



# Electoral Law Act (Northern Ireland) 1962 <sup>F1</sup>

## 1962 CHAPTER 14

An Act to consolidate with amendments certain enactments relating to parliamentary and local government elections, corrupt and illegal practices and election petitions. [29th March 1962]

**F1** Refs. to registration officer, returning officer or electoral officer are to be construed as refs. to Chief Electoral Officer, 1972 NI 13

*Part I (ss.1#8) rep. by 1989 c. 3*

*Part II—S.9 rep. by 1968 c.20 (NI); SI 1973/2163. S.10 rep. by SLR 1980*

*Part IIA (ss.10A#10C) inserted by 1968 c.20 (NI) s.6(1), rep. by SI 1973/2163*

## PART III

### LOCAL AUTHORITIES

#### **11 <sup>F2</sup>Election and term of office of members of district councils.**

- (1) [<sup>F3</sup> The year 1973] and every fourth year thereafter shall be a local election year and in each local election year the election day as respects any district council shall be the day on which the poll is or would have been taken in any contested election for that council not being an election to fill a casual vacancy.

[<sup>F4</sup>(1A) The election day referred to in subsection (1) is the<sup>F5</sup> first Thursday in May].]

- (2) The members of a district council—

- (a) shall be elected in every local election year;
- (b) shall come into office on the<sup>F6</sup> fourth day after] the election day;
- (c) shall retire together on the<sup>F6</sup> fourth day after] the election day in the next succeeding local election year.

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- (3) [<sup>F4</sup>If the poll at an election in any district electoral area is countermanded or abandoned by reason of a candidate's death], the provisions of subsection (2) relating to the retirement of members shall have effect as if the election had not been countermanded or the poll adjourned but had been proceeded with and completed.
- (4) A vacancy (in this Act referred to as a casual vacancy) caused in a district council—
- (a) by the death or resignation or disqualification (whether by virtue of this Act or otherwise) of a member; or
  - (b) by the non-acceptance of office by a person elected or declared to have been elected a member or by his office becoming vacant under section 7(2) of the Local Government Act (Northern Ireland) 1972 or being declared vacant under section 10 of that Act by reason of his failure to attend meetings of the council; or
  - (c) by the determination by an election court that a person's election as a member was void, where no other person is declared elected in his stead;
- shall, if it occurs in any local election year on or after the first day of January and before or on election day, be deemed to have been caused by the expiry of the normal term of office and accordingly shall be filled on the election day in that year and in any other case<sup>[F7]</sup> shall be filled in accordance with subsection (4A)].
- [<sup>F7</sup>(4A) A casual vacancy to which subsection (4)(c) applies shall be filled by a person elected at an election to fill the vacancy and any other casual vacancy shall be filled—
- (a) by a person chosen by the council in accordance with subsection (4B); or
  - (b) if no person is chosen as mentioned in paragraph (a), by a person elected at an election to fill the vacancy.
- (4B) Where a casual vacancy in a district council falls to be filled in accordance with this subsection—
- (a) a meeting of the council to choose a person to fill the vacancy shall be held not less than 14 days nor more than 42 days after the occurrence of the vacancy;
  - (b) the clerk of the council shall give every member of the council not less than 7 days written notice of the meeting which notice shall state as the first business of the meeting the choice of a person to fill the vacancy;
  - (c) the council may at that meeting choose to fill the vacancy<sup>[F8]</sup> any person who—
    - [ is qualified to be a member of the council;]
    - <sup>F8</sup>(i) [ has made, and served on the clerk of the council, a declaration in
    - <sup>F8</sup>(ii) the form set out in Part II of Schedule 2 to the Elected Authorities (Northern Ireland) Act 1989; and]
    - [ <sup>F8</sup>is not objected to by any member of the council present at the
    - <sup>F8</sup>(iii) meeting;] and
  - (d) any person so chosen shall be deemed for all purposes to have been duly elected a member of the council.
- (4C) Where a meeting of a district council held in accordance with subsection (4B) fails to choose a person to fill a casual vacancy, the clerk of the council shall, within 7 days of the meeting, notify the Chief Electoral Officer—
- (a) that a casual vacancy has arisen in the council and that a meeting held in accordance with subsection (4B) has failed to choose a person to fill that vacancy;

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- (b) of any other matter concerning the casual vacancy which has come to the knowledge of the clerk of the council.]

[<sup>F6</sup>(5) A casual vacancy shall be deemed to have occurred—

- (a) if it is a vacancy to which sub-section (4) ( a ) or ( b ) applies, when and so soon as the Chief Electoral Officer is satisfied that the vacancy exists; or  
(b) if it is a vacancy to which sub-section (4) ( c ) applies, on the date of the determination;

and it shall be the duty of the clerk of a district council within 7 days of any matter concerning a casual vacancy coming to his knowledge to report it to the Chief Electoral Officer.]

- (6) A person elected to fill a casual vacancy occurring in a district council shall hold office for the remainder of the term of the member whom he has succeeded.

- (7) Nothing in this section shall affect the right under any enactment relating to local government of the chairman or vice chairman of a local authority to continue in office until his successor becomes entitled to act.]

*Subs.(8) rep. by SLR 1980*

<b>F2</b>	1972 NI 13
<b>F3</b>	1972 NI 21
<b>F4</b>	SI 1985/454
<b>F5</b>	SI 2005/862
<b>F6</b>	1992 NI 6
<b>F7</b>	1985 NI 15
<b>F8</b>	1989 c. 3

*Ss.12, 13 rep. by SLR 1980*

## PART IV

### OFFICERS

#### [<sup>F9</sup>14 Appointment of Chief Electoral Officer.

- (1) There shall be appointed a Chief Electoral Officer for Northern Ireland (in this Act referred to as the Chief Electoral Officer) who shall carry out the functions conferred on him by or under this Act and by or under any other statutory provision for the time being in force.
- (2) The Chief Electoral Officer shall be appointed by the Governor...<sup>F10</sup> and shall hold his office during good behaviour so, however that—
- (a) he may, at his own request, be relieved of office by the Governor;
- (b) he may be removed from office by the Governor...<sup>F10</sup>

*Subs.(3) rep. by 1975 c.25*

- (4) Without prejudice to the generality of subsection (1), the Chief Electoral Officer shall be responsible for—

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- (a) the administration and implementation of the provisions of the Electoral Law Acts (Northern Ireland) 1962 to 1971 and the Electoral Law (Northern Ireland) Order 1972 ;

*Para. (b) rep. by 1989 c. 3*

- (c) the conduct of all elections to the [<sup>F11</sup> Assembly] and to district councils;
- (d) the preparation of polling station schemes, the maintenance of election equipment and generally all administrative matters preliminary to or consequent on an election;

and shall each year as soon as possible after the publication of the register of electors in that year make a report to the Minister of his proceedings under this Act and the Minister shall lay the report before [<sup>F11</sup> the Parliament of the United Kingdom].

- (5) <sup>F12</sup> Any acts required or authorised to be done by or with respect to the Chief Electoral Officer may, in the event of his absence from Northern Ireland or his incapacity to act or of a vacancy, be done by or with respect to a person temporarily appointed for the purpose by the Governor... <sup>F10</sup>
- (6) There shall be paid to the Chief Electoral Officer and to a person appointed under subsection (5) such remuneration and to or in respect of the service of a person who has been a Chief Electoral Officer such pension, allowances and gratuities by way of superannuation as may be determined by [<sup>F11</sup> the Secretary of State with the consent of the Minister for the Civil Service].
- (7) The remuneration payable to a holder of the office of Chief Electoral Officer shall be abated by the amount of any pension payable to him in respect of any public office in the United Kingdom or elsewhere to which he had previously been appointed or elected; but any such abatement shall be disregarded in computing that remuneration for the purposes of any pension, allowances or gratuities by way of superannuation payable pursuant to... <sup>F10</sup> subsection (6).
- (8) Any remuneration and any pension, allowances and gratuities by way of superannuation payable under subsection (6) shall be charged on and issued out of the Consolidated Fund [<sup>F13</sup> of the United Kingdom.]]

**F9** 1972 NI 13

**F10** SI 1973/2163

**F11** SI 1973/2163

**F12** App. (European Assembly), SI 1979/322

**F13** SI 1973/2163

#### [<sup>F14</sup>14A Appointment of persons to assist Chief Electoral Officer.

- (1) <sup>F15</sup> The Chief Electoral Officer, with the approval of the Ministry of Finance<sup>F16</sup> as to numbers and conditions of service, may appoint such persons, in addition to the persons specified in Article 9(2) of the Electoral Law (Northern Ireland) Order 1972 , to assist him as may be agreed between him and the Ministry.
- (2) Without in any way diminishing his responsibility and without prejudice to Rule 30 of Schedule 4 and [<sup>F17</sup> rule 23 of the local elections rules], the Chief Electoral Officer may delegate any of his functions to persons appointed under subsection (1) or specified in Article 9(2) of the Electoral Law (Northern Ireland) Order 1972 and such persons

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may, under the supervision of the Chief Electoral Officer, perform those functions on behalf of the Chief Electoral Officer.

- (3) It shall be a duty of an officer of a district council to perform such functions as the Chief Electoral Officer may, with the approval of the Ministry of Development<sup>F18</sup>, appoint him to perform.
- (4) There may be paid,<sup>F19</sup> . . . , to persons appointed under subsection (1) such remuneration and to, or in respect of the service of, such persons such pensions, allowances and gratuities by way of superannuation and to or in respect of persons appointed under subsection (3) such sums as the Ministry, with the approval of the Ministry of Finance<sup>F16</sup>, may determine.]

**F14** 1972 NI 13

**F15** App. (European Assembly), SI 1979/322

**F16** Now Minister for Civil Service, SI 1973/2163

**F17** SI 1985/454

**F18** Now D/Env., SRO (NI) 1973/504; 1976 NI 6

**F19** 1989 c. 3

#### [<sup>F20</sup>14B Travelling and subsistence allowances.

There may be paid,<sup>F21</sup> . . . , to the Chief Electoral Officer<sup>F21</sup> and to persons appointed, or to whom functions are delegated, under section 14A travelling and subsistence allowances at such rates as the Secretary of State, with the approval of the Treasury, may determine].]

**F20** 1972 NI 13

**F21** 1989 c. 3

### 15 Duties of Chief Electoral Officer.

*Subs. (1) rep. by 1989 c. 3*

- (2) It shall be the duty of [<sup>F22</sup>the Chief Electoral Officer]...<sup>F23</sup> to prepare in accordance with section sixty-five...<sup>F23</sup> a scheme (in this Act referred to as a polling station scheme) providing for the location of a polling station or polling stations in each polling district (as defined in this Act)...

<sup>F23</sup>*Subs.(3) rep. by 1972 NI 13*

*Subs.(4) rep. by SLR 1980*

**F22** 1972 NI 13

**F23** 1972 NI 13

*Ss.16—20 rep. by 1972 NI 13*

### 21 Expenses of registration.

*Subs.(1) rep. by 1972 NI 13*

*Subs.(2) rep. by SLR 1980*

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*Subs.(3) rep. by 1972 NI 13*

*Subs.(4) rep. by 1971 c.4 (NI); 1972 NI 13*

*Subs. (5), (6) rep. by 1989 c. 3*

*Subs.(7) rep. by 1971 c.4 (NI)*

- (8) [<sup>F24</sup> The Chief Electoral Officer] shall furnish to the Ministry in such form and at such time as may be required by the Ministry an account of all expenses incurred by him in connection with a register.

*Subs. (9), (10) rep. by 1989 c. 3*

**F24** 1972 NI 13

## 22 Remuneration and expenses of returning officer at parliamentary election.

- (1) ...<sup>F25</sup> Save [<sup>F26</sup> as otherwise provided in this Act] an electoral officer or other person performing the functions of returning officer at a parliamentary election in any constituency...<sup>F27</sup> shall not give, pay, demand, take or accept any fee, reward or gratuity whatsoever for or in relation to any of such functions.
- (2) Any expenses properly incurred by an electoral officer as returning officer at a parliamentary election (in this Act referred to as election expenses ) shall...<sup>F25</sup> be charged on and paid out of the Consolidated Fund.
- (3) The Ministry may on the request of [<sup>F26</sup> the Chief Electoral Officer or a person to whom the duties of returning officer at a parliamentary election are delegated] for an advance on account of his election expenses make such an advance on such terms as it thinks fit.
- (4) The Ministry with the concurrence of the Ministry of Finance<sup>F28</sup> shall prescribe a scale of election expenses; and the time at which and the manner and form in which accounts of and claims for the payment of election expenses are to be submitted to the Ministry shall be such as the Ministry shall direct.

**F25** 1972 NI 13

**F26** 1972 NI 13

**F27** SLR 1980

**F28** Now Treasury, SI 1973/2163

## 23 Remuneration and expenses of Chief Electoral Officer and other persons at local election.

[<sup>F29</sup> (1) The expenses of the Chief Electoral Officer as returning officer at a local election, the expenses and remuneration of a deputy returning officer at such an election and the remuneration payable to persons employed in connection with such an election shall not exceed the amounts provided by a scale framed by the Ministry and approved by the Ministry of Finance<sup>F30</sup>.]

*Subs.(2) rep. by 1972 NI 13*

- (3) All expenses properly incurred in relation to the holding of a local election [<sup>F31</sup> held on or after [<sup>F32</sup> 1st October 1973]] shall be paid by the local authority concerned, [<sup>F29</sup> and all expenses properly incurred in relation to the holding of an election to a district council prior to [<sup>F32</sup> 1st October 1973] shall be paid out of moneys hereafter

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appropriated for the purpose of meeting such expenses and shall at such time after [F32 1st October 1973] as the Ministry may determine be repaid by the council to the Exchequer to such extent (if any) as the Ministry with the approval of the Ministry of Finance<sup>F33</sup> determines].

- (4) On the request of a returning officer for an advance on account of his election expenses at a local election, the local authority by which such expenses are to be paid may make such an advance on such terms as it thinks fit.

*Subs.(5) rep. by 1972 NI 13*

- (6) All costs properly incurred by a returning officer in the institution of legal proceedings arising out of a local election shall be deemed to form part of the expenses properly incurred by him in relation to the holding of the election.
- (7) Within[F34 six months] from the declaration of the result of an election to any local authority the returning officer shall submit to that local authority a detailed account of the expenses incurred by him in the conduct of that election supported by vouchers for the payments set out therein; and no sum which is not so supported may lawfully be paid out of any rate or fund administered by that local authority.

- F29** 1972 NI 13  
**F30** Now Minister for Civil Service, SI 1973/2163  
**F31** 1972 NI 13  
**F32** 1972 NI 21  
**F33** Now Treasury, SI 1973/2163  
**F34** SI 1985/454

## 24 Claims against, and taxation of expenses of, returning officer.

- (1) Every person having a claim against a returning officer for any debt incurred by or on behalf of the returning officer for the purposes of an election shall, within twenty-one days after the day on which in the case of a parliamentary election the return is made of a person or persons elected at the election, or in the case of a local election public notice is given of the result of the election, send to the returning officer detailed particulars in writing of such claim and the returning officer shall not be liable in respect of anything which is not duly stated in such particulars.[F35 In the case of a local election, this subsection shall have effect as if, for the period of twenty#one days referred to above, there were substituted a period of forty#two days]
- (2) There shall be added to every notice of election published under the provisions of this Act, a notification setting out the relevant provisions of subsection (1).
- (3) The Ministry or the local authority by which the expenses are payable may if it thinks fit apply to the county court for the taxation of any account and claim submitted respectively under subsection (4) of section twenty-two or subsection (7) of section twenty-three; and that court may tax such account and claim in such manner and at such time and place as it thinks fit and may finally determine the amount payable on foot thereof. The county court for the purpose of this section shall be the court having jurisdiction in the place of nomination for the election to which the account relates.
- (4) Where an application is made under subsection (3) the returning officer may apply to the court for the examination of any claim against him by any person in respect of any matter charged in the account in question; and after the claimant has been given due

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notice and has had an opportunity of tendering evidence in support of his claim, the court may allow, disallow or reduce the claim, whether with or without costs; and the determination of the court shall be final and conclusive.

**F35** SI 1985/454

## **25 Remuneration retainable by officers.**

- (1) Any remuneration paid to [<sup>F36</sup> a person appointed under section 14A or to a deputy returning officer at a local election] may, subject to any term to the contrary in any contract to which he is a party, be retained by him for his own benefit.

*Subs.(2)(3) rep. by 1972 NI 13*

**F36** 1972 NI 13

*S.26 rep. by 1972 NI 13*

## **27 Mutual assistance by officers, etc.**

It shall be the duty of every officer upon whom any functions are conferred by or under this Act, and of every officer or person appointed or employed (otherwise than by any candidate) for any of the purposes of this Act, to furnish such information and render such other assistance to any other such officer or person as that other officer or person properly requires for the purposes of this Act.

# **PART V**

## **REGISTRATION OF ELECTORS AND VOTING**

## **28 Preparation and publication of registers.**

*Subs. (1)#(6) rep. by 1989 c. 3*

- (7) ...<sup>F37</sup> for the purpose only of determining whether a member of a local authority is qualified to continue to be such member for the remainder of his term of office by virtue of his being a local elector, the register in force [<sup>F38</sup> at the time of his becoming such a member] shall continue in force until the election day for that local authority in the next local election year.

**F37** 1972 NI 13

**F38** 1971 c.4 (NI)

## **29 Miscellaneous provisions as to registration and voting.**

*Subs. (1) rep. by 1989 c. 3*

*Subs. (2) rep. by 1968 c.20 (NI); 1969 c.26 (NI)*

*Subs. (3)(4) rep. by 1968 c.20 (NI)*

*Subs. (5) rep. by 1972 NI 13*

*Subs. (6) rep. by 1989 c. 3*



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- (7) A person shall not be disqualified for voting at any election by reason only of his being lawfully employed for payment by or on behalf of a candidate at that election.
- (8) Where at any election an elector applies to vote in person at his allotted polling station, the presiding officer may not, except as provided by Rules 38, 42 and 44 of the Parliamentary Elections Rules or of<sup>F39</sup> rule 32 and paragraph (2) to (7) of rule 34 (including those paragraphs as applied by rules 35, 36 and 37) of the local elections rules] refuse to issue a ballot paper to that person or to permit him to vote; but an elector or other person demanding and receiving a ballot paper is nevertheless liable to the penalties provided in the Ninth Schedule if he votes in contravention of<sup>F40</sup> section 1(3) of the Elected Authorities (Northern Ireland) Act 1989].

**F39** SI 1985/454

**F40** 1989 c. 3

*S. 30 rep. by 1969 c. 26 (NI)*

*Ss. 31, 32 rep. by 1989 c. 3*

*S. 33 rep. by 1968 c. 20 (NI)*

## PART VI

### THE ELECTION CAMPAIGN

#### 34 Appointment of election agent.

- (1) Not later than the latest time for the delivery of notices of withdrawals for an election, a person shall be named by or on behalf of each candidate as the candidate's election agent, and the name and address of the candidate's election agent shall be declared in writing by the candidate or some other person on his behalf to the returning officer not later than that time.
- (2) A candidate may name himself as election agent, and thereupon shall, so far as circumstances admit, be subject to the provisions of this Act both as a candidate and as an election agent, and, except where the context otherwise requires, any reference in this Act to an election agent shall be construed as referring to the candidate acting in his capacity of election agent.
- (3) One election agent only shall be appointed for each candidate, but the appointment, whether the election agent appointed be the candidate himself or not, may be revoked.
- (4) If whether before, during or after the election the appointment<sup>F41</sup> (or, at a local election, a deemed appointment)] of an election agent is revoked or an election agent dies, another election agent shall be appointed forthwith and his name and address declared in writing to the returning officer.
- (5) Upon the name and address of an election agent being declared to the returning officer, the returning officer shall forthwith give public notice of that name and address.

**F41** SI 1987/168

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### 35 Sub-agents at parliamentary elections.

- (1) An election agent of a candidate at a parliamentary election for a county constituency may appoint one deputy election agent (in this Act referred to as a sub-agent) to act within each polling district and no more.
- (2) As regards matters in a polling district the election agent may act by the sub-agent for that district, and anything done for the purposes of this Act by or to the sub-agent in his district shall be deemed to be done by or to the election agent, and any act or default of a sub-agent which, if he were the election agent, would be an illegal practice or other offence against this Act shall be an illegal practice and offence against this Act committed by the sub-agent, and the sub-agent shall be liable to punishment accordingly; and the candidate shall suffer the like incapacity as if the said act or default had been the act or default of the election agent.
- (3) Not later than two days before the day of the poll, the election agent shall declare in writing to the returning officer the name and address of every sub-agent and the returning officer shall forthwith give public notice of the name and address of every sub-agent so declared.
- (4) The appointment of a sub-agent shall not be vacated by the election agent who appointed him ceasing to be election agent, but may be revoked by the election agent for the time being of the candidate, and in the event of the revocation of the appointment or of the death of a sub-agent another sub-agent may be appointed, and his name and address shall be forthwith declared in writing to the returning officer, who shall forthwith give public notice of the name and address so declared.

### 36 Offices of election agent and sub-agent.

- (1) Every election agent and every sub-agent shall have an office to which all claims, notices, writs, summonses and documents may be sent, and the address of the office shall be declared to the returning officer at the same time as the appointment of the agent, and shall be stated in the public notice of the name of the agent.<sup>F42</sup> At a local election, this subsection shall have effect as if after the words appointment of the agent there were inserted the words is declared to him.]
- (2) The office of the election agent shall, if for a parliamentary election, be within the constituency and, if for a local election within the local government electoral area, ...<sup>F43</sup>, and the office of a sub-agent shall be within his polling district...
- <sup>F43</sup>(3) Any claim, notice, writ, summons or document delivered at the office of the election agent or sub-agent and addressed to him shall be deemed to have been served on him, and every election agent or sub-agent may be sued in any court having jurisdiction at the place where his office is situate, in respect of any matter which is connected with the election in which he is acting and is within the competence of that court.

**F42** SI 1987/168

**F43** 1972 NI 13

### 37 Default in appointing election agent.

- (1) If no person's name and address are declared as required by section thirty-four as the election agent of a candidate who remains validly nominated at the latest time for delivery of notices of withdrawals, the candidate shall be deemed at that time to

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have named himself as election agent and to have revoked any appointment of another person as his election agent.

- (2) If the person whose name and address have been so declared as those of the candidate's election agent (not being the candidate himself) dies and a new appointment is not made on the day of the death or on the following day, the candidate shall be deemed to have appointed himself as from the time of the death.
- (3) If the appointment of a candidate's election agent is revoked without a new appointment being made, the candidate himself shall be deemed to have been appointed (or re-appointed) election agent.
- [<sup>F44</sup>(3A) At a local election the deemed appointment of a candidate as his own election agent may be revoked as if it were an actual appointment.]
- (4) Where a candidate is by virtue of this section to be treated as his own election agent, he shall be deemed to have his office at his address as given in the statement as to persons nominated or, if that address is not in the constituency or local government electoral area...<sup>F45</sup>, at the qualifying address of the person named in that statement as his proposer.
- (5) The returning officer on being satisfied that a candidate is by virtue of this section to be treated as his own election agent, shall forthwith proceed to publish the like notice as if the name and address of the candidate and the address of his office had been duly given to him under sections thirty-four and thirty-six.

**F44** SI 1987/168

**F45** 1972 NI 13

### 38 Making of contracts through election agent.

- (1) The election agent of a candidate shall appoint every polling agent, clerk and messenger employed for payment on behalf of the candidate at an election, and hire every committee room hired on behalf of the candidate.
- (2) A contract whereby any election expenses are incurred shall not be enforceable against a candidate at the election unless made by the candidate himself or by his election agent:

Provided that this subsection shall not relieve the candidate from the consequences of any corrupt or illegal practice having been committed by his agent.

- (3) The references in this section to an election agent shall, in relation to a parliamentary election where sub-agents are allowed, be construed as references to the election agent acting by himself or by a sub-agent.

### 39 Payment of expenses at an election through election agent.

- (1) Except as permitted by section forty, or in pursuance of section forty-three or section forty-four, no payment and no advance or deposit shall be made by a candidate or by any agent on behalf of the candidate or by any other person at any time in respect of expenses at [<sup>F46</sup> an election] otherwise than by or through the election agent of the candidate.

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- (2) Every payment made by an election agent in respect of any expenses at [<sup>F46</sup> an election] shall, except where less than [<sup>F47</sup> £2], be vouched for by a bill stating the particulars and by a receipt.[<sup>F48</sup> At a local election, this subsection shall have effect as if for the words '£2' there were substituted the words '£20'.]
- (3) The references in the foregoing provisions of this section to an election agent shall, in relation to [<sup>F46</sup> an election] where sub-agents are allowed, be construed as references to the election agent acting by himself or by a sub-agent.
- (4) All money provided by any person other than the candidate for any expenses at [<sup>F46</sup> an election], whether as gift, loan, advance or deposit, shall be paid to the candidate or his election agent and not otherwise.
- (5) The foregoing provisions of this section shall not be deemed to apply to any sum disbursed by any person out of his own money for any small expense legally incurred by him if the sum is not repaid to him.

**F46** 1972 NI 13

**F47** Subst. by virtue of 1969 c.19

**F48** SI 1987/168

#### 40 Personal expenses of candidate and petty expenses at an election.

- [<sup>F49</sup> (1) The candidate at an election may pay any personal expenses (as defined by this Act) incurred by him on account of or in connection with or incidental to the election but the amount which a candidate at a parliamentary election may so pay shall not exceed 100 and any further personal expenses so incurred by him shall be paid by his election agent.]
- (2) Any person may, if so authorised in writing by the election agent of the candidate at [<sup>F49</sup> an election], pay any necessary expenses for stationery, postage, telegrams and other petty expenses to a total amount not exceeding that named in the authority, but any excess above the total amount so named shall be paid by the election agent.
  - (3) Within the time limited by this Act for sending in claims—
    - (a) the candidate at [<sup>F49</sup> an election] shall send to his election agent a written statement of the amount of personal expenses paid by him under subsection (1);
    - (b) any such person as is referred to in sub-section (2) shall give to the election agent a written statement of particulars of all payments made by him and shall on receiving repayment of the amount of such payments give the election agent a receipt therefor.
  - (4) All such payments as are referred to in sub-section (3) shall be included by the election agent in his return of expenses made under section forty-six, and for the purposes of that section the statement and receipt given under paragraph ( b ) of sub-section (3) shall be the relevant bill and receipt for the payments to which they relate.

**F49** 1972 NI 13

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#### 41 Prohibition of unauthorised expenses.

(1) Subject to sub-sections (2), (3) and (4) and to sub-paragraph (3) of paragraph 31 of the Ninth Schedule, no expenses shall, with a view to promoting or procuring the election of a candidate at an election, be incurred by any person other than the candidate, his election agent and persons authorised in writing by the election agent on account—

- (a) of holding public meetings or organising any public display; or
- (b) of issuing advertisements, circulars or publications; or
- (c) of otherwise presenting to the electors the candidate or his views or the extent or nature of his backing or disparaging another candidate; or
- (d) of the hire or provision of vehicles for the conveyance of voters to or from the poll.

(2) Paragraph (c) of sub-section (1) shall not—

- (i) restrict the publication of any matter relating to the election in a newspaper or other periodical; or
- (ii) apply to any expenses<sup>[F50]</sup> incurred by any person which do not exceed in the aggregate the permitted sum (and are not incurred by that person as part of a concerted plan of action)], or to expenses incurred by any person in travelling or in living away from home or similar personal expenses.

<sup>[F50]</sup>(2A) For the purposes of subsection (2)(ii)—

- (a) the permitted sum means £50 together with an additional 0.5p for every entry in the register of local electors for the district electoral area in question as it has effect on the last day for publication of notice of the election; and
- (b) expenses are to be regarded as incurred by a person as part of a concerted plan of action if they are incurred by that person in pursuance of any plan or other arrangement whereby that person and one or more other persons are to incur, with a view of promoting or procuring the election of the same candidate, expenses which (disregarding subsection (2)(ii)) might fall within subsection (1) above.]

(3) Paragraph (d) of sub-section (1) shall not—

- (i) apply to the provision or use by its owner, for the purpose of conveying voters to or from the poll, of any vehicle, not being a vehicle ordinarily used for letting or hiring, where no payment or reward is made or promised by any person to the owner of the vehicle in respect of its provision or use for such purpose;
- (ii) apply to the letting, hiring, employing or using of a vehicle by a voter or several voters at their joint cost for the purpose of conveying him or them to or from the poll at any election.

*Subs.(4) rep. by 1972 NI 13*

(5) Every person authorised by the election agent under sub-section (1) to incur expenses at <sup>[F51]</sup>an election] shall—

- (a) within seven days after the day on which the result of the election is declared, send to the election agent a written statement containing particulars of all expenses incurred by him and such expenses shall for all the purposes of this Act be regarded as expenses incurred by the election agent;
- (b) within fourteen days after the day on which the result of the election is declared send to the returning officer a return of the amount of those expenses, stating the election at which and the candidate in whose support they were

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incurred, and the return shall be accompanied by a declaration made by the said person (or in the case of an association or body of persons, by a director, general manager, secretary or other like officer thereof) verifying the return and giving particulars of the matters for which the expenses were incurred:

Provided that paragraph (b) shall not apply to any person engaged or employed for payment or promise of payment by the candidate or his election agent.<sup>[F52]</sup> At a local election, paragraph (b) of this subsection shall have effect as if for the words fourteen and send there were substituted twenty#one and deliver, respectively.]

- (6) The return and declaration under the foregoing provisions of this section shall be respectively in the forms numbered 2 and 3 in the Tenth Schedule, and the authority received from the election agent shall be annexed to and deemed to form part of the return.

**F50** SI 2001/417

**F51** 1972 NI 13

**F52** SI 1987/168

## 42 Limitation of expenses at an election.

- (1) No sum shall be paid and no expense shall be incurred by a candidate at [<sup>F53</sup> an election] or his election agent, whether before, during or after an election, on account of or in respect of the conduct or management of the election, in excess of the maximum amount, which [<sup>F53</sup> for a candidate at a parliamentary election is an amount equal to two-and-a-half new pence for each parliamentary elector on the<sup>[F54]</sup> current register, and for a candidate at a local election is<sup>[F55]</sup> £600] together with an additional<sup>[F55]</sup> 5p] for every entry in the register of electors<sup>F56</sup> . . . .]

<sup>[F56]</sup>(1A) In subsection (1) the register of electors means the register of local electors for the district electoral area in question as it has effect on the last day for publication of notice of the election.]

- (2) The said maximum amount [<sup>F57</sup> for a candidate at a parliamentary election] shall not be required to cover—

- (a) any personal expenses incurred by the candidate; or
- (b) the fee, if any, paid by a candidate to his election agent—
  - (i) in a county constituency, to an amount not exceeding seventy-five pounds;
  - (ii) in a borough constituency or the university constituency, to an amount not exceeding fifty pounds.

- (3) Where there are two or more joint candidates the maximum amount of expenses —

<sup>[F54]</sup>(a) [<sup>F54</sup> at a parliamentary election] shall be the amount produced by multiplying by one-and-a-half the amount applicable under sub-section (1) to a separate candidate and dividing the result by the number of joint candidates;<sup>[F54]</sup> and]

<sup>[F54]</sup>(b) [<sup>F54</sup> at a local election shall, for each of two<sup>F58</sup> . . . joint candidates, be reduced by one-fourth or, if there are more than two joint candidates, by one-third.]

- (4) Where two or more candidates appoint the same election agent or by themselves or any agent or agents—

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- (a) employ or use the services of the same polling agents, clerks or messengers at the election; or
- (b) hire or use the same committee rooms for the election; or
- (c) publish a joint address or joint circular or notice at the election;

those candidates shall be deemed to be joint candidates:

Provided that the employment and use of the same polling agent, clerk, messenger or committee room, if accidental or casual, or of a trivial and unimportant character, shall not be deemed of itself to constitute persons joint candidates.

- (5) Nothing in sub-section (4) shall prevent candidates from ceasing to be joint candidates; but such a cesser shall take effect only when the returning officer receives a notice, signed by each joint candidate, of his intention to become a separate candidate, and notifying the name and address of the election agent appointed by him as such separate candidate.

- (6) Where—

- (a) any excess of expenses above the maximum allowed for one of two or more joint candidates has arisen owing to his having ceased to be a joint candidate, or to his having become a joint candidate after having begun to conduct his election as a separate candidate;
- (b) the change was made in good faith;
- (c) the excess is not more than what under the circumstances is reasonable; and
- (d) the total election expenses of the candidate do not exceed the maximum amount allowed for a separate candidate;

the excess shall be deemed to have arisen from a reasonable cause for the purposes of section one hundred and seven.

**F53** 1972 NI 13

**F54** SI 1985/454

**F55** SI 2005/864

**F56** SI 2001/417

**F57** 1972 NI 13

**F58** SI 1990/595

## 43 Time for sending in and paying claims.

- (1) Every claim against a candidate or his election agent in respect of expenses at [<sup>F59</sup> an election] which is not sent into the election agent within fourteen days after the day on which the result of the election is declared shall be barred and not paid. [<sup>F60</sup> At a local election, this subsection, subsection (3) and section 44(4) shall have effect as if for the word fourteen there were substituted twenty#one.]
- (2) All such election expenses shall be paid within twenty-eight days after the said day.
- (3) The High Court or the county court, on an application by the claimant or the candidate or his election agent, may on cause shown to the satisfaction of the court by order grant leave for the payment of a claim for any expenses at [<sup>F59</sup> an election] although sent in—
- (a) after the said period of fourteen days; or
  - (b) to the candidate and not to the election agent;

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and any sum paid by the candidate or election agent in pursuance of such an order shall be deemed to have been paid in compliance with sub-section (2).

*Subs.(4) rep. by 1978 c.23*

**F59** 1972 NI 13

**F60** SI 1987/168

#### **44 Disputed claims.**

- (1) If the election agent disputes any claim duly sent in to him under section forty-three or refuses or fails to pay the claim within the period of twenty-eight days so provided, the claim shall be deemed to be a disputed claim.
- (2) The claimant may, if he thinks fit, bring an action for a disputed claim in any competent court, and any sum paid by the candidate or his agent in pursuance of the judgment or order of the court shall not be deemed to be in contravention of sub-section (1) of section thirty-nine or of sub-section (2) of section forty-three.
- (3) If the defendant in the action admits his liability but disputes the amount of the claim, the said amount shall, unless the court on the application of the plaintiff otherwise directs, be forthwith referred for taxation to the proper officer of the court and the amount found due on the taxation shall be the amount to be recovered in the action in respect of the claim.
- (4) Sub-sections (3) and (4) of section forty-three shall apply in relation to a disputed claim as they apply in relation to a claim for election expenses sent in after the said period of fourteen days.

#### **45 Claim by election agent at an election.**

So far as circumstances admit, this Act shall apply to a claim for his remuneration by an election agent at [<sup>F61</sup> an election] and to the payment thereof in like manner as if he were any other creditor, and if any difference arises respecting the amount of the claim, the claim shall be a disputed claim within the meaning of this Act and be dealt with accordingly.

**F61** 1972 NI 13

#### **46 Return as to expenses at an election.**

- (1) Within thirty-five days after the day on which the result of the election is declared, the election agent of every candidate at [<sup>F62</sup> an election] shall transmit to the returning officer a true return in the form numbered 4 in the Tenth Schedule, containing as respects that candidate a statement of all payments made by the election agent together with all the relevant bills and receipts.
- (2) The return shall deal under a separate heading or sub-heading with any expenses included therein—
  - (a) as respects which a return is required to be made under sub-section (5) of section forty-one; or



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- (b) which are on account of the remuneration or expenses of speakers at public meetings.
- (3) The return shall also contain as respects that candidate—
  - (a) a statement of the amount of personal expenses, if any, paid by the candidate;
  - (b) a statement of all disputed claims of which the election agent is aware;
  - (c) a statement of all the unpaid claims, if any, of which the election agent is aware, in respect of which application has been or is about to be made to the High Court or county court;
  - (d) a statement of all money, securities and equivalent of money received by the election agent from the candidate or any other person for the purposes of election expenses incurred or to be incurred, with a statement of the name of every person from whom they have been received.
- (4) Where the candidate is his own election agent, a statement of all money, securities and equivalent of money paid by the candidate shall be substituted in the return as to election expenses for the statement of money, securities and equivalent of money received by the election agent from the candidate.
- (5) Where after the date at which the return as to election expenses is transmitted, leave is given by the court under sub-section (3) of section forty-three for any claims to be paid, the candidate or his election agent shall, within seven days after the payment thereof, transmit to the returning officer a return of the sums paid in pursuance of the leave, accompanied by a copy of the order of the court giving the leave; and in default he shall be deemed to have failed to comply with the requirements of this section without such authorised excuse as is mentioned in section forty-nine.
- (6) Notwithstanding anything in this section or in section forty-seven, no return or declaration as to election expenses shall be required in the case of a person—
  - (a) who is a candidate at an election but is so only because he has been declared by others to be a candidate; and
  - (b) who has not consented to the declaration or taken any part as a candidate in the election.
- [<sup>F63</sup>(7) At a local election, subsections (1) and (5) shall have effect as if for the word transmit in each place where it occurs there were substituted deliver and for the word transmitted in subsection (5) there were substituted delivered.]

**F62** 1972 NI 13

**F63** SI 1987/168

## 47 Declarations as to expenses at a parliamentary election.

- (1) The return transmitted under sub-section (1) of section forty-six shall be accompanied by a declaration made by the election agent before a justice of the peace in the form numbered 5 in the Tenth Schedule.
- (2) At the same time that the election agent transmits the said return, or within seven days afterwards, the candidate shall transmit or cause to be transmitted to the returning officer a declaration made by him before a justice of the peace in the form numbered 5 in the Tenth Schedule:

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Provided that where the candidate is out of the United Kingdom when the return is so transmitted, the declaration required by this sub-section may be made by him within fourteen days after his return to the United Kingdom, and in that case shall be forthwith transmitted to the returning officer, but the delay hereby authorised in making the declaration shall not exonerate the election agent from complying with the provisions of this Act as to the return and declaration as to election expenses.

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

[<sup>F64</sup>(4) At a local election, subsections (1) and (2) shall have effect as if for the word transmitted in each place where it occurs in subsection (1) and the proviso to subsection (2) there were substituted delivered and for the words transmits and transmit or cause to be transmitted in subsection (2) there were substituted respectively delivers and deliver.]

**F64** SI 1987/168

#### **48 Penalty for sitting or voting after failure to transmit return and declarations.**

- (1) If with respect to any candidate the return and declarations as to election expenses are not transmitted before the expiration of the time limited for the purpose, that candidate shall not after the expiration of that time sit or vote in the House of Commons as a member for the constituency in which the election was held either until the said return and declarations have been transmitted or until the date of the allowance of an authorised excuse under section forty-nine.[<sup>F65</sup> At a local election this subsection shall have effect as if for the word transmitted, in each place where it occurs, there were substituted delivered.]

- (2) A person who, in contravention of sub-section (1), sits or votes in the House of Commons shall forfeit one hundred pounds for every day on which he so sits or votes.

<sup>F66</sup>(2A) In the application of subsections (1) and (2) to a candidate at a local election—

- (a) the reference to sitting and voting in the House of Commons as a member for a constituency for which the election was held shall be taken as a reference to sitting or voting in the district council for the district for which the election was held; and
  - (b) fifty pounds shall be substituted for one hundred pounds and, instead of civil proceeding for a penalty, summary proceedings may be instituted in a court of summary jurisdiction and the person charged shall be liable, on conviction, to a fine of an amount not exceeding the amount of the penalty which would be recoverable in civil proceedings.]
- (3) A proceeding under sub-section (2) shall be commenced within one year after the date of the contravention and for the purpose of this sub-section a proceeding shall be deemed to be commenced—
- (a) where the service or execution of a writ or other process is prevented by the absconding or concealment or act of the alleged offender, by the issue of the writ or process;
  - (b) in any other case, by the service or execution of the writ or process on or against the alleged offender.

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**F65** SI 1987/168

**F66** 1972 NI 13

#### 49 Authorised excuses for failures as respects return and declarations.

- (1) The High Court, an election court or the county court may on the application of a candidate or his election agent grant relief in accordance with this section.

[<sup>F67</sup>(1A) Where a person makes an application under this section in respect of the return and declaration as to election expenses at a local election, he shall notify the Director of Public Prosecutions for Northern Ireland of the application and the Director or his assistant or any barrister or solicitor duly appointed as the Director's representative may attend the hearing of the application and make representations at the hearing in respect of it.]

- (2) Relief under this section may be granted—

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

[<sup>F67</sup>At a local election this subsection shall have effect as if for the word transmit, in each place where it occurs, there were substituted deliver.]

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

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

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

- (4) The court may, after such notice of the application in the constituency and on production of such evidence of the grounds stated in the application and of the good faith of the application and otherwise as to the court seems fit, make such order for allowing an authorised excuse for the failure, error or false statement as to the court seems just.
- (5) Where it is proved to the court by the candidate that any act or omission of the election agent in relation to the return and declarations was without the sanction or connivance of the candidate, and that the candidate used all reasonable means for preventing the act or omission, the court shall relieve the candidate from the consequences of the act or omission of his election agent.
- (6) An order under sub-section (4) may make the allowance conditional on the making of the return and declaration in a modified form or within an extended time, and upon

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the compliance with such other terms as to the court seem best calculated for carrying into effect the objects of this Part.

- (7) An order under sub-section (4) shall relieve the applicant for the order from any liability or consequences under this Act in respect of the matter excused by the order.
- (8) The date of the order, or if conditions and terms are to be complied with, the date at which the applicant fully complies with them, is referred to in this Act as the date of the allowance of the excuse.
- (9) The jurisdiction conferred on the High Court by this section may, subject to rules of court, be exercised by a judge sitting either in court or at chambers.
- (10) An appeal shall lie to the High Court from any order of a county court made by virtue of this section.

**F67** SI 1987/168

## **50 Power of court to require information from election agent or sub-agent.**

- (1) Where on an application to the county court under section forty-nine it appears to that court that any person who is or has been an election agent or sub-agent has refused or failed to make such return, or to supply such particulars, as will enable the candidate and his election agent respectively to comply with the provisions of this Act as to the return or declarations as to election expenses, the court before making an order under the said section, shall order that person to attend before the court.
- (2) The court shall on the attendance of that person, unless he shows cause to the contrary, order him to make the return and declaration, or to deliver a statement of the particulars required to be contained in the return, as to the court seems just, within such time, to such person and in such manner as the court may direct, or may order him to be examined with respect to the particulars.
- (3) If a person fails to comply with any order of the court under this section, the court may order him to pay a fine not exceeding five hundred pounds.  

[<sup>F68</sup>At a local election this subsection shall have effect as if for the words five hundred pounds, there were substituted the amount of the maximum fine to which he would be liable if at the time the order is made he were convicted of a summary offence on conviction of which he was liable to a fine of level 5 on the standard scale.]
- (4) Rules of court may make in relation to the High Court and an election court the like provision as is made in relation to a county court by sub-sections (1) to (3).

**F68** SI 1987/168

## **51 Publication of summary of return as to election expenses at elections.**

At [<sup>F69</sup> an election] the returning officer shall, within ten days after he receives from the election agent of a candidate a return as to election expenses, publish in two or more newspapers circulating in the constituency for which the election was held, a summary of the return accompanied by a notice of the time and place at which the return and declarations (including the accompanying documents) can be inspected.

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**F69** 1972 NI 13

## 52 Inspection of returns and declarations.

- (1) Any returns or declarations (including the accompanying documents) sent to the returning officer under section forty-one, section forty-six or section forty-seven shall be kept at the office of the returning officer or some convenient place appointed by him and shall at all reasonable times during two years next after they are received by him be open to inspection by any person on payment of a fee of [<sup>F70</sup> 5p], [<sup>F71</sup> in the case of a return or declaration relating to a parliamentary election] and the returning officer shall on demand furnish copies thereof or of any part thereof at the price of [<sup>F70</sup> 1p] [<sup>F71</sup> in the case of a return or declaration relating to a parliamentary election,] for every seventy-two words. [<sup>F71</sup> Where the return or declaration relates to a local election, the fee for inspection shall be £1 and the price of copies shall be 10p for each side of each page<sup>F72</sup> and this subsection shall have effect as if for the word sent there were substituted delivered].
- (2) After the expiration of the said two years the returning officer may cause all such returns and other documents as are referred to in sub-section (1) to be destroyed or—
  - (a) if the candidate or his election agent so requires shall return to the candidate all such documents other than those sent under section forty-one;
  - (b) if the person sending such documents under section forty-one so requires, shall return to that person the documents sent by him.

**F70** Subst. by virtue of 1969 c.19

**F71** SI 1985/454

**F72** SI 1987/168

## 53 Right to send election address post free.

- <sup>F73</sup>(1) A candidate at a parliamentary<sup>F74</sup> or local] election shall, subject to<sup>F75</sup> such reasonable terms and conditions as the universal service provider may specify<sup>F76</sup>, be entitled to send free of any charge for postage<sup>F75</sup> which would otherwise be made by a universal service provider] to each elector one postal communication containing matter relating to the election only and not exceeding two ounces in weight.
- (2) A person shall not be deemed to be a candidate for the purposes of this section unless he is shown as standing validly nominated in the statement of persons nominated, but until the publication of that statement any person who declares himself to be a candidate shall be entitled to exercise the right of free postage conferred by this section if he gives such security as may be required by<sup>F75</sup> the universal service provider concerned<sup>F76</sup> for the payment of postage should he not be shown as standing validly nominated as aforesaid.
- (3) For the purposes of this section, candidates who are, under sub-section (4) of section forty-two, deemed to be joint candidates shall be treated as a single candidate.
- <sup>F75</sup>(4) In this section universal service provider has the same meaning as in the Postal Services Act 2000.]

**F73** Ext. (local elections), SI 1977/428

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**F74** SI 1985/454

**F75** SI 2001/1149

**F76** To be construed as Post Office, 1969 c.48

#### **54 Rateability of premises unaffected by election meeting thereon.**

The use of any premises for the holding of public meetings in furtherance of any person's candidature at any election shall not render any person liable to be rated or to pay any rate for the premises.

#### **55 Duty on and licences for carriages, etc., used at elections.**

No person shall be liable to pay any duty or take out a licence for any carriage or other vehicle by reason only of such carriage or other vehicle being used without payment or promise of payment for the conveyance of electors to or from the poll at any election<sup>F77</sup> other than a local election].

**F77** SI 1987/168

#### **56 Rights of creditors.**

The provisions of this Act prohibiting—

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

shall not affect the right of any creditor, who, when the contract was made or the expense was incurred, was ignorant of that contract or expense being in contravention of this Act.

## **PART VII**

### **CONDUCT OF ELECTIONS**

#### **57 Rules for conduct of elections.**

- (1) The proceedings at a parliamentary election shall be conducted in accordance with the Parliamentary Elections Rules.
- (2) The proceedings at a local election shall be conducted in accordance with the Local Elections Rules.
- (3) The provisions of the Parliamentary Elections Rules and the Local Elections Rules may be varied by an Order in Council; but the Governor shall not be advised to make any such Order unless a draft thereof (which shall be subject to affirmative resolution) has been laid before Parliament.
- (4) Where for any reason an election cannot be held or completed in accordance with the provisions of this Act and there is no statutory provision other than this sub-section for—

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- (a) the holding of the election at a later date; or
- (b) procuring the completion of the election; or
- (c) holding a fresh election;

the [<sup>F78</sup> Chief Electoral Officer] may give such directions and make such arrangements as may be necessary for enabling the election to be so held or completed and such directions may in the case of an uncompleted election provide either for the holding of a fresh election or for the taking afresh of any of the proceedings of the uncompleted election and may determine the times at or within which any proceedings are to be taken and the provisions of this Act shall except as otherwise provided in this subsection apply to any such election or proceeding.

- (5) If the [<sup>F78</sup> Chief Electoral Officer] is satisfied that any difficulty arises with respect to any local election or that for any reason a vacancy in a local authority cannot be filled in accordance with the provisions of this Act, the [<sup>F78</sup> Chief Electoral Officer] may make such arrangements as [<sup>F78</sup> he] considers necessary to procure the holding of an election and may apply, with such amendment as may be necessary, the Rules for the holding of [<sup>F78</sup> local general] elections or of elections to fill casual vacancies...

- <sup>F79</sup>(6) It shall be the general duty of the returning officer at an election to do all such acts and things as may be necessary for effectually conducting the election in accordance with the provisions of this Act.

**F78** 1972 NI 13

**F79** 1972 NI 13

## **58 Saving as respects acts, etc., of officers.**

No election shall be declared invalid by reason of any act or omission by the returning officer or any other person in breach of his official duty or otherwise of any provision of this Act regulating the conduct of elections, if it appears to the tribunal having cognizance of the question that the election was so conducted as to be substantially in accordance with those provisions, and that the act or omission did not affect its result.

## **59 Returning officer not disqualified for voting.**

A person is not disqualified for voting at an election by reason only of his being or acting as returning officer at that election.

## **60 Candidates' deposits.**

- (1) Every candidate at an election [<sup>F80</sup> (other than a local election)] shall at the place and during the time for delivery of nomination papers deposit or cause to be deposited with the returning officer an amount in accordance with this section; and if he fails to do so his nomination shall be void.
- (2) Except with the consent of the returning officer a deposit shall not be made otherwise than by means of any legal tender.
- (3) The amount of the deposit shall—
  - (a) for a parliamentary election be one hundred and fifty pounds;

*Para. (b) rep. by SI 1985/454*

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**F80** SI 1985/454

## 61 Return or disposal of deposit.

- (1) Where a candidate in respect of whom a deposit has been made—
  - (a) withdraws in accordance with the Parliamentary Elections Rules<sup>F81</sup> . . . , the deposit shall be returned forthwith to the person by whom it was made;
  - (b) dies before the commencement of the poll the deposit shall forthwith—
    - (i) if made by him, be returned to his personal representatives;
    - (ii) if not made by him, be returned to the person by whom it was made;
 and paragraph (a) shall apply to a candidate whose nomination paper is determined to be invalid in like manner as it applies to a candidate who withdraws.

- (2) Where a candidate is not elected his deposit shall be forfeited if—

*Para.(a) rep. by 1968 c.20 (NI)*

- (b)<sup>F82</sup> in any . . .<sup>F83</sup> election, the number of votes given to him does not exceed one-eighth of the total number of votes polled;

and in any other case the deposit shall be returned to the person by whom it was made.

For the purposes of this sub-section the number of votes polled shall be taken to be the number of ballot papers (other than spoilt ballot papers) counted.

- (3) Subject to sub-sections (4) and (5), where a candidate is elected—
  - (a) at a parliamentary election, when and so soon as the candidate has taken the oath as a member;

*Para. (b) rep. by SI 1985/454*

the deposit shall be returned to the candidate or other person by whom it was made; and until such oath has been taken or declaration made, as the case may be, the returning officer shall retain the deposit.

- (4) If any elected candidate fails, by reason of his death, mental or physical incapacity or other cause not within his control, to take the oath or as the case may be to make the declaration respectively referred to in sub-section (3), the returning officer—
  - (a) upon application being made to him by or on behalf of the candidate or his estate or by or on behalf of the person by whom the deposit was made; and
  - (b) upon being satisfied as to such cause as aforesaid and as to the title of the applicant;

shall pay the deposit to the applicant as soon as may be.

- (5) Where a deposit is retained under sub-section (3) and is not paid to an applicant under sub-section (4), the returning officer—
  - (a) where the deposit was made at a parliamentary election, shall retain the deposit until the next following dissolution of Parliament;

*Para. (b) rep. by SI 1985/454*

and a deposit so retained shall be forfeited as from the date of such dissolution or, as the case may be, on the expiration of such period.



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- (6) As soon as may be after a deposit has been forfeited under sub-section (5) the returning officer shall send to the Ministry a full report thereon in writing.
- (7) Where a deposit is retained under sub-section (5) any person claiming to be entitled thereto may at any time before the deposit is forfeited apply to the county court for an order that the deposit be paid to him; and the court upon being satisfied—
- that the failure which caused the retention was not due to a cause within the control of the candidate; and
  - that the applicant is in all other respects entitled to the deposit;
- shall by order declare accordingly; and the returning officer shall thereupon pay the deposit to the applicant after deducting therefrom such costs as the court may order to be so deducted. The costs of such an application shall be in the discretion of the court.
- (8) A deposit forfeited under this section—

*Para.(a) rep. by 1968 c.20 (NI)*

- (b) in relation to an election in any...<sup>F83</sup> constituency, shall be remitted by the returning officer to the Ministry of Finance<sup>F84</sup> and paid into the Exchequer;

*Para. (c) rep. by SI 1985/454*

**F81** SI 1985/454

**F82** Mod. (local elections), SI 1977/428

**F83** 1968 c.20 (NI)

**F84** Now Treasury, SI 1973/2163

## 62 Plural candidatures prohibited.

- (1) A person may not be nominated as a candidate at any parliamentary or local election where the nomination would result in that person's being a candidate at the same time—
- in more than one constituency or, as the case may be, more than one...<sup>F85</sup>[<sup>F86</sup> district electoral area] in the same local government electoral area;

*Para.(b) rep. by 1972 NI 13*

and any nomination contravening this sub-section shall be void.

- (2) Sub-section (1) shall not be construed as preventing a duly qualified person from being nominated as a candidate at the elections of two or more local authorities notwithstanding that those elections are held on the same day.

**F85** 1972 NI 13

**F86** SI 1990/595

## 63 Offices of returning officers at parliamentary elections.

The returning officer...<sup>F87</sup> shall appoint to be his principal office for the purpose of [<sup>F88</sup> a parliamentary election] a place which [<sup>F88</sup> is within the constituency for which the election is held or within the area of a district council which wholly or partly contains the constituency] and may appoint to be subsidiary offices for the said purpose such other places, situate respectively as aforesaid, as he may think necessary.

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**F87** 1972 NI 13

**F88** 1972 NI 13

#### 64 Offices of returning officers at local elections.

The returning officer...<sup>F89</sup> shall appoint to be his principal office for the purpose of [<sup>F90</sup> a local election] a place situate—

- (a) within the local government electoral area for which the election is to be held;

*Paras.(b)(c) rep. by 1972 NI 13*

and may appoint to be subsidiary offices for the said purpose such other places situate within the area for which the election is to be held as he may think necessary.

**F89** 1972 NI 13

**F90** 1972 NI 13

#### 65 Polling station schemes.

- (1) A polling station scheme prepared under sub-section (2) of section fifteen (in this section referred to as a scheme) shall provide for the designation of such number of polling stations in such situations as to provide for all electors in each polling district such reasonable facilities for voting as are practicable in the circumstances.

<sup>F91</sup>(1A) The Chief Electoral Officer shall in [<sup>F92</sup> the year 1973] and every fourth year thereafter prepare in accordance with the provisions of this section a draft scheme providing for the location of a polling station or polling stations in each polling district (as defined in this Act) and shall publish the draft scheme in accordance with electoral regulations under sub-section (4).]

- (2) The [<sup>F93</sup> Chief Electoral Officer] may if [<sup>F93</sup> he] thinks fit cause a local inquiry to be held in relation to the [<sup>F91</sup> draft] scheme or any question arising in connection with it; and if such an inquiry is held [<sup>F93</sup> the Chief Electoral Officer shall] take into consideration the report of the person who held it.

<sup>F93</sup>(3) The Chief Electoral Officer shall consider any objections or proposals made in relation to the draft scheme and shall then approve the scheme with or without modifications (which may include additions or exceptions).]

- (4) The Ministry may by electoral regulations make provision—

- (a) for the method of selection of polling stations...<sup>F94</sup>;
- (b) for the time within which and the manner in which draft schemes are to be published and objections or proposals in relation thereto may be lodged by interested persons;
- (c) for the time within which and the manner in which schemes are to be [<sup>F93</sup> approved]; and
- (d) the manner in which approved schemes are to be published.

- (5) As from the date of publication of a scheme [<sup>F91</sup> approved under sub-section (3)] the polling stations therein designated shall, subject to sub-section (6), be the polling stations to be used, at any parliamentary or local election initiated between that date

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and the date of publication of a new scheme, [<sup>F91</sup> approved under sub-section (3)] for the polling districts to which the scheme relates...

<sup>F94</sup>[<sup>F93</sup> (6) The Chief Electoral Officer may for the purpose of any particular election omit from or add to the polling stations designated in a polling station scheme such station or stations as he considers necessary.]

**F91** 1972 NI 13

**F92** 1972 NI 21

**F93** 1972 NI 13

**F94** 1972 NI 13

## 66 Voting by post.

(1) Subject to sub-section (2) a parliamentary elector who satisfies the electoral officer that he will be unable to vote at any election by reason—

- (a) of absence from Northern Ireland; or
- (b) of illness or other physical incapacity; or
- (c) of his being a person to whom paragraph (a) of sub-section (3) or sub-section (5) of section five applies;

may vote by post in accordance with the Fourth Schedule.

(2) An elector shall not vote by post at any election unless—

- (a) on or after the date on which the election is initiated and not later than the hour of five o'clock in the afternoon of the second day after nomination day the electoral officer receives an application for a postal ballot paper either from that elector or on his behalf from a person registered as a parliamentary elector in a constituency in Northern Ireland who is the spouse, parent, grandparent, brother, sister, child or grandchild of that elector; and
- (b) that application is accompanied by a postal address to which a postal ballot paper may be sent which address shall as respects an elector absent from Northern Ireland be outside Northern Ireland but within the postal voting area as defined in this Act.

## 67 Voting by proxy.

(1) <sup>F95</sup>[<sup>F96</sup> An] elector to whom this section applies may, subject to sub-section (2), appoint a person to vote on his behalf at any election initiated during the period for which under the Seventh Schedule the appointment continues in force.

(2) <sup>F95</sup> This section applies to—

- (a) any elector registered by virtue of a service qualification;
- (b) any other [<sup>F97</sup> parliamentary] elector who satisfies the electoral officer, ... <sup>F98</sup>, that in any six consecutive months he will or is likely to be at sea or out of the United Kingdom for a period or two or more periods together exceeding four weeks.

(3) An elector registered by virtue of a service qualification may not vote otherwise than in person or by proxy.

(4) <sup>F95</sup> The provisions of the Seventh Schedule shall have effect in relation to the appointment and voting of proxies.

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[<sup>F99</sup>(5) This section and Schedule 7 shall not apply at a local election.]

**F95** Ext., SI 1977/428  
**F96** 1969 c.26 (NI)  
**F97** 1969 c.26 (NI)  
**F98** 1968 c.20 (NI)  
**F99** SI 1985/454

*S.68 rep. by 1969 c.26 (NI)*

PART VIII (SS.69—71) REP. BY 1968 C.20 (NI)

## PART IX

### QUESTIONING OF ELECTIONS

#### 72 Election courts.

- (1) Election courts for the trial in accordance with this Part of petitions relating to parliamentary and local elections shall be constituted in accordance with this section.
- <sup>F100</sup>(2) An election court for the trial of petitions relating to parliamentary elections (in this Act referred to as a parliamentary election court) shall consist of the two judges of the High Court or the Court of Appeal for the time being selected under section 108 of the Judicature (Northern Ireland) Act 1978.]
- (3) An election court for the trial of petitions relating to local elections (in this Act referred to as a local election court) shall consist of a barrister-at-law of not less than ten years' standing in practice, not being a person who—
  - (a) is a member of either House of Parliament;
  - (b) holds any office or place of profit under the Crown; or
  - (c) resides within or is registered as a local elector for the local government electoral area (or where the area is the [<sup>F101</sup> City] of Belfast, resides within or is registered as a local elector for the [<sup>F102</sup> district electoral area]) to which the petition relates;

and the judges of the <sup>F103</sup> Supreme Court or a majority of them may from time to time appoint as many barristers-at-law, not exceeding five, as they may think necessary for the trial of local election petitions, and shall assign petitions to each such barrister in rotation; and where a barrister to whom a petition has been assigned dies or declines to act or becomes incapable of acting the said judges may assign the trial to be conducted or continued by any other barrister so appointed.

*Subs.(4) rep. by 1978 c.23*

- (5) The provisions of the Eighth Schedule shall have effect in relation to election courts.

*Subs.(6) repeals s.11 (pt.) of 1868 c.125; s.43 of 1877 c.57; 1879 c.75; s.42 of 1883 c.51*

**F100** 1978 c.23  
**F101** 1972 NI 13

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**F102** SI 1985/454

**F103** prosp. subst. by 2005 c. 4

### 73 Attendance of Director of Public Prosecutions at trial of election petition.

<sup>F104</sup>[<sup>F105</sup> The Director of Public Prosecutions for Northern Ireland] shall attend the trial of every election petition or cause it to be attended on his behalf.<sup>F106</sup> At the trial of a petition relating to a local election, this section shall have effect as if for the word shall there were substituted may and, if the election court so requests him, shall.]

**F104** continue to am. 2002 c. 26

**F105** 1972 NI 1

**F106** SI 1987/168

### 74 Method of questioning parliamentary election.

- (1) No parliamentary election and no return to Parliament shall be questioned except by a petition complaining of an undue election, an undue return or no return (hereinafter referred to as a parliamentary election petition) presented in accordance with this Part.
- (2) Where a petition complains of no return, the High Court may make such order thereon as they think expedient for compelling a return to be made or may allow the petition to be heard by an election court as provided with respect to ordinary election petitions.

### 75 Presentation and service of parliamentary election petition.

- (1) A parliamentary election petition may be presented by one or more of the following persons:—
  - (a) a person who voted as an elector at the election or who had a right so to vote; or
  - (b) a person claiming to have had a right to be elected or returned at the election; or
  - (c) a person alleging himself to have been a candidate at the election.
- (2) The member whose election or return is complained of is hereinafter referred to as the respondent, but if the petition complains of the conduct of a returning officer, the returning officer shall for the purposes of this Part be deemed to be a respondent.
- (3) The petition shall be in the prescribed form, state the prescribed matters and be signed by the petitioner or all the petitioners if more than one, and shall be presented to the High Court in the Queen's Bench Division.
- (4) The petition shall be presented by delivering it to the prescribed officer or otherwise dealing with it in the prescribed manner; and the prescribed officer shall send a copy of it to the returning officer of the constituency to which the petition relates, who shall forthwith publish it in that constituency.
- (5) The petition shall be served as nearly as may be in the manner in which a writ of summons may be served or in such other manner as may be prescribed.

### 76 Time for presentation or amendment of parliamentary election petition.

- (1) Subject to the provisions of this section, a parliamentary election petition other than a petition complaining of no return shall be presented within twenty-one days after

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the return of the member to whose election the petition relates has been made to the Clerk of the Crown.

- (2) If the petition questions the election or return upon an allegation of corrupt practices and specifically alleges a payment of money or other reward to have been made or promised by the member or on his account or with his privity since the time of the said return in pursuance or in furtherance of the alleged corrupt practice, it may be presented at any time within twenty-eight days after the date of the alleged payment or promise, whether or not any other petition against that person has been previously presented or tried.
- (3) A petition questioning the election or return upon an allegation of an illegal practice may, so far as respects that illegal practice, be presented—
  - (a) not later than the expiration of fourteen days after the day specified in sub-section (4); or
  - (b) if specifically alleging a payment of money or some other act to have since the day so specified been made or done by the member to whose election the petition relates or an agent of his, or with the privity of that member or his election agent, in pursuance or in furtherance of the alleged illegal practice, within twenty-eight days after the date of the payment or other act whether or not any other petition against that person has been previously presented or tried.
- (4) The said day is—
  - (a) that on which the returning officer receives the return and declarations as to election expenses made by the said member or his election agent; or
  - (b) where the return and declarations are received on different days, the last of those days; or
  - (c) where there is an authorised excuse for failing to make the return and declarations, the date of the allowance of the excuse, or if there was a failure as regards two or more of them, and the excuse was allowed at different times, the date of the allowance of the last excuse.
- (5) An election petition presented within the time limited by sub-section (1) or sub-section (2) may, for the purpose of questioning the election or return upon an allegation of an illegal practice, be amended with the leave of the High Court within the time within which a petition questioning the election upon the allegation of that illegal practice could be presented under sub-section (3).
- (6) Sub-sections (3), (4) and (5) shall apply notwithstanding that the act constituting the alleged illegal practice amounted to a corrupt practice and shall apply to a corrupt practice under paragraph 7 of the Ninth Schedule as if it were an illegal practice.
- (7) For the purposes of this section, an allegation that an election is avoided under section ninety-eight shall be deemed to be an allegation of corrupt practices, notwithstanding that the offences alleged are or include offences other than corrupt practices.

## 77 Conclusion of trial of parliamentary election petition.

- (1) At the conclusion of the trial of a parliamentary election petition, the election court shall determine whether the member whose election or return is complained of, or any and what other person, was duly returned or elected or whether the election was void, and shall forthwith certify in writing the determination to the Speaker, and the determination so certified shall be final to all intents and purposes:

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Provided that—

- (a) if the judges constituting the election court differ as to whether the member whose election or return is complained of was duly elected or returned, they shall certify that difference and the member shall be deemed to be duly elected or returned; and
  - (b) if they determine that the member was not duly elected or returned but differ as to the rest of the determination, they shall certify that difference and the election shall be deemed to be void.
- (2) Where any charge is made in the petition of any corrupt or illegal practice having been committed at the election the court shall, in addition to giving a certificate, and at the same time, make a report in writing to the Speaker as required by sections ninety-four and ninety-six and also stating whether corrupt or illegal practices have, or whether there is reason to believe that corrupt or illegal practices have, extensively prevailed at the election.
  - (3) The election court may at the same time make a special report to the Speaker as to any matters arising in the course of the trial an account of which ought, in the judgment of the court, to be submitted to the House of Commons.
  - (4) Every report sent to the Speaker under this section shall be signed by both judges of the election court and if the judges differ as to the subject of the report, they shall certify that difference and make no report on the subject on which they so differ.
  - (5) The House of Commons, on being informed by the Speaker of a certificate and any report of an election court, shall order the certificate and report, if any, to be entered in their Journals and shall give the necessary direction for confirming or altering the return, or for issuing a writ for a new election, or for carrying the determination into execution as the circumstances may require; and where the court make a special report, the House of Commons may make such order in respect of that report as they think proper.

## **78 Method of questioning local election.**

Any such local election as is conducted in accordance with the Local Elections Rules may be questioned on the ground that the person whose election is questioned—

- (a) was at the time of the election disqualified; or
- (b) was not duly elected;

or on the ground that the election was avoided by corrupt or illegal practices or on the grounds provided by section ninety-eight or section ninety-nine and shall not be questioned on any of those grounds except by an election petition.

## **79 Presentation and service of local election petition.**

- (1) A petition questioning any such local election as is referred to in section seventy-eight (in this Part referred to as a local election petition) may be presented either by four or more persons who voted as electors or had a right so to vote at the election or by a person alleging himself to have been a candidate at the election.
- (2) Any person whose election is questioned by the petition, and [<sup>F107</sup>, if the petition complains of his conduct, the Chief Electoral Officer] may be made a respondent to the petition.

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- (3) The petition shall be in the prescribed form signed by the petitioner and shall be presented to the High Court in accordance with rules of court.
- (4) The prescribed officer shall send a copy of the petition to the...<sup>F108</sup> clerk of the local authority for which the election was held who shall forthwith publish it in the area of that local authority.
- (5) A local election petition shall be served in the prescribed manner.

**F107** 1972 NI 13

**F108** 1972 NI 13

## **80 Time for presentation or amendment of local election petition.**

- (1) Subject to the provisions of this section, a local election petition shall be presented within twenty-one days after the day on which the election was held.
- (2) If the petition questions the election upon an allegation of corrupt practices and specifically alleges a payment of money or other reward to have been made or promised by a candidate elected at the election, or on his account or with his privity since the election, in pursuance or in furtherance of the alleged corrupt practice, it may be presented at any time within twenty-eight days after the date of the alleged payment or promise, whether or not any other petition against that person has been previously presented or tried.
- (3) If the petition questions the election upon an allegation of an illegal practice and specifically alleges a payment of money or some other act to have since the election been made or done by the person to whose election the petition relates, or an agent of his or with the privity of that person or his election agent, in pursuance or in furtherance of the alleged illegal practice, it may be presented at any time within twenty-eight days after the date of the alleged payment or other act, whether or not any other petition against that person has been previously presented or tried.
- (4) An election petition presented within the time limited by sub-section (1) or sub-section (2) may, for the purpose of questioning the election upon an allegation of an illegal practice, be amended with the leave of the High Court within the time within which a petition questioning the election upon the allegation of that illegal practice could be presented under sub-section (3).
- (5) Sub-sections (3) and (4) shall apply notwithstanding that the act constituting the alleged illegal practice amounted to a corrupt practice and shall apply to a corrupt practice under paragraph 7 of the Ninth Schedule as if it were an illegal practice.
- (6) For the purposes of this section, an allegation that an election is avoided under section ninety-eight shall be deemed to be an allegation of corrupt practices notwithstanding that the offences alleged are or include offences other than corrupt practices.

## **81 Conclusion of trial of local election petition.**

- (1) At the conclusion of the trial of a local election petition, the election court shall determine whether the person whose election is complained of, or any and what other person, was duly elected, or whether the election was void, and the determination shall be final to all intents and purposes.



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- (2) The election court shall forthwith certify in writing the determination to the High Court.
- (3) Where a charge is made in the petition of any corrupt or illegal practice having been committed at the election the court shall, in addition to giving a certificate and at the same time, make a report in writing to the High Court as required by sections ninety-four and ninety-six and also stating whether any corrupt or illegal practices have, or whether there is reason to believe that any corrupt or illegal practices have, extensively prevailed at the election in the area of the authority for which the election was held or in any electoral division thereof.
- (4) The election court may at the same time make a special report to the High Court as to any matters arising in the course of the trial, an account of which ought, in the judgment of the election court, to be submitted to the High Court.
- (5) A copy of any certificate or report made to the High Court shall be sent by the High Court to the Minister.
- (6) A copy of the said certificate shall be certified by the proper officer of the High Court to the...<sup>F109</sup> clerk of the authority for which the election was held.

**F109** 1972 NI 13

## **82 Consequences of avoidance of local election.**

- (1) Where on a local election petition the election of any person has been declared void, and no other person has been declared elected in his room, a new election shall be held to supply the vacancy in the same manner as on a casual vacancy.
- (2) Where a candidate who has been elected to a corporate office, is by a certificate of an election court or a decision of the High Court declared not to have been duly elected, acts done by him in execution of the office before the time when the certificate or decision is certified to the...<sup>F110</sup> clerk of the local authority for which the election was held shall not be invalidated by reason of that declaration.

**F110** 1972 NI 13

## **83 Special case for determination of Court of Appeal.**

- (1) If, on the application of any party to a petition made in the prescribed manner to the High Court, it appears to the High Court that the case raised by the petition can be conveniently stated as a special case, the High Court may direct it to be stated accordingly.
- (2) If it appears to the election court on the trial of an election petition that any question of law as to the admissibility of evidence or otherwise requires further consideration by the [<sup>F111</sup> Court of Appeal], the election court may postpone the granting of a certificate until the question has been determined by the [<sup>F111</sup> Court of Appeal], and for this purpose may reserve the question by stating a case for the decision of the [<sup>F111</sup> Court of Appeal].
- (3) A special case under sub-section (1) or sub-section (2) shall be stated to and heard and determined by the [<sup>F111</sup> Court of Appeal] in accordance with rules of court.

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As respects a parliamentary election petition, the proper officer of the [<sup>F111</sup> Court of Appeal] shall certify to the Speaker the decision of the court in reference to the special case.

As respects a local election petition, a statement of the decision on the special case shall be sent by the proper officer of the [<sup>F111</sup> Court of Appeal] to the Minister and shall also be certified by that officer to the...<sup>F112</sup> clerk of the authority for which the election was held.

- (4) Any decision of the [<sup>F111</sup> Court of Appeal] on a case stated under sub-section (1) shall be final.

*Subs.(5) rep. by 1978 c.23*

**F111** 1978 c.23

**F112** 1972 NI 13

## 84 Withdrawal of petition.

- (1) A petitioner shall not withdraw an election petition without the leave of the election court or High Court on special application, made in the prescribed manner and at the prescribed time and place.
- (2) The application shall not be made until the prescribed notice of the intention to make it has been given in the constituency or local government electoral area to which the petition relates.
- (3) Where there are more petitioners than one, the application shall not be made except with the consent of all the petitioners.
- (4) If a petition is withdrawn the petitioner shall be liable to pay the costs of the respondent.

*Ss. 85#90 rep. by SI 2001/417*

## 91 Costs of petition.

- (1) All costs of and incidental to the presentation of an election petition and the proceedings consequent thereon, except such as are by this Act otherwise provided for, shall be defrayed by the parties to the petition in such manner and in such proportions as the election court or High Court may determine; and in particular any costs which in the opinion of the election court or High Court have been caused by vexatious conduct, unfounded allegations or unfounded objections on the part either of the petitioner or of the respondent, and any needless expense incurred or caused on the part of the petitioner or respondent, may be ordered to be defrayed by the parties by whom it has been incurred or caused whether or not they are on the whole successful.
- (2) If a petitioner neglects or refuses, in the case of a petition questioning a parliamentary election or return, for six months, and in the case of a local election petition, for three months, after demand to pay to any person summoned as a witness on his behalf or to the respondent any sum certified to be due to him for his costs, and the neglect or refusal is, within one year after the demand, proved to the satisfaction of the High Court, every person who under this Act entered into a recognisance relating to the petition shall be held to have made default in the recognisance, and the prescribed

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officer shall thereupon certify the recognisance to be forfeited and any sum payable thereunder shall be dealt with under section twenty of the Administration of Justice Act (Northern Ireland), 1954 .

## 92 Further provision as to costs of petition.

- (1) Where upon the trial of an election petition it appears to the election court that a corrupt practice in reference to the election has not been proved to have been committed by or with the knowledge and consent of the respondent to the petition, and that the respondent took all reasonable means to prevent corrupt practices being committed on his behalf, the court may make an order or orders with respect to the payment either of the whole or such part of the costs of the petition as the court may think right as provided by sub-section (2) or (4).<sup>F113</sup> In respect of a petition relating to a local election, this subsection shall have effect as if the reference to subsection (2) were omitted.]
- (2) If it appears to the court that corrupt practices extensively prevailed in reference to the election, the court may order the whole or part of the costs to be paid, in relation to a parliamentary election, by the constituency for which the election was held,<sup>F113</sup> . . .
- (3) The Ministry of Finance<sup>F114</sup> shall pay any costs ordered to be paid by a constituency under sub-section (2) and shall obtain re-payment of the amount so paid from the [<sup>F115</sup> district council] in which the constituency is wholly or partly situate; and where more than one council is concerned the said amount shall be repaid by the councils concerned in such proportions as the Ministry of Finance<sup>F114</sup> shall direct. Any amount payable under this sub-section—  
*Para.(a) rep. by 1972 NI 13*
  - (b) by [<sup>F115</sup> a district council], shall be paid out of the rate or fund out of which the general expenses of the council are paid;  
and if not paid shall be recoverable summarily as a civil debt due to the Ministry of Finance<sup>F114</sup>.
- (4) If it appears to the court that any person or persons is or are proved to have been extensively engaged (whether by providing money or otherwise) in corrupt practices, or to have encouraged or promoted extensive corrupt practices in reference to the election, the court may, after giving that person or those persons an opportunity of being heard by counsel or solicitor and examining and cross-examining witnesses to show cause why the order should not be made, order the whole or part of the costs to be paid by that person, or those persons or any of them, and may order that if the costs cannot be recovered from one or more of those persons they shall be paid by some other of those persons or by either of the parties to the petition.
- (5) Where any person appears to the court to have been guilty of a corrupt or illegal practice, the court may, after giving that person an opportunity of making a statement to show why the order should not be made, order the whole or any part of the costs of or incidental to any proceeding before the court in relation to the said offence or to the said person to be paid by the said person to such person or persons as the court may direct.

**F113** SI 1987/168

**F114** Now Treasury, SI 1973/2163

**F115** 1972 NI 13

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### 93 Jurisdiction.

- (1) Subject to the provisions of this Act and of the rules made under it, the principles, practice and rules on which committees of the House of Commons of the Parliament of the United Kingdom used to act in dealing with election petitions shall be observed, so far as may be, by the High Court and election courts in relation to election petitions; and in particular the principles and rules with regard to agency and evidence and to a scrutiny, and to the declaring any person elected in the room of any other person declared not to have been duly elected, shall be observed, as far as may be, in relation to a local election petition as in relation to a parliamentary election petition.
- (2) The High Court shall, subject to the provisions of this Act, have the same powers, jurisdiction and authority with respect to an election petition and the proceedings thereon as if the petition were an ordinary action within its jurisdiction.
- (3) The duties to be performed by the prescribed officer under this Part shall be performed by such officer of the<sup>F116</sup> Supreme Court as the Lord Chief Justice may determine, and there may be awarded to such officer, in addition to his salary payable apart from the provisions of this sub-section, such remuneration for the performance of his duties in relation to elections under this Part as the Lord Chief Justice with the consent of the Ministry of Finance<sup>F117</sup> may determine.

**F116** prosp. subst. by 2005 c. 4

**F117** Now Minister for Civil Service, SI 1973/2163

### 94 Report as to candidate guilty of a corrupt or illegal practice.

- (1) The report of an election court under section seventy-seven or section eighty-one shall state whether any corrupt or illegal practice has or has not been proved to have been committed by or with the knowledge and consent of any candidate at the election, and the nature of the corrupt or illegal practice.
- (2) For the purposes of sections ninety-five and ninety-six, if it is reported that a corrupt or illegal practice was committed with the knowledge and consent of a candidate, he shall be treated as having been reported personally guilty of that corrupt or illegal practice.
- (3) The report shall also state whether any of the candidates has been guilty by his agents of any corrupt or illegal practice in reference to the election; but if a candidate is reported guilty by his agents of treating, undue influence or any illegal practice, and the court further reports that the candidate has proved to the court—
  - (a) that no corrupt or illegal practice was committed at the election by the candidate or his election agent and the offences mentioned in the report were committed contrary to the orders and without the sanction or connivance of the candidate or his election agent; and
  - (b) that the candidate and his election agent took all reasonable means for preventing the commission of corrupt and illegal practices at the election; and
  - (c) that the offences mentioned in the report were of a trivial, unimportant and limited character; and
  - (d) that in all other respects the election was free from any corrupt or illegal practice on the part of the candidate and of his agents;

then the candidate shall not be treated for the purposes of section ninety-five as having been reported guilty by his agents of the offences mentioned in the report.

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- (4) The provisions of sections ninety-five and ninety-six as to the consequences of the report that a candidate was guilty by his agents of a corrupt or illegal practice shall have effect subject to the express provisions of this Act relating to particular acts which are declared to be corrupt or illegal practices.

**95 Avoidance of election and incapacity of candidate reported guilty of a corrupt or illegal practice.**

- (1) If a candidate who has been elected is reported by an election court personally guilty or guilty by his agents of any corrupt or illegal practice his election shall be void.
- (2) A candidate at a parliamentary election shall also be incapable from the date of the report of being elected to and sitting in the House of Commons for the constituency for which the election was held or any constituency which includes the whole or any part of the area of the first-mentioned constituency as constituted for the purposes of the election—
- (a) if reported personally guilty of a corrupt practice, for ten years;
  - (b) if reported guilty by his agents of a corrupt practice or personally guilty of an illegal practice, for seven years;
  - (c) if reported guilty by his agents of an illegal practice, during the Parliament for which the election was held.

*Subs. (3) rep. by SI 2001/417*

**96 Provisions applying to all persons reported personally guilty of a corrupt or illegal practice.**

- (1) The report of the election court under section seventy-seven or section eighty-one shall state the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt or illegal practice and whether they have been furnished with certificates of indemnity, but, as respects someone who is not a party to the petition nor a candidate on behalf of whom the seat or office is claimed by the petition, the election court shall first cause notice to be given to him, and if he appears in pursuance of the notice, shall give him an opportunity of being heard by himself and of calling evidence in his defence to show why he should not be so reported.

It shall be the duty of<sup>F118</sup> [<sup>F119</sup> the Director of Public Prosecutions for Northern Ireland] to obey any directions given to him by the election court with respect to any person to whom such a notice is given.

- (2) The report shall be laid before the Attorney-General with a view to his instituting or directing a prosecution against such persons as have not received certificates of indemnity, if the evidence should, in his opinion, be sufficient to support a prosecution.

- [<sup>F120</sup>(3) Subject to the provisions of subsection (3A) and section 113(2) to (6), a candidate or other person reported by an election court personally guilty of a corrupt or illegal practice—

- (a) shall during the relevant period specified in subsection (4) be incapable of—
  - (i) being registered as an elector or voting at any local election in Northern Ireland, or
  - (ii) holding any elective office; and
- (b) if already holding any such office shall vacate it as from the date of report.

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(3A) The incapacity incurred by subsection (3)(a)(i) applies to a candidate or other person reported personally guilty of a corrupt practice under paragraph 4 of Schedule 9 (personation) or of an illegal practice under paragraph 12A of Schedule 9 (other voting offences).

(4) For the purposes of subsection (3) the relevant period is the period beginning with the date of the report and ending—

- (a) in the case of a person reported personally guilty of a corrupt practice, five years after that date, or
- (b) in the case of a person reported personally guilty of an illegal practice, three years after that date.]

[<sup>F121</sup>(5) In respect of the report of an election court at the trial of a local election petition, this section shall have effect subject to the following amendments:

- (a) in subsection (1) the words from and whether to indemnity and from It shall be the duty to is given shall be omitted; and
- (b) for subsection (2) there shall be substituted:

“(2) The report shall be laid before the Director of Public Prosecutions for Northern Ireland.”]

**F118** continue to am. 2002 c. 26

**F119** 1972 NI 1

**F120** SI 2001/417

**F121** SI 1987/168

## 97 Disciplinary action on report of corrupt practice.

(1) Where a justice of the peace is reported by an election court to have been guilty of any corrupt practice in reference to an election, whether he has obtained a certificate of indemnity or not, it shall be the duty of<sup>F122</sup> [<sup>F123</sup> the Director of Public Prosecutions for Northern Ireland] to report the case to the Governor with such evidence as may have been given of the corrupt practice.

(2) Where a barrister-at-law, solicitor or any person who belongs to any profession the admission to which is regulated by law is reported by an election court to have been guilty of any corrupt practice in reference to an election, whether he has obtained a certificate of indemnity or not, it shall be the duty of<sup>F122</sup> [<sup>F123</sup> the Director of Public Prosecutions for Northern Ireland] to bring the matter before the Inn of Court, the Incorporated Law Society of Northern Ireland or tribunal having power to take cognizance of any misconduct of the person in his profession; and such body or tribunal may deal with him as if the corrupt practice were misconduct by him in his profession.

(3) If it appears to an election court that a person holding a licence or certificate under the Licensing Acts (Northern Ireland) has knowingly suffered any bribery or treating in reference to any election to take place upon his licensed premises,—

- (a) the court shall, after affording him such rights as are conferred on those about to be reported under sub-section (1) of section ninety-six, report the fact; and
- (b) whether that person has obtained a certificate of indemnity or not, it shall be the duty of [<sup>F123</sup> the Director of Public Prosecutions for Northern Ireland] to

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bring the report before the licensing court from whom, or on whose certificate, that person obtained his licence; and

- (c) the licensing court shall cause the report to be entered in the proper register of licences, and on any application for the renewal of the licence or certificate the licensing court shall take the entry into consideration and may make it a ground for refusing the application.

[<sup>F124</sup>(4) In respect of the report of an election court at the trial of a local election petition, subsections (1), (2) and (3) shall have effect as if for the words from whether to for Northern Ireland to, in each place where those words occur, there were substituted the court shall.]

**F122** continue to am. [2002 c. 26](#)

**F123** 1972 NI 1

**F124** SI 1987/168

## **98 Avoidance of election for general corruption, etc.**

- (1) Where on an election petition it is shown that corrupt or illegal practices or illegal payments, employments or hirings committed in reference to the election for the purpose of promoting or procuring the election of any person thereat have so extensively prevailed that they may be reasonably supposed to have affected the result, his election, if he has been elected, shall be void and he shall be incapable of being elected to fill the vacancy or any of the vacancies for which the election was held.
- (2) An election shall not be liable to be avoided otherwise than under this section by reason of general corruption, bribery, treating or undue influence.
- (3) A local election may be questioned on the ground that it is avoided under this section.

## **99 Avoidance of election for employing corrupt agent.**

- (1) If at a parliamentary or local election a candidate or his election agent personally engages as a canvasser or agent for the conduct or management of the election any person whom he knows or has reasonable grounds for supposing to be subject to an incapacity to vote at the election by reason of his having been convicted or reported guilty of any corrupt or illegal practice within the meaning of this Act, the candidate shall be incapable of being elected to fill the vacancy or any of the vacancies for which the election is held.
- (2) A local election may be questioned on the ground that the person whose election is questioned was, at the time of the election, by virtue of this section incapable of being elected; but a vote given for such a person at either a parliamentary or local election shall not, by reason of his incapacity under this section, be deemed to be thrown away so as to entitle another candidate to be declared elected, unless given at a poll consequent on the decision of an election court that he was so incapable.

## **100 Votes to be struck off for corrupt or illegal practices.**

- (1) Where, on a parliamentary election petition claiming the seat for any person, a candidate is proved to have been guilty by himself, or by any person on his behalf, of bribery, treating or undue influence in respect of any person who voted at the election there shall, on a scrutiny, be struck off from the number of votes appearing to have

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been given to the candidate one vote for every person who voted at the election and is proved to have been so bribed, treated or unduly influenced.

- (2) If any person who is guilty of a corrupt or illegal practice or of illegal payment, employment or hiring at an election votes at the election, his vote shall be void.
- (3) If any person who is subject under any enactment relating to corrupt or illegal practices to an incapacity to vote at a parliamentary election or an election to any corporate office votes at that election, his vote shall be void.

## **101 Service of notices, etc.**

Any summons, notice or other document required by any provision of this Part to be served on any person for the purposes of any proceeding in the High Court or an election court, may be served—

- (a) in any such manner as is referred to in section twenty-four of the Interpretation Act (Northern Ireland), 1954 ; or
- (b) in such other manner as the court having seisin of the proceeding may direct.

## **102 Rules of court.**

- (1) The authority having for the time being power to make rules of court may make rules for the purposes of this Part and such rules may (without prejudice to their generality) provide—
  - (a) that the rules for the time being in force with respect to the costs allowable in actions, causes and matters in the High Court are to apply, subject to any necessary modifications, in relation to petitions and other proceedings under this Part;
  - (b) that in any such proceedings under this Act costs are not to be allowed on any higher scale than would be allowed on the higher scale as between solicitor and client under the rules in force as aforesaid.
- (2) Where any costs or other sums are, under the order of an election court or otherwise under this Part, to be paid by any person, those costs or sums shall be a simple contract debt due from that person to the person or persons to whom they are to be paid, and if payable to the Ministry of Finance<sup>F125</sup> shall be a debt due to Her Majesty, and in either case may be recovered accordingly.
- (3) In this Part and in the Eighth Schedule the expression prescribed means prescribed by rules of court.

**F125** Now Treasury, SI 1973/2163

# **PART X**

## **ELECTORAL MISDEMEANOURS**

## **103 Electoral misdemeanours.**

- (1) A person who contravenes any provision of this Act shall except where the contrary intention appears be guilty of an electoral misdemeanour.



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(2) The electoral misdemeanours specified—

- (a) in Part I of the Ninth Schedule shall be corrupt practices;
- (b) in Part II of the Ninth Schedule shall be illegal practices;
- (c) in Part III of the Ninth Schedule shall be electoral offences.

#### **104 Giving of leave of absence to employees to record their votes.**

- (1) Nothing in this Act shall make it illegal for an employer to permit electors or proxies for electors to absent themselves from his employment for a reasonable time for the purpose of voting at an election, without having any deduction from their salaries or wages on account of their absence, if the permission is, so far as practicable without injury to the business of the employer, given equally to all persons alike who are at the time in his employment and if the permission is not given with a view to inducing any person to record his vote for any particular candidate at the election, and is not refused to any person for the purpose of preventing him from recording his vote for any particular candidate at the election.
- (2) This section shall not be construed as making illegal any act which would not be illegal apart from this section.

#### **105 Prosecution and trial of electoral misdemeanours.**

- (1) A corrupt practice shall be an indictable offence and shall not be triable before a county court; but, subject to sub-section (2), a person charged with a corrupt practice may if he so consents be tried summarily<sup>F126</sup> in accordance with Articles 45 and 46 of the Magistrates' Courts (Northern Ireland) Order 1981]. A person charged with personation shall not be convicted by a court of summary jurisdiction or, save by an election court, be committed for trial except on the evidence of not less than two credible witnesses.
- (2) A person shall not be summarily prosecuted for any corrupt practice where there may be occasion to exercise the powers conferred by sub-section (2) or sub-section (3) of section one hundred and thirteen.
- (3) A person charged with an illegal practice shall be tried summarily; and on a prosecution for an illegal practice it shall be sufficient to allege that the person charged was guilty of an illegal practice.
- (4) Any person charged with a corrupt practice may, if the circumstances warrant such a finding, be found guilty of an illegal practice (which misdemeanour shall for that purpose be an indictable offence); and any person charged with an illegal practice may be found guilty of that misdemeanour notwithstanding that the act constituting the misdemeanour amounted to a corrupt practice, and a person charged with illegal payment, illegal employment or illegal hiring under paragraph 29, paragraph 30 or paragraph 31 of the Ninth Schedule may be found guilty of that offence notwithstanding that the act constituting the offence amounted to a corrupt or illegal practice.
- (5) A person charged with an electoral offence other than the offences specified in paragraphs 24 to 26 of the Ninth Schedule shall be tried summarily and a person charged with any of the electoral offences specified in paragraphs 24 to 26 of that Schedule may be tried either on indictment or summarily.

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- (6) Subject to sub-section (3) of section one hundred and eight, an election court may in addition to any other functions conferred by this Act exercise for the purposes of this Act the powers of a court of summary jurisdiction.
- (7) In this section the expression indictment includes criminal information.
- [<sup>F127</sup>(8) In respect of the prosecution and trial of an electoral misdemeanour committed or alleged to have been committed at a local election, this section shall have effect subject to the following amendments:
- (a) in subsection (1) the words, subject to subsection (2), and from A person charged with personation to the end of the subsection shall be omitted;
  - (b) subsections (2) and (6) shall be omitted; and
  - (c) in subsections (5) for the words the offences specified in paragraphs 24 to 26 there shall be substituted the offences specified in paragraph 26(2) and for the words charged with any of the electoral offences specified in paragraphs 24 to 26 there shall be substituted to whom section 111(2A)(c)(i) applies charged with the offence specified in paragraph 26(2).]

**F126** 1981 NI 26

**F127** SI 1987/168

## 106 Prosecution of offences disclosed on election petition.

- (1) [<sup>F128</sup>[<sup>F129</sup> The Director of Public Prosecutions for Northern Ireland] shall obey any direction given to him by an election court with respect to the prosecution by him of offenders, and if it appears to him that any person who has not received a certificate of indemnity has been guilty of a corrupt or illegal practice, he shall, without any such direction, prosecute that person for that offence before the election court, or if he thinks it expedient in the interests of justice, before any other competent court.
- (2) Where a person prosecuted before an election court appears before the court, the court shall proceed to try him summarily unless the court thinks it expedient in the interests of justice that he should be tried before some other court:
- Provided that in the case of a corrupt practice, the court before proceeding to try him summarily shall give him the option of being tried by a jury.
- (3) The Summary Jurisdiction Acts shall, so far as is consistent with the tenor thereof, apply to the prosecution of an offence summarily before an election court:
- Provided that no appeal shall lie against a conviction by an election court.
- (4) Where—
- (a) the person prosecuted does not appear before the court; or
  - (b) the court thinks it expedient in the interests of justice that he should be tried before some other court; or
  - (c) the person prosecuted elects under sub-section (2) to be tried by a jury;
- and the court is of opinion that the evidence is sufficient to put that person upon his trial for the offence, the court shall order that person to be prosecuted either on indictment or before a court of summary jurisdiction, as the case may require, for the offence and thereupon shall proceed as directed by sub-section (5), sub-section (6), sub-section (7) or sub-section (8):

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Provided that, except where the accused has elected to be tried by a jury, a corrupt practice shall not for the purposes of the following provisions of this section be deemed to be an indictable offence if the election court think that it should be prosecuted summarily.

- (5) The election court may name the court before whom the person is to be prosecuted and for all purposes preliminary to and of and incidental to the prosecution the offence shall be deemed to have been committed within the jurisdiction of the court so named.
- (6) If the accused is present before the court and the offence is an indictable offence, the enactments relating to charges before justices against persons for indictable offences shall, so far as is consistent with the tenor thereof, apply and the court shall commit him for trial.
- (7) If the accused is present before the court and the offence is not an indictable offence, the election court shall order him to be brought before the court of summary jurisdiction before whom he is to be prosecuted or cause him to give bail to appear before that court of summary jurisdiction.
- (8) If the accused is not present before the court, the court shall as circumstances require issue a summons for his attendance, or a warrant to apprehend him and bring him before a court of summary jurisdiction.
- (9) The court of summary jurisdiction before whom he attends or is brought shall—
  - (a) if the offence is an indictable offence, on proof only of the summons or warrant and the identity of the accused, commit him for trial; and
  - (b) if the offence is not an indictable offence, proceed to hear the case or, if the court of summary jurisdiction is not the court before whom he is directed to be prosecuted, order him to be brought before that court.

[<sup>F130</sup>(10) This section shall not apply to electoral misdemeanours committed or alleged to have been committed at a local election.]

**F128** continue to am. 2002 c. 26

**F129** 1972 NI 1

**F130** SI 1987/168

## **107 Power to except innocent act from being illegal practice, payment, employment or hiring.**

- (1) An application for relief under this section may be made to the High Court or an election court or else, if in respect of a payment made in contravention of sub-section (1) or (2) of section forty-three to the county court.

[<sup>F131</sup>(1A) Where a person makes an application under this section for relief in respect of an act or omission at a local election, he shall notify the Director of Public Prosecutions for Northern Ireland of the application and the Director or his assistant or any barrister or solicitor duly appointed as the Director's representative may attend the hearing of the application and make representations at the hearing in respect of it.]

- (2) If the court is satisfied—

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- (a) that any act or omission of any person would but for this section by reason of being in contravention of this Act be an illegal practice, payment, employment or hiring;
- (b) that the act or omission arose from inadvertence or from accidental miscalculation or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith; and
- (c) that such notice of the application has been given in the constituency or, as the case may be, the area of the local authority for which the election was held, as to the court seems fit;

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

- (3) An appeal shall lie to the High Court from any order of the county court made under this section.

**F131** SI 1987/168

## 108 Penalties for corrupt practices.

- (1) A person convicted on indictment of the corrupt practice of personation or of attempting or conspiring to commit that corrupt practice or of aiding, abetting, counselling or procuring the commission of that corrupt practice, shall be liable to imprisonment for a term not exceeding two years or to<sup>F132</sup> an unlimited fine] or to both such imprisonment and such fine.
- (2)<sup>F133</sup> A person convicted on indictment of any corrupt practice other than those referred to in sub-section (1) shall be liable to imprisonment for a term not exceeding one year or to<sup>F132</sup> an unlimited fine] or to both such imprisonment and such fine.
- (3) A person shall be liable on summary conviction of any corrupt practice—
  - (a) by an election court, to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred pounds;
  - (b) by a court of summary jurisdiction, to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds;
 or in either case to both such imprisonment and such fine.
- <sup>F134</sup>(4) Subsections (1) to (3) above shall not apply to a person convicted of a corrupt practice at a local election and such a person shall be liable—
  - (a) on conviction on indictment—
    - (i) in the case of a corrupt practice under paragraph 4 of Schedule 9 or paragraphs 8 or 9 of that Schedule in relation to the offence in paragraph 4, to imprisonment for a term not exceeding two years, or to a fine, or to both;
    - (ii) in any other case, to imprisonment for a term not exceeding one year, or to a fine, or to both;
  - (b) on summary conviction, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding the statutory maximum, or to both.]

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**F132** 1984 NI 3

**F133** mod. by SI 1985/454

**F134** SI 1987/168

## 109 Penalty for illegal practices.

A person guilty of an illegal practice shall be liable to a fine not exceeding one hundred pounds.<sup>F135</sup> In respect of an illegal practice at a local election this section shall have effect as if for the words one hundred pounds there were substituted level 5 on the standard scale.]

**F135** SI 1987/168

## 110 Compensation where charge of personation is unjustly made or not prosecuted.

- (1) Where a person is arrested under Rule 44 of the Parliamentary Election Rules<sup>F136</sup> . . . and the resident magistrate who conducts the preliminary investigation of or deals summarily with the charge of personation is satisfied that the person charged is really and in truth the person in whose name he applied for a ballot paper, tendered his vote or voted and that the charge of personation has been made against him without reasonable or just cause, or if the agent by whom the charge was made (or someone on behalf of the agent) does not appear before the resident magistrate to support the charge, then the resident magistrate shall make an order in writing on the said agent to pay to the person charged, if he consents to accept it, any sum not exceeding ten or less than five pounds by way of damages and costs.
- (2) If a sum ordered to be paid under sub-section (1) is not paid within twenty-four hours after the order has been made, that sum shall be levied by warrant<sup>F137</sup> issued by a lay magistrate] acting for the county or county borough<sup>F138</sup> where the person charged with personation was arrested, by distress and sale of the goods and chattels of the agent by whom the charge was made or, if the same are insufficient shall be levied in like manner on the goods and chattels of the candidate by whom the said agent was appointed; and if the said sum is not paid or levied as aforesaid, the person to whom it was ordered to be paid may recover it from the said agent or candidate by civil bill or by action in the High Court.
- (3) If the person charged has declared to the resident magistrate his consent to accept the sum awarded under sub-section (1) by way of damages and costs, and if the whole amount of such sum has been paid or tendered to that person, then in that case, but not otherwise, the said agent, candidate and every other person shall be released from all actions and proceedings, civil and criminal, for or in respect of the charge against and the apprehension of the person charged.

**F136** SI 1985/454

**F137** 2002 c.26

**F138** A JP now acts for a county ct. division, 1978 c.23

## 111 Penalties for electoral offences by officers and other persons.

- (1) A person guilty of an electoral offence shall, subject to sub-section (2), be liable—

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- (a) on conviction on indictment, to imprisonment for a term not exceeding six months or to<sup>[F139]</sup> an unlimited fine];
  - (b) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds;

or in either case to both such imprisonment and such fine.
- (2) Where any officer or person on whom any functions are conferred <sup>[F140]</sup> or delegated] by or under this Act is convicted of an electoral offence consisting of or involving misconduct or wilful negligence in the course of the performance of any of those functions, sub-section (1) shall in relation to that officer or person have effect as if the maximum penalties thereby respectively provided were doubled.
- <sup>[F141]</sup>(2A) Subsections (1) and (2) above shall not apply to a person convicted of an electoral offence at a local election or in connection with the registration of local electors and such a person shall be liable—
  - (a) in the case of an offence under paragraph 24, 24A, 25, 28, 29, 30, 31 or 32A of Schedule 9, on summary conviction to a fine not exceeding level 5 on the standard scale;
  - (b) in the case of an offence under paragraph 26(1) or 33 of Schedule 9, on summary conviction to a fine not exceeding level 3 on the standard scale;
  - (c) in the case of an offence under paragraph 26(2) of Schedule 9—
    - (i) if the person guilty of the offence is the Chief Electoral Officer or any person to whom functions are delegated by him under this Act, 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, on conviction on indictment to a fine, or to imprisonment for a term not exceeding 2 years, or to both, or on summary conviction, to a fine not exceeding the statutory maximum, or to imprisonment for a term not exceeding 6 months, or to both;
    - (ii) if the person guilty of the offence is any other person, 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;
  - (d) in the case of an offence under paragraph 27 of Schedule 9, on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months;
  - (e) in the case of an offence under paragraph 32 of Schedule 9, on summary conviction to a fine not exceeding level 4 on the standard scale.]
- (3) <sup>[F142]</sup> The Chief Electoral Officer or any person to whom functions are delegated by him under this Act,] the Clerk of the Crown, or a postmaster or his deputy, shall not be liable for any breach of any duty imposed on him by or under this Act to any penalty at common law and no action for damages shall lie in respect of the breach by him of any such duty.<sup>[F141]</sup> In respect of a breach of official duty at a local election, this subsection shall have effect as if for the words the Clerk of the Crown there were substituted any presiding officer, any person either appointed to assist in the conduct of the election or who so assists in the course of his employment.]

**F139** 1984 NI 3

**F140** 1972 NI 13

**F141** SI 1987/168

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**F142** 1972 NI 13

## 112 Incapacities resulting from convictions for corrupt or illegal practices.

- [<sup>F143</sup>(1) Subject to subsection (1A), a person convicted of a corrupt or illegal practice—
- (a) shall, during the relevant period specified in subsection (1B), be incapable of—
    - (i) being registered as an elector or voting at any local election in Northern Ireland, or
    - (ii) holding any elective office; and
  - (b) if already holding any such office shall vacate it subject to and in accordance with subsections (1C) and (1D).
- (1A) The incapacity imposed by subsection (1)(a)(i) applies only to a person convicted of a corrupt practice under paragraph 4 of Schedule 9 (personation) or of an illegal practice under paragraph 12A of Schedule 9 (other voting offences).
- (1B) For the purposes of subsection (1)(a) the relevant period is the period beginning with the date of the conviction and ending—
- (a) in the case of a person convicted of a corrupt practice, five years after that date, or
  - (b) in the case of a person convicted of an illegal practice, three years after that date;
- except that if (at any time within that period of five or three years) a court determines on an appeal by that person against the conviction that it should not be upheld, the relevant period shall end at that time instead.
- (1C) Where subsection (1)(b) applies to any person, he shall (subject to subsection (1D)) vacate the office in question at the appropriate time for the purposes of this section, namely—
- (a) the end of the period which is the period prescribed by law within which notice of appeal may be given, or an application for leave to appeal may be made, by him in respect of the conviction, or
  - (b) if (at any time within that period) that period is extended—
    - (i) the end of the period as so extended, or
    - (ii) the end of the period of three months beginning with the date of the conviction,
 whichever is the earlier.
- (1D) If (before the appropriate time mentioned in subsection (1C)) notice of appeal is given, or an application for leave to appeal is made, by such a person in respect of the conviction, he shall vacate the office in question at the end of the period of three months beginning with the date of the conviction unless—
- (a) such an appeal is dismissed or abandoned at any earlier time (in which case he shall vacate the office at that time), or
  - (b) at any time within that period of three months the court determines on such an appeal that the conviction should not be upheld (in which case the office shall not be vacated by him).

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- (1E) Where such a person vacates an office in accordance with subsection (1C) or (1D), no subsequent determination of a court that his conviction should not be upheld shall entitle him to resume the office.
- (1F) If a person convicted of a corrupt or illegal practice has already been elected to any elective office, he shall (in addition to being subject to the incapacities mentioned in subsection (1)(a) above) be suspended from performing any of the functions of that office, during the period of suspension specified in subsection (1G).
- (1G) For the purposes of subsection (1F), the period of suspension is the period beginning with the date of the conviction and ending with—
- (a) the date on which the office is vacated in accordance with subsection (1C) or (1D), or
  - (b) where subsection (1D)(b) applies, the date on which the court determines that the conviction should not be upheld.
- (1H) Any incapacities or other requirement applying to a person by virtue of subsection (1F) applies in addition to any punishment imposed under section 108 or 109; but each of those subsections has effect subject to section 113.]
- (2) Where a person holding a licence or certificate under the Licensing Acts (Northern Ireland) is convicted of the corrupt practice of bribery or treating and it appears to the court convicting him that the corrupt practice was committed on his licensed premises, that court shall direct the conviction to be entered in the proper register of licences, and on any application for the renewal of the licence or certificate the licensing court shall take the entry into consideration and may make it a ground for refusing the application.

*Subs.(3) amends s.2 of 1889 c.69*

**F143** SI 2001/417

### **113 Mitigation and remission of incapacities.**

- (1) Where a person is convicted of the corrupt practice of incurring or aiding, abetting, counselling or procuring any other person to incur any expenses in contravention of section forty-one or of knowingly making the declaration required by sub-section (5) of that section falsely or of any illegal practice, the court before whom he is convicted may, if it thinks fit in the special circumstances, mitigate or wholly remit any such incapacity as is imposed by section one hundred and twelve.
- (2) Where any person is subject to any incapacity by virtue of the report of an election court or of election commissioners, and he or some other person in respect of whose acts the incapacity was imposed is on a prosecution acquitted of any of the matters in respect of which the incapacity was imposed, the court may order that the incapacity shall thenceforth cease so far as it is imposed in respect of those matters.
- (3) Where any person who is subject to any incapacity as aforesaid is on a prosecution convicted of any such matters as aforesaid, no further incapacity shall be taken to be imposed by reason of the conviction, and the court shall have the like power, if any, to mitigate or remit for the future the incapacity in respect of the matters of which he is convicted, as if the incapacity had been imposed by reason of the conviction.
- (4) A court exercising any of the powers conferred by sub-sections (2) and (3) shall make an order declaring how far, if at all, the incapacities imposed by virtue of the relevant



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report remain unaffected by the exercise of the said power, and that order shall be conclusive for all purposes.

- (5) Where a person convicted of a corrupt or illegal practice is subsequently reported by an election court to have been guilty thereof, no further incapacity shall be imposed on him under this Act by reason of the report.
- (6) Where any person is subject to any incapacity by virtue of a conviction or of the report of an election court, and any witness who gave evidence against that person upon the proceeding for the conviction or report is convicted of perjury in respect of that evidence, the incapacitated person may apply to the High Court, and that court, if satisfied that the conviction or report so far as respects that person was based upon perjury, may order that the incapacity shall thenceforth cease.

#### **114 Corrupt and illegal practices committed by agents.**

- (1) A candidate shall not be liable nor shall his election be avoided—
  - (a) for any corrupt practice specified in paragraph 7 of the Ninth Schedule committed by an agent of his unless it can be shown that the candidate has authorised or consented to the committing of the corrupt practice by such agent; or
  - (b) for any illegal practice specified in paragraphs 10, 11 and 12 of the Ninth Schedule committed by an agent of his; or
  - (c) for any illegal practice specified in paragraph 19 of the Ninth Schedule committed by an agent of his other than his election agent; or
  - (d) for an illegal practice specified in paragraph 20 of the Ninth Schedule committed by an agent of his other than his election agent unless—
    - (i) it can be shown that the candidate or his election agent has authorised or consented to the committing of the illegal practice by the other agent or has paid for the circulation of the false statement constituting the illegal practice; or
    - (ii) an election court find and report that the election of the candidate was procured or materially assisted in consequence of the making or publishing of any such false statement as is referred to in the said paragraph 20.
- (2) The election of a candidate shall not be void nor shall he be subject to any incapacity for any illegal practice specified in paragraph 22 of the Ninth Schedule where an election court reports that the candidate has satisfied the court that the payment constituting the illegal practice was made by an election agent without the sanction or connivance of the candidate.

#### **115 Prosecutions for offences committed outside Northern Ireland.**

- (1) Proceedings under this Act, so far as it relates to parliamentary elections, in respect of an offence alleged to have been committed outside Northern Ireland by a British subject or citizen of the Republic of Ireland may be taken before the appropriate court in Northern Ireland having jurisdiction in the place where the person charged is for the time being.
- (2) Any period fixed by law as the period within which proceedings may be commenced shall, in the case of any such proceedings as are mentioned in sub-section (1), be

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reckoned as from the date on which the person charged first entered Northern Ireland after the commission of the offence.

## 116 Evidence by certificate of holding of elections.

On any prosecution for an electoral misdemeanour and on any proceedings for a penalty under section forty-eight the certificate of the returning officer at an election that the election mentioned in the certificate was duly held and that the person named in the certificate was a candidate at the election shall be sufficient evidence of the facts therein stated.

*S.117 rep. by 1968 c.10 (NI)*

## 118 Time limit for prosecutions.

- (1) A proceeding against a person in respect of any electoral misdemeanour shall be commenced within one year after the offence was committed,...<sup>F144</sup>, and the time so limited by this section shall as respects any proceedings under the Summary Jurisdiction Acts for any such offence, whether before an election court or otherwise, be substituted for any limitation of time contained in those Acts.
- (2) For the purposes of this section, the issue of a summons, warrant or other process shall be deemed to be a commencement of a proceeding, where the service or execution of the same on or against the alleged offender is prevented by the absconding or concealment or act of the alleged offender, but save as aforesaid service or execution of the same on or against the alleged offender, and not the issue thereof, shall be deemed to be the commencement of the proceeding.
- [<sup>F145</sup>(3) In respect of the prosecution of an electoral misdemeanour committed or alleged to have been committed at a local election, this section shall have effect subject to the following amendments:
  - (a) in subsection (1) the words, whether before an election court or otherwise, shall be omitted, and
  - (b) for subsection (2) there shall be substituted:
 

“(2) For the purposes of this section, the making of a complaint shall be deemed to be the commencement of a proceeding.”.]

**F144** SLR 1976

**F145** SI 1987/168

## 119 Offences by corporations.

- (1) Where any electoral misdemeanour is committed by any association or body of persons, corporate or unincorporate, the members of the association or body who have taken part in the commission of the offence shall be severally liable to any fine or punishment imposed for that misdemeanour by this Act.
- (2) Where any act or omission of an association or body of persons, corporate or unincorporate, is an offence declared to be a corrupt or illegal practice by paragraph 7 or, so far as it relates to failure to send a declaration or return or copy thereof as required by section forty-one, paragraph 16 of the Ninth Schedule, any person who at the time of the act or omission was a director, general manager, secretary or other

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similar officer of the association or body, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he proves that the act or omission took place without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

## 120 Provisions as to Director of Public Prosecutions.

- (1) Where information is given to<sup>F146</sup> [<sup>F147</sup> the Director of Public Prosecutions for Northern Ireland] that any electoral misdemeanour has occurred in reference to any election, it shall be his duty to make such inquiries and institute such prosecutions as the circumstances of the case appear to him to require.
- (2) A prosecution by<sup>F146</sup> [<sup>F147</sup> the Director of Public Prosecutions for Northern Ireland] for any offence punishable summarily committed in reference to a local election may be instituted before any court of summary jurisdiction in the county in which the local government electoral area for which the election was held is situate or which it adjoins, and the offence shall be deemed for all purposes to have been committed within the jurisdiction of that court.
- (3) There shall be allowed to<sup>F146</sup> [<sup>F147</sup> the Director of Public Prosecutions for Northern Ireland] for the purposes of Part IX and this Part other than his general duties under sub-section (1) such allowances for expenses as the Ministry of Finance<sup>F148</sup> may approve.
- (4) The costs incurred in defraying the expenses of<sup>F146</sup> [<sup>F147</sup> the Director of Public Prosecutions for Northern Ireland] incurred for the said purposes shall, in the first instance, be paid by the Ministry of Finance,<sup>F148</sup> and so far as they are not in the case of any prosecution paid by the defendant shall be deemed to be expenses of the election court; but the court if for any reasonable cause it seems just so to do, may order all or part of the said costs to be repaid to the Ministry of Finance<sup>F148</sup> by the parties to the petition, or such of them as the court may direct.<sup>F149</sup> In respect of the costs of an election petition relating to a local election, this subsection shall have effect as if the words so far as they are not in the case of any prosecution paid by the defendant were omitted.]

**F146** continue to am. 2002 c. 26

**F147** 1972 NI 1

**F148** Now Treasury, SI 1973/2163

**F149** SI 1987/168

## PART XI

### MISCELLANEOUS AND GENERAL

*S.121 rep. by 1989 c. 3*

## 122 Effect of incapacities with respect to the Parliament of the United Kingdom.

- (1) So long as any person is subject, by virtue of the Representation of the People Acts, to any incapacity with respect to the Parliament of the United Kingdom, he shall be subject to the like incapacity with respect to the [<sup>F150</sup> Assembly.]

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- (2) Where by reason of anything done in reference to an election a person is subject to an incapacity with respect to the Parliament of the United Kingdom and the incapacity is limited to a particular constituency or constituencies then the like incapacities imposed by this section with respect to the [<sup>F150</sup> Assembly] shall be limited to any constituency which is included in whole or in part in the area for which the said election was held.

**F150** SI 1973/2163

### **123 Publication of notices and documents.**

- (1) Where by or under this Act a person is required to give public notice of any matter or to publish any document and the method of giving such notice or publishing such document is not specifically provided for, the notice shall be given and the document shall be published by such means and in such manner as the person so required considers necessary and adequate for bringing the matter or document to the knowledge of those whom it concerns.
- (2) Failure to publish a document in accordance with the provisions of this Act shall not invalidate the document but this provision shall not relieve any officer from any penalty to which he may be liable by virtue of such failure.

### **124 Misnomer, inaccurate description, etc.**

Subject to any enactment or established practice of law to the contrary, no misnomer or inaccurate description of any person or place named in a register of electors or in any list, record, proxy paper, nomination paper, ballot paper, notice or other document required for the purposes of this Act shall affect 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.

### **125 Use of mark in place of signature.**

Where a signatory affixes his mark in place of any signature required by or under this Act, such mark shall be witnessed by one person who shall append his signature and address.

### **126 Amendment of forms in Tenth Schedule.**

The forms contained in the Tenth Schedule may be varied by an Order in Council; but the Governor shall not be advised to make any such Order unless a draft thereof (which shall be subject to negative resolution) has been laid before Parliament.

*S.126A rep. by 1969 c.26 (NI)*

### **127 Electoral regulations.**

- (1) Without prejudice to section seventeen of the Interpretation Act (Northern Ireland), 1954, the Ministry may by electoral regulations make provision—
- (a) for anything which under this Act is to be prescribed;
  - (b) for anything which appears to the Ministry to be necessary for giving full effect to the provisions of this Act; and

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- (c) subject to any enactment of the Parliament of the United Kingdom for the time being in force, for the making of arrangements whereby—
  - (i) registers prepared for the purposes of any such enactment may be utilised for the purposes of this Act;
  - (ii) registers prepared for the purposes of this Act may be adapted and utilised for the purposes of any such enactment.
- (2) All regulations made under this Act shall be made by the Ministry and shall be subject to negative resolution.

## 128 Financial provisions.

All expenses incurred by the Ministry and by the Ministry of Finance<sup>F151</sup> for the purposes of this Act and not otherwise provided for under this Act shall be defrayed out of moneys provided by [<sup>F152</sup> the Parliament of the United Kingdom].

**F151** Now Treasury and Minister for Civil Service, SI 1973/2163

**F152** SI 1973/2163

## 129

Without prejudice to sub-section (4) of section thirty-nine of the Interpretation Act (Northern Ireland), 1954, in computing any period of not more than seven days for the purposes of Parts VI and IX, a Sunday or a public holiday shall be disregarded.

[<sup>F153</sup> In respect of a local election and an election petition relating to a local election the foregoing provisions shall not have effect and any period of time shall be computed as follows:

- (a) where the day or the last day on which anything is required or permitted to be done by or in pursuance of Parts VI and IX is any of the days mentioned in paragraph (b), the requirement or permission shall be deemed to relate to the first day thereafter which is not one of those days; and in computing any period of not more than 7 days for the purposes of those Parts any of the days so mentioned shall be disregarded;
- (b) the days referred to in paragraph (a) are Saturday, Sunday, Christmas Eve, Maundy Thursday or a public holiday.]

**F153** SI 1987/168

## 130 Interpretation.

- (1) In this Act the expression—[<sup>F154</sup> absent voters list means, in relation to any local election, the list kept under paragraph 2(4) of Part I of Schedule 2 to the Local Elections (Northern Ireland) Order 1985 (as substituted by Schedule 2 to the Local Elections (Northern Ireland) (Amendment) Order 1987) for that election;] [<sup>F155</sup> Chief Electoral Officer means the Chief Electoral Officer for Northern Ireland appointed under section 14 and, in relation to any function, includes a person to whom that function is delegated under section 14A(2) of this Act or Article 9(2) of the Electoral Law (Northern Ireland) Order 1972 ;][<sup>F156</sup> citizen of the Union shall be construed in accordance with Article 8.1 of the Treaty establishing the European Community (as amended by Title II of the Treaty on European Union), and relevant citizen of the Union means such a citizen who is not a Commonwealth citizen or a citizen

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of the Republic of Ireland;] Clerk of the Crown means Clerk of the Crown for Northern Ireland; committee room shall not include any house or room occupied by the candidate as a dwelling, by reason only of the candidate there transacting business with his agents in relation to the election, and no room or building shall be deemed to be a committee room by reason only of the candidate or any agent of the candidate addressing therein electors, committeemen or others; *Definition rep. by 1969 c.26 (NI)* constituency means a parliamentary constituency as designated in the Second Schedule; corporate office means the office of lord mayor, mayor, chairman, ...<sup>F157</sup>, councillor or member of a local authority, ...<sup>F157</sup>, or member (whether elected or not) of any committee appointed by a local authority for the purpose of the performance of their functions under any enactment; costs includes charges and expenses; the count means the counting of the votes given to the several candidates at a contested election; current , in relation to a register at any time, means operative at that time, and in relation to any election current register means the register or part of the register in force for the constituency,<sup>F158</sup> or district electoral area for which the election is being held] ; day of election in relation to a parliamentary election—

(a) where the election is contested, means—

*Sub-para.(i) rep. by 1968 c.20 (NI)*

(ii) ...<sup>F159</sup>, the polling day;

(b) where the election for any constituency is not contested, means the nomination day for that constituency;

deposit means, in relation to any candidate, the sum required by section sixty to be deposited with the returning officer by that candidate;

election includes a parliamentary and a local election and in relation to a parliamentary election means an election in a constituency and in relation to a<sup>F158</sup> local election means an election in a district electoral area] ...<sup>F157</sup>;

*Definition rep. by SLR 1976*

election court means such a court as is referred to in section seventy-two;

[<sup>F158</sup>election day has the meaning given in section 11(1) and (1A);]

electors means registered electors, and includes parliamentary electors and local electors;

[<sup>F160</sup>elective office means any office to which a local election is held in Northern Ireland;]

functions means functions conferred by this Act;

general election means an election of members to serve in a new parliament;

[<sup>F155</sup> local general election means a local election held in a local election year not being an election to fill a casual vacancy;]

judicial office includes the office of justice of the peace;

[<sup>F161</sup>legal incapacity has the same meaning as in the Elected Authorities (Northern Ireland) Act 1989];

[<sup>F162</sup> local authority means a district council;]

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local election and local elector mean respectively<sup>F158</sup> an election in a district electoral area for a] local authority, and a person entitled to vote at a local election;

local election year means a year specified in section eleven;

Local Elections Rules means the local elections rules in the Fifth Schedule;

local government electoral area means the area for which a local authority is or is to be elected;

merchant seaman means a person (other than a pilot) whose usual place of residence is in Northern Ireland and who is employed in any capacity on board any ship;

Minister and Ministry mean respectively the Minister<sup>F163</sup> and the Ministry<sup>F163</sup> of Home Affairs;

nomination day, in relation to any election, means the day on which candidates at that election may be nominated under this Act;

parliamentary election and parliamentary elector mean respectively an election in a constituency of a member or members to serve in the House of Commons, and a person entitled to vote at a parliamentary election;

Parliamentary Elections Rules means the parliamentary elections rules in the Fourth Schedule;

payment includes any pecuniary or other reward; and pecuniary reward and money shall be deemed to include any office, place, or employment and any valuable security or equivalent for money, and any valuable consideration, and expressions referring to money shall be construed accordingly;

personal expenses, in relation to the expenditure of any candidate in connection with any election, includes the reasonable travelling expenses of that candidate, and the reasonable expenses of his living at hotels and elsewhere for the purposes of and in relation to the election;

polling day, in relation to a contested election, means the day on which the poll is or is to be taken at that election;

[<sup>F161</sup>polling district means a ward;]

postal voting area,...<sup>F159</sup>, means Great Britain, the Isle of Man, the Channel Islands and the Republic of Ireland...<sup>F159</sup>;

prescribed means prescribed by electoral regulations under section one hundred and twenty-seven;

proxy means a person duly appointed under section sixty-seven by an elector;

*Definition rep. by SI 2001/417*

*Definition rep. by 1989 c. 3*

qualifying address means a dwelling-house or premises the residence in ...<sup>F164</sup> which by a person...<sup>F164</sup> entitles [<sup>F165</sup>him to be] registered as an elector;

register means a register of electors prepared in accordance with this Act;

*Definitions rep. by 1989 c. 3*

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relevant rules means, as the context requires, the parliamentary elections rules or the local elections rules respectively set out in the Fourth and Fifth Schedules;

service elector means an elector registered by virtue of a service qualification;

Speaker means the Speaker of the House of Commons and includes the Deputy Speaker and, when the office of Speaker is vacant, the Clerk of the Parliaments or any other officer for the time being performing the duties of the Clerk of the Parliaments;

[<sup>F155</sup> statutory provisions has the meaning assigned to it by section 1( f) of the Interpretation Act (Northern Ireland) 1954;]

*Definitions rep. by 1968 c.20 (NI); 1969 c.26 (NI); 1972 NI 13*

vehicle includes any vehicle or carriage intended or adapted for use on roads;

voter includes an elector and a proxy for an elector:

voting includes voting in person and by post (whether on one's own behalf or as a proxy);

writ means a writ for a parliamentary election.

*Subs.(2) rep. by 1972 NI 13*

(3) In Parts VI, IX and X and in the Eighth and Ninth Schedules the expression candidate

- (a) in relation to a parliamentary election, means a person who is elected to serve in Parliament at the election or a person who is nominated as a candidate at the election, or is declared by himself or by others to be a candidate on or after the day of the issue of the writ for the election, or after the dissolution or vacancy in consequence of which the writ was issued;
- (b) in relation to a local election means a person elected or having been nominated or having been declared by himself or by others to be a candidate for election, to the office to be filled at the election;

but where a person has been declared by others to be a candidate at an election without his consent, nothing in this Act shall be construed to impose any liability on that person by virtue of his having been so declared, unless he has afterwards given his assent to the declaration or has been nominated.

<sup>F166</sup>(4) For purposes of this Act, a person shall be deemed, according to the law in Northern Ireland, not to have attained a given age until the commencement of the relevant anniversary of the day of his birth.]

(5) The date on which an election shall be taken to be initiated shall be—

- (a) in the case of a parliamentary general election, the date of the Proclamation of the Governor in Her Majesty's name summoning a new parliament;
- (b) in the case of a parliamentary bye-election, the date on which the writ is received; and
- (c) in the case of a local election, the date of publication of the notice of election.

**F154** SI 1987/168

**F155** 1972 NI 13

**F156** SI 1995/1948

**F157** 1972 NI 13

**F158** SI 1985/454



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**F159** 1968 c.20 (NI)

**F160** SI 2001/417

**F161** 1989 c. 3

**F162** 1972 NI 13

**F163** Functions transf. to S of S, SI 1973/2163

**F164** 1969 c.26 (NI)

**F165** 1969 c.26 (NI)

**F166** 1969 c.26 (NI)

### 131 Savings.

*Subs.(1) rep. by SLR 1973*

(2) Without prejudice to the provisions of the Interpretation Act (Northern Ireland), 1954 , nothing in sub-section (1) shall—

- (a) affect any incapacity imposed by or under any enactment repealed by this Act and any such incapacity shall for the purposes of this Act be treated as having been imposed under the corresponding provisions of this Act;
- (b) extend to any enactment so far as it is applied by any local or private Act.

### 132 Short title.

(1) This Act may be cited as the Electoral Law Act (Northern Ireland), 1962.

*Subs.(2) rep. by SLR 1973*

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## SCHEDULES

SCHEDULE 1 REP. BY 1989 C. 3

SCHEDULE 2 REP. BY 1968 C.20 (NI); SI 1973/2163

SCHEDULE 3 REP. BY 1989 C. 3

SCHEDULE 4 REP. BY SLR 1980

<sup>F167</sup>SCHEDULE 5

LOCAL ELECTIONS RULES

<b>F167</b> SI 1985/454
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### PART I

PROVISIONS AS TO TIME AND INTERPRETATION

#### *Timetable*

- 1 (1) The proceedings at an election shall be conducted in accordance with whichever of the timetables in paragraph (2) or (3) applies for that election.
- (2) The proceedings at an election in a local election year (within the meaning of section 11(1), not being an election to fill a casual vacancy, shall be conducted in accordance with the following timetable—

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#### TIMETABLE

<i><b>Proceeding</b></i>	<i><b>Time</b></i>
Publication of notice of election.	Not later than the 25th day before election day.
Delivery of nomination papers.	Between the hours of 10 a.m. and 5 p.m. on the 17th and 16th days before election day.
Delivery of notices of withdrawal of candidature.	Within the time for the delivery of nomination papers at the election.
The making of objections to nomination papers.	During the hours allowed for delivery of nomination papers and on the 16th day before election day during the hour following.
Publication of statement of persons nominated.	At the close of the time for making objections to nomination papers or as soon afterwards as any objections are disposed of.
Polling.	Between the hours of 7 a.m. and 10 p.m. on election day.

- (3) The proceedings at an election to fill a casual vacancy shall be conducted in accordance with the following timetable—

#### TIMETABLE

<i><b>Proceeding</b></i>	<i><b>Time</b></i>
Publication of notice of election.	Within 21 days from the date on which a casual vacancy is deemed to have occurred under section 11(5).
Delivery of nomination papers.	Between the hours of 10 a.m. and 5 p.m. on two consecutive days, the second of which shall not be earlier than the 4th day, nor later than the 7th day after the day of publication of the notice of election.
Delivery of notices of withdrawal of candidature.	Within the time for the delivery of nomination papers at the election.
The making of objections to nomination papers.	During the hours allowed for delivery of nomination papers and on the 2nd day for such delivery during the hour following.
Publication of statement of persons nominated.	At the close of the time for making objections to nomination papers or as soon afterwards as any objections are disposed of.

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Polling.	Between the hours of 7 a.m. and 10 p.m. on the day fixed by the returning officer, which shall not be earlier than the 18th nor later than the 21st day after the last day for delivery of nomination papers.
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Computation of time

- 2 In computing any period of time for the purpose of the appropriate Timetable a Saturday, Sunday<sup>F168</sup>, Christmas Eve, Maundy Thursday] or public holiday shall be disregarded and any such day shall not be treated as a day for the purpose of any proceedings up to the completion of the poll nor shall the returning officer be obliged to proceed with the counting of the votes on such a day.

F168 SI 1987/168

Returning officer

- 3 In these rules returning officer means the Chief Electoral Officer provided that, in respect of any function which that Officer has delegated to a deputy returning officer (within the meaning of Article 9(2) of the Electoral Law (Northern Ireland) Order 1972), it means the deputy returning officer acting under the supervision of the Chief Electoral Officer.

PART II

STAGES COMMON TO CONTESTED AND UNCONTESTED ELECTIONS

Notice of election

- 4 The returning officer shall publish notice of the election stating in addition to the notification referred to in section 24(2)—
- (a) the place and times at which nomination papers are to be delivered;
  - (b) the number of members to be returned for each district electoral area in the local government district concerned;
  - (c) the last time by which applications to vote by post or proxy or by post as proxy must reach the Chief Electoral Officer in order to be effective for the election;
  - (d) the date and hours of the poll in the event of a contest;
- and the notice shall state that forms of nomination paper may be obtained at the place referred to in paragraph (a).

Nomination of candidates

- 5 (1) Each candidate shall be nominated by a separate nomination paper, in the form in the Appendix, delivered—
- (a) by the candidate himself, or
  - (b) by his proposer or seconder,

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to the returning officer at the place fixed for the purpose, but the paper may be so delivered on the candidate's behalf by his election agent if the agent's name and address have been previously given to the returning officer as required by section 34 or are so given at the time the paper is delivered.

(2) The nomination paper shall state the candidate's—

- (a) full names,
- (b) home address in full, and
- (c) if desired, description,

and the surname shall be placed first in the list of his names.

[<sup>F169</sup>(3) The description, if any, must consist of either—

- (a) a description (of not more than 6 words in length) which is authorised as mentioned in rule 5A(1); or
- (b) the word Independent.]

**F169** SI 2001/417

#### *Nomination papers: name of registered political party*

[<sup>F170</sup>5A(1) A nomination paper may not include a description of a candidate which is likely to lead voters to associate the candidate with a registered political party unless the party is a qualifying party in relation to the district electoral area and the description is authorised by a certificate—

- (a) issued by or on behalf of the registered nominating officer of the party, and
- (b) received by the returning officer before the last time for the delivery of nomination papers.

(2) A person shall be guilty of a corrupt practice if he fraudulently purports to be authorised to issue a certificate under paragraph (1) on behalf of a registered political party's nominating officer.

(3) For the purposes of the application of this rule in relation to an election—

- (a) registered political party means a party which was registered under Part II of the Political Parties, Elections and Referendums Act 2000 at the time by which the notice of election is required to be published by virtue of rule 1 (the relevant time);
- (b) a registered party is a qualifying party in relation to a district electoral area if the party was at the relevant time registered in the Northern Ireland register maintained under that Part of that Act.]

**F170** SI 2001/417

#### *Subscription of nomination paper*

6 (1) The nomination paper shall be subscribed by two electors for the district electoral area as proposer and seconder, and by eight other electors for that area as assenting to the nomination.

(2) Where a nomination paper bears the signature of more than the required number of persons as proposing, seconding or assenting to the nomination of a candidate,

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the signature or signatures (up to the required number) appearing first on the paper in each category shall be taken into account to the exclusion of any others in that category.

(3) The nomination paper shall give the electoral number of each person subscribing it.

(4) The returning officer shall—

(a) supply any elector with a form of nomination paper at the place and during the time for delivery of nomination papers, and

(b) at any elector's request prepare a nomination paper for signature;

but it is not necessary for a nomination to be on a form supplied by the returning officer.

(5) A person shall not subscribe more nomination papers at the same election than there are vacancies to be filled in the district electoral area; but a person shall not be prevented from subscribing a nomination paper by reason only of his having subscribed that of a candidate who has died or withdrawn before delivery of the first-mentioned paper.

(6) If a person subscribes nomination papers in contravention of paragraph (5), his signature shall be inoperative on any paper other than those papers (up to the permitted number) which are delivered first.

[<sup>F171</sup>(7) In this rule elector

(a) means a person who is registered in the register of local electors for the district electoral area in question on the last day for publication of notice of the election; and

(b) includes a person then shown in that register as below voting age if (but only if) it appears from the register that he will be of voting age on the day fixed for the poll.]

**F171** SI 2001/417

### *Consent to nomination*

7 A person shall not be validly nominated unless his consent to nomination is—

(a) given in writing in the form in the Appendix, on or within one month before the day fixed as the last day for the delivery of nomination papers,

(b) attested by one witness, and

(c) delivered at the place and within the time for the delivery of nomination papers.

### *Place for delivery of nomination papers*

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

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### *Right to attend nomination*

- 9 (1) Except for the purpose of delivering a nomination paper or of assisting the returning officer no person is entitled to attend the proceedings during the time for delivery of nomination papers or for making objections to them unless he is—
- (a) a person standing nominated as a candidate, or
  - (b) the election agent, proposer or seconder of such a person, but where a candidate acts as his own election agent he may name one other person who shall be entitled to attend in place of his election agent.
- (2) Where a person stands nominated by more than one nomination paper, only the persons subscribing as proposer and seconder—
- (a) to such one of those papers as he may select, or
  - (b) in default of such a selection, to that one of those papers which is first delivered,
- shall be entitled to attend as his proposer and seconder.
- (3) The right to attend conferred by this rule includes the right—
- (a) to inspect, and
  - (b) to object to the validity of,
- any nomination paper.

### *Decisions as to validity of nomination papers*

- 10 (1) Where a nomination paper and the candidate's consent to it are delivered in accordance with these rules, the candidate shall be deemed to stand nominated unless and until—
- (a) the returning officer decides that the nomination paper is invalid; or
  - (b) proof is given to the returning officer's satisfaction of the candidate's death; or
  - (c) the candidate withdraws.
- (2) The returning officer is entitled to hold a nomination paper invalid only on one of the following grounds—
- (a) that the particulars of the candidate or the person subscribing the paper are not as required by law;
  - (b) that the paper is not subscribed as so required.
- (3) [<sup>F172</sup>Subject to paragraph (3A),] The returning officer shall give his decision on any objection to a nomination paper as soon as practicable after it is made.
- [<sup>F172</sup>(3A) If in the returning officer's opinion a nomination paper breaks rule 5A(1), he shall give a decision to that effect as soon as practicable after the last time for the delivery of nomination papers.]
- (4) [<sup>F172</sup>Where the returning officer] decides that a nomination paper is invalid, he shall endorse and sign on the paper the fact and the reasons for his decision.
- (5) The decision of the returning officer that a nomination paper is valid shall be final and shall not be questioned in any proceedings whatsoever.
- (6) Subject to paragraph (5), nothing in this rule shall prevent the validity of a nomination being questioned on an election petition.

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**F172** SI 2001/417

### *Withdrawal of candidates*

- 11 (1) A candidate may withdraw his candidature by notice of withdrawal—
- (a) signed by him and attested by one witness, and
  - (b) delivered to the returning officer at the place for delivery of nomination papers.
- (2) Where a candidate is out of Northern Ireland, a notice of withdrawal signed by his proposer and accompanied by a written declaration also so signed of the candidate's absence from Northern Ireland shall be of the same effect as a notice of withdrawal signed by the candidate, but where the candidate stands nominated by more than one nomination paper a notice of withdrawal under this paragraph shall be effective if, but only if—
- (a) it and the accompanying declaration are signed by all the proposers except any one who is, and is stated in that declaration to be, out of Northern Ireland; or
  - (b) it is accompanied, in addition to the declaration, by a written statement signed by the candidate that the proposer giving notice is authorised to do so on the candidate's behalf during his absence from Northern Ireland.

### *Publication of nominations*

- 12 (1) The returning officer shall prepare and publish a statement showing the persons who have been and stand nominated in each district electoral area and any other persons who have been nominated, with the reason why they no longer stand nominated.
- (2) The statement shall show the names, addresses and descriptions of the persons nominated as given in their nomination papers, together with the names of the persons subscribing those papers.
- (3) The statement shall show the persons standing nominated arranged alphabetically in the order of their surnames, and, if there are two or more of them with the same surname, of their other names.
- (4) In the case of a person nominated by more than one nomination paper, the returning officer shall take the particulars required by the foregoing provisions of this rule from such one of the papers as the candidate (or the returning officer in default of the candidate) may select.

### *Adjournment of nomination proceedings in case of riot*

- 13 (1) Where the proceedings for or in connection with nomination are on any day interrupted or obstructed by riot or open violence—
- (a) the proceedings shall be abandoned for that day, and
  - (b) if that day is the last day for the delivery of nomination papers, the proceedings shall be continued on the next day as if that were the last day of such delivery;
- and that day shall be treated for the purposes of these rules as being the last day for such delivery (subject to any further application of this rule in the event of interruption or obstruction on that day).



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- (2) Where proceedings are abandoned by virtue of this rule—
- (a) nothing may be done after they are continued if the time for doing it had passed at the time of the abandonment; and
  - (b) anything done before the abandonment shall not be invalidated by reason of the abandonment.

### *Method of election*

- 14 (1) If the number of persons standing nominated, as shown by the statement of persons nominated, exceeds the number of seats to be filled, a poll shall be taken in accordance with Part III of these rules.
- (2) If the number of persons standing nominated, as so shown, is equal to or less than the number of seats to be filled, the persons standing nominated shall be declared to be elected in accordance with Part V of these rules.

## **PART III**

### **CONTESTED ELECTIONS**

#### *Poll to be taken by ballot*

- 15 The votes at the poll shall be given by ballot, the votes given to each candidate shall be counted and the result shall be determined in accordance with Part IV of these rules.

#### *The ballot papers*

- 16 (1) The ballot of every voter shall consist of a ballot paper, and the persons shown in the statement of persons nominated as standing nominated, and no others, shall be entitled to have their names inserted in the ballot paper.
- (2) Every ballot paper shall be in the form in the Appendix, and shall be printed in accordance with the directions in that Appendix, and—
- (a) shall contain the names and other particulars of the candidates as shown in the statement of persons nominated;
  - (b) shall be capable of being folded up;
  - (c) shall have a number printed on the back;
  - (d) shall have attached a counterfoil with the same number printed<sup>[F173]</sup> on it.
- <sup>[F174]</sup>(e) must be of a different colour from that of any ballot papers used at an election the poll for which is taken together with the poll for the local election.]
- <sup>[F175]</sup>(2A) If a candidate who is the subject of a party's authorisation under rule 5A(1) so requests, the ballot paper shall contain, against the candidate's particulars, the party's registered emblem (or, as the case may be, one of the party's registered emblems).
- (2B) The request must—
- (a) be made in writing to the returning officer, and
  - (b) be received by him before the last time for the delivery of nomination papers.]

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- (3) The order of the names in the ballot paper shall be the same as in the statement of persons nominated.

**F173** SI 1987/168

**F174** 2001 c. 7

**F175** SI 2001/417

### *The official mark*

- 17 (1) Every ballot paper shall be marked with an official mark, which shall perforate or emboss the ballot paper.
- (2) The official mark shall be kept secret, and an interval of not less than seven years shall intervene between the use of the same official mark at elections for the same district electoral area.
- (3) The official mark used for ballot papers issued for the purpose of voting by post shall not be used at the same election for ballot papers issued for the purpose of voting in person.

### *Prohibition of disclosure of vote*

- 18 No person who has voted at the election shall, in any legal proceeding to question the election, be required to state for whom he voted.

### *Use of schools and public rooms*

- 19 (1) The returning officer may use, free of charge, for the purpose of taking the poll or conducting the count—
- school premises to which this rule applies;
  - a room the expense of maintaining which is payable out of any rate.
- (2) This rule applies to a school which is in receipt of a grant out of moneys appropriated by Measure of the Northern Ireland Assembly.
- (3) The returning officer shall make good any damage done to, and defray any expense incurred by the persons having control over, any such premises or room as mentioned above by reason of its being used for the purpose of taking the poll or conducting the count.
- (4) The use of a room in an unoccupied house for that purpose does not render a person liable to be rated or to pay any rate for the house.

### *Notice of poll*

- 20 (1) The returning officer shall in the statement of persons nominated include a notice of the poll, stating the day on which the hours during which the poll will be taken.
- (2) The returning officer shall also give public notice (which may be combined with the statement of persons nominated) of—
- the situation of each polling station;
  - the description of voters entitled to vote there;
  - the mode in which voters are to vote; and

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(d) the number of councillors to be elected for each district electoral area.

[<sup>F176</sup>(3) The notice published under paragraph (2)—

- (a) must state that the poll at the local election is to be taken together with the poll at a parliamentary election;
- (b) must specify the relevant parliamentary constituency.]

**F176** 2001 c. 7

#### *Postal ballot papers*

- 21 (1) The returning officer shall as soon as practicable send to those entitled to vote by post, at the addresses[<sup>F177</sup> shown in the absent voters list], a ballot paper and a declaration of identity in the[<sup>F178</sup> relevant] form prescribed in the Appendix, together with an envelope for their return.
- (2) The declaration of identity shall be witnessed by another elector who personally knows the voter.

**F177** SI 1987/168  
**F178** 2001 c. 7

#### *Provision of polling stations*

- 22 (1) The returning officer shall provide a sufficient number of polling stations and shall allot the electors to the polling stations in such manner as he thinks most convenient.
- (2) One or more polling stations may be provided in the same room.
- (3) The polling station allotted to electors from any polling district shall be in the polling place for that district.
- (4) The returning officer shall provide each polling station with such number of compartments as may be necessary in which the voters can mark their votes screened from observation.

#### *Appointment of presiding officers and clerks*

- 23 (1) The returning officer shall appoint and pay a presiding officer to attend at each polling station and such clerks as may be necessary for the purposes of the election, but he shall not appoint any person who has been employed by or on behalf of a candidate in or about the election.
- (2) The returning officer may, if he thinks fit, preside at a polling station and the provisions of these rules relating to a presiding officer shall apply to a returning officer so presiding with the necessary modifications as to things to be done by the returning officer to the presiding officer or by the presiding officer to the returning officer.
- (3) A presiding officer may do, by the clerks appointed to assist him, any act (including the asking of questions) which he is required or authorised by these rules to do at a polling station except order the arrest, exclusion or removal of any person from

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the polling station or refuse to deliver a ballot paper under paragraph (4) of rule 34 (including that paragraph as applied by rule 35, 36 or 37).

*Rule 24 omitted by SI 1987/168*

#### *Issue of official poll cards*

- 25 (1) The returning officer shall as soon as practicable send to electors and their proxies an official poll card, but a card need not be sent to any person—
- (a) as an elector if he is placed on the absent voters list for the election; or
  - (b) as a proxy if<sup>F179</sup> he is entitled to vote by post as proxy at the election].
- (2) An elector's official poll card shall be sent or delivered to his qualifying address, and a proxy's to his address as shown in the list of proxies.
- (3) The official poll card shall be in the form prescribed in the Appendix and shall set out—
- (a) the name of the district electoral area;
  - (b) the elector's name, qualifying address and number on the register;
  - (c) the date and hours of the poll and the situation of the elector's polling station.
- [<sup>F180</sup>(3A) An official poll card issued under this rule may be combined with an official poll card issued at a parliamentary election.]
- (4) Paragraph (7) of rule 6 applies for the interpretation of this rule.

**F179** SI 1987/168

**F180** 2001 c. 7

#### *Equipment of polling stations*

- 26 (1) The returning officer shall provide each presiding officer with such number of ballot boxes and ballot papers as in the returning officer's opinion may be necessary.
- (2) Every ballot box shall be so constructed that the ballot papers can be put in it, but cannot be withdrawn from it, without the box being unlocked.
- (3) The returning officer shall provide each polling station with—
- (a) materials to enable voters to mark the ballot papers;
  - (b) instruments for stamping on them the official mark;
  - (c) copies of the register of electors or such part of it as contains the names of the electors allotted to the station;
  - (d) the parts of the absent voters lists prepared for the election corresponding to the register of electors or the part of it provided under sub-paragraph (c).
- [<sup>F181</sup>(3A) The returning officer shall also provide each polling station with—
- (a) at least one large version of the ballot paper which shall be displayed inside the polling station for the assistance of voters who are partially-sighted;
  - (b) a device falling within the description in paragraphs (5) to (10) for enabling voters who are blind or partially sighted to vote without any need for assistance from the presiding officer or any companion (within the meaning of rule 36(1)).]

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- (4) A notice in the form in the Appendix giving directions for the guidance of the voters in voting, shall be printed in conspicuous characters and exhibited outside every polling station and in every compartment of every polling station.

[<sup>F182</sup>(4A) The notice referred to in paragraph (4)—

- (a) must clearly indicate the election to which it relates;
- (b) must be printed on paper of the same colour as the ballot papers (other than tendered ballot papers) used at the election to which it relates.]

[<sup>F181</sup>(5) The device must be capable of being attached firmly to a ballot paper and of being removed from it after use without damage to the paper.

- (6) On the left-hand side of the device there shall be tabs of equal size which satisfy the conditions in paragraphs (7) to (10).
- (7) The tabs shall be capable of being positioned on the ballot paper so that each one is above one of the spaces to the left of the particulars of the candidates on which the vote is to be marked ( the relevant space).
- (8) Each tab shall be numbered so that, when the device is positioned over a ballot paper, the number of each tab corresponds to that of the candidate whose particulars are to the right of the relevant space covered by the tab in question.
- (9) Each number on a tab shall be in raised form so that it can be clearly identified by touch.
- (10) Each tab shall be capable of being lifted so as to reveal the relevant space and so that there is sufficient room to allow a voter to record his vote on that space.]

**F181** SI 2001/417

**F182** 2001 c. 7

### *Appointment of polling and counting agents*

- 27 (1) Each candidate may, before the commencement of the poll, appoint—
- (a) polling agents to attend at polling stations for the purpose of detecting personation; and
  - (b) one counting agent to attend at the counting of the votes.
- (2) Notice in writing of the appointment, stating the names and addresses of the persons appointed, shall be given by the candidate to the returning officer and shall be so given not later than 5 p.m. on the second day (computed like any period of time in the Timetable) before the day of the poll.
- (3) If an agent dies, or becomes incapable of acting, the candidate may appoint another agent in his place, and shall forthwith give to the returning officer notice in writing of the name and address of the agent appointed.
- (4) The foregoing provisions of this rule shall be without prejudice to the requirements of subsection (1) of section 38 as to the appointment of paid polling agents, and any appointment authorised by this rule may be made and the notice of appointment given to the returning officer by the candidate's election agent, instead of by the candidate.

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- (5) In the following provisions of these rules references to polling and counting agents shall be taken as references to agents—
  - (a) whose appointments have been duly made and notified; and
  - (b) where the number of agents is restricted, who are within the permitted number.
- (6) Any notice required to be given to a counting agent by the returning officer may be delivered at or sent by post to the address stated in the notice of appointment.
- (7) A candidate may himself do any act or thing which any polling or counting agent of his, if appointed, would have been authorised to do, or may assist his agent in doing any such act or thing.
- (8) A candidate's election agent may do or assist in doing anything which a polling or counting agent of his is authorised to do; and anything required or authorised by these rules to be done in the presence of the polling or counting agents may be done in the presence of a candidate's election agent instead of his polling agent or counting agent.
- (9) Where by these rules any act or thing is required or authorised to be done in the presence of the polling or counting agents, the non-attendance of any agents or agent at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

#### *Notification of requirement of secrecy*

- [<sup>F183</sup>28 The returning officer shall make such arrangements as he thinks fit to ensure that—
- (a) every person attending at a polling station (otherwise than for the purpose of voting or assisting a blind voter to vote or as a constable on duty there) has been given a copy in writing of the provisions of paragraph 27(1) and (3) of Schedule 9 and a statement of the penalty prescribed by section 111(2A)(d) (as inserted by paragraph 27 of Schedule 1 to the Local Elections (Northern Ireland) (Amendment) Order 1987); and
  - (b) every person attending at the counting of the votes (other than any constable on duty at the counting) has been given a copy in writing of the provisions of paragraph 27(2) of Schedule 9 and a statement of the penalty prescribed by section 111(2A)(d) (as inserted by paragraph 27 of Schedule 1 to the Local Elections (Northern Ireland) (Amendment) Order 1987).]

**F183** SI 1987/168

#### *Admission to polling station*

- 29 (1) The presiding officer shall regulate the number of voters to be admitted to the polling station at the same time, and shall exclude all other persons except—
- (a) the candidates and their election agents;
  - (b) the polling agents appointed to attend at the polling station;
  - (c) the clerks appointed to attend at the polling station;
  - (d) the constables on duty;
- Sub-para. (e) omitted by SI 1987/168*
- (f) the companions of [<sup>F184</sup> voters with disabilities][<sup>F185</sup>; and]

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[<sup>F185</sup>(g)] [<sup>F185</sup>Electoral Commissioners, members of staff of the Electoral Commission and persons appointed by the Electoral Commission for the purpose of attending at polling stations on behalf of the Commission].

(2) Not more than one polling agent shall be admitted at the same time to a polling station on behalf of the same candidate.

(3) A constable,<sup>F186</sup> . . . or a person employed by a returning officer shall not be admitted to vote in person elsewhere than at the polling station allotted to him, except on production and surrender of a certificate as to his employment, which shall be in the form in the Appendix and shall be signed—

(a) in the case of a constable, by an officer of the Royal Ulster Constabulary not below the rank of chief inspector;

*Sub-para. (b) omitted by SI 1987/168*

(c) in the case of a person employed by the returning officer, by that officer.

(4) Any certificate surrendered under this rule shall forthwith be cancelled.

**F184** SI 2001/417

**F185** SI 2005/863

**F186** SI 1987/168

### *Keeping of order in station*

30 (1) It is the presiding officer's duty to keep order at his polling station.

(2) If a person misconducts himself in a polling station, or fails to obey the presiding officer's lawful orders, he may immediately, by the presiding officer's order, be removed from the polling station—

(a) by a constable in or near that station, or

(b) by any other person authorised in writing by the returning officer to remove him,

and the person so removed shall not, without the presiding officer's permission, again enter the polling station during the day.

(3) Any person so removed may, if charged with the commission in the polling station of an offence, be dealt with as a person taken into custody by a constable for an offence without a warrant.

(4) The powers conferred by this rule shall not be exercised so as to prevent a voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

### *Sealing of ballot boxes*

31 Immediately before the commencement of the poll, the presiding officer shall show the ballot box empty to such persons, if any, as are present in the polling station, so that they may see that it is empty, and shall then lock it up and place his seal on it in such a manner as to prevent its being opened without breaking the seal, and shall place it in his view for the receipt of ballot papers, and keep it so locked and sealed.

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### Questions to be put to voters

32 (1) The presiding officer may, and if required by a candidate or his election or polling agent shall, put to any person applying for a ballot paper at the time of his application, but not afterwards, the following questions, or either of them—

- (a) in the case of a person applying as an elector—
  - (i) Are you the person registered in the register of electors for this election as follows (*read the whole entry from the register*)?
  - (ii) Have you already voted on your own behalf either here or elsewhere in this or any other district electoral area at this [<sup>F187</sup>local] election?
- (b) in the case of a person applying as proxy—
  - (i) Are you the person whose name appears as A.B. in the list of proxies for this election as entitled to vote as proxy on behalf of C.D.?
  - (ii) Have you already voted as proxy on behalf of C.D. either here or elsewhere in this or any other district electoral area at this [<sup>F187</sup>local] election?

[<sup>F188</sup>(1A) In the case of a person applying as an elector, the presiding officer may put the following additional question—

What is your date of birth?.]

(2) In the case of a person applying as proxy, the presiding officer may, and if required as mentioned[<sup>F188</sup> in paragraph (1)] above shall, put the following additional question:—

Are you the husband [wife], parent, grandparent, brother [sister], child or grandchild of C.D.?

and if that question is not answered in the affirmative the following question:—

Have you at this [<sup>F187</sup>local] election already voted in this district electoral area on behalf of two persons of whom you are not the husband [wife], parent, grandparent, brother [sister], child or grandchild?

(3) A ballot paper shall not be delivered to any person required to answer the above questions or any of them unless he has answered the questions or question satisfactorily.

(4) Save as by this rule authorised, no inquiry shall be permitted as to the right of any person to vote.

**F187** 2001 c. 7

**F188** SI 2002/2835

### Challenge of voter

33 (1) If at the time a person applies for a ballot paper for the purpose of voting in person, or after he has applied for a ballot paper for that purpose and before he has left the polling station, a candidate or his election or polling agent—

- (a) declares to the presiding officer that he has reasonable cause to believe that the applicant has committed an offence of personation, and
- (b) undertakes to substantiate the charge in a court of law,



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the presiding officer may order a constable to arrest the applicant, and the order of the presiding officer shall be sufficient authority for the constable to do so.

- (2) A person against whom a declaration is made under this rule shall not by reason of it be prevented from voting.
- (3) A person arrested under the provisions of this rule shall be dealt with as a person taken into custody by a constable without a warrant.

### *Voting procedure*

- 34 (1) Subject to paragraphs (2) to (7), a ballot paper shall be delivered to a voter who applies for one and immediately before delivery—
  - (a) the ballot paper shall be stamped with the official mark;
  - (b) the number and name of the elector as stated in the copy of the register of electors shall be called out;
  - (c) the number of the elector shall be marked on the counterfoil;
  - (d) a mark shall be placed in the register of electors against the number of the elector to denote that a ballot paper has been received but without showing the particular ballot paper which has been received; and
  - (e) in the case of a person applying for a ballot paper as proxy, a mark shall also be placed against his name in the list of proxies.
- (2) A ballot paper shall not be delivered to a voter unless he has produced a specified document to the presiding officer or a clerk.
- (3) Where a voter produces a specified document, the presiding officer or clerk to whom it is produced shall deliver a ballot paper to the voter unless the officer or clerk decides that
  - [<sup>F189</sup>(a) the document; or
  - (b) the apparent age of the voter as compared with his age according to the date supplied as the date of his birth pursuant to section 10(4A)(b), 10A(1A)(b) or 13A(2A)(b) of the Representation of the People Act 1983 (as applied by Schedule 1 to the Elected Authorities (Northern Ireland) Act 1989),
 raises a reasonable doubt as to whether the voter is the elector or proxy he represents himself to be.]
- (4) [<sup>F189</sup>Where in such a case it is a presiding officer who so decides,] he shall refuse to deliver a ballot paper to the voter.
- [<sup>F189</sup>(5) Where in such a case it is a clerk who so decides, he shall refer the matter and produce the document to the presiding officer, who shall proceed as if it had been to him that the voter had presented himself and produced the document in the first place.]
- (6) For the purposes of this rule a specified document is one which for the time being falls within the following list:—
  - [<sup>F190</sup>(a) a current licence to drive a motor vehicle if the licence bears the photograph of the person to whom it is issued;]
  - (b) a current passport issued by the Government of the [<sup>F191</sup>a Member State of the European Community;]

*Subs.—paras. (c)—(g) rep. by SI 2003/1245*

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[<sup>F189</sup>(h) a Senior SmartPass issued under the Northern Ireland Concessionary Fares Scheme for use from 1st May 2002;]

[<sup>F189</sup>(i) a current electoral identity card issued under section 13C of the Representation of the People Act 1983]

[<sup>F190</sup>In sub-paragraph (a) a licence to drive a motor vehicle is a licence granted under Part 3 of the Road Traffic Act 1972 (excluding a provisional licence), or under Article 8 and 12 of the Road Traffic (Northern Ireland) Order 1981 or any corresponding enactment for the time being in force.]

- (7) References in this rule to producing a document are to producing it for inspection.
- (8) The voter, on receiving the ballot paper, shall forthwith proceed into one of the compartments in the polling station and there shall—
- secretly record his vote by placing on the ballot paper the figure 1 opposite the name of the candidate for whom he votes and in addition, if he so wishes, by placing the figure 2 opposite the name of the candidate of his second choice, the figure 3 opposite the name of the candidate of his third choice and so on in the order of his preference;
  - fold the paper so that his vote is concealed;
  - show to the presiding officer the back of the paper so as to disclose the official mark; and
  - put the folded ballot paper into the ballot box in the presiding officer's presence.
- (9) The voter shall vote without undue delay, and shall leave the polling station as soon as he has put his ballot paper into the ballot box.
- [<sup>F192</sup>(10) The same copy of the register of electors may be used under paragraph (1) for each election.
- (11) One mark may be placed in that register under paragraph (1)(d) or in the list of proxies under paragraph (1)(e) to denote that a ballot paper has been received in respect of each election.
- (12) If a ballot paper is issued in respect of one election only a different mark must be placed in the register or list (as the case may be) so as to identify the election in respect of which the ballot paper is issued.]

**F189** SI 2002/2835

**F190** SI 2003/1245

**F191** SI 1995/1948

**F192** 2001 c. 7

### *Votes marked by presiding officer*

- 35 (1) Subject to paragraph (2), the presiding officer, on the application of a voter—
- who is incapacitated by blindness or other physical cause from voting in manner directed by these rules, or
  - who declares orally that he is unable to read,
- shall, in the presence of the polling agents, cause the voter's vote to be marked on a ballot paper in manner directed by the voter, and the ballot paper to be placed in the ballot box.

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(2) Paragraphs (2) to (7) of rule 34 apply in the case of a voter who applies under paragraph (1) as they apply in the case of a voter who applies under rule 34(1), but reading references to delivering a ballot paper to a voter as references to causing a voter's vote to be marked on a ballot paper.

(3) The name and number on the register of electors of every voter whose vote is marked in pursuance of this rule, and the reason why it is so marked, shall be entered on a list (in these rules called the list of votes marked by the presiding officer).

In the case of a person voting as proxy for an elector, the number to be entered together with the voter's name shall be the elector's number.

[<sup>F193</sup>(4) The same list may be used for each election.

(5) If it is, an entry in the list must be taken to mean that the ballot papers were marked in pursuance of this rule in respect of each election unless the list identifies the election at which the ballot paper was so marked.]

**F193** 2001 c. 7

### *Voting by persons with disabilities*

[<sup>F194</sup>36(1) If a voter makes an application to the presiding officer to be allowed, on the grounds of—

- (a) blindness or other physical incapacity, or
- (b) inability to read,

to vote with the assistance of another person by whom he is accompanied (in these rules referred to as the companion), the presiding officer shall require the voter to declare, orally or in writing, whether he is so incapacitated by his blindness or other incapacity, or by his inability to read, as to be unable to vote without assistance.

(2) [<sup>F195</sup>Subject to paragraph (2A), if] the presiding officer—

- (a) is satisfied that the voter is so incapacitated, and
- (b) is also satisfied by a written declaration made by the companion (in these rules referred to as the declaration made by the companion of a voter with disabilities) that the companion—
  - (i) is a qualified person within the meaning of this rule, and
  - (ii) has not previously assisted more than one voter with disabilities to vote at the election,

the presiding officer shall grant the application, and then anything which is by these rules required to be done to or by that voter in connection with the giving of his vote may be done to, or with the assistance of, the companion.

[ Paragraphs (2) to (7) of rule 34 shall apply in the case of a voter who applies under <sup>F195</sup>(2A) paragraph (1) as they apply in the case of a voter who applies under rule 34(1), but reading references to delivering a ballot paper as references to granting a voter's application.]

(3) For the purposes of these rules, a person is a voter with disabilities if he has made such a declaration as is mentioned in paragraph (1) above, and a person shall be qualified to assist a voter with disabilities to vote if that person—

- (a) is a person who is entitled to vote as an elector at the election; or

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(b) is the father, mother, brother, sister, husband, wife, son or daughter of the voter and has attained the age of 18 years.

(4) The name and number in the register of electors of every voter whose vote is given in accordance with this rule and the name and address of the companion shall be entered on a list (in these rules referred to as the list of voters with disabilities assisted by companions).

In the case of a person voting as proxy for an elector, the number to be entered together with the voter's name shall be the elector's number.

[ The same list may be used for each election.

<sup>F196</sup>(4A)

(4B) If it is, an entry in the list must be taken to mean that the votes were given in accordance with this rule in respect of each election unless the list identifies the election at which the vote was so given.]

(5) The declaration made by the companion—

- (a) shall be in the form in the Appendix; and
- (b) shall be made before the presiding officer at the time when the voter applies to vote with the assistance of a companion and shall forthwith be given to the presiding officer who shall attest and retain it.

(6) No fee or other payment shall be charged in respect of the declaration.]

**F194** SI 2001/417

**F195** SI 2002/2835

**F196** 2001 c. 7

### *Tendered ballot papers*

37 (1) If a person, representing himself to be—

- (a) a particular elector named on the register and not named in the absent voters list, or
- (b) a particular person named in the list of proxies as proxy for an elector and not<sup>F197</sup> . . . entitled to vote by post as proxy,

applies for a ballot paper after another person has voted in person either as the elector or his proxy, the applicant shall, on satisfactorily answering the questions permitted by law to be asked at the poll, be entitled subject to the following provisions of this rule, to mark a ballot paper (in these rules referred to as a tendered ballot paper) in the same manner as any other voter.

(2) Paragraphs (2) to (7) of rule 34 shall apply in the case of a person who seeks to mark a tendered ballot paper under paragraph (1) as they apply in the case of a voter who applies for a ballot paper under rule 34(1).

(3) Paragraph (4) applies where

- [<sup>F198</sup>(a)] [<sup>F198</sup>under paragraph (3) of rule 32 a ballot paper is not delivered to a person following his unsatisfactory answer to the question in paragraph (1A) of that rule; or]

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[<sup>F198</sup>(b)] a presiding officer refuses to deliver a ballot paper to a person under paragraph (4) of rule 34 (including that paragraph as applied by rule 35 or 36 or this rule).

(4) The person shall, on satisfactorily answering the questions permitted by law to be asked at the poll, nevertheless be entitled, subject to the following provisions of this rule, to mark a ballot paper (in these rules referred to as a tendered ballot paper) in the same manner as any other voter.

(5) A tendered ballot paper shall—

- (a) be of a colour differing from the other ballot papers;
- (b) instead of being put into the ballot box, be given to the presiding officer and endorsed by him with the name of the voter and his number in the register of electors, and set aside in a separate packet.

(6) The name of the voter and his number on the register of electors shall be entered on a list (in these rules referred to as the tendered votes list).

[<sup>F199</sup>(6A) The same list may be used for each election.

(6B) If it is, an entry in the list must be taken to mean that the tendered ballot papers were marked in respect of each election unless the list identifies the election at which a tendered ballot paper was marked.]

(7) In the case of a person voting as proxy for an elector the number to be endorsed or entered together with the voter's name shall be the number of that elector.

(8) A person who marks a tendered ballot paper under paragraph (4) shall sign the paper, unless it was marked after an application was refused under rule 35 or 36.

(9) A paper which is required to be signed under paragraph (8) and is not so signed shall be void.

**F197** SI 1987/168

**F198** SI 2002/2835

**F199** 2001 c. 7

### *Refusal to deliver ballot paper*

38 (1) This rule applies where a presiding officer refuses to deliver a ballot paper under paragraph (4) of rule 34 (including that paragraph as applied by rule 35, 36 or 37).

(2) The refusal shall be subject to review on an election petition but, subject to that, shall be final and shall not be questioned in any proceeding whatsoever.

### *Spoilt ballot papers*

39 A voter who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper may, on delivering it to the presiding officer and proving to his satisfaction that fact of the inadvertence, obtain another ballot paper in the place of the ballot paper so delivered (in these rules referred to as a spoilt ballot paper), and the spoilt ballot paper shall be immediately cancelled.

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VALID FROM 14/05/2008

*Correction of errors on day of poll*

[<sup>F200</sup>39A The presiding officer shall keep a list of persons to whom ballot papers are delivered in consequence of an alteration to the register made by virtue of section 13BA(9) of the 1983 Act which takes effect on the day of the poll.]

**F200** Sch. 5 para. 39A inserted (14.5.2008) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), ss. 30(1), 31(3), Sch. 4 para. 1(7); S.I. 2008/1318, art. 2(2)(b)

*Adjournment of poll in case of riot*

- 40 (1) Where the proceedings at any polling station are interrupted or obstructed by riot or open violence, the presiding officer shall adjourn the proceedings until the following day and shall forthwith give notice to the returning officer.
- (2) Where the poll is adjourned at any polling station—
- (a) the hours of polling on the day to which it is adjourned shall be the same as for the original day; and
  - (b) references in these rules to the close of poll shall be construed accordingly.

*Procedure on close of poll*

- 41 (1) As soon as practicable after the close of the poll, the presiding officer shall, in the presence of the polling agents, make up into separate packets, sealed with his own seal and the seals of such polling agents as desire to affix their seals—
- (a) each ballot box in use at the station, sealed so as to prevent the introduction of additional ballot papers and unopened, but with the key attached,
  - (b) the unused and spoilt ballot papers placed together,
  - (c) the tendered ballot papers,
  - (d) the marked copies of the register of electors and of the list of proxies,
  - (e) the counterfoils of the used ballot papers and the certificates as to employment on duty on the day of the poll,
  - (f) the tendered votes list, the list of [<sup>F201</sup> voters with disabilities] assisted by companions, the list of votes marked by the presiding officer, a statement of the number of voters whose votes are so marked by the presiding officer under the heads physical incapacity and unable to read, and the declarations made by the companions of [<sup>F201</sup> voters with disabilities],
- and shall deliver the packets or cause them to be delivered to the returning officer to be taken charge of by him; but if the packets are not delivered by the presiding officer personally to the returning officer, the arrangements for their delivery shall require the returning officer's approval.

[<sup>F202</sup>(1A) Separate packets must be made up in respect of each election for the purpose of each of sub-paragraphs (b), (c) and (e) of paragraph (1).]

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- (2) The marked copies of the register of electors and of the list of proxies shall be in one packet but shall not be in the same packet as the counterfoils of the used ballot papers and the certificates as to employment on duty on the day of the poll.
- (3) The packets shall be accompanied by a statement (in these rules referred to as the ballot paper account) made by the presiding officer<sup>F202</sup> separately for the purposes of each election] showing the number of ballot papers entrusted to him, and accounting for them under the heads of ballot papers issued and not otherwise accounted for, unused, spoilt and tendered ballot papers.

**F201** SI 2001/417

**F202** 2001 c. 7

## PART IV

### COUNTING OF VOTES

#### Interpretation

42 In this Part of these rules—

continuing candidate means any candidate not deemed to be elected and not excluded;

count means all the operations involved in the counting of the first preferences recorded for candidates, the transfer of the surpluses of elected candidates, and the transfer of the votes of excluded candidates;

deemed to be elected means deemed to be elected for the purpose of the counting of the votes but without prejudice to the declaration of the result of the poll;

mark means a figure, a word written in the English language or a mark such as X;

non-transferable vote means a ballot paper—

- (a) on which no second or subsequent preference is recorded for a continuing candidate, or
- (b) which is excluded by the returning officer under rule 50(4);

preference as used in the following contexts has the meaning assigned below:—

- (a) first preference means the figure 1 or any mark or word which clearly indicates a first (or only) preference;
- (b) next available preference means a preference which is the second or, as the case may be, subsequent preference recorded in consecutive order for a continuing candidate (any candidate who is deemed to be elected or is excluded thereby being ignored), and
- (c) in this context, a second preference is shown by the figure 2 or any mark or word which clearly indicates a second preference, a third preference by the figure 3 or any mark or word which clearly indicates a third preference, and so on;

quota means the number calculated in accordance with rule 48;

surplus means the number of votes by which the total number of votes for any candidate (whether first preference or transferred votes, or a combination of



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both) exceeds the quota; but, references in these rules to the transfer of the surplus means the transfer (at a transfer value) of all transferable papers from the candidate who has the surplus;

stage of the count means—

- (a) the determination of the first preference vote for each candidate;
- (b) the transfer of a surplus of a candidate deemed to be elected; or
- (c) the exclusion of one or more candidates at any given time;

transferable paper means a ballot paper on which, following a first preference, a second or subsequent preference is recorded in consecutive numerical order for a continuing candidate;

transferred vote means a vote derived from a ballot paper on which a second or subsequent preference is recorded for the candidate to whom that paper has been transferred;

transfer value means the value of a transferred vote calculated in accordance with paragraph (4) or (7) of rule 49, as the case may be.

#### *Place and time for, and manner of, counting of votes*

- 43 (1) Subject to paragraph (3), the returning officer shall make arrangements for counting the votes in the presence of the counting agents at 9 in the<sup>F203</sup> morning on the second day after] the day of the poll and shall give to the counting agents notice in writing of the time and place at which he will begin to count the votes.

[<sup>F203</sup>(1A) For the purpose of determining the day for counting under paragraph (1) a Saturday, a Sunday and a public holiday must be disregarded.]

- (2) There shall be a separate count in respect of each district electoral area in the local government district.
- (3) Nothing in paragraph (1) shall require the returning officer to commence counting the votes for all the district electoral areas in any local government district at the same time.

**F203** 2001 c. 7

#### *Attendance at counting of votes*

- 44 (1) No person other than—

- (a) the returning officer and his clerks,
- (b) the candidates,
- (c) the election agents,
- (d) the counting agents,
- (e) the constables on duty,

may be present at the counting of the votes, unless permitted by the returning officer to attend.

- (2) A person not entitled to attend at the counting of the votes shall not be permitted to do so by the returning officer unless he is satisfied that the efficient counting of the votes will not be impeded.



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- (3) The returning officer shall give the counting agents all such reasonable facilities for overseeing the proceedings at the counting of the votes (including in particular, facilities for satisfying themselves that the ballot papers are correctly sorted) and all such information with respect thereto as he can give them consistently with the orderly conduct of the proceedings and the performance of his functions.

#### *Preliminary proceedings and conduct of the count*

- 45 (1) Before the returning officer proceeds to count the votes, he shall—
- (a) in the presence of the counting agents open each ballot box and, taking out the ballot papers in it, count and record the number of them and in the presence of the election agents verify each ballot paper account;
  - (b) count such of the postal ballot papers as have been duly returned and record the number counted; and
  - (c) then mix together the whole of the ballot papers mentioned in the foregoing sub-paragraphs.
- (2) A postal ballot paper shall not be deemed to be duly returned unless
- [<sup>F204</sup>(a) it is returned in the proper envelope so as to reach the returning officer before the close of the poll and is accompanied by the declaration of identity duly signed and authenticated, and
  - (b) in the case of an elector, that declaration of identity states the date of birth of the elector and the returning officer is satisfied that the date corresponds with the date supplied as the date of the elector's birth pursuant to section 10(4A)(b), 10A(1A)(b) or section 13A(2A)(b) of the Representation of the People Act 1983 (as applied by Schedule 1 to the Elected Authorities (Northern Ireland) Act 1989).]
- [<sup>F204</sup>(2A) In the case of an elector, unless section 10(4B), 10A(1B) or 13A(2B) of the Representation of the People Act 1983 (as applied by Schedule 1 to the Elected Authorities (Northern Ireland) Act 1989) applies, the declaration of identity referred to in paragraph (2) shall be taken not to be duly signed unless the returning officer is satisfied that the signature on the declaration corresponds with the signature supplied as the elector's signature pursuant to section 10(4A)(a), 10A(1A)(a) or 13A(2A)(a) of the Representation of the People Act 1983 (as so applied)]
- (3) The returning officer shall not count any tendered ballot paper.
  - (4) The returning officer, while counting and recording the number of ballot papers and counting the votes, shall keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers printed on the back of the papers.
  - (5) The returning officer shall verify each ballot paper account by comparing it with the number of ballot papers recorded by him, and the unused and spoilt ballot papers in his possession and the tendered votes list (opening and resealing the packets containing the unused and spoilt ballot papers and the tendered votes list) and shall draw up a statement as to the result of the verification, which any election agent may copy.
  - (6) The returning officer shall so far as practicable proceed continuously with counting the votes, allowing only time for refreshment and excluding (except so far as he

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and the agents otherwise agree) the hours between 11 in the evening and 9 on the following morning.

For the purposes of this exception the agreement of a candidate or his election agent shall be as effective as the agreement of his counting agents.

- (7) During the time so excluded the returning officer shall—
- (a) place the ballot papers and other documents relating to the election under his own seal and the seals of such of the counting agents as desire to affix their seals; and
  - (b) otherwise take proper precautions for the security of the papers and documents.

**F204** SI 2002/2835

### *Rejected ballot papers*

- 46 (1) Any ballot paper—
- (a) which does not bear the official mark; or
  - (b) on which the figure 1 standing alone is not placed so as to indicate a first preference for some candidate; or
  - (c) on which the figure 1 standing alone indicating a first preference is set opposite the name of more than one candidate; or
  - (d) on which anything (other than the printed number on the back) is written or marked by which the voter can be identified; or
  - (e) which is unmarked or void for uncertainty,
- shall be void and not counted, but the ballot paper shall not be void by reason only of carrying the words one, two, three, (and so on) or any other mark instead of a figure if, in the opinion of the returning officer, the word or mark clearly indicates a preference or preferences.
- (2) The returning officer shall endorse rejected on any ballot paper which under this rule is not to be counted and if an election agent objects to his decision shall add to the endorsement the words rejection objected to.
- (3) The returning officer shall prepare a statement showing the number of ballot papers rejected by him under each of sub-paragraphs (a), (b), (c), (d) and (e) of paragraph (1) and shall, on request, allow any candidate or agent of a candidate to copy such statement.
- (4) The decision of the returning officer on any question arising in respect of a ballot paper shall be final but shall be subject to review on an election petition.

### *First stage*

- 47 (1) The returning officer shall sort the ballot papers into parcels according to the candidates for whom first preference votes are given.
- (2) The returning officer shall then count the number of first preference votes given on ballot papers for each candidate and shall record those numbers.
- (3) The returning officer shall also ascertain and record the number of valid ballot papers.

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### *The quota*

- 48 (1) The returning officer shall divide the number of valid ballot papers by a number exceeding by one the number of members to be elected.
- (2) The result, increased by one, of the division under paragraph (1) (any fraction being disregarded) shall be the number of votes sufficient to secure the election of a candidate (in these rules referred to as the quota).
- (3) At any stage of the count a candidate whose total vote equals or exceeds the quota shall be deemed to be elected, except that at an election where there is only one vacancy a candidate shall not be deemed to be elected until the procedure set out in paragraphs (1) to (3) of rule 51 has been complied with.

### *Transfer of votes*

- 49 (1) Where the number of first preference votes for any candidate exceeds the quota, the returning officer shall sort all the ballot papers on which first preference votes are given for that candidate into sub-parcels so that they are grouped—
- according to the next available preference given on those papers for any continuing candidate, or
  - where no such preference is given, as the sub-parcel of non-transferable votes.
- (2) The returning officer shall count the number of ballot papers in each parcel referred to in paragraph (1).
- (3) The returning officer shall, in accordance with this rule and rule 50, transfer each sub-parcel of ballot papers referred to in sub-paragraph (a) of paragraph (1) to the candidate for whom the next available preference is given on those papers.
- (4) The vote on each ballot paper transferred under paragraph (3) shall be at a value ( the transfer value) which—
- reduces the value of each vote transferred so that the total value of all such votes does not exceed the surplus, and
  - is calculated by dividing the surplus of the candidate from whom the votes are being transferred by the total number of the ballot papers on which those votes are given, the calculation being made to two decimal places (ignoring the remainder if any).
- (5) Where, at the end of any stage of the count involving the transfer of ballot papers, the number of votes for any candidate exceeds the quota, the returning officer shall sort the ballot papers in the sub-parcel of transferred votes which was last received by that candidate into separate sub-parcels so that they are grouped—
- according to the next available preference given on those papers for any continuing candidate, or
  - where no such preference is given, as the sub-parcel of non-transferable votes.
- (6) The returning officer shall, in accordance with this rule and rule 50, transfer each sub-parcel of ballot papers referred to in sub-paragraph (a) of paragraph (5) to the candidate for whom the next available preference is given on those papers.
- (7) The vote on each ballot paper transferred under paragraph (6) shall be at—
- a transfer value calculated as set out in sub-paragraph (b) of paragraph (4), or

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- (b) at the value at which that vote was received by the candidate from whom it is now being transferred,

whichever is the less.
- (8) Each transfer of a surplus constitutes a stage in the count.
- (9) Subject to paragraph (10), the returning officer shall proceed to transfer transferable papers until no candidate who is deemed to be elected has a surplus or all the vacancies have been filled.
- (10) Transferable papers shall not be liable to be transferred where any surplus or surpluses which, at a particular stage of the count, have not already been transferred, are—
  - (a) less than the difference between the total vote then credited to the continuing candidate with the lowest recorded vote and the vote of the candidate with the next lowest recorded vote; or
  - (b) less than the difference between the total votes of the two or more continuing candidates, credited at that stage of the count with the lowest recorded total numbers of votes and the candidate next above such candidates.
- (11) This rule shall not apply at an election where there is only one vacancy.

#### *Supplementary provisions on transfer*

- 50 (1) If, at any stage of the count, two or more candidates have surpluses, the transferable papers of the candidate with the largest surplus shall be transferred first, and if—
- (a) the surpluses determined in respect of two or more candidates are equal, the transferable papers of the candidate who had the highest recorded votes at the earliest preceding stage at which they had unequal votes, shall be transferred first, and
  - (b) the votes credited to two or more candidates were equal at all stages of the count, the returning officer shall decide between those candidates by lot and the transferable papers of the candidate on whom the lot falls shall be transferred first.
- (2) The returning officer shall, on each transfer of transferable papers under rule 49—
- (a) record the total transfer value of the votes transferred to each candidate;
  - (b) add that value to the previous total of votes recorded for each candidate and record the new total;
  - (c) record as non-transferable votes the difference between the surplus and the total transfer value of transferred votes and add that difference to the previously recorded total of non-transferable votes, and
  - (d) compare—
    - (i) the total number of votes then recorded for all of the candidates, together with total number of non-transferable votes, with
    - (ii) the recorded total of valid first preference votes.
- (3) All ballot papers transferred under rule 49 or 51 shall be clearly marked, either individually or as a sub-parcel, so as to indicate the transfer value recorded at that time to each vote on that paper or, as the case may be, all the papers in that sub-parcel.
- (4) Where a ballot paper is so marked that it is unclear to the returning officer at any stage of the count under rule 49 or 51 for which candidate the next preference is recorded,

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the returning officer shall treat any vote on that ballot paper as a non-transferable vote; and votes on a ballot paper shall be so treated where, for example, the names of two or more candidates (whether continuing candidates or not) are so marked that, in the opinion of the returning officer, the same order of preference is indicated or the numerical sequence is broken.

### *Exclusion of candidates*

51 (1) If—

(a) all transferable papers which under the provisions of rule 49 (including that rule as applied by paragraph (11)) and this rule are required to be transferred, have been transferred, and

(b) subject to rule 52 one or more vacancies remain to be filled,

the returning officer shall exclude from the election at that stage the candidate with the then lowest vote (or, where paragraph (12) applies, the candidates with the then lowest votes).

(2) The returning officer shall sort all the ballot papers on which first preference votes are given for the candidate or candidates excluded under paragraph (1) into two sub-parcels so that they are grouped as—

(a) ballot papers on which a next available preference is given, and

(b) ballot papers on which no such preference is given (thereby including ballot papers on which preferences are given only for candidates who are deemed to be elected or are excluded).

(3) The returning officer shall, in accordance with this rule and rule 50, transfer each sub-parcel of ballot papers referred to in sub-paragraph (a) of paragraph (2) to the candidate for whom the next available preference is given on those papers.

(4) The exclusion of a candidate, or of two or more candidates together, constitutes a further stage of the count.

(5) If, subject to rule 52, one or more vacancies still remain to be filled, the returning officer shall then sort the transferable papers, if any, which had been transferred to any candidate excluded under paragraph (1) into sub-parcels according to their transfer value.

(6) The returning officer shall transfer those papers in the sub-parcel of transferable papers with the highest transfer value to the continuing candidates in accordance with the next available preferences given on those papers (thereby passing over candidates who are deemed to be elected or are excluded).

(7) The vote on each transferable paper transferred under paragraph (6) shall be at the value at which that vote was received by the candidate excluded under paragraph (1).

(8) Any papers on which no next available preferences have been expressed shall be set aside as non-transferable votes.

(9) After the returning officer has completed the transfer of the ballot papers in the sub-parcel of ballot papers with the highest transfer value he shall proceed to transfer in the same way the sub-parcel of ballot papers with the next highest value and so on until he has dealt with each sub-parcel of a candidate excluded under paragraph (1).

(10) The returning officer shall after each stage of the count completed under this rule—

(a) record—

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- (i) the total value of votes, or
  - (ii) the total transfer value of votes transferred to each candidate;
- (b) add that total to the previous total of votes recorded for each candidate and record the new total;
- (c) record the value of non-transferable votes and add that value to the previous non-transferable votes total, and
- (d) compare—
  - (i) the total number of votes then recorded for each candidate together with the total number of non-transferable votes, with
  - (ii) the recorded total of valid first preference votes.
- (11) If after a transfer of votes under any provision of this rule, a candidate has a surplus, that surplus shall be dealt with in accordance with paragraphs (5) to (10) of rule 49 and rule 50.
- (12) Where the total of the votes of the two or more lowest candidates, together with any surpluses not transferred, is less than the number of votes credited to the next lowest candidate, the returning officer shall in one operation exclude such two or more candidates.
- (13) If where a candidate has to be excluded under this rule, two or more candidates each have the same number of votes and are lowest—
  - (a) regard shall be had to the total number of votes credited to those candidates at the earliest stage of the count at which they had an unequal number of votes and the candidate with the lowest number of votes at that stage shall be excluded; and
  - (b) where the number of votes credited to those candidates was equal at all stages, the returning officer shall decide between the candidates by lot and the candidate on whom the lot falls shall be excluded.

#### *Filling of last vacancies*

- 52
- (1) Where the number of continuing candidates is equal to the number of vacancies remaining unfilled the continuing candidates shall thereupon be deemed to be elected.
  - (2) Where only one vacancy remains unfilled and the votes of any one continuing candidate are equal to or greater than the total of votes credited to another or other continuing candidates together with any surplus not transferred, the candidate shall thereupon be deemed to be elected.
  - (3) Where the last vacancies can be filled under this rule, no further transfer of votes shall be made.

#### *Re-count*

- 53
- (1) The returning officer on completion of each stage of the count shall, before proceeding with the next stage, inform all the candidates and their election agents then present of his intention, subject to a request for a re-count, to proceed to the next stage.

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- (2) Before the returning officer so proceeds, any candidate or his election agent present at the count may request that a re-count be undertaken of the last completed stage.
- (3) If a request is made under paragraph (2), the returning officer shall then proceed to carry out the re-count of the last completed stage, but if no such request is made, he shall proceed with the next subsequent stage of the count.
- (4) The returning officer may also, if he thinks fit, re-count ballot papers either once or more often if he is not satisfied as to the accuracy of any stage.
- (5) Nothing in this rule shall require the returning officer to re-count the same parcel or sub-parcel more than once.
- (6) Where as a result of a re-count an error is discovered, the returning officer shall, where necessary, amend any results previously announced by him.

#### *Ballot papers in wrong box*

<sup>F205</sup>~~53~~(1) The returning officer may make arrangements for—

- (a) ballot boxes for the local election to be opened and any ballot papers for the parliamentary election to be taken out;
  - (b) those ballot papers to be taken into account for the purposes of the parliamentary election;
  - (c) ballot boxes for the parliamentary election to be opened and any ballot papers for the local election to be taken out;
  - (d) those ballot papers to be taken into account for the purposes of the local election.
- (2) Paragraph (1) applies notwithstanding anything else in these rules or the parliamentary elections rules.
  - (3) Nothing in these rules or the parliamentary elections rules requires the counting agents to be given facilities for overseeing the proceedings mentioned in paragraph (1)(a) or (c).]

**F205** 2001 c. 7

#### *Order of election of candidates*

- 54 (1) The order in which candidates whose votes equal or exceed the quota are deemed to be elected shall be the order in which their respective surpluses were transferred, or would have been transferred but for rule 49(10).
- (2) A candidate credited with a number of votes equal to and not greater than the quota shall, for the purposes of this rule, be regarded as having had the smallest surplus at the stage of the count at which he obtained the quota.
- (3) Where the surpluses of two or more candidates are equal and are not required to be transferred, regard shall be had to the total number of votes credited to such candidates at the earliest stage of the count at which they had an unequal number of votes and the surplus of the candidate who had the greatest number of votes at that stage shall be deemed to be the largest.

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- (4) Where the number of votes credited to two or more candidates were equal at all stages of the count, the returning officer shall decide between them by lot and the candidate on whom the lot falls shall be deemed to have been elected first.

#### *Decisions of returning officer*

- 55 The decision of the returning officer, whether expressed or implied, on any question which arises in relation to the exclusion of any candidate under rule 51 or to any ballot paper or transfer of votes shall be final, but may be reviewed on an election petition.

### **PART V**

#### **FINAL PROCEEDINGS IN CONTESTED AND UNCONTESTED ELECTIONS**

#### *Declaration of result*

- 56 (1) In a contested election, when the result of the poll has been ascertained in respect of a district electoral area the returning officer shall forthwith—
- (a) declare to be elected the candidates who are deemed to be elected under the rules in Part IV above; and
  - (b) give public notice of—
    - (i) the names of the candidates declared to be elected;
    - (ii) the number of first preference votes for each candidate whether elected or not;
    - (iii) any transfer of votes;
    - (iv) the total number of votes for each candidate at each stage of the count at which such transfer took place; and
    - (v) the order in which the candidates were elected.
- (2) In an uncontested election, the statement of persons nominated, in addition to showing the persons standing nominated, shall also declare those persons elected.

### **PART VI**

#### **DISPOSAL OF DOCUMENTS**

#### *Sealing up of ballot papers*

- 57 (1) On the completion of the counting at a contested election the returning officer shall seal up in separate packets the counted and rejected ballot papers.
- (2) The returning officer shall not open the sealed packets of tendered ballot papers or of counterfoils and certificates as to employment on duty on the day of the poll, or of marked copies of the register of electors and lists of proxies.

#### *Forwarding of documents*

- 58 (1) This rule applies to the following documents—
- (a) the packets of ballot papers in the possession of the returning officer,



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- (b) the ballot paper accounts and the statements of rejected ballot papers and of the result of the verification of the ballot paper accounts,
  - (c) the tendered votes lists, the lists of<sup>F206</sup> voters with disabilities] assisted by companions, the lists of votes marked by the presiding officer and the related statements, and the declarations made by the companions of<sup>F206</sup> voters with disabilities],
  - (d) the packets of counterfoils and certificates as to employment on duty on the day of the poll,
  - (e) the packets containing marked copies of registers and of lists of proxies.
- (2) The returning officer shall endorse on each packet to which this rule applies a description of its contents, the date of the election to which they relate and the name of the district electoral area for which the election was held.
- (3) The returning officer shall then forward to the officer of the relevant council who is charged with the duty of looking after them the documents to which this rule applies.
- (4) The officer referred to in paragraph (3) is referred to in rules 59 and 60 as the proper officer of the council; and the expression relevant council in paragraph (3) means the council to which the election in question takes place.

**F206** SI 2001/417

### *Orders for production of documents*

59 (1) An order for—

- (a) the inspection or production of any rejected ballot papers in the custody of the proper officer of the council, or
- (b) the opening of a sealed packet of counterfoils and certificates as to employment on duty on the day of the poll or for the inspection of any counted ballot papers in his custody,

may be made by the High Court, a county court or an election court if satisfied by evidence on oath that the order is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of an election petition.

(2) An order under this rule may be made subject to such conditions as to—

- (a) persons,
- (b) time,
- (c) place and mode of inspection,
- (d) production or opening,

as the court making the order may think expedient, but in making and carrying into effect an order for the opening of a packet of counterfoils and certificates or for the inspection of counted ballot papers, care shall be taken that the way in which the vote of any particular elector has been given shall not be disclosed until it has been proved—

- (i) that his vote was given; and
- (ii) that the vote has been declared by a competent court to be invalid.

(3) An appeal lies to the High Court from any order of a county court under this rule.

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- (4) Any power given under this rule—
  - (a) to the High Court may be exercised by any judge of the court otherwise than in open court; and
  - (b) to a county court, may be exercised in such manner as may be provided by rules of court.
- (5) Where an order is made for the production by the proper officer of the council of any document in his possession relating to any specified election—
  - (a) the production by him or his agent of the document ordered in such manner as they be directed by that order shall be conclusive evidence that the document relates to the specified election; and
  - (b) any endorsement on any packet of ballot papers so produced shall be prima facie evidence that the ballot papers are what they are stated to be by the endorsement.
- (6) The production from proper custody of a ballot paper purporting to have been used in any election, and of a counterfoil marked with the same printed number and having a number marked on it in writing, shall be prima facie evidence that the elector whose vote was given by that ballot paper was the person who at the time of the election had affixed to his name in the register of electors the same number as the number written on the counterfoil.
- (7) Save as by this rule provided, no person shall be allowed to inspect any rejected or counted ballot papers in the possession of the proper officer of the council or to open any sealed packets of counterfoils and certificates.

#### *Retention and public inspection of documents*

- 60 (1) The proper officer of the council shall retain for six months the documents to which rule 58 applies and then, unless otherwise directed by an order under rule 59, shall cause them to be destroyed.
- (2) The said documents, except those mentioned in sub-paragraphs (a) and (d) of rule 58(1) shall, so long as they are retained by the proper officer of the council, be open to public inspection at a fee of £1 during ordinary office hours.
- (3) The proper officer of the council shall, on request, supply copies of the documents open to public inspection on payment of a fee of 10p for each side of each page of a document so copied.

## **PART VII**

### **DEATH OF CANDIDATE**

#### *Countermand or abandonment of poll on death of candidate*

- 61 (1) If at a contested election proof is given to the returning officer's satisfaction before the result of the election is declared that one of the persons named or to be named as candidate in the ballot papers has died, then the returning officer shall—
- (a) countermand notice of the poll, or
  - (b) if polling has begun, direct that the poll be abandoned,

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and the proceedings with reference to the election shall be commenced afresh as if a casual vacancy had occurred and as if the day on which the returning officer is satisfied that a candidate has died is the day on which the casual vacancy is deemed to have occurred; accordingly, the timetable in rule 1(3) shall apply to the fresh proceedings except that no fresh nomination shall be necessary in the case of a person shown in the statement of persons nominated as standing nominated.

[<sup>F207</sup>(1A) Neither the countermand of the poll at the local election nor the direction that that poll be abandoned affects the poll at the parliamentary election.]

[<sup>F207</sup>(2) If the poll at the local election is abandoned because of a candidate's death—

- (a) no further ballot papers at that election must be delivered in any polling station;
- (b) at the close of the poll for the parliamentary election the presiding officer must comply with the requirements of rule 41 (as amended by the Schedule to the Elections Act 2001) as if the poll at the local election had not been abandoned;
- (c) the returning officer must dispose of ballot papers used at the local election and other documents in his possession as he is required to do on the completion in due course of the counting of the votes,

but this is subject to paragraph (2A).

(2A) In a case falling within paragraph (2)—

- (a) a ballot paper account for the local election need not be prepared or verified;
- (b) the returning officer, having separated the ballot papers relating to the parliamentary election, must take no step or further step for the counting of the ballot papers used at the local election or of the votes;
- (c) the returning officer must seal up all of those ballot papers whether the votes on them have been counted or not;
- (d) it is not necessary to seal up counted and rejected ballot papers in separate packets.]

(3) The provisions of these rules as to the inspection, production, retention and destruction of ballot papers and other documents relating to a poll at an election apply to any such documents relating to a poll abandoned by reason of a candidate's death with the following modifications—

- (a) ballot papers on which the votes were neither counted nor rejected shall be treated as counted ballot papers; and
- (b) no order shall be made for the production or inspection of any ballot papers or for the opening of a sealed packet of counterfoils or certificates as to employment on duty on the day of the poll unless the order is made by a court with reference to a prosecution.

**F207** 2001 c. 7

## APPENDIX OF FORMS

### 1. Form of nomination paper(rule 5)

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ELECTION OF DISTRICT COUNCILLORS

District of .....  
District Electoral Area .....  
Day of election .....

We, the undersigned, being electors in the above-mentioned district electoral area do hereby nominate the under-mentioned person as candidate at this election.

Candidate's surname	Other names in full	Description	Home Address in full
#	#	#	#

Signatures	Electoral Number (See Note 3)
Proposer .....	
Seconder .....	
We, the undersigned, being electors for the above-mentioned district electoral area do hereby assent to the foregoing nomination.	
1	.....
2	.....
3	.....
4	.....
5	.....
6	.....
7	.....
8	.....

NOTES

1. The attention of candidates and electors is drawn to the rules for filling up nomination papers and other provisions relating to nomination contained in the local elections rules in Schedule 5 to the Electoral Law Act (Northern Ireland) 1962, as substituted by Schedule 1 to the Local Elections (Northern Ireland) Order 1985 and, in particular, to the need for a candidate to consent to his nomination.
2. Where the candidate is commonly known by some title he may be described by his title as if it were his surname.
- Note 3 rep. by SI 2001/417
4. An elector must not sign more nomination papers for the district electoral area than there are vacancies to be filled.

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5. A person whose name is entered in the register<sup>F208</sup> . . . may not subscribe a nomination paper if the entry gives as the date on which he will become of voting age a date later than the day fixed for the poll.

**F208** SI 2001/417

## 2. Candidate's consent to nomination(rule 7)

### ELECTION OF DISTRICT COUNCILLORS

I ( *name in full*) .....

of ( *home address in full* ) .....

hereby consent to my nomination as a candidate for election as councillor for the..... district electoral area in the district of .....

I declare that I have attained the age of 21 years and that I am a Commonwealth citizen or<sup>F209</sup>, citizen of the Republic of Ireland or a citizen of another Member State of the European Community] and—

**F209** SI 1995/1948

*\*Delete whichever is inappropriate*

\* (a) I am a local elector for the district of the council; or

\* (b) during the whole of the period of twelve months preceding the day of the poll:—

.....\* (i) I have occupied as owner or tenant land in that district, or

.....\* (ii) resided in that district; or

\* (c) my principal or only place of work during that twelve months has been in that district.

I further declare that to the best of my knowledge and belief I am not disqualified for being elected by reason of any disqualification contained in section 4 of the Local Government Act (Northern Ireland) 1972, a copy of which is printed overleaf.

[<sup>F210</sup>I declare that, if elected, I will not by word or deed express support for or approval of—

**F210** 1989 c. 3

(a) any organisation that is for the time being a proscribed organisation specified in Schedule 2 to the Northern Ireland (Emergency Provisions) Act 1978; or

(b) acts of terrorism (that is to say, violence for political ends) connected with the affairs of Northern Ireland.]

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Signed .....

Date .....

Signed in my presence






Signature of witness .....

Name and address.....

of witness (in.....

CAPITAL LETTERS).....

3. Ballot paper(rule 16)

<div>Counter-foil No.</div> <div>The counterfoil is to have a number to correspond with that on the back of the ballot paper.</div>	Mark order of preference in space below	Form of front of ballot paper
		<div><div>BLACK (Joseph Black of 5 Down Street, Bangor, Co. Down. Democratic Unionist Party)</div></div>
		<div><div>BROWN (RUPERT BROWN of 9 Mourne View, Donaghadee, Co. Down Independent)</div></div>
		<div><div>BROWN (VERONICA BROWN of 8 Magilligan Drive, Portaferry, Co. Down. SDLP (Social Democratic and Labour Party))</div></div>
		<div><div>GOLD (John Gold of 29 Gifford Place, Millisle, Co. Down. Sinn Féin)</div></div>
		<div><div>HAZEL (Horace Hazel of Glen Cottage, Banbridge, Co. Down. Independent)</div></div>
		<div><div>LIME (Harry Lime of 7 Gortin Mansions, Dromara, Co. Down, Ulster Unionist Party)</div></div>
		<div><div>PLUM (Peter Plum of 3 Strangford Road, Killinchy, Co. Down. Independent)</div></div>
		<div><div>ROSE (Ruth Rose of 41 Devenish Drive, Ballynahinch, Co. Down. United Kingdom Unionist Party)</div></div>
		<div><div>SILVER (Anthony Silver of 3 Mourne View, Bangor, Co. Down. Independent)</div></div>
		<div><div>WRIGHT (Frank Wright of 11 Moira Terrace, Newry, Co. Down. Independent)</div></div>

Form of back of ballot paper

No.	Election for the.....district electoral area.
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4. Directions as to printing the ballot paper(rule 16)

- Nothing is to be printed on the ballot paper except in accordance with these directions.

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2. The following arrangements shall be observed in the printing of the front of the ballot paper—

(a) apart from the instructions Mark order of preference in space below in the top left-hand corner no other word or words shall be printed on the ballot paper except the particulars of the candidates<sup>[F211]</sup> and words forming part of emblems];

**F211** SI 2001/417

(b) no rule shall be printed on the face except the horizontal rules separating the particulars of the candidate from one another and the vertical rule separating those particulars<sup>[F211]</sup> and emblems] from the spaces on the left side of the paper where the order of preferences is to be marked;

(c) the whole space between the top and the bottom of the paper shall be equally divided between the candidates by the rules separating their particulars.

3.

(a) The front of the ballot paper shall contain the names, addresses, occupations and descriptions, if any, of the candidates standing nominated. The names shall be arranged alphabetically in the order of surnames, or if there are two or more candidates having the same surname, in alphabetical order of their other names, or if their other names are the same, in the alphabetical order of their home addresses or descriptions;

(b) the surname of each candidate and his political description (if given) shall be printed in large capitals, and his full name, address and profession, rank or calling (if given) shall be printed underneath in ordinary type; (and for the purposes of this direction a political description shall include a description such as independent);

(c) where the surnames of two or more candidates are the same there shall also be printed in large capitals the other names of such candidates and if those are the same so much of the descriptions or home addresses of such candidates as will enable the electors to distinguish between them;

(d) the list of candidates shall be arranged either in one continuous column or in two or more columns in such manner (without departing from the alphabetical order) as, in the opinion of the returning officer, is best for marking and counting;

(e) the ballot papers shall be numbered consecutively on the back, and the front of the counterfoil attached to each ballot paper shall bear the same number. The numbers on the ballot papers shall be printed in the smallest type compatible with legibility and shall be printed on or about the centre of the paper.

<sup>[F211]</sup>(3A) Where an emblem is to be printed against a candidate's particulars—

- (a) it shall be printed between the candidate's particulars and the vertical rule separating the candidates' particulars from the spaces where the vote is to be marked, and
- (b) its size as printed shall not exceed two centimetres square.]

4. Any reference in these directions to the particulars of a candidate are a reference to those particulars as given in the statement of persons nominated.

**5. Declaration of identity**(rule 21)

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## FRONT OF FORM

### ELECTION OF DISTRICT COUNCILLORS

#### DECLARATION BY VOTER

Ballot Paper No.....

I hereby declare that I am the person to whom the ballot paper numbered above was sent.

[<sup>F212</sup>Except where the voter is a proxy:

**F212** SI 2002/2835

**F212** SI 2002/2835

My date of birth is.....]

**F212** SI 2002/2835

Voter's signature .....

#### CERTIFICATION BY WITNESS

The voter who is personally known to me has signed this declaration in my presence.

Witness's signature.....Date.....

Name of Witness .....

[<sup>F213</sup>(WRITE CLEARLY)

**F213** SI 1990/595

**F213** SI 1990/595

Address .....

[<sup>F213</sup>(WRITE CLEARLY)]

**F213** SI 1990/595



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## SEE INSTRUCTIONS ON THE BACK OF THIS FORM

### BACK OF FORM

#### INSTRUCTIONS TO THE VOTER

1. You should place the figure 1 opposite the name of the candidate for whom you wish to vote and in addition you may, if you wish, place the figure 2 opposite the name of the candidate of your second choice, the figure 3 opposite the name of the candidate of your third choice and so on in the order of your preference. You may indicate by figures as many or as few preferences as you wish.

2. The figure or figures should be placed in the spaces provided at the left-hand side of the paper opposite the name of the candidate for whom you intend it.

3. In no circumstances write anything else on the paper; if you do your vote may be invalid.

4. Immediately after voting you must place the marked ballot paper in the enclosed small envelope on which are printed the words Ballot paper envelope and seal it.

5. Then take the sealed ballot paper envelope and the voter's declaration to another elector as a witness and sign the declaration in his presence. He should then certify your signature on the declaration by signing the certification, adding his name and address. Without this, the declaration will be invalid.

6. Enclose the signed and witnessed declaration and the sealed ballot paper envelope in the larger enclosed envelope addressed to the returning officer and despatch it by post without delay. Unless you return the ballot paper at once it may be received by the returning officer too late to be counted.

7. If you receive more than one ballot paper it must be remembered that you can vote only once on your own behalf at this election.

*Paras. 8, 9 omitted by SI 1990/595*

[<sup>F214</sup>8.] If you inadvertently spoil your postal ballot paper, you can apply to the returning officer for another one. With your application you must return (in a fresh envelope) the spoilt ballot paper, the declaration of identity and the envelope sent to you with your ballot paper. Remember that there is little time available if a fresh ballot paper is to be issued to you for completion and return before the close of the poll.

**F214** SI 1990/595

[<sup>F215</sup>5A. **Declaration of identity (combined polls)(rule 21)** (for use when a parliamentary poll is combined with a local poll)]

**F215** 2001 c. 7

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## FRONT OF FORM

### ELECTION OF DISTRICT COUNCILLORS

#### DECLARATION OF IDENTITY

To be returned with the [ *insert colour of ballot paper*] coloured ballot paper No .

I hereby declare that I am the person to whom the [ *insert colour of ballot paper*] coloured ballot paper numbered as above was sent.

Voter's signature

The voter, who is personally known to me, has signed this declaration in my presence.

Witness's signature

Name of witness (WRITE CLEARLY)

Address of witness (WRITE CLEARLY)

SEE INSTRUCTIONS ON THE BACK OF THIS FORM

## BACK OF FORM

#### INSTRUCTIONS TO THE VOTER

1. You must sign this declaration of identity in the presence of a person known to you. *You are required to do this even if you have already signed a similar declaration of identity in respect of another election to be held on the same day.* That person should then sign this declaration as a witness, adding his or her name and address. Without this the declaration will be invalid.
2. You should place the figure 1 opposite the name of the candidate for whom you wish to vote and in addition you may, if you wish, place the figure 2 opposite the name of the candidate of your second choice, the figure 3 opposite the name of the candidate of your third choice and so on in the order of your preference. You may indicate by figures as many or as few preferences as you wish.
3. The figure or figures should be placed in the spaces provided at the left-hand side of the paper opposite the name of the candidate for whom you intend it. Do this secretly. If you cannot vote without assistance, the person assisting you must not disclose how you have voted.
4. In no circumstances write anything else on the paper; if you do your vote may be invalid.
5. Different colours are used for the ballot papers for each election. Each ballot paper has its own ballot paper envelope (the smaller envelope marked A), declaration of identity and covering

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envelope (the larger envelope marked B). The covering envelope and declaration of identity for a particular ballot paper are those which refer to the colour of that ballot paper. It is important that you use the correct envelopes and declaration of identity, otherwise your vote may not be counted. You may find it helpful to sort the documents into separate sets, each consisting of a ballot paper, ballot paper envelope, declaration of identity and covering envelope. Then proceed as follows—

- (a) place each ballot paper in the correct smaller envelope and seal it;
- (b) put that envelope, together with the correct declaration of identity, in the correct covering envelope and seal it;
- (c) return the covering envelopes without delay. Ballot papers must be received by the returning officer not later than the close of poll.

6. If you receive more than one ballot paper, remember that it is illegal to vote more than once (otherwise than as proxy) at the *same election*. You are entitled to vote at different elections which are held on the same day.

7. At this election you cannot vote in person at a polling station, even if you receive an official poll card.

8. If you inadvertently spoil your ballot paper, you can apply to the returning officer for another one. With your application you must return, in your own envelope, the spoiled ballot paper, the declaration of identity and the envelopes marked A and B. Remember that there is little time available if a fresh postal ballot paper is to be issued and counted.

## 6. Elector's official poll card *rule 25*

### FRONT OF CARD

..... District Council	OFFICIAL POLL CARD
..... District electoral area	Name .....
Polling day .....	Number on register .....
Polling hours 7 a.m. to 10 p.m.	Address .....
	.....
	.....
Your polling station is at	
.....	
.....	

**VOTING INSTRUCTIONS** Mark your vote secretly by placing in the square provided on the left-hand side of the paper the figure 1 opposite the name of the candidate for whom you wish to vote and, if you wish, the figure 2 opposite the name of the candidate of your second choice and so on in the order of your preference.

**IMPORTANT—PLEASE READ NOTES ON BACK OF THIS CARD**

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BACK OF CARD

THE LAW PREVENTS YOU BEING GIVEN A BALLOT PAPER UNLESS YOU PRODUCE ONE OF THE FOLLOWING DOCUMENTS:—

(a) a current Northern Ireland or Great Britain full driving licence<sup>F216</sup> or a Northern Ireland provisional licence];

(b) a current United Kingdom or Republic of Ireland passport (including a U.K. Visitor's passport);

(c) a current book for the payment of allowances, benefits or pensions issued by the Dept. of Health and Social Services for Northern Ireland;

(d) a medical card issued by the Northern Ireland Central Services Agency;

<sup>F216</sup>(e) a current British seaman's card;]

<sup>F216</sup>(f) a card made of plastic issued by the Department of Health and Social Security or the Department of Social Security with a name and national insurance number embossed on it;]

<sup>F216</sup>(g)] in the case ONLY of a woman married within 2 years of polling day, a certified copy or extract of an entry of marriage issued by a Registrar General in the U.K.

Issued by the Returning Officer

F216 SI 1991/1715

7. Proxy's official poll card(rule 25)

FRONT OF CARD

.....District Council	PROXY'S OFFICIAL POLL CARD
.....District electoral area	Proxy's name .....
Polling day .....	Proxy's address .....
Polling hours 7 a.m. to 10 p.m.	.....
Elector's polling station is	Elector's name .....
at .....	Elector's number on register .....
.....	Elector's address .....
.....	.....

INSTRUCTIONS To vote as proxy for the elector named above you must go to the polling station named above. Tell the clerk you wish to vote as proxy and give the name, number and address of elector as given above. The method of voting as proxy is the same as voting

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as an elector. The person who appointed you as his proxy may vote himself if he votes before you.

**IMPORTANT: YOU MUST IDENTIFY *YOURSELF* BY ONE OF THE DOCUMENTS SET OUT ON THE BACK OF THIS CARD.**

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The back of the card is the same as the back of an elector's official poll card set out in Form 6 above.

## **8. Form of directions for the guidance of voters in voting(rule 26)**

### **DIRECTIONS FOR THE GUIDANCE OF THE VOTER IN VOTING**

1. You should make sure that the ballot paper you have received from the presiding officer has the official mark stamped on it. The paper is invalid without it.

2. Go into one of the voting compartments provided. Look at the ballot paper carefully and then record your vote by placing, in the spaces provided at the left-hand side of the paper, the figure 1 opposite the name of the candidate of your first choice and then proceed if you wish by placing the figure 2 opposite the name of the candidate of your second choice; and the figure 3 opposite the name of the candidate of your third choice and so on. You may indicate as many or as few preferences as you wish.

3. In no circumstances write anything else on the ballot paper, if you do your vote may be invalid.

4. To ensure that a ballot paper is a valid vote you must, at least, place the figure 1 opposite the name of the candidate of your first choice. If you fail to place the figure 1 on the ballot paper, or place the figure 1 and some other figure opposite the name of the same candidate, or place any mark or writing on the ballot paper by which you may be identified, your ballot paper will be invalid and your vote will not be counted.

5. If by accident you damage or spoil your paper or if you mark it in such a way that it may be rejected as spoilt, or if you place a wrong mark on it or mark it inadvertently in a wrong place, then take the paper back to the presiding officer, tell him what has happened and ask him for a fresh ballot paper.

6. When you have marked your ballot paper, fold it so that the front of it is hidden and, holding the paper so that the presiding officer can see the official mark on the back of it, put it into the ballot box.

7. You must neither take your ballot paper out of the polling station nor put any other paper into a ballot box. To do so is a serious offence.

8. When you have voted leave the polling station at once.

## **9. Form of certificate of employment(rule 29(3))**

Local government election

..... district electoral area

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I certify that [ name] .....

who is numbered ..... in the register of electors used at this district council election in the district electoral area named above is likely to be unable to go in person to the polling station allotted to him by reason of the particular circumstances of his employment on that date

*\*Delete whichever is inappropriate*

\* (a) as a constable;

Para. (b) omitted by SI 1987/168

\* (c) by me for a purpose connected with the election.

#Signature .....

#\*Police officer (Chief Inspector or above)

#\*Major or above

#\*Returning officer

>Date .....

Note.—The person named above is entitled to vote at any polling station in the above district electoral area on production and surrender of this certificate to the presiding officer.

#### 10. Form of declaration to be made by the companion of a [<sup>F217</sup>voter with disabilities](rule 36(6))

**F217** SI 2001/417

I, A.B. of ....., having been requested to assist C.D. (in the case of a [<sup>F217</sup>voter with disabilities] voting as proxy add voting as proxy for M.N.) whose number on the register is ##, to record his vote at the election now being held in this district electoral area hereby declare that [I am entitled to vote as an elector at the said election] [I am the \*## of the said voter and have attained the age of 18 years] and that I have not previously assisted any [<sup>F217</sup>voter with disabilities] [except E.F. of .....] to vote at the said election.

\*state relationship of companion to voter.

(Signed) A.B.,

.....day of.....19.....

I, the undersigned, being the presiding officer for the ..... polling station for the ..... district electoral area, hereby certify that the above declaration, having been first read to the above-named declarant, was signed by the declarant in my presence.

(Signed G.H.)

.....day of

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.....19.....

minutes past.....o'clock [a.m.] [p.m.]

NOTE:

[<sup>F217</sup>1.] If the person making the above declaration knowingly and wilfully makes therein a statement false in a material particular, he will be guilty of an offence.

[<sup>F217</sup>2.] A voter with disabilities is a voter who has made a declaration under the elections rules that he is so incapacitated by his blindness or other incapacity, or by his inability to read, as to be unable to vote without assistance.

## SCHEDULE 6 REP. BY 1968 C. 20 (NI)

### SEVENTH SCHEDULE <sup>F218</sup>

Section 67.

#### PROXIES

**F218** Ext., SI 1977/428

#### PART I

[TITLE REP. BY 1968 C.20 (NI) S.8 SCH.4 PT.I]

##### 1 *Appointment of proxies.*

(1) A registered elector desiring to appoint a proxy shall make an application to the electoral officer in the prescribed form (in this Schedule referred to as a proxy application) in which the applicant—

- (a) shall nominate a person to act as proxy, or may, if he so desires, nominate one person as his first choice and another as his second choice to act as proxy;
- (b) may if he so desires designate a person (who may be a person nominated as aforesaid) authorised by the applicant to furnish to the electoral officer such information as that officer may require for the purpose of determining the application;

and the electoral officer on receiving a proxy application shall satisfy himself that the applicant is entitled under section sixty-seven to appoint a proxy.

(2) A person shall not be appointed or vote as a proxy—

- (a) unless he is a registered elector ...<sup>F219</sup>;
- (b) if he is (whether by virtue of this Act or otherwise) under any legal incapacity to vote;

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- (c) for more than two electors in any constituency [<sup>F220</sup> or local government electoral area] of whom he is neither the spouse, parent, grandparent, brother, sister, child or grandchild.
- <sup>F221</sup>(2A) A person, if otherwise qualified, shall be capable of voting as proxy at an election at which he is of voting age on the date of the poll, and of being appointed proxy for that purpose before he is of voting age.]
- (3) The electoral officer on receiving a proxy application shall, unless he is satisfied that the person nominated or nominated as first choice as aforesaid cannot lawfully be appointed, send to such person a notice (in this Schedule referred to as a notice of appointment) in the prescribed form to the effect that it is proposed to appoint him proxy for the applicant and that, unless within seven days he notifies the electoral officer in writing that he is not willing, or not qualified, to be so appointed, the proxy application will be treated as having so appointed him.
  - (4) If, on the expiration of the said seven days, the electoral officer has received no such notice in writing, or if before such expiration the electoral officer is satisfied that the person nominated is willing and qualified to be appointed, he shall transmit to the person nominated a proxy paper in the prescribed form.
  - (5) If the electoral officer is satisfied (whether by notice in writing as aforesaid, or otherwise) that the person nominated as first choice is not willing or not qualified to act as proxy, that officer shall proceed in like manner as respects any person nominated as second choice.
  - (6) If a notice of appointment is accepted and a proxy paper is issued to any person the electoral officer shall forthwith notify to the applicant—
    - (a) the name and address of the proxy; and
    - (b) the period during which the proxy paper will remain in force.
  - (7) Where no person nominated as aforesaid is willing and qualified to act as proxy, the electoral officer shall notify the applicant to that effect and shall inform him that he may make a further proxy application; and thereupon unless such further application is made the electoral officer shall take no further steps in relation to the applicant.
  - (8) The appointment (whether under this Part or under Rule 24 of the Registration Rules) of a proxy for a service elector registered in any register shall notwithstanding any provision of this Part continue in force—
    - (a) so long as the elector is a service elector; or
    - (b) until the death or incapacity of the proxy or the cancellation of his appointment.
  - (9) The appointment of a proxy by an elector other than a service elector shall continue in force for such period not exceeding six months as shall be specified in the proxy application.
  - (10) An elector may not appoint more than one person as proxy in any one constituency and may not in any case appoint more than two proxies.
  - (11) An elector who has appointed a proxy may cancel the appointment by giving written notice of cancellation to the electoral officer.
  - (12) Where the appointment of a proxy is cancelled the electoral officer shall notify the proxy and shall delete his name from the record of proxies.



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- (13) Where the appointment of a proxy is cancelled or a proxy dies another proxy may be appointed in accordance with this paragraph.

**F219** 1969 c.26 (NI)

**F220** 1969 c.26 (NI)

**F221** 1969 c.26 (NI)

## 2 *Record of proxies.*

- (1) The electoral officer shall keep in the prescribed form a record of the proxies appointed under paragraph 1 (in this Schedule referred to as the proxy record), and on receiving notice of the death of a proxy or of the elector who appointed him, the cancellation of the appointment of a proxy, or the appointment of a fresh proxy, shall amend the proxy record accordingly; and the electoral officer shall delete from the proxy record the name of any proxy when the period of his appointment expires or if the person who appointed him ceases to be an elector.
- (2) The proxy record shall set out separately the proxies of service electors; and as soon as a service elector ceases to be qualified as a service elector the electoral officer shall delete from the proxy record the name of the proxy of that elector.
- (3) On the initiation of a parliamentary election the electoral officer shall prepare by reference to the proxy record the list of proxies in the prescribed form for use at that election, and—
  - (a) shall omit from the list the name of any proxy whose appointment will, according to the proxy record, expire before the polling day;
  - (b) shall disregard—
    - (i) any appointment of a proxy;
    - (ii) any cancellation of the appointment of a proxy;
 made or as the case may be received later than four days before the nomination day.
- (4) The list of proxies so prepared shall—
  - (a) be treated as setting out all the proxies entitled to vote at the election;
  - (b) have effect for the purposes of one election only.
- (5) The electoral officer shall furnish a copy of the list of proxies to the returning officer not later than five o'clock in the afternoon of the nomination day.
- (6) The electoral officer shall permit any interested person during ordinary office hours to examine and make copies of or extracts from any entries in the proxy record or list of proxies, and on the application of any such person shall supply to him copies of such record or list on payment by that person, for the first copy, of a fee of [<sup>F222</sup> 50p] for any number of names not exceeding one hundred together with [<sup>F222</sup> 25p] for every further fifty names (or part thereof), and for any subsequent copy half of each of those amounts.

**F222** Subst. by virtue of 1969 c.19

## 3 *Voting by proxies.*

- (1) A person shall not vote as proxy unless he is duly qualified under paragraph 1.

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- (2) A proxy shall vote in person at the polling station to which the elector for whom he is proxy is, or would have been allotted and at no other polling station.
- (3) A service elector who has appointed a proxy may vote in person at any election if he applies for a ballot paper before the issue of a ballot paper to his proxy; and if and so soon as he so receives a ballot paper the appointment of his proxy shall cease to have effect as respects that election.
- (4) A presiding officer shall not deliver a ballot paper to any person applying to vote as proxy unless that person satisfies the presiding officer (whether by production of his proxy paper or otherwise) that he is the person whose name is entered in the list of proxies.
- (5) The provisions of this Act relating to voting shall, save in so far as any such provision is inconsistent therewith, have effect in relation to proxies as they have effect in relation to other voters.

#### PART II REP. BY 1968 C.20 (NI)

### EIGHTH SCHEDULE

Sections 72(5), 130.

### ELECTION COURTS

#### *Powers of election courts*

- 1 (1) A parliamentary election court shall, subject to the provisions of this Act, have the same powers, jurisdiction and authority as a judge of the High Court, and shall be a court of record.
- (2) A local election court shall have the same powers, jurisdiction and authority as a parliamentary election court.

#### *Place of trial*

- 2 (1) The place of trial—
  - (a) of a parliamentary election petition relating to an election for a borough constituency shall be within the county borough or borough containing all or part of the constituency.
  - (b) of a parliamentary election petition relating to an election for a county constituency shall be within [<sup>F223</sup> a county in which the constituency is wholly or partly situate]

#### *Para.(c) rep. by 1968 c.20 (NI)*

- (d) of a local election petition shall be within the area of the local authority for which the election was held;

but the High Court may, on being satisfied that special circumstances exist rendering it desirable that any petition should be tried elsewhere, appoint some other convenient place for the trial.

- (2) An election court may adjourn the trial from any one place to any other place within the county borough, borough, county or area where it is held.

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**F223** 1968 c.20 (NI)

*Reception of and attendance on election judges, etc.*

3 *Sub-para.(1) rep. by 1978 c.23*

- (2) The travelling and other expenses of the judges and all expenses properly incurred by the sheriff or other person in receiving the judges and providing them with necessary accommodation and with a proper court shall be defrayed by the Ministry out of moneys provided by [<sup>F224</sup> the Parliament of the United Kingdom].

*Sub-para.(3) rep. by 1978 c.23*

**F224** SI 1973/2163

*Local election courts*

- 4 (1) The clerk of the local authority for which the election was held shall provide proper accommodation for holding the local election court and any expenses incurred by him for the purposes of this paragraph shall be paid by that authority.
- (2) All officers and persons having functions in relation to a parliamentary election court shall in so far as the circumstances admit perform the like functions in relation to a local election court.
- (3) A local election court may employ such officers and clerks as may be prescribed.

*Shorthand writers*

- 5 (1) A shorthand writer shall attend the trial of an election petition and shall be sworn faithfully and truly to take down at length the evidence given at the trial and from time to time as occasion requires to transcribe that evidence or cause it to be transcribed.
- (2) The shorthand writer shall take down the evidence and from time to time transcribe it or cause it to be transcribed.
- (3) In the case of a parliamentary election petition—
- (a) the shorthand writer shall be a shorthand writer appointed by the Clerk of the Parliaments and shall be sworn by one of the judges of the election court;
  - (b) a copy of the evidence shall accompany the certificate given by the election court to the Speaker;
  - (c) the expenses of the shorthand writer shall be deemed to be part of the expenses incurred in providing the court.
- (4) In the case of a local election petition—
- (a) the shorthand writer shall be sworn by the election court;
  - (b) a copy of the evidence shall, if the election court so directs, accompany the certificate of that court.

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### *Expenses of local election courts*

- 6 (1) The remuneration and allowances to be paid to the barrister constituting a local election court and to any officers, clerks or shorthand writers employed under this Schedule in relation to the trial shall be in accordance with a scale fixed by rules of court.

The remuneration and allowances shall be paid in the first instance by the Ministry of Finance<sup>F225</sup> and shall be repaid to that Ministry on its certificate by the authority for which the election was held ...<sup>F226</sup>.

- (2) A local election court may, in its discretion, order that the said remuneration and allowances or the expenses incurred by the ...<sup>F226</sup> clerk of the local authority for providing the election court shall be repaid, wholly or in part, to the Ministry of Finance<sup>F225</sup> or the ...<sup>F226</sup> clerk of the authority, as the case may be, in the cases, by the persons following (namely)—
- (a) where, in the opinion of the election court, the petition is frivolous and vexatious, by the petitioner;
  - (b) where, in the opinion of the election court, the respondent has been personally guilty of corrupt practices at the election, by that respondent.
- (3) The order so made for the repayment of any sum by a petitioner or respondent may be enforced as an order for payment of costs, but a deposit made or a security given under this Schedule shall not be applied for any such repayment until all costs and expenses payable by the petitioner or respondent to any party to the petition have been satisfied.

**F225** Now Treasury, SI 1973/2163

**F226** 1972 NI 13

### *Provisions as to security for costs*

- 7 (1) At the time of presenting an election petition or within three days afterwards the petitioner shall give security for all costs which may become payable by him to any witness summoned on his behalf or to any respondent.
- (2) The security shall be—
- (a) in the case of a parliamentary election petition, an amount of one thousand pounds; and
  - (b) in the case of a local election petition, such amount not exceeding<sup>F227</sup> £2,500] as the High Court, or a judge thereof, on summons, directs;
- and shall be given in the prescribed manner by recognisance entered into by any number of sureties not exceeding four or by a deposit of money, or partly in one way and partly in the other.
- (3) Within the prescribed time, not exceeding five days after the presentation of the petition, the petitioner shall serve on the respondent a notice of the presentation of the petition, and of the nature of the proposed security, and a copy of the petition.<sup>F227</sup> In respect of a petition relating to a local election the following provisions shall have effect in substitution for the foregoing provisions of this sub#paragraph:

“Within the prescribed time after giving the security the petitioner shall serve on the respondent in the prescribed manner—

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- (a) a notice of the presentation of the petition and of the amount and nature of the security, and
- (b) a copy of the petition.”.]

- (4) Within a further prescribed time, not exceeding five days after service of the notice, the respondent may object in writing to any recognisance on the ground that any surety is insufficient or is dead or cannot be found or ascertained for want of a sufficient description in the recognisance, or that a person named in the recognisance has not duly acknowledged the recognisance.[<sup>F227</sup> In respect of a petition relating to a local election this sub#paragraph shall have effect as if the words, not exceeding five days after service of the notice, were omitted.]

*Subs. (5) rep. by SI 1987/168*

- (6) An objection to a recognisance shall be decided in the prescribed manner.
- (7) If the objection is allowed, the petitioner may within a further prescribed time not exceeding five days, remove it by a deposit in the prescribed manner of such sum of money as will, in the opinion of the court or officer having cognisance of the matter, make the security sufficient.[<sup>F227</sup> In respect of a petition relating to a local election this sub#paragraph shall have effect as if the words not exceeding five days were omitted.]
- (8) If no security is given as required by this paragraph or any objection is allowed and not removed as aforesaid, no further proceedings shall be had on the petition.

**F227** SI 1987/168

*[<sup>F228</sup>Petition at issue*

**F228** SI 2001/417

- 8 (1) The petition shall be at issue as from the relevant time, as defined by sub-paragraph (2).
- (2) In this paragraph the relevant time means—
- (a) where the petitioner gives the security for costs required by paragraph 7 by a deposit of money equal to the amount of the security so required, the time when the security is so given; and
  - (b) in any other case, the time when—
    - (i) the time prescribed for the making of objections under paragraph 7(4) expires, or
    - (ii) if such an objection is made, that objection is disallowed or removed, whichever happens later.]

*Lists and trial of election petitions*

- 9 (1) The prescribed officer shall as soon as may be make out—
- (a) a list of all parliamentary election petitions;
  - (b) a list of all local election petitions;

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at issue presented to the High Court under Part IX, placing the petitions in the respective lists in the order in which they were presented, and shall keep at his office a copy of each list open to inspection in the prescribed manner.

- (2) All petitions shall, so far as conveniently may be, be tried in the order in which they stand in the respective lists.
- (3) Two or more candidates may be made respondents to any one petition questioning an election ...<sup>F229</sup> to any one local election petition and their cases may be tried at the same time, but for the purposes of Part IX and this Schedule such a petition shall be deemed to be a separate petition against each respondent.
- (4) Where more petitions than one are presented relating to the same election or to local elections held at the same time for more than one ...<sup>F230</sup> ward in the same local government electoral area ...<sup>F230</sup>, all those petitions shall be bracketed together in the list and shall be dealt with as one petition, standing, unless the High Court otherwise direct, in the list in the place where the last of them would have stood if it had been the only petition presented.

**F229** 1968 c.20 (NI)

**F230** 1972 NI 13

#### *Preliminary and incidental applications*

- 10 Applications for leave to amend petitions and other applications relating to preliminary or incidental matters may, subject to rules of court, be made to a judge of the High Court.

#### *Trial of petitions*

- 11
  - (1) An election petition shall be tried in open court, without a jury, and notice of the time and place of trial shall be given in the prescribed manner, not less than, in the case of a parliamentary election petition, fourteen days and in any other case, seven days, before the day of the trial.
  - (2) The election court may in its discretion adjourn the trial from time to time, but the trial shall, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day on every lawful day until its conclusion.
  - (3) The trial of a parliamentary election petition shall be proceeded with notwithstanding the acceptance by the respondent of an office which disqualifies him for membership of the House of Commons and notwithstanding, prorogation of Parliament; and the trial of a local election petition shall be proceeded with notwithstanding that the respondent has ceased to hold the office his election to which is questioned by the petition.
  - (4) On the trial of a petition, unless the court otherwise directs, any charge of a corrupt or illegal practice may be gone into, and evidence in relation thereto received, before any proof has been given of agency on behalf of any candidate in respect of the corrupt or illegal practice.
  - (5) On the trial of a petition complaining of an undue election and claiming the seat or office for some person, the respondent may give evidence to prove that that person

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was not duly elected, in the same manner as if he had presented a petition against the election of that person.

- (6) If on the trial of an election petition it appears to the court that there is an equality of votes between any candidates at the election, and that the addition of a vote would entitle any of those candidates to be declared elected, then—
- (a) any decision under the provisions as to equality of votes in the Parliamentary or Local Elections Rules, ...<sup>F231</sup>, as the case may be, shall, in so far as it determines the question between those candidates, be effective also for the purposes of the petition; and
  - (b) in so far as that question is not determined by such a decision, the court shall decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote.

**F231** 1968 c.20 (NI)

#### Witnesses

- 12 (1) Witnesses shall be summoned and sworn in the same manner as nearly as circumstances admit as in an action tried [<sup>F232</sup> in the High Court].
- (2) On the trial a member of the election court may, by order under his hand, require any person who appears to him to have been concerned in the election to attend as a witness and any person refusing to obey the order shall be guilty of contempt of court.
- (3) The election court may examine any person so required to attend or who is in court although he is not called and examined by any party to the petition.
- (4) A witness may, after his examination by the court, be cross-examined by or on behalf of the petitioner and respondent, or either of them.
- (5) [<sup>F233</sup>Except in respect of the trial of a local election petition,]<sup>F234</sup> [<sup>F235</sup> The Director of Public Prosecutions for Northern Ireland] shall obey any direction given him by the election court with respect to the summoning of any witness to give evidence at the trial and his examination.
- (6) [<sup>F235</sup> The Director of Public Prosecutions for Northern Ireland] shall without any direction from the court cause any person appearing to him to be able to give material evidence as to the subject of the trial to attend the trial and shall, with the leave of the court, examine him (or cause him to be examined) as a witness.
- (7) Subject to sub-paragraph (9) a person called as a witness respecting an election before any election court shall not be excused from answering any question relating to any offence at or connected with the election, on the ground that the answer thereto may criminate or tend to criminate [<sup>F236</sup> that person or the husband or wife of that person] or on the ground of privilege:

Provided that—

- (a) a witness who answers truly all questions which he is required by the election court to answer [<sup>F233</sup>, other than a witness at a trial of a local election petition,] shall be entitled to receive a certificate of indemnity under the hand of a member of the court stating that the witness has so answered; and

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- (b) an answer by a person to a question put by or before any election court shall not, except in the case of any criminal proceeding for perjury in respect of the evidence, be in any proceeding, civil or criminal, admissible in evidence against [<sup>F236</sup> that person or the husband or wife of that person].
- (8) The giving or refusal to give a certificate of indemnity to a witness by an election court trying a local election petition shall be final and conclusive.
- (9) A person who has voted at the election shall not, in any legal proceedings to question the election or return, be required to state for whom he voted.
- (10) Where a person has received a certificate of indemnity in relation to an election, and any legal proceeding is at any time instituted against him for any corrupt or illegal practice committed by him previously to the date of the certificate at or in relation to the election, or any illegal payment, employment or hiring or offence under section eighty-six or under paragraph 28 or paragraph 32 of the Ninth Schedule so committed, the court having cognisance of the case shall on production of the certificate stay the proceeding, and may in their discretion award to the said person such costs as he may have been put to in the proceeding.
- (11) Nothing in this paragraph shall be deemed to relieve a person receiving a certificate of indemnity from any incapacity under this Act or from any proceedings to enforce that incapacity (other than a criminal prosecution).
- (12) The reasonable expenses incurred by any person in appearing to give evidence at the trial of an election petition, according to the scale allowed to witnesses on the trial of civil actions in the High Court, may be allowed to him by a certificate of the election court or of the prescribed officer, and if the witness was called and examined by virtue of sub-paragraph (2), shall be deemed part of the expenses of providing a court, but otherwise shall be deemed costs of the petition.

**F232** 1978 c.23

**F233** SI 1987/168

**F234** continue to am. 2002 c. 26

**F235** 1972 NI 1

**F236** 1971 c.36 (NI)

NINTH SCHEDULE <sup>F237</sup> Sections 80(5), 103(2), 105, 114, 119, 130.

## ELECTORAL MISDEMEANOURS

**F237** mod. SI 2003/1557

### PART I

#### CORRUPT PRACTICES



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- (1) A person shall be guilty of bribery if he, directly or indirectly, by himself or by any other person on his behalf—
- (a) gives any money or procures any office to or for any voter or to or for any other person on behalf of any voter or to or for any other person in order to induce any voter to vote or refrain from voting; or
  - (b) corruptly does any such act as aforesaid on account of any voter having voted or refrained from voting; or
  - (c) makes any such gift or procurement as aforesaid to or for any person in order to induce that person to procure, or endeavour to procure, the election of any candidate at any election or the vote of any voter; or
  - (d) upon or in consequence of any such gift or procurement as aforesaid, procures or engages, promises or endeavours to procure the election of any candidate at any election or the vote of any voter.

For the purposes of this sub-paragraph—

- (i) references to giving money shall include references to giving, lending, agreeing to give or lend, offering, promising, or promising to procure or endeavour to procure any money or valuable consideration; and
  - (ii) references to procuring any office shall include references to giving, procuring, agreeing to give or procure, offering, promising, or promising to procure or to endeavour to procure any office, place or employment.
- (2) A person shall be guilty of bribery if he advances or pays or causes to be paid any money to or to the use of any other person with the intent that that money or any part thereof is to be expended in bribery at any election or knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election.
- (3) The foregoing provisions of this paragraph shall not extend or be construed as extending to any money paid or agreed to be paid for or on account of any lawful expenses incurred in good faith at or in relation to an election.
- (4) A voter shall be guilty of bribery if before or during an election he directly or indirectly by himself or by any other person on his behalf receives, agrees, or contracts for any money, gift, loan or valuable consideration, office, place or employment for himself or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting.
- (5) A person shall be guilty of bribery if after an election he directly or indirectly by himself or by any other person on his behalf receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting.
- (6) In this paragraph the expression voter includes any person who has or claims to have a right to vote either on his own behalf or by proxy.

## 2 Treating

- (1) A person shall be guilty of treating if he corruptly, by himself or by any other person on his behalf, either before, during or after an election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing, any food, drink, entertainment or provision to or for any person—
- (a) for the purpose of corruptly influencing that person or any other person to vote or refrain from voting; or

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- (b) on account of that person or any other person having voted or refrained from voting, or being about to vote or refrain from voting.

- (2) Every elector or proxy who corruptly accepts or takes any such food, drink, entertainment or provision shall also be guilty of treating.

### 3 *Undue influence*

A person shall be guilty of undue influence—

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

### 4 *Personation*

- (1) A person shall be guilty of personation if at any election he—
  - (a) votes or applies for a ballot paper as some other person, whether that other person is a person whose name appears as an elector in the current register or is the proxy of such an elector and whether that other person is living or dead or is a fictitious person; or
  - (b) votes or applies for a ballot paper as proxy for another person, knowing or having reasonable grounds for supposing that the proxy paper appointing him has been cancelled or that that other person is dead or is a fictitious person.
- (2) For the purposes of this paragraph, a person 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.

### 5 *Misdemeanours as to proxy voting*

[<sup>F238</sup>Except at a local election] A person shall be guilty of a misdemeanour as to proxy voting if he—

- (a) votes at any parliamentary<sup>F238</sup> . . . election as proxy for more than two electors of whom he is neither the spouse, parent, grandparent, brother, sister, child or grandchild; or
- (b) not being duly qualified to vote as proxy for another person, so votes;
- (c) votes or applies for a ballot paper as proxy for another person knowing or having reasonable grounds for supposing that that other person—
  - (i) is no longer entitled to vote at that election; or
  - (ii) is no longer entitled to vote by proxy at that election.

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*False statements in nomination papers, etc.*

- [<sup>F239</sup>5A A person is guilty of a corrupt practice if he causes or permits to be included in a document delivered or otherwise furnished to a returning officer for use in connection with a local election—
- (a) a statement of the name or home address of a candidate at the election which he knows to be false in any particular; or
  - (b) anything which purports to be the signature of an elector who proposes, seconds or assents to, the nomination of such a candidate but which he knows—
    - (i) was not written by the elector by whom it purports to have been written, or
    - (ii) if written by that elector, was not written by him for the purpose of signifying that he was proposing, seconding, or (as the case may be) assenting to, that candidate's nomination.]

**F239** SI 2001/417

6 *Making a false declaration as to election expenses*

A candidate or an election agent shall be guilty of making a false declaration as to election expenses if he knowingly makes the declaration required by section forty-seven falsely.

7 *Incurring unauthorised expenses*

A person shall be guilty of incurring unauthorised expenses if he incurs, or aids, abets, counsels or procures any other person to incur, any expenses in contravention of section forty-one or knowingly makes the declaration required by sub-section (5) or that section falsely.

8 *Attempting or conspiring to commit a corrupt practice*

A person shall be guilty of a corrupt practice if he attempts or conspires to commit any of the corrupt practices numbered 1 to 7 in this Part.

9 *Aiding and abetting the commission of a corrupt practice*

A person shall be guilty of a corrupt practice if he aids, abets, counsels or procures the commission of any of the corrupt practices numbered 1 to 8 in this Part or knowingly induces some other person to do an act which is, or but for that other person's want of knowledge would be, such a corrupt practice.

## PART II

### ILLEGAL PRACTICES

- 10 (1) [<sup>F240</sup>Except at a local election] A person shall be guilty of an illegal practice if, knowing that he is subject to a legal incapacity to vote—
- (a) at any election, he votes or asks for a ballot paper for the purpose of voting at that election; or<sup>F240</sup> . . .
  - (b) at any parliamentary<sup>F240</sup> . . . election, he applies to vote by post.

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- (2) A person shall be guilty of an illegal practice if he votes or asks for a ballot paper for the purpose of voting on his own behalf at any election in a constituency<sup>F240</sup> . . . in which though registered he knows that he is not entitled to vote.

**F240** SI 1987/168

- 11 A person shall be guilty of an illegal practice if—
- (a) he votes—
    - (i) at any parliamentary election, more than once on his own behalf in any constituency;
    - (ii) at a parliamentary general election, in more than one constituency<sup>F241</sup>,  
*... Heads (iii), (iv) rep. by 1968 c.20 (NI)*
  - (b) he votes in person at a parliamentary<sup>F242</sup> . . . election at which he is entitled to vote by post;  
*Sub-paras. (c), (d) rep. by SI 1987/168*

**F241** 1968 c.20 (NI)

**F242** SI 1987/168

- 12 (1) [<sup>F243</sup>Except at a local election] A person shall be guilty of an illegal practice if—
- (a) he applies for the appointment of a proxy, knowing that he or the person proposed as proxy is subject to a legal incapacity to vote;
  - (b) he votes<sup>F243</sup> . . . as proxy for a person, knowing that person to be subject to a legal incapacity to vote.
- (2) A person shall be guilty of an illegal practice if he votes as proxy for any one elector—
- (a) at any parliamentary election, more than once in any constituency;
  - (b) at a parliamentary general election<sup>F244</sup>, in more than one<sup>F245</sup> constituency;  
*Head (c) rep. by 1968 c.20 (NI)*  
*Head (d) rep. by SI 1987/168*

**F243** SI 1987/168

**F244** 1968 c.20 (NI)

**F245** 1968 c.20 (NI)

- [<sup>F246</sup>12(1)] A person shall be guilty of an illegal practice 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 local election or at local elections, knowing that he is subject to a legal incapacity to vote at the election or, as the case may be, at such elections; or
  - (b) he applies for the appointment of a proxy to vote for him at any local election or at local elections knowing that he or the person to be appointed is subject

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to a legal incapacity to vote at the election or, as the case may be, such elections; or

- (c) he votes, whether in person or by post, as proxy for some other person at a local election, knowing that that person is subject to a legal incapacity to vote.

For the purposes of this sub-paragraph references to a person being subject to a legal incapacity to vote do not, in relation to things done before polling day at the election or first election at which or for which they are done, include his being below voting age if he will be of voting age on that day.

- (2) A person shall be guilty of an illegal practice if—
  - (a) he votes as elector otherwise than by proxy either—
    - (i) more than once in the same district electoral area at any local election; or
    - (ii) in more than one district electoral area at an ordinary election of councillors for a local government district; of
    - (iii) in any district electoral area at such an ordinary election as mentioned above, when there is in force an appointment of a person to vote as his proxy at the election in some other district electoral area; or
  - (b) he votes as elector in person at a local election at which he is entitled to vote by post; or
  - (c) he votes as elector in person at a local 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.
- (3) A person shall be guilty of an illegal practice if—
  - (a) he votes as proxy for the same elector either—
    - (i) more than once in the same district electoral area at any local election; or
    - (ii) in more than one district electoral area at an ordinary election of councillors for a local government district; or
  - (b) he votes in person as proxy for an elector at a local 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 local election knowing that the elector has already voted in person at the election.
- (4) A person shall also be guilty of an illegal practice if he votes at a local election in any district electoral area as proxy for more than two persons of whom he is not the husband, wife, parent, grandparent, brother, sister, child or grandchild.
- (5) A person shall also be guilty of an illegal practice 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 provisions of this paragraph.
- (6) For the purposes of this paragraph 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 sub-paragraph (4), a previous application made in

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circumstances which entitle the applicant only to mark a tendered ballot paper shall, if he does not exercise that right, be disregarded.

- (7) Where a person is alleged to have committed an offence under sub-paragraph (2)(a)(i) or (3)(a)(i) by voting on a second or subsequent occasion, he shall not be deemed by sub-paragraph (6) to have voted by applying on a previous occasion for a ballot paper for the purpose of voting in person unless he then marked a tendered ballot paper under rule 37(4) of the local elections rules.
- (8) In respect of an illegal practice under this paragraph—
- (a) the court before whom a person is convicted may, if they think it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of section 112; and
  - (b) a candidate shall not be liable, nor shall his election be avoided, for an illegal practice under this paragraph of any agent of his other than an offence under sub-paragraph (5).]

**F246** SI 1987/168

- 13 (1) A person who commits an offence under<sup>F247</sup> Article 7(2) of the Public Order (Northern Ireland) Order 1987]
- (a) at a political meeting held with reference to a parliamentary election for any constituency between the date of the issue of the writ and the date on which a return to the writ is made; or
  - (b) at a meeting in any local government electoral area with reference to a local election for that area, held<sup>F248</sup> in the period beginning with the last day on which notice of election may be published under rule 1 of the local elections rules and ending with] the day of election;
- shall be guilty of an illegal practice in relation to that election.

*Subs.(2) rep. by 1981 NI 17*

**F247** 1987 NI 7

**F248** SI 1987/168

- 14 A candidate or an election agent who commits the offence specified in paragraph 28 shall be guilty of an illegal practice.
- 15 A candidate or an election agent who is personally guilty of any of the offences of illegal payment, illegal employment or illegal hiring respectively specified in paragraphs 29, 30 and 31, shall be guilty of an illegal practice.
- 16 If any person fails to send any statement, declaration or return or copy thereof as required by any provision of sections forty, forty-one, forty-six and forty-seven, he shall be guilty of an illegal practice.<sup>F249</sup> In respect of the application of the provisions of sections 41(5)(b), 46 and 47 at a local election, this paragraph shall have effect as if for send there were substituted deliver.]

**F249** SI 1987/168

- 17 A person who makes any payment, advance or deposit in contravention of sub-section (1) of section thirty-nine or pays any money in contravention of sub-section (4) of that section, shall be guilty of an illegal practice.

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- 18 (1) No payment or contract for payment shall for the purpose of promoting or procuring the election of a candidate at an election be made to an elector or proxy on account of the exhibition of, or the use of any house, land, building or premises for the exhibition of, any address, bill or notice, unless it is the ordinary business of the elector or proxy as an advertising agent to exhibit for payment bills and advertisements and the payment or contract is made in the ordinary course of that business.
- (2) If any payment or contract for payment is knowingly made in contravention of this paragraph either before, during or after an election, the person making the payment or contract, and, if he knew it to be in contravention of this Act, any person receiving the payment or being a party to the contract, shall be guilty of an illegal practice.
- 19 Any person who, before or during an election, knowingly publishes a false statement of the withdrawal of a candidate at the election for the purpose of promoting or procuring the election of another candidate shall be guilty of an illegal practice.
- 20 (1) Any person who, or any director of any body or association corporate which, for the purpose of affecting the return of any candidate at any election, makes or publishes before or during that election any false statement of fact in relation to the personal character or conduct of the candidate shall be guilty of an illegal practice, unless he can show that he had reasonable grounds for believing, and did believe, the statement to be true.
- (2) The High Court or county court may by interim or perpetual injunction restrain a person making or publishing any false statement of fact as aforesaid, from any repetition of that false statement or of a false statement of a similar character in relation to the candidate; and such an interim injunction may be granted on prima facie proof of the falsity of the statement.
- 21 (1) A person making a payment or contract in contravention of sub-section (4) of section forty-one and, if he knew it to be in contravention of this Act, any person receiving the payment or being a party to the contract shall be guilty of an illegal practice.
- (2) A candidate or election agent who before, during or after any election knowingly pays any sum or incurs any expense in contravention of section forty-two shall be guilty of an illegal practice.
- 22 An election agent who pays a claim in contravention of sub-section (1) of section forty-three or makes a payment in contravention of sub-section (2) of that section shall be guilty of an illegal practice.
- 23 A person shall be guilty of an illegal practice if he—
- (a) attempts or conspires to commit any of the illegal practices specified in this Part; or
  - (b) aids, abets, counsels or procures the commission of any of the illegal practices specified in this Part or knowingly induces some other person to do an act which is, or but for that other person's want of knowledge would be, such an illegal practice.

### PART III

#### ELECTORAL OFFENCES

*Para. 24 rep. by 1989 c. 3*

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- [<sup>F250</sup>24A A person who makes a statement which he knows to be false in any declaration or form used for any of the purposes of Part I of Schedule 2 to the Local Elections (Northern Ireland) Order 1985 (as substituted by Schedule 2 to the Local Elections (Northern Ireland) (Amendment) Order 1987) or attests an application under that Part when he knows that he is not authorised to do so or that it contains a statement which is false shall be guilty of an electoral offence.]

**F250** SI 1987/168

- 25 If any person upon whom any functions are conferred by or under this Act in relation to any election<sup>F251</sup> . . . , without reasonable cause fails or neglects duly to perform those functions, he shall be guilty of an electoral offence.

**F251** 1989 c. 3

- 26 (1) A person shall be guilty of an electoral offence if he without lawful authority destroys, mutilates, defaces or removes any notice published by the registration officer in connection with his registration duties or any copies of a document which have been made available for inspection in pursuance of those duties or any notice or document published or displayed by or on behalf of the returning officer in connection with any election.

- (2) A person shall be guilty of an electoral offence if at any election he—

- (a) fraudulently defaces or fraudulently destroys—
  - (i) any nomination paper; or
  - (ii) any ballot paper, or the official mark on any ballot paper, or any voter's declaration, or any official envelope used in connection with voting by post; or
- (b) without due authority supplies any ballot paper to any person; or
- (c) puts into any ballot box any paper other than the ballot paper that he is authorised by law to put in; or
- (d) without due authority takes out of the polling station any ballot paper (whether issued to him or not); or
- (e) wilfully or negligently without due authority, destroys, conceals, loses, takes, opens or otherwise interferes with—
  - (i) any ballot box or packet of ballot papers then in use for the purposes of the election; or
  - (ii) any sealed or other packet of papers or documents of any kind then in use or intended to be used for the purposes of the election; or
  - (iii) any ballot paper account or marked copy of a register prepared or used for the purposes of the election or any unused ballot papers.

- 27 (1) A person attending at or admitted to a polling station in any capacity at an election shall be guilty of an electoral offence if before the poll is closed he communicates to any other person any information as to—

- (a) the name of any elector or proxy who has or has not applied for a ballot paper or voted at a polling station; or
- (b) the number on the register of any elector who, or whose proxy, has or has not applied for a ballot paper or voted at a polling station; or



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- (c) the official mark.
- (2) Any person attending in any capacity at the count at any election shall be guilty of an electoral offence if he—
  - (a) ascertains or attempts to ascertain at the count the number on the back of any ballot paper; or
  - (b) at any time communicates any information obtained at the count as to the candidate for whom any vote is given on any particular ballot paper.
- (3) A person shall be guilty of an electoral offence if he—
  - (a) interferes with or attempts to interfere with a voter when recording his vote; or
  - (b) otherwise obtains or attempts to obtain in a polling station information as to the candidate for whom a voter in that station is about to vote or has voted; or
  - (c) communicates at any time to any person any information obtained in a polling station as to the candidate for whom a voter in that station is about to vote or has voted, or as to the number on the back of the ballot paper issued to a voter at that station; or
  - (d) directly or indirectly induces a voter to display his ballot paper after he has marked it so as to make known to any person the name of the candidate for whom he has or has not voted; or
  - (e) being a person permitted, on making a declaration of secrecy, to remain with a blind voter while the presiding officer records his vote, communicates at any time to any person any information as to the candidate for whom that voter intends to vote or has voted, or as to the number on the back of the ballot paper issued for use of that voter.
- (4) Any person attending the proceedings in connection with the issue or receipt of ballot papers for persons voting by post shall be guilty of an electoral offence if he—
  - (a) communicates, 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, communicates 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, attempts to ascertain at the proceedings in connection with the receipt of ballot papers the number on the back of any ballot paper; or
  - (d) attempts to ascertain at the proceedings in connection with the receipt of the ballot papers the candidate for whom any vote is given in any particular ballot paper or communicates any information with respect thereto obtained at those proceedings.

#### *Prohibition on publication of exit polls*

[<sup>F252</sup>27A] A person who publishes before the poll at a local election is closed—

- (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,
- is guilty of an electoral offence.

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(2) In this paragraph—

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 candidate or candidates at the election is or are concerned.]

**F252** SI 2001/417

28 Subject to paragraph 14, any person who—

- (a) prints or publishes, or causes to be printed or published, any bill, placard or poster having reference to an election, or any printed document distributed for the purpose of promoting or procuring the election of a candidate; or
- (b) posts or causes to be posted any such bill, placard or poster as aforesaid; or
- (c) distributes or causes to be distributed any printed document for the said purpose;

shall be guilty of an electoral offence if the bill, placard, poster or document does not bear upon its face the name and address of the printer and publisher; and for the purposes of this paragraph the expression printing includes any process for multiplying copies of a document, other than copying it by hand.

29 (1) Subject to paragraph 15, a person shall be guilty of an electoral offence (in this Act referred to as illegal payment) if he contravenes any of the following provisions of this paragraph.

- (2) A person shall not knowingly provide money for any payment which is contrary to the provisions of this Act, or for any expenses incurred in excess of any maximum allowed by this Act, or for replacing any money expended in any such payment or expenses, except where the payment or the incurring of the expenses may have been previously allowed in pursuance of section one hundred and seven to be an exception.
- (3) A person shall not corruptly induce or procure any other person to withdraw from being a candidate at any election, in consideration of any payment or promise of payment; and a person shall not so withdraw in pursuance of such an inducement or procurement.
- (4) A person shall not—
  - (a) make any payment or contract for payment; or
  - (b) knowing that it is contrary to law, receive any payment or be a party to any contract for payment;

for or on account of bands of music, torches, flags or banners for the purpose of promoting or procuring the election of a candidate at any election]<sup>F253</sup>, other than a local election,] except in so far as any such payment or contract may have been allowed in pursuance of section one hundred and seven to be an exception.

**F253** SI 1987/168

30 Subject to paragraph 15, if a person is either before, during or after any election, for the purpose of promoting or procuring the election of a candidate, engaged or employed for payment or promise of payment as a canvasser, the person so

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engaging or employing him and the person so engaged or employed shall be guilty of an electoral offence (in this Act referred to as illegal employment ).

*Para. 31 rep. by SI 2001/417*

32 If any returning officer at any election, or any officer or clerk duly appointed under this Act to perform any functions in relation to any election, acts as an agent of a candidate in the conduct or management of the election, he shall be guilty of an electoral offence.

[<sup>F254</sup>32(A)] A person to whom this paragraph applies shall be guilty of an electoral offence if, without reasonable cause, he is guilty of any act or omission in breach of his official duty.

(2) The persons to whom this paragraph applies are—

- (a) the Chief Electoral Officer and any person the whom functions are delegated by him under this Act,
- (b) any presiding officer or any person either appointed to assist in the conduct of the election or who so assists in the course of his employment, and
- (c) any postmaster or his deputy;

and official duty shall for the purposes of this paragraph be construed accordingly, but shall not include duties imposed otherwise than by the law relating to local elections or the registration of local electors.]

**F254** SI 1987/168

*Para. 33 rep. by 1989 c. 3*

34 [<sup>F255</sup>Except at a local election] A person shall be guilty of an electoral offence if he—

- (a) attempts or conspires to commit any of the electoral offences specified in this Part; or
- (b) aids, abets, counsels or procures the commission of any of the electoral offences specified in this Part or knowingly induces some other person to do an act which is or but for that other person's want of knowledge would be such an offence.

<sup>F255</sup>Without prejudice to any other enactment a person who does any of the acts described in sub#paragraphs (a) or (b) shall be guilty of the electoral offence in question and shall be liable to be punished accordingly.

**F255** SI 1987/168

35 Any electoral misdemeanour which is not specifically designated in the foregoing provisions of this Schedule as a corrupt practice, an illegal practice or an electoral offence shall be an electoral offence.

## TENTH SCHEDULE

### FORMS

FORM 1 REP. BY SLR 1980

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## FORM 2

*Form of return of expenses required by section  
forty-one to be authorised by an election agent.*

Election in the.....constituency

[<sup>F256</sup> or.....[<sup>F257</sup> district electoral area]],

**F256** 1972 NI 13

**F257** SI 1985/454

Date of publication of notice of election.....

The expenses incurred at the above election in support of.....,  
a candidate thereat, by.....

(insert name of person or association or body of persons incurring the expenses) being expenses  
required by section forty-one of the Electoral Law Act (Northern Ireland), 1962, to be authorised  
by the election agent, amounted to £ .....

The written authority of the election agent is annexed hereto.

Signature.....Date.....

## FORM 3

*Form of declaration as to expenses required by section  
forty-one to be authorised by an election agent.*

Election in the.....constituency

[<sup>F258</sup> or.....[<sup>F259</sup> district electoral area]],

**F258** 1972 NI 13

**F259** SI 1985/454

Date of publication of notice of  
election.....

I hereby declare that—

1. I am the person [ or a director, general manager, secretary or other like officer of the  
association or body of persons] named as incurring expenses in the accompanying return,  
marked....., of expenses required by section forty-one of the Electoral Law  
Act (Northern Ireland), 1962, to be authorised by an election agent.

2. To the best of my knowledge and belief the said return is complete and correct.

3. The matters for which the expenses referred to in the said return were incurred were as  
follows.....

Signature of declarant.....

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**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to Electoral Law Act (Northern Ireland) 1962. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Office held by declarant.....  
 (in the case of an association or body of persons)  
 Date.....

#### FORM 4

#### *Form of return of election expenses required by section forty-six*

Election in the.....constituency

[<sup>F260</sup> or.....[<sup>F261</sup> district electoral area]],

**F260** 1972 NI 13

**F261** SI 1985/454

Date of publication of notice of election.....

Name of candidate.....

1. I am the election agent of the person named above as a candidate at this election [am the person named above as a candidate at this election and was my own election agent].

**(Where there has been a change of election agent suitable variations may be introduced here and elsewhere in the return).**

2. I hereby make the following return of the candidate's [my] election expenses at this election.

#### **Receipts**

**(Include all money, securities or equivalent of money received in respect of expenses incurred on account of or in connection with or incidental to the above election).**

Received of the above-named candidate ( or, £.....  
*if the candidate is his own election agent,*  
 paid by me)

Received of ( *set out separately the name and* £.....  
*description of each person, club, society or*  
*association and the amount received from*  
*him or them*)

#### **Expenditure**

**NOTE.—The return shall deal under a separate heading or sub-heading with any expenses included therein as respects which a return is required to be made by section forty-six.**

Candidate's personal expenses—

paid by him [by me as candidate] £.....

paid by me [by me acting as my election agent] £.....

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Received by me for my services as election agent ( *omit if candidate is his own election agent*) £.....

Paid to \*as sub-agent of the polling district of £.....

Paid to \*†as polling agent £.....

Paid to \*†as clerk [messenger] for days services £.....

Paid to the following persons in respect of goods supplied or work and labour done—

to \*† (*set out the nature of the goods supplied or work and labour done thus: —[printing], [advertising], [stationery]*) £.....

Paid to \*†as a speaker at a public meeting at.....on 19..... as remuneration [expenses] £.....

Paid for the hire of rooms—

for holding public meetings—

paid to \*†for hire of ( *identify the rooms by naming or describing them*) £.....

for committee rooms—

paid to \*†for hire of ( *identify the rooms by naming or describing them*) £.....

Paid for hire of vehicles £.....

Paid for postage £.....

Paid for telegrams £.....

Paid for miscellaneous matters—

to \*† (*set out the reason for the payment*) £.....

In addition to the above I am aware ( *unless the candidate is his own election agent add* as election agent for the above-named candidate) of the following disputed and unpaid claims—

Disputed claims—

by \*for (*set out the goods, work and labour, or other matter on the ground of which the claim is based*) £.....

Unpaid claims allowed by the court to be paid after the proper time or in respect of which application has been or is about to be made to the court (*state in each case whether the High Court or some other court*)

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by \*for ( set out the goods, work and labour, £.....  
or other matter on the ground of which the  
claim is due)

Signature of person making return.....

\* Set out separately the name and description of each person with the amount paid to or claimed by him.

† These particulars may be set out in a separate list annexed to and referred to in the account thus e.g., Paid to polling agents as per annexed list £ ..

## FORM 5

*Form of declaration as to election expenses required by section forty-seven*

Election in the.....constituency.[<sup>F262</sup> or district electoral area].

**F262** SI 1985/454

Date of publication of notice of election.....

Name of candidate .....

I solemnly and sincerely declare as follows:—

1. I am the person named above as a candidate at this election [and was my own election agent] or I was at this election the election agent of the person named above as a candidate.

2. I have examined the return of election expenses [about to be]transmitted[<sup>F263</sup> (or at a local election, delivered)] by my election agent [by me] to the returning officer, of which a copy is now shown to me and marked , and to the best of my knowledge and belief it is a complete and correct return as required by law.

**F263** SI 1987/168

3. To the best of my knowledge and belief, all expenses shown in the return as paid were paid by my election agent [by me], except as otherwise stated in relation to my [the candidate's] personal expenses.

4. I understand that the law does not allow any election expenses not mentioned in this return to be defrayed except in pursuance of a court order.

Signature of declarant.....

Signed and declared by the above-named declarant on the

day of....., before me,

Signed).....

Justice of the Peace for .

(NOTE.— Where there has been a change of election agent, suitable variations may be introduced into the declaration as to expenses.

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FORM 6 REPEALED BY SLR 1980.

FORM 7 REPEALED BY SLR 1980.

FORM 8 REPEALED BY SLR 1980.

FORM 9 REPEALED BY SLR 1980.

FORM 10 REPEALED BY SLR 1980.

FORM 11 REPEALED BY SLR 1980.

FORM 12 REPEALED BY 1972 NI 13.

FORM 13 SPENT.

FORM 14 REPEALED BY 1972 NI 13.

FORM 15 SPENT.

FORM 16 SPENT.

FORM 17 SPENT.

FORM 18 REPEALED BY 1968 C.20 (NI)

FORM 19 REPEALED BY 1968 C.20 (NI)

FORM 20 REPEALED BY 1968 C.20 (NI)

FORM 21 REPEALED BY 1968 C.20 (NI)

ELEVENTH SCHEDULE REPEALED BY SLR 1973



**Status:**

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