
STATUTORY INSTRUMENTS

2023 No. 1145 (C. 75)

REPRESENTATION OF THE PEOPLE

The Elections Act 2022 (Commencement No. 9, Transitional and Savings Provisions and Appointed and Specified Days) and Ballot Secrecy Act 2023 (Commencement) Regulations 2023

Made - - - - 25th October 2023

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 54(9) (c) and 67(1) and (4) of, and paragraph 4(1) of Schedule 3, paragraphs 8(1), 9(1), 10(1) and 11(1) of Schedule 4, and paragraphs 32(1), 33(1), 47(1) and 48(1) of Schedule 6 to the Elections Act 2022(1) (“the 2022 Act”) and section 3(4) of the Ballot Secrecy Act 2023(2).

The Commission(3) have prepared draft guidance entitled “Statutory guidance on digital imprints”(4) in accordance with section 54(1) of the 2022 Act, which the Commission submitted to the Secretary of State for approval.

The Secretary of State has approved the draft guidance with modifications pursuant to section 54(4) of the 2022 Act, and in accordance with section 54(5) and (6) has laid a draft of the guidance before both Houses of Parliament on 13th July 2023, together with a statement of the Secretary of State’s reasons for modification of the guidance. No resolution of the kind referred to in section 54(7) was made within the 40-day period(5).

Part 1

Introduction

Citation and interpretation

1.—(1) These Regulations may be cited as the Elections Act 2022 (Commencement No. 9, Transitional and Savings Provisions and Appointed and Specified Days) and Ballot Secrecy Act 2023 (Commencement) Regulations 2023.

(1) 2022 c. 37.

(2) 2023 c. 12.

(3) See section 61 of the Elections Act 2022 for the meaning of “the Commission”.

(4) A copy of the guidance as modified is available at <https://www.gov.uk/government/publications/digital-imprints-draft-statutory-guidance/draft-statutory-guidance-on-digital-imprints>. A copy of the guidance can be obtained from the Electoral Commission, 3 Bunhill Row, London, EC1Y 8YZ.

(5) See section 54(12) for the meaning of “the 40-day period”.

(2) In these Regulations—

“combined authority mayoral election” means an election for the return of a mayor as provided for in an order made under Schedule 5B to the Local Democracy, Economic Development and Construction Act 2009(6);

“EA 2022” means the Elections Act 2022;

“ELA 1962” means the Electoral Law Act (Northern Ireland) 1962(7);

“local authority mayoral election” means an election in England for the return of an elected mayor as defined by section 9H(1) of the Local Government Act 2000(8);

“local election” has the same meaning as in section 130(1) of ELA 1962(9);

“local government election” has the same meaning as in section 203(1) of RPA 1983(10);

“relevant rule” means (as the case may be)—

- (a) in the case of a parliamentary election or an election to the Northern Ireland Assembly, rule 5 of Schedule 1 to RPA 1983(11);
- (b) in the case of a local election in Northern Ireland, rule 4 of Schedule 5 to ELA 1962(12);
- (c) the corresponding rule in the rules made under—
 - (i) in the case of a combined authority mayoral election, paragraph 12(1)(a) of Schedule 5B to the Local Democracy, Economic Development and Construction Act 2009;
 - (ii) in the case of a local authority mayoral election, section 9HE(1)(a) of the Local Government Act 2000(13);

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- (6) 2009 c. 20. Schedule 5B was inserted by section 2(2) of, and Schedule 1 to, the Cities and Local Government Devolution Act 2016 (c. 1), and was amended by section 2(2) of the Local Government (Disqualification) Act 2022 (c. 17), by section 13(13) and (14) of the Elections Act 2022 (c. 37) and by S.I. 2021/1265. It is amended by paragraph 6 of Schedule 5 to the Elections Act 2022, which is commenced by regulation 3(g) of this instrument.
 - (7) 1962 c. 14 (N.I.).
 - (8) 2000 c. 22. Section 9H was inserted by paragraph 1 of Schedule 2 to the Localism Act 2011.
 - (9) The definition of “local election” in section 130(1) was amended by S.I. 1985/454.
 - (10) 1983 c. 2. See section 65 of the Elections Act 2022 for the meaning of “RPA 1983”. The definition of “local government election” in section 203(1) was amended by paragraph 39 of Schedule 3 to the Greater London Authority Act 1999 (c. 29).
 - (11) Schedule 1 was amended by sections 1 and 2 of the Elections (Northern Ireland) Act 1985 (c. 2); by sections 13 and 19(5) of, and paragraphs 4 to 7 of Schedule 2 and paragraphs 73 to 86 of Schedule 4 to, the Representation of the People Act 1985 (c. 50); by Part 1 of Schedule 13 to the Local Government Finance Act 1988 (c. 41); by paragraph 83 of Schedule 19 to the Education Act 1993 (c. 35); by paragraph 12(2) of Schedule 2, and paragraph 68(17) of Schedule 16, to the Local Government (Wales) Act 1994 (c. 19); by Schedule 31 to the School Standards and Framework Act 1998 (c. 31); by paragraphs 2 to 6 of Schedule 2 to the Registration of Political Parties Act 1998 (c. 48); by section 13 of, and paragraph 23 of Schedule 1, paragraph 10 of Schedule 6, and Part 1 of Schedule 7 to, the Representation of the People Act 2000 (c. 2); by section 38 of, and paragraph 6(9) of Schedule 21 to, the Political Parties, Elections and Referendums Act 2000 (c. 41); by sections 2, 3(4), 4(3) and 5 of the Electoral Fraud (Northern Ireland) Act 2002 (c. 13); by paragraph 85 of Schedule 27 to the Civil Partnership Act 2004 (c. 33); by sections 19, 21, 22, 24, 30, 31, 37, 38(1) and (2), 41(1) to (7), 45, 49(3), 52(1) to (3), and 70(2) of, and paragraphs 14, 34 to 40, 52, 70, 73 to 75, 77 to 81, 83 to 85, 87 to 93, 95 and 129 to 132 of Schedule 1 to, the Electoral Administration Act 2006 (c. 22); by paragraph 6 of Schedule 4 to the Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33); by sections 24 and 25(b) of, paragraph 8 of Schedule 6 and Schedule 7 to, the Political Parties and Elections Act 2009 (c. 12); by section 48 of the Constitutional Reform and Governance Act 2010 (c. 25); by paragraph 121 of Schedule 12 to the Postal Services Act 2011 (c. 5); by paragraphs 10 to 13 of the Schedule to the Fixed-term Parliaments Act 2011 (c. 14); by sections 14(2) to (5), 19, 20 and 21(1) and (2) of the Electoral Registration and Administration Act 2013 (c. 6); by paragraph 1 of Schedule 6 to the Recall of MPs Act 2015 (c. 25); by paragraph 6 of Schedule 12 to the Policing and Crime Act 2017 (c. 3); by paragraph 8 of the Schedule to the Dissolution and Calling of Parliament Act 2022 (c. 11); by sections 9(2) to (4), 10 and 11 of, and paragraphs 11 to 33 of Schedule 1, paragraph 4 of Schedule 4 and paragraph 4 of Schedule 10 to, the Elections Act 2022 (c. 37); and by S.I. 1986/1091, 1996/739, 2001/400, 1149, 2002/1873, 2003/1156, 2008/1741, 2010/728, 1158, 2014/236, 1116, 1880, 2015/656, 2018/699. It is prospectively amended by Schedule 2 to the Electoral Administration Act 2006, by paragraph 52(1)(b) and (2) of Schedule 9 to the Crime and Courts Act 2013 (c. 22) and by sections 5(2) to (4), 7(6) of the Elections Act 2022 from a date and time to be appointed. See article 3(1) of, and Schedule 1 to, S.I. 2001/2599, by virtue of which Schedule 1 applies with modifications to elections to the Northern Ireland Assembly.
 - (12) Schedule 5 was substituted by S.I. 1985/454, and rule 4 was further amended by S.I. 2010/2977.
 - (13) Section 9HE was inserted by paragraph 1 of Schedule 2 to the Localism Act 2011 (c. 20) and amended by S.I. 2013/2597, 2021/1265.

- (iii) in the case of a referendum under Part 1A of the Local Government Act 2000(14), section 9MG(2) or (3) of that Act(15);
 - (iv) in the case of a referendum under Chapter 4ZA of Part 1 of the Local Government Finance Act 1992(16), section 52ZQ(1) or (2) of that Act(17);
 - (v) in the case of a referendum under Schedule 4B to the Town and Country Planning Act 1990(18), paragraph 16(1) of that Schedule; or
 - (vi) in the case of any other local government election, section 36 of RPA 1983(19);
- (d) in the case of a ward election in the City of London, section 6 of the Act of Common Council of 14th July 1960(20).

Part 2

Commencement, savings and transitional provisions and appointed and specified days relating to the Elections Act 2022

Provisions coming into force on 31st October 2023

2. The following provisions of EA 2022 come into force on 31st October 2023—
- (a) section 3 (restriction of period for which person can apply for postal vote);
 - (b) section 6 (limit on number of electors for whom a proxy can vote), so far as it relates to the provisions brought into force by paragraph (f);
 - (c) section 12 (local elections and Assembly elections in Northern Ireland), so far as it relates to the provisions brought into force by paragraph (g);
 - (d) section 15 (voting and candidacy rights of EU citizens), so far as it relates to the provision brought into force by paragraph (h);
 - (e) Schedule 3 (restriction of period for which person can apply for postal vote);
 - (f) in Schedule 4 (proxy voting: limits and transitional provision)—
 - (i) paragraph 1, so far as it relates to the provisions brought into force by sub-paragraphs (ii) and (iii);

(14) Part 1A was inserted by paragraph 1 of Schedule 2 to the Localism Act 2011 and was amended by section 190(10) of the Health and Social Care Act 2012 (c. 7), by section 20 of the Cities and Local Government Devolution Act 2016 and by S.I. 2013/594, 2597, 2021/1265.

(15) Section 9MG was inserted by paragraph 1 of Schedule 2 to the Localism Act 2011 and was amended by S.I. 2013/2597, 2021/1265.

(16) 1992 c. 14. Chapter 4ZA was inserted by Schedule 5 to the Localism Act 2011 and was amended by section 3(5) to (7) of the Local Government Finance Act 2012 (c. 17), by section 41 of the Local Audit and Accountability Act 2014 (c. 2) and by S.I. 2013/733, 2021/1265.

(17) Section 52ZQ was inserted by section 72(1) of, and Schedule 5 to, the Localism Act 2011 and amended by S.I. 2021/1265.

(18) 1990 c. 8. Schedule 4B was inserted by section 116(2) of, and Schedule 10 to the Localism Act 2011 (c. 20) and was amended by sections 140(1) and 141 of the Housing and Planning Act 2016 (c. 22) and by S.I. 2013/2597, 2018/1232, 2021/1265. It is prospectively amended by section 7 of the Neighbourhood Planning Act 2017 (c. 20) from a date and time to be appointed.

(19) Section 36 was amended by section 17 of the Representation of the People Act 1985 (c. 50), by section 19 of, and Schedule 17 to, the Local Government Act 1985 (c. 51), by Part 1 of Schedule 13 to the Education Reform Act 1988 (c. 40), by paragraph 68(8) of Schedule 16 to the Local Government (Wales) Act 1994 (c. 19), by paragraph 17 of Schedule 3 to the Local Government and Rating Act 1997 (c. 29), by paragraph 4 of Schedule 3 to the Greater London Authority Act 1999 (c. 29) and by section 13(2) of, and paragraph 2(4) of Schedule 2 to, the Local Government and Elections (Wales) Act 2021 (asc 1), and by S.I. 1991/1730.

(20) Section 6 of the Act of Common Council made on 14th July 1960 has been amended by section 3 of the Act of Common Council made on 6th November 2008. A copy of these Acts of Common Council can be obtained from the Town Clerk's Department, Guildhall, PO Box 270, London EC2P 2EJ or by emailing electoralservices@cityoflondon.gov.uk.

- (ii) in paragraph 2, sub-paragraph (1), so far as it relates to sub-paragraph (2), and sub-paragraph (2);
- (iii) paragraph 3;
- (iv) in paragraph 6, sub-paragraph (1), so far as it relates to sub-paragraphs (2), (3) and (5), and those sub-paragraphs;
- (v) paragraphs 8 to 11;
- (g) in Schedule 6 (local elections in Northern Ireland and elections to the Northern Ireland Assembly)—
 - (i) paragraph 1, so far as it relates to the provisions brought into force by sub-paragraphs (ii) and (iii);
 - (ii) paragraph 23, so far as it relates to the provision brought into force by sub-paragraph (iii);
 - (iii) in paragraph 26, sub-paragraph (1), so far as it relates to sub-paragraph (2), and sub-paragraph (2);
 - (iv) in paragraph 28, sub-paragraph (1), so far as it relates to sub-paragraphs (2) and (3), and those sub-paragraphs;
 - (v) paragraph 29;
 - (vi) paragraphs 32 and 33;
 - (vii) paragraph 35, so far as it relates to the provisions brought into force by sub-paragraph (viii);
 - (viii) paragraphs 36 and 45;
 - (ix) paragraphs 47 and 48;
- (h) in Schedule 8 (voting and candidacy rights of EU citizens), paragraph 13.

Provisions coming into force on 1st November 2023

3. The following provisions of EA 2022 come into force on 1st November 2023—
 - (a) section 8 (undue influence);
 - (b) sections 10 (candidate nomination paper: commonly used names) and 11 (home address form: statement of local authority area);
 - (c) section 12 (local elections and assembly elections in Northern Ireland), so far as it relates to the provisions brought into force by paragraph (h);
 - (d) section 15 (voting and candidacy rights of EU citizens), so far as it relates to the provisions brought into force by paragraph (i);
 - (e) Part 5 (disqualification of offenders for holding elective office etc);
 - (f) Part 6 (information to be included with electronic material), so far as not already in force;
 - (g) Schedule 5 (undue influence: further provision);
 - (h) the following paragraphs of Schedule 6 (local elections in Northern Ireland and elections to the Northern Ireland Assembly)—
 - (i) paragraph 6 so far as it relates to the provision brought into force by sub-paragraph (ii);
 - (ii) paragraphs 7, 8 and 21;
 - (iii) paragraph 23 so far as it relates to the provision brought into force by sub-paragraph (iv);

- (iv) paragraph 24;
- (v) paragraph 35 so far as it relates to the provision brought into force by sub-paragraph (vi);
- (vi) paragraph 38;
- (i) for the purposes of proceedings preliminary or relating to an election for which the date of poll specified in the notice of election published in accordance with the relevant rule is on or after 7th May 2024, the following provisions of Schedule 8 (voting and candidacy rights of EU citizens)—
 - (i) in paragraph 1, sub-paragraphs (9) to (12);
 - (ii) in paragraph 2, sub-paragraphs (1) and (2) so far as they relate to sub-paragraph (3), and sub-paragraph (3);
 - (iii) paragraphs 3, 4 and 5;
 - (iv) in paragraph 6, sub-paragraph (1) so far as it relates to sub-paragraphs (2) and (4) to (6), and those sub-paragraphs;
 - (v) paragraphs 7, 8 and 10;
- (j) Schedule 9 (offences for purposes of Part 5);
- (k) Schedule 10 (disqualification orders: minor and consequential amendments);
- (l) Schedule 11 (illegal practices);
- (m) Schedule 12 (supply of information etc).

Provisions coming into force on 31st January 2024

- 4. The following provisions of EA 2022 come into force on 31st January 2024—
 - (a) section 1 and Schedule 1 (voter identification), so far as not already in force;
 - (b) section 6 (limit on number of electors for whom a proxy can vote), so far as it relates to the provisions brought into force by paragraph (d);
 - (c) section 12 (local elections and Assembly elections in Northern Ireland), so far as it relates to the provisions brought into force by paragraph (e);
 - (d) in Schedule 4 (proxy voting: limits and transitional provision)—
 - (i) paragraph 1, so far as it relates to the provisions brought into force by sub-paragraphs (ii) and (iii);
 - (ii) paragraph 2, so far as not already in force;
 - (iii) paragraph 4, except for sub-paragraph (5) so far as it extends to Northern Ireland;
 - (iv) paragraph 6, so far as not already in force;
 - (v) paragraph 7;
 - (e) in Schedule 6 (local elections in Northern Ireland and elections to the Northern Ireland Assembly)—
 - (i) paragraph 1, so far as it relates to the provisions brought into force by sub-paragraphs (ii) to (vii);
 - (ii) paragraph 6, so far not already in force;
 - (iii) paragraph 9;
 - (iv) paragraphs 12 to 14, so far as not already in force;
 - (v) paragraphs 19 and 20;

- (vi) paragraph 23, so far as it relates to the provision brought into force by subparagraph (vii);
- (vii) paragraph 26, so far as not already in force;
- (viii) paragraph 28, so far as not already in force;
- (ix) paragraphs 31 and 34(c);
- (x) paragraph 35, so far as it relates to the provisions brought into force by subparagraphs (xi) to (xiv);
- (xi) paragraph 39;
- (xii) paragraph 40, so far as it relates to the provision brought into force by subparagraph (xiii);
- (xiii) paragraph 42;
- (xiv) paragraph 44.

Provisions coming into force on 7th May 2024

5. The following provisions of EA 2022 come into force on 7th May 2024—
- (a) section 15 (voting and candidacy rights of EU citizens), so far as not already in force;
 - (b) Schedule 8 (voting and candidacy rights of EU citizens), so far as not already in force.

Appointed and specified days

6.—(1) The day appointed under section 54(9)(c) of EA 2022 for the guidance to come into force is 1st November 2023.

(2) In paragraph (1), “the guidance” means the guidance entitled “Statutory guidance on digital imprints”, a draft of which was laid before each House of Parliament on 13th July 2023.

(3) The specified day for the purposes of paragraph 4 of Schedule 3 to EA 2022 (transitional provision related to indefinite or long term pre-commencement postal vote entitlements) is 31st October 2023.

(4) In Schedule 4 to EA 2022—

- (a) the specified day for the purposes of paragraphs 8 and 9 (termination of certain proxy appointments) is 31st January 2024;
- (b) the specified day for the purposes of paragraphs 10 and 11 (termination of applications for certain proxy appointments) is 31st October 2023.

(5) In Schedule 6 to EA 2022—

- (a) the specified day for the purposes of paragraphs 32 and 47 (termination of certain proxy appointments) is 31st January 2024;
- (b) the specified day for the purposes of paragraphs 33 and 48 (termination of applications for certain proxy appointments) is 31st October 2023.

Transitional and savings provisions

7. The Schedule has effect.

Part 3

Commencement of provisions of the Ballot Secrecy Act 2023

Provisions coming into force on 2nd May 2024

8. Sections 1 and 2 of the Ballot Secrecy Act 2023 come into force on 2nd May 2024.

Signed by authority of the Secretary of State for Levelling up, Housing and Communities

25th October 2023

Jacob Young
Parliamentary Under Secretary of State
Department for Levelling Up, Housing and
Communities

Schedule

Regulation 7

Transitional provisions and savings

Part 1

General savings

General savings

1.—(1) The amendments made by paragraphs 1(2) and 4 of Schedule 10 to EA 2022 do not apply to an election in relation to which notice of election was published in accordance with the relevant rule before the day on which those paragraphs come into force.

(2) The amendments made by—

(a) paragraph 1(3) of Schedule 10 to EA 2022;

(b) sections 10 and 11 of EA 2022 and paragraphs 7, 8 and 21 of Schedule 6 to EA 2022,

do not apply to an election in relation to which the date of poll specified in the notice of election published in accordance with the relevant rule is on or before 1st May 2024.

(3) The amendments made by paragraphs 1(1) to (8), 6(3), 9 and 11 of Schedule 8 to EA 2022 do not have effect in relation to the entitlement of a relevant person to vote at an election in relation to which the notice of election is published in accordance with the relevant rule on or before 31st January 2025.

(4) The amendment made by paragraph 2(4) of Schedule 8 to EA 2022 does not apply in relation to an election in relation to which the date of poll specified in the notice of election published in accordance with the relevant rule is on or before 15th February 2025.

(5) For the purpose of this paragraph, “relevant person” means a person—

(a) who is a relevant citizen of the Union within the meaning given by section 202(1) of RPA 1983,

(b) who either—

(i) on 7th May 2024—

(aa) is registered in a register of local government electors in England or Wales or a register of local electors in Northern Ireland, or

(bb) the registration officer in England or Wales or the Chief Electoral Officer for Northern Ireland is required to enter in such a register in accordance with section 10ZC(1) or 13A of RPA 1983, or

(ii) has submitted an application under section 10ZC or 13A(1)(a) of RPA 1983 before 7th May 2024 and that application is granted on or after that date, and

(c) in respect of whom, on the date on which notice of election is published in accordance with the relevant rule, an eligibility review has not been completed.

(6) In sub-paragraph (5)(c), “eligibility review” means—

(a) a review under Chapter 2 or 3 of Part 2 of the Representation of the People (Franchise Amendment and Eligibility Review) Regulations 2023, or

(b) a review under Part 2 of the Representation of the People (Franchise Amendment and Eligibility Review) (Northern Ireland) Regulations 2023.

Part 2

Transitional and savings provision relating to absent voting and date of birth lists

Interpretation of Part

2. In this Part—

“ongoing relevant election” means a relevant election where—

- (a) the date on which the notice of election or referendum is published in accordance with the relevant rule is on or before 30th January 2024, and
- (b) the date of poll as specified in that notice is on or after 31st January 2024;

“proxy appointment” has the same meaning as in paragraph 8(8) or 9(6) of Schedule 4 to EA 2022 or paragraph 32(6) or 47(6) of Schedule 6 to EA 2022 (as the case may be);

“relevant election” means a parliamentary election in England, Wales, Scotland or Northern Ireland, a local government election in England, an election to the Northern Ireland Assembly or a local election in Northern Ireland.

Savings for date of birth lists for ongoing relevant elections in Northern Ireland

3. The following do not apply in respect of an ongoing relevant election in Northern Ireland—

- (a) in Schedule 1 to EA 2022, the amendments made—
 - (i) by paragraphs 11 and 15(2);
 - (ii) by paragraph 17(7), so far as it inserts rule 37(1DC)(b);
 - (iii) by paragraphs 25 and 26;
- (b) in Schedule 6 to EA 2022, the amendments made—
 - (i) by paragraphs 9 and 12(2);
 - (ii) by paragraph 14(7), so far as it inserts rule 34(5C)(b);
 - (iii) by paragraphs 19, 20, 39, 42 and 44.

Proxy voting offences and restrictions for certain proxy appointments

4.—(1) This paragraph applies to a proxy appointment as a result of an application made on or after 31st October 2023.

(2) Subject to sub-paragraph (3), the following do not apply in respect of the proxy appointment—

- (a) section 61(4) of RPA 1983(21);
- (b) during the transitional period—
 - (i) paragraph 12A(4) of Schedule 9 to ELA 1962(22);
 - (ii) section 8(5) of the Representation of the People Act 1985(23);
 - (iii) paragraph 3(4) of Schedule 2 to the Local Elections (Northern Ireland) Order 1985(24);

(21) Section 61(4) was amended by paragraph 2 of Schedule 2 to the Representation of the People Act 1985 (c. 50), and by paragraph 83 of Schedule 27 to the Civil Partnership Act 2004 (c. 33). See article 3(1) of, and Schedule 1 to, S.I. 2001/2599, by virtue of which section 61 applies with modifications to elections to the Northern Ireland Assembly.

(22) Paragraph 12A was inserted by S.I. 1985/454 and further substituted by S.I. 1987/168.

(23) Section 8 was repealed, in relation to England, Wales and Scotland, by section 12(2) of the Representation of the People Act 2000 (c. 2), and was amended by Part 9 of Schedule 27 to the Finance Act 1985 (c. 54), by paragraph 16 of Schedule 6 to the Representation of the People Act 2000 and by S.I. 1995/1948, 2005/3129.

(24) S.I. 1985/454.

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(c) paragraph 6(6) of Schedule 4 to the Representation of the People Act 2000⁽²⁵⁾.

(3) The provisions in sub-paragraph (2)(a) and (c) continue to apply in respect of the proxy appointment so far as that appointment relates to local government elections, or a particular local government election, in Scotland or Wales.

(4) The amendments made by paragraphs 2(3) to (5), 6(4) and 7 of Schedule 4 to EA 2022 and paragraphs 26(3) and 28(4) of Schedule 6 to EA 2022 do not apply in respect of a person voting by virtue of the proxy appointment at an ongoing relevant election.

(5) In this paragraph, “transitional period” means the period—

(a) beginning with 31st October 2023, and

(b) ending with—

(i) for the purposes of an ongoing relevant election, the day after the day of poll for that ongoing relevant election;

(ii) for all other purposes, 31st January 2024.

Questions for proxies at certain parliamentary elections and certain elections to the Northern Ireland Assembly

5.—(1) The amendments made to rule 35 of Schedule 1 to RPA 1983 by paragraph 4 of Schedule 4 to EA 2022 do not apply to a parliamentary election or an election to the Northern Ireland Assembly which is an ongoing relevant election.

(2) In respect of a parliamentary election in England, Wales or Scotland for which the date of poll as specified in the notice of election published in accordance with the relevant rule is on or before 30th January 2024, rule 35 of Schedule 1 to RPA 1983 applies with the modifications set out in sub-paragraphs (4) and (5).

(3) In respect of a parliamentary election in Northern Ireland or an election to the Northern Ireland Assembly for which the date of poll as specified in the notice of election published in accordance with the relevant rule is on or before 30th January 2024, rule 35 of Schedule 1 to RPA 1983 applies with the modifications set out in sub-paragraph (4)(a).

(4) The table after paragraph (1) is to be read as if—

(a) in entry 2, in the column headed “Questions”—

(i) after question (b), there were inserted—

“(ba) “Were you appointed as proxy on behalf of CD before 31st October 2023” [R]”;

(ii) in question (c), at the beginning there were inserted “If the person answers question (ba) in the affirmative:”;

(b) in entry 3, in the column headed “Questions”—

(i) after question (b), there were inserted—

“(ba) “Were you appointed as proxy on behalf of the person whose number on the register of electors is (*read out the number from the register*) before 31st October 2023?” [R]”;

(ii) in question (c), at the beginning there were inserted “If the person answers question (ba) in the affirmative:”.

(5) Paragraph (2) is to be read as if after “3(a), (b)” there were inserted “, (ba)”.

⁽²⁵⁾ Paragraph 6(6) was amended by paragraph 164(3) of Schedule 27 to the Civil Partnership Act 2004.

Question for proxies at certain local elections in Northern Ireland

6.—(1) The following do not apply to a local election in Northern Ireland which is an ongoing relevant election—

- (a) the amendments made to rule 32 of Schedule 5 to ELA 1962 (questions to be put to voters)(**26**) by paragraph 13(3) of Schedule 6 to EA 2022;
- (b) the amendments made to paragraphs 6 and 20 of the Schedule to the Elections Act 2001 (local elections rules: questions to be put to voters)(**27**) by paragraph 31 of Schedule 6 to EA 2022.

(2) In respect of a local election in Northern Ireland for which the date of poll as specified in the notice of election published in accordance with the relevant rule is on or before 30th January 2024—

- (a) rule 32 of Schedule 5 to ELA 1962 applies as if, in paragraph (2), before the first additional question there were inserted—

““Were you appointed as proxy on behalf of C.D. before 31st October 2023?”

and if that question is answered in the affirmative the following question:—”;

- (b) paragraph 20 of the Schedule to the Elections Act 2001 applies as if for “second” there were substituted “third”.

Savings for certain proxy appointments at ongoing relevant elections

7.—(1) This paragraph applies where—

- (a) a proxy appointment ceases to have effect in accordance with paragraph 8 or 9 of Schedule 4 to EA 2022 or paragraph 32 or 47 of Schedule 6 to EA 2022, and
- (b) ignoring the effect of that paragraph, a person would have been entitled by virtue of that appointment to vote as proxy at an ongoing relevant election.

(2) Despite the effect of paragraph 8(2) or 9(2) of Schedule 4 to EA 2022 or paragraph 32(2) or 47(2) of Schedule 6 to EA 2022, the proxy appointment continues to have effect for the purposes of the ongoing relevant election.

Transitional provision: postal vote entitlement limit for overseas electors

8. Until section 14 of EA 2022 (extension of franchise for parliamentary elections: British citizens overseas) comes fully into force, paragraph 3(1B)(a) of Schedule 4 to the Representation of the People Act 2000(**28**) is to be read as if for the words from “1 November” to “register” there were substituted “date on which, in accordance with section 2(2)(a) of the Representation of the People Act 1985(**29**), the person’s entitlement to remain registered in that register ends”.

(26) Rule 32 was amended by paragraph 64 of Schedule 1 to the Electoral Administration Act 2006 (c. 22), by paragraph 13(4) to (6) of Schedule 6 to the Elections Act 2022 and by S.I. 2002/2385.

(27) 2001 c. 7.

(28) Paragraph 3(1B) is inserted by paragraph 2(3) of Schedule 3 to the Elections Act 2022.

(29) Section 2 was substituted by paragraph 3 of Schedule 2 to the Representation of the People Act 2000. It is prospectively amended by section 14(1) of the Election Act 2022 from a date and time to be appointed.

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Part 3

Savings provisions for offences

9.—(1) Section 30 of EA 2022 does not have effect in relation to an offence which was committed before the day on which that section comes into force.

(2) An amendment made by the following provisions of Schedule 5 to EA 2022 does not have effect in relation to a person reported personally guilty or convicted of a corrupt practice in respect of activity that occurred before the day on which that provision comes into force—

- (a) paragraphs 1, 2 and 3;
- (b) paragraph 4(2)(a) and (3)(a) and (d);
- (c) paragraphs 5, 6 and 7.

(3) The amendment made by paragraph 8 of Schedule 10 to EA 2022 does not have effect in relation to an offence which was committed before the day on which that paragraph comes into force.

(4) Where an offence is found to have been committed or activity found to have occurred—

- (a) over a period of two or more days, or
- (b) at some time during a period of two or more days,

it is to be taken for the purposes of sub-paragraphs (1) to (3) of this paragraph to have been committed or to have occurred on the last of those days.

Part 4

Transitional provision: information to be included with electronic material

10.—(1) Subject to sub-paragraph (2), Part 6 of EA 2022 does not apply to pre-existing material.

(2) Where pre-existing material is republished on or after 1st November 2023—

- (a) in relation to the first occasion on which the pre-existing material is republished Part 6 of EA 2022 applies as if that material were being published for the first time;
- (b) in relation to the second or subsequent occasion on which the pre-existing material is republished Part 6 of EA 2022 applies to that republished material.

(3) For the purposes of this paragraph, “pre-existing material” means electronic material published on or before 31st October 2023 which remains published on or after 1st November 2023.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are the ninth commencement regulations under the Elections Act 2022 (c. 37) (“EA 2022”) and the only commencement regulations for the Ballot Secrecy Act 2023.

Provisions commenced by regulations 2 and 4 make changes to postal and proxy voting restrictions and, for Northern Ireland only, date of birth lists.

The provisions commenced by regulation 3(a), (c) and (h)(iii) to (vi) relate to the new offence of undue influence. This offence is inserted as section 114A of the Representation of the People Act 1983 (“the RPA”) and Schedule 6 of EA 2022 replicates the offence for elections to the Northern Ireland Assembly and local elections in Northern Ireland. There are consequential and minor amendments made by Schedule 5 to EA 2022, which is commenced by regulation 3(g). Schedule 5 makes amendments to address an issue where disqualification from certain elective offices as a result of a corrupt practice did not result in disqualification from other elective offices.

Provisions commenced by regulation 3(b) are sections 10 and 11 of the EA 2022 which make changes to requirements relating to names and addresses of candidates at Parliamentary elections.

The provisions commenced by regulation 3(d) and (i) relate to the candidacy rights of EU citizens. For the purposes of preparatory work for elections to be held on or after 7th May 2024, those provisions come into force on 1st November 2023. The voting rights provisions, and provisions around candidacy rights that have not already taken effect, come into force on 7th May 2024 in accordance with regulation 5.

Regulation 3(e) commences provisions in Part 5 of EA 2022 relating to disqualification orders made by courts as part of sentencing in relation to offences that are motivated by hostility to candidates, office holders and others, and which are intimidatory in nature. Schedules 9 and 10 to EA 2022, which make provision relating to Part 5, are commenced by regulation 3(j) and (k) respectively.

Provisions commenced by regulation 3(f), (l) and (m) are those relating to the new digital imprints regime introduced by Part 6 of EA 2022. Savings provision in Part 4 of the Schedule make provision about material which was first published before 1st November 2023.

Regulation 6 brings into force on 1st November 2023 guidance prepared by the Electoral Commission under section 54 of EA 2022 (“the guidance”) on the operation of Part 6 of EA 2022 (information to be included with electronic material). The Electoral Commission or a constable is required to have regard to the guidance in exercising their functions in relation to a breach or suspected breach of that Part. Regulation 6 also sets out the specified days for the purposes of transitional measures in Schedules 3, 4 and 6 in relation to postal and proxy entitlements.

Regulation 7 introduces the Schedule, which makes transitional and savings provision. Part 1 of the Schedule sets out the general savings so that the amendments in paragraphs 1(2) and 4 of Schedule 10 to EA 2022 do not take effect in the relation to an election where the notice of poll has already been issued prior to commencement, to avoid the rules of the election being changed in the middle of an election. Further provision is made so that the amendment made to the consent to nomination form for local government elections in Northern Ireland does not take effect for elections where the date of poll specified in the notice of election is on or before 1st May 2024. Provision is also made in Part 1 of the Schedule to ensure that EU citizens on the register on 7th May 2024, when the voting rights changes come into force, can continue to vote in elections for which notice of election was published on or before 31st January 2025, provided that a review of their eligibility under the Representation of the People (Franchise Amendment and Eligibility Review) Regulations 2023 or the Representation of the People (Franchise Amendment and Eligibility Review) (Northern Ireland) Regulations 2023 has not been concluded by the time notice of election is published for that election. Similar provision is made for the City of London for elections in the annual cycle ending on 15th February 2025.

Part 2 of the Schedule includes transitional and savings provisions relating to postal voting entitlements and proxy voting, as well as date of birth lists in Northern Ireland. Provision is made for overseas electors so that, before the full commencement of section 14 of EA 2022, which alters the entitlement of overseas electors to register and vote, such electors’ eligibility to hold an absent vote continues for the duration of their entitlement to be registered. The savings provision relating to proxy voting ensure that existing proxy voting entitlements are not disturbed in relation to an election for which the notice has been issued prior to the commencement date for the new restrictions but the date of poll is on or after the commencement date.

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Part 3 of the Schedule makes savings provision relating to Schedules 5, 9 and 10 to EA 2022 so that offences or conduct committed prior to commencement of these provisions are captured only where that offence or conduct continues post-commencement.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen. An impact assessment has been produced in relation to EA 2022 and copies can be obtained at <https://bills.parliament.uk/publications/44886/documents/1304> or from the Department for Levelling Up, Housing and Communities at 2 Marsham Street, London, SW1P 4DF.

NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

(This note is not part of the Regulations)

The following provisions of the Elections Act 2022 have been brought into force by commencement Regulations made before the date of these Regulations.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 1 (partially)	27.08.2022	2022/916
Section 1 (partially)	16.01.2023	2022/1401
Section 2 (partially)	27.08.2022	2022/916
Section 2 (partially)	16.01.2023	2022/1401
Section 5 (partially)	06.02.2023	2023/115
Section 9 (partially)	24.11.2022	2022/1226
Section 9 (remainder)	29.12.2022	2022/1270
Section 12 (partially)	27.08.2022	2022/916
Section 12 (partially)	24.11.2022	2022/1226
Section 12 (partially)	29.12.2022	2022/1270
Section 12 (partially)	16.01.2023	2022/1401
Section 13	26.10.2022	2022/1093
Section 14 (partially)	06.02.2023	2023/115
Sections 16 to 19	19.08.2022	2022/908
Sections 20 to 29	24.11.2022	2022/1226
Section 54	19.05.2023	2023/52
In Schedule 1—		
paragraph 1 (partially)	27.08.2022	>2022/916
paragraph 1 (partially)	16.01.2023	2022/1401
paragraph 2 (partially)	27.08.2022	2022/916
paragraph 2 (remainder)	16.01.2023	2022/1401
paragraph 3 (partially)	27.08.2022	2022/916
paragraphs 3 (remainder) and 4	16.01.2023	2022/1401

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
paragraph 5 (partially)	27.08.2022	2022/916
paragraph 5 (remainder)	16.01.2023	2022/1401
paragraph 6 (partially)	27.08.2022	2022/916
paragraphs 6 (remainder), 7, 8 and 9 (partially)	16.01.2023	2022/1401
paragraph 10 (partially)	27.08.2022	2022/916
paragraph 10 (partially)	16.01.2023	2022/1401
paragraph 11 (partially)	27.08.2022	2022/916
paragraphs 12 to 14	16.01.2023	2022/1401
paragraph 15 (partially)	27.08.2022	2022/916
paragraphs 15 (partially) and 16	16.01.2023	2022/1401
paragraph 17 (partially)	27.08.2022	2022/916
paragraphs 17 (partially) and 18 to 23	16.01.2023	2022/1401
paragraph 24 (partially)	27.08.2022	2022/916
paragraphs 24 (remainder), 25 (partially) and 27 to 29	16.01.2023	2022/1401
paragraph 30 (partially)	27.08.2022	2022/916
paragraphs 30 (remainder) and 31	16.01.2023	2022/1401
paragraph 32 (partially)	27.08.2022	2022/916
paragraphs 32 (remainder) and 33 to 40	16.01.2023	2022/1401
In Schedule 2—		
paragraphs 1 to 11 and 14 (partially)	27.08.2022	2022/916
paragraph 14 (remainder)	16.01.2023	2022/1401
In Schedule 6—		
paragraphs 1 (partially) and 6 (partially)	24.11.2022	2022/1226
paragraphs 1 (partially) and 6 (partially)	29.12.2022	2022/1270
paragraphs 1 (partially) and 6 (partially) and 10 and 11	16.01.2023	2022/1401
paragraph 12 (partially)	24.11.2022	2022/1226
paragraph 12 (partially)	29.12.2022	2022/1270

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
paragraphs 13 (partially), 14 (partially) and 15	16.01.2023	2022/1401
paragraph 16 (partially)	29.12.2022	2022/1270
paragraphs 16 (remainder), 17 and 18	16.01.2023	2022/1401
paragraph 22	29.12.2022	2022/1270
paragraph 23 (partially) and paragraph 26 (partially)	16.01.2023	2022/1401
paragraph 30 (partially)	27.08.2022	2022/916
paragraph 30 (remainder)	16.01.2023	2022/1401
paragraphs 34 (partially) and 35 (partially)	29.12.2022	2022/1270
paragraphs 35 (partially), 40 (partially) and 43	16.01.2023	2022/1401
paragraph 46	29.12.2022	2022/1270
In Schedule 7, paragraphs 1 (partially), 4, 14 (partially) and 17	06.02.2023	2023/115