* stipulates that after the second new canvass under the new system a registration officer must send an invitation to make a new application for registration to all persons who have an entry on the register, but are not yet registered under the new system (whether by making an application under the new system or by having their entry confirmed under paragraph 4). This must be sent when the registration officer receives a returned canvass form in respect of the person's address or when the officer realises that a canvass form will not be returned for that address, and at the latest at the end of October in the year of the second new canvass. If the registration officer has reason to believe that the person is no longer resident at the relevant address or if that person has made an application under the new system that has not yet been determined, then no invitation need be sent.
128. *Paragraph 12* allows further provision to be made about the invitations to be sent to people under paragraphs 8 and 11. For example, regulations could require that a registration officer who sends an individual invitation to an individual under paragraph 8, and chooses not to send a canvass form to that address in 2014, must include additional blank application forms with that invitation, with a request to pass them to any other residents at the address who have not received a personalised invitation.
129. *Paragraph 13* provides that a registration officer who invites a person to make a new application under paragraph 8 or 11 may subsequently require the person to make a new application by a specified date, and that if they fail to make an application a registration officer may issue that person with a civil penalty. This is similar to the provision in *section 5* and *Schedule 3* of this Act.
130. *Paragraph 14* provides that regulations under section 7(1) of the European Parliamentary Elections Act 2002 may include provision for poll cards for the 2014 European Parliamentary elections to include information alerting electors to the upcoming change in the registration system.
131. *Paragraph 15* states that the reference to a person who has an entry on the register does not apply to people who are registered under a special registration system. The system for those people is set out in Parts 5 and 6 of this Schedule.

#### **Part 4: Absent voting**

132. *Paragraph 16* provides that a person who makes an application to vote by post or proxy after the commencement date will only be successful if they are registered under the new system (whether by making an application under the new system or by having their entry confirmed under paragraph 4). This paragraph does not apply to people who are subject to special registration systems.
133. *Paragraph 17* states that a person's existing ability to vote by post or proxy will expire following the first new canvass if they are not registered under the new system (whether by making an application under the new system or by having their entry confirmed under paragraph 4). The registration officer must notify the individual, and regulations may require the registration officer to take other steps (for example providing the individual with the forms needed to make an application to regain an absent vote). Again, this paragraph does not apply to people who are subject to special registration systems.
134. *Paragraphs 18 and 19* state that, after the first canvass under the new system, proxies will only be regarded as registered in a register in Great Britain (and so eligible to be a proxy following the change made by section 3) if they are registered under the new system (whether by making an application under the new system or by having their entry confirmed under paragraph 4). Existing registrations resulting from applications made under the old system are therefore not sufficient. This does not apply to proxies who are registered in a register in Northern Ireland, where there is already a system of individual electoral registration and registration under that system is sufficient for the purpose of the change made by section 3.

135. *Paragraph 19* also stipulates that if an existing proxy appointment ceases to be in force at that point because the proxy has not made a successful application to register under the new system, the registration officer must inform the proxy and the elector for whom they were appointed, and regulations may require the registration officer to take other steps (for example providing the individuals with the forms needed for the proxy to be reappointed). Again, this paragraph does not apply to people who are subject to special registration systems.

#### **Part 5: Persons with existing registrations by virtue of declarations etc**

136. *Paragraph 20* states that Part 5 applies to people who are (and have been since immediately before the commencement date) registered as a result of a declaration of local connection, a service declaration or an overseas elector's declaration, and people registered anonymously.
137. *Paragraph 21* states that on the first occasion 3 months after the commencement date on which a person's entry comes up for renewal they will only remain registered if they make a successful application for registration under the new system. Until that point they may remain registered under the old system.
138. *Paragraph 22* has the effect that an application for an absent vote made by the person on or after the commencement date may be granted even though at that point the person has not made a successful application to be registered under the new system.
139. *Paragraph 23* provides that such a person's proxy need not have made a successful application for registration under the new system until the first occasion on which the relevant person makes a successful new application to register.

#### **Part 6: Persons with existing registrations by virtue of section 7(2) or 7A(2) of the Representation of the People Act 1983**

140. *Paragraph 24* states that Part 6 applies to people who are registered on the basis of residence in mental hospitals or a place where they are held on remand, and have been registered on that basis since immediately before the commencement date.
141. *Paragraph 25* has the effect that on the first occasion on or after 3 months after the commencement date on which a person's entry comes up for renewal they will only remain registered if they make a successful application for registration under the new system. Until that point they may remain registered under the old system.
142. *Paragraph 26* has the effect that an application for an absent vote made by the person on or after the commencement date may be granted even though at that point the person has not made a successful application to be registered under the new system.
143. *Paragraph 27* states that such a person's proxy need not have made a successful application for registration under the new system until the first occasion on which the relevant person makes a successful new application to register.
144. *Paragraph 28* enables an order to be made by the Secretary of State or Lord President of the Council to remove certain carried-forward entries on publication of a register following the second new canvass (expected to be in December 2015) instead of publication following the third new canvass (expected to be in December 2016), as provided for in *paragraph 6* of this Schedule. Such an order is subject to the negative resolution procedure.

#### **Part 7: Supplementary**

145. *Paragraph 29* empowers the Minister, by order, to make provisions which are supplementary or incidental to this Schedule.