

SCHEDULE 2

ABSENT VOTING

PART 1

ENTITLEMENT

Interpretation

1.—(1) In this Schedule—

“allotted polling station” has the meaning set out in paragraph 16(7) of this Schedule.

(2) A reference in this Schedule to a form identified by means of a letter shall be construed as a reference to the form so identified in the Appendix to this Schedule.

Manner of voting at European Parliamentary elections

2.—(1) This paragraph applies to determine the manner of voting of a person entitled to vote as an elector at a European Parliamentary election.

(2) He may vote in person at the polling station allotted to him under the European Parliamentary elections rules, unless he is entitled as an elector to an absent vote at the election.

(3) He may vote by post if he is entitled as an elector to vote by post at the election.

(4) If he is entitled to vote by proxy at the election, he may so vote unless, before a ballot paper has been issued for him to vote by proxy, he applies at the polling station allotted to him under the European Parliamentary elections rules for a ballot paper for the purpose of voting in person, in which case he may vote in person there.

(5) If—

(a) he is not entitled as an elector to an absent vote at the election, but

(b) he cannot reasonably be expected to go in person to the polling station allotted to him under the European Parliamentary elections rules by reason of the particular circumstances of his employment, either as a constable or by the local returning officer, on the date of the poll for a purpose connected with the election,

he may vote in person at any polling station in the local counting area.

(6) Nothing in the preceding provisions of this paragraph applies to—

(a) a person to whom section 7 of the 1983 Act⁽¹⁾ (mental patients who are not detained offenders) or, in Gibraltar, paragraph 10 of Schedule 4 applies and who is liable, by virtue of any enactment, to be detained in the mental hospital in question, or

(b) a person to whom section 7A of that Act⁽²⁾ (persons remanded in custody) or, in Gibraltar, paragraph 11 of Schedule 4 applies,

whether he is registered by virtue of that provision or not; and such a person may only vote by post or by proxy (where he is entitled as an elector to vote by post or, as the case may be, by proxy at the election).

(7) For the purposes of the provisions of—

(a) these Regulations, and

(1) Amended by section 4 of the Representation of the People Act 2000 (c. 2).

(2) Inserted by section 5 of the Representation of the People Act 2000 (c. 2).

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(b) the 1983 Act, the 2002 Act and the 2003 Act,
a person entitled to vote as an elector at a European Parliamentary election is entitled as an elector to vote by post or entitled to vote by proxy at the election if he is shown in the absent voters list for the election as so entitled; and references in those provisions to entitlement as an elector to an absent vote at a European Parliamentary election are references to entitlement as an elector to vote by post or entitlement to vote by proxy at the election.

Absent vote at elections for definite or indefinite period

3.—(1) Where a person applies to the registration officer to vote by post at European Parliamentary elections (whether for an indefinite period or for a particular period specified in his application), the registration officer shall grant the application if—

- (a) he is satisfied that the applicant is or will be registered in the register of electors, and
- (b) the application meets the requirements of Part 2 of this Schedule.

(2) Where a person applies to the registration officer to vote by proxy at European Parliamentary elections (whether for an indefinite period or for a particular period specified in his application), the registration officer shall grant the application if—

- (a) he is satisfied that the applicant is eligible to vote by proxy at European Parliamentary elections,
- (b) he is satisfied that the applicant is or will be registered in the register of electors, and
- (c) the application meets the requirements of Part 2 of this Schedule.

(3) For the purposes of this paragraph a person is eligible to vote by proxy at a European Parliamentary election—

- (a) if he is or will be registered as a service voter,
- (b) if he cannot reasonably be expected—
 - (i) to go in person to the polling station allotted or likely to be allotted to him under the European Parliamentary elections rules, or
 - (ii) to vote unaided there,by reason of blindness or other physical incapacity,
- (c) if he cannot reasonably be expected to go in person to that polling station by reason of the general nature of his occupation, service or employment or that of his spouse, or by reason of his attendance on a course provided by an educational institution or that of his spouse, or
- (d) if he cannot go in person from his qualifying address to that polling station without making a journey by air or sea,

and a person is also eligible to vote by proxy at European Parliamentary elections if he is or will be registered in pursuance of an overseas elector's declaration or a European Parliamentary overseas elector's declaration.

(4) The registration officer shall keep a record of those whose applications under this paragraph have been granted showing—

- (a) whether their applications were to vote by post or proxy for an indefinite or a particular period (specifying that period),
- (b) in the case of those who may vote by post, the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent, and
- (c) in the case of those who may vote by proxy, the names and addresses of those appointed as their proxies.

(5) The registration officer shall remove a person from the record—

- (a) if he applies to the registration officer to be removed,
- (b) in the case of any registered person, if he ceases to be registered or registered at the same qualifying address or ceases to be, or becomes, registered in pursuance of—
 - (i) a service declaration,
 - (ii) a declaration of local connection, or
 - (iii) an overseas elector's declaration,
- (c) in the case of any person shown in the record as voting by proxy, if the registration officer gives notice that he has reason to believe there has been a material change of circumstances, or
- (d) in the case of a person who applied to vote by post or proxy for a particular period, once that period has expired.

(6) A person shown in the record as voting by post may subsequently alter his choice by applying to the registration officer to vote by proxy instead (whether for an indefinite period or for a particular period specified in his application); and, if the registration officer would be required to grant that application if it were one made under sub-paragraph (2), the registration officer shall amend the record accordingly.

(7) A person shown in the record as voting by proxy may subsequently alter his choice by applying to the registration officer to vote by post instead (whether for an indefinite period or for a particular period specified in his application); and, if the application meets the requirements of Part 2 of this Schedule, the registration officer shall amend the record accordingly.

Absent vote at particular election

4.—(1) Where a person applies to the registration officer to vote by post at a particular European Parliamentary election, the registration officer shall grant the application if—

- (a) he is satisfied that the applicant is or will be registered in the register of electors, and
- (b) the application meets the requirements of Part 2 of this Schedule.

(2) Where a person applies to the registration officer to vote by proxy at a particular European Parliamentary election, the registration officer shall grant the application if—

- (a) he is satisfied that the applicant's circumstances on the date of the poll will be or are likely to be such that he cannot reasonably be expected to vote in person at the polling station allotted or likely to be allotted to him under the European Parliamentary elections rules,
- (b) he is satisfied that the applicant is or will be registered in the register of electors, and
- (c) the application meets the requirements of Part 2 of this Schedule.

(3) Nothing in sub-paragraph (1) or (2) applies to a person who is included in the record kept under paragraph 3, but such a person may, in respect of a particular European Parliamentary election, apply to the registration officer—

- (a) for his ballot paper to be sent to a different address from that shown in the record, or
- (b) to vote by proxy,

if he is shown in the record as voting by post at elections of the kind in question.

(4) The registration officer shall grant an application under sub-paragraph (3) if—

- (a) (in the case of any application) it meets the requirements of Part 2 of this Schedule; and
- (b) (in the case of an application to vote by proxy) the registration officer is satisfied that the applicant's circumstances on the date of the poll will be or are likely to be such that he cannot reasonably be expected to vote in person at the polling station allotted or likely to be allotted to him under the European Parliamentary elections rules.

Absent voters list

5.—(1) The registration officer shall, in respect of each European Parliamentary election, keep a special list (“the absent voters list”) consisting of the two lists mentioned in sub-paragraphs (2) and (3) respectively.

(2) The first of those lists is a list of—

- (a) those whose applications under paragraph 4(1) to vote by post at the election have been granted, together with the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent, and
- (b) those who are for the time being shown in the record kept under paragraph 3 as voting by post at European Parliamentary elections (excluding those so shown whose applications under paragraph 4(3)(b) to vote by proxy at the election have been granted), together with the addresses provided by them in their applications under paragraph 3 or, as the case may be, paragraph 4(3)(a) as the addresses to which their ballot papers are to be sent.

(3) The second of the lists mentioned in sub-paragraph (1) is a list (“the list of proxies”) of—

- (a) those whose applications under paragraph 4(2) or (3) to vote by proxy at the election have been granted, and
- (b) those who are for the time being shown in the record kept under paragraph 3 as voting by proxy at elections of the kind in question,

together with (in each case) the names and addresses of those appointed as their proxies.

(4) The registration officer shall, forthwith on completion of the compilation of that special list, supply to the local returning officer for any local counting area wholly or partly within the area for which he acts so much of that list as relates to that constituency.

Proxies at elections

6.—(1) Subject to the provisions of this paragraph, any person is capable of being appointed proxy to vote for another (in this paragraph and paragraph 7 referred to as “the elector”) at any European Parliamentary election and may vote in pursuance of the appointment.

(2) The elector cannot have more than one person at a time appointed as proxy to vote for him at elections (whether in the same electoral region or elsewhere).

(3) A person is not capable of being appointed to vote, or voting, as proxy at an election—

- (a) if he is subject to any legal incapacity (age apart) to vote at that election as an elector, or
- (b) if he is neither a Commonwealth citizen nor a citizen of the Union.

(4) A person is not capable of voting as proxy at a European Parliamentary election unless on the date of the poll he has attained the age of 18.

(5) A person is not entitled to vote as proxy at the same European Parliamentary election in any electoral region on behalf of more than two electors of whom that person is not the husband, wife, parent, grandparent, brother, sister, child or grandchild.

(6) Where the elector applies to the registration officer for the appointment of a proxy to vote for him at European Parliamentary elections (whether for an indefinite period or for a particular period specified in his application), the registration officer shall make the appointment if the application meets the requirements of Part 2 of this Schedule and he is satisfied that the elector is or will be—

- (a) registered in the register of electors, and
- (b) shown in the record kept under paragraph 3 as voting by proxy at such elections,

and that the proxy is capable of being, and willing to be, appointed to vote as proxy at such elections.

(7) Where the elector applies to the registration officer for the appointment of a proxy to vote for him at a particular European Parliamentary election, the registration officer shall make the appointment if the application meets the requirements of Part 2 of this Schedule and he is satisfied that the elector is or will be—

- (a) registered in the register of electors, and
- (b) entitled to vote by proxy at that election by virtue of an application under paragraph 4(2) or (3),

and that the proxy is capable of being, and willing to be, appointed.

(8) The appointment of a proxy under this paragraph is to be made by means of a proxy paper in Form A issued by the registration officer.

(9) The appointment may be cancelled by the elector by giving notice to the registration officer and shall also cease to be in force—

- (a) where the appointment related to a particular European Parliamentary election or elections, on the issue of a proxy paper appointing a different person to vote for him at a European Parliamentary election or elections (whether in the same electoral region or elsewhere),
- (b) where the appointment was for a particular period, once that period expires.

(10) Subject to sub-paragraph (9), the appointment shall remain in force—

- (a) in the case of an appointment for a particular election, for that election, and
- (b) in any other case, while the elector is shown as voting by proxy in the record kept under paragraph 3 in pursuance of the same application under that paragraph.

Voting as proxy

7.—(1) A person entitled to vote as proxy at a European Parliamentary election may do so in person at the polling station allotted to the elector under the European Parliamentary elections rules unless he is entitled to vote by post as proxy for the elector at the election, in which case he may vote by post.

(2) Where a person is entitled to vote by post as proxy for the elector at any election, the elector may not apply for a ballot paper for the purpose of voting in person at the election.

(3) For the purposes of these Regulations, the 1983 Act, the 2002 Act and the 2003 Act a person entitled to vote as proxy for another at a European Parliamentary election is entitled so to vote by post if he is included in the list kept under sub-paragraph (8) in respect of the election.

(4) Where a person applies to the registration officer to vote by post—

- (a) as proxy at European Parliamentary elections (whether for an indefinite period or for a particular period specified in his application), or
- (b) as proxy at a particular European Parliamentary election,

the registration officer shall grant the application if the conditions set out in sub-paragraph (5) are satisfied.

(5) Those conditions are—

- (a) that the registration officer is satisfied that the elector is or will be registered in the register of electors,
- (b) that there is in force an appointment of the applicant as the elector's proxy to vote for him at European Parliamentary elections or, as the case may be, the election concerned; and
- (c) that the application meets the requirements of Part 2 of this Schedule.

(6) The registration officer shall keep a record of those whose applications under sub-paragraph (4)(a) have been granted showing—

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- (a) whether their applications were to vote by post as proxy for an indefinite or a particular period (specifying that period), and
- (b) the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent.

(7) Where, in the case of a particular European Parliamentary election, a person included in the record kept under sub-paragraph (6) applies to the registration officer for his ballot paper to be sent to a different address from that shown in the record, the registration officer shall grant the application if it meets the requirements of Part 2 of this Schedule.

(8) The registration officer shall, in respect of each European Parliamentary election, keep a special list of—

- (a) those who are for the time being included in the record kept under sub-paragraph (6), together with the addresses provided by them in their applications under sub-paragraph (4) (a) or, as the case may be, sub-paragraph (7) as the addresses to which their ballot papers are to be sent, and
- (b) those whose applications under sub-paragraph (4)(b) have been granted in respect of the election concerned, together with the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent,

and, forthwith on completion of the compilation of that list, supply to the local returning officer for any local counting area wholly or partly within the area for which he acts so much of that list as relates to any such constituency.

(9) The registration officer shall remove a person from the record kept under sub-paragraph (6)—

- (a) if he applies to the registration officer to be removed,
- (b) if the elector ceases to be registered as mentioned in sub-paragraph (5)(a),
- (c) if the appointment of the person concerned as the elector's proxy ceases to be in force (whether or not he is re-appointed), or
- (d) in the case of a person who applied to vote by post as proxy for a particular period, once that period expires.

Offences

8. A person who—

- (a) in any declaration or form used for any of the purposes of this Schedule, makes a statement which he knows to be false, or
- (b) attests an application under paragraph 3 or 4 when he knows that he is not authorised to do so or that it contains a statement which is false,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.