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DRAFT STATUTORY INSTRUMENTS

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**2001 No.**

**Representation of the People (England  
and Wales) Regulations 2001**

**PART IV  
ABSENT VOTERS**

**Interpretation of Part IV**

**50.** In this Part of these Regulations—

“Schedule 4” means Schedule 4 to the 2000 Act; and

“allotted polling station” has the meaning set out in regulation 53(7) below.

**General requirements for applications for an absent vote**

**51.—**(1) An application under Schedule 4 must comply with the requirements of this regulation and such further requirements in this Part of these Regulations as are relevant to the application.

(2) The application must state—

- (a) the full name of the applicant;
- (b) the address in respect of which the applicant is or will be registered in the register except in the case of an application under paragraph 7(4) or (7) of Schedule 4;
- (c) in the case of such an application, the proxy’s address, together with the name of the elector for whom he will act as proxy and the elector’s address for the purposes of sub-paragraph (b) above;
- (d) in the case of a person applying to vote by post, the address to which the ballot paper should be sent, and
- (e) in the case of an application to vote by proxy, the grounds on which the elector claims to be entitled to an absent vote.

(3) The application shall be made in writing and be signed and dated by the applicant.

(4) An application under Schedule 4 which is made for an indefinite period or the period specified in the application must state—

- (a) that it is so made, and
- (b) whether it is made for parliamentary elections, local government elections or both.

(5) An application under Schedule 4 which is made for a particular parliamentary or local government election must—

- (a) state that it is so made, and
- (b) identify the election in question,

but, where the poll at one election falls on the same day as the poll at another election, the same application may be used for both elections.

(6) Where an application is made to vote by proxy, it shall include an application for the appointment of a proxy which meets the requirements of regulation 52 below.

#### **Additional requirements for applications for the appointment of a proxy**

**52.** An application for the appointment of a proxy under paragraphs 3 and 4 of Schedule 4 shall state the full name and address of the person whom the applicant wishes to appoint as his proxy, together with his family relationship, if any, with the applicant, and-

- (a) if it is signed only by the applicant, shall contain a statement by him that he has consulted the person so named and that that person is capable of being and willing to be appointed to vote as his proxy, or
- (b) if it is also signed by the person to be appointed, shall contain a statement by that person that he is capable of being and willing to be appointed to vote as the applicant's proxy.

#### **Additional requirements for applications for a proxy vote for a definite or indefinite period on grounds of physical incapacity or blindness**

**53.—**(1) An application to vote by proxy for a definite or indefinite period under paragraph 3(3) (b) of Schedule 4 shall specify the physical incapacity by reason of which it is made.

(2) Subject to paragraph (3) below, such an application shall be attested and signed by-

- (a) a registered medical practitioner;
- (b) a registered nurse within the meaning of section 7(7) of the Nurses, Midwives and Health Visitors Act 1997<sup>(1)</sup>;
- (c) a Christian Science practitioner;
- (d) the person registered under the Registered Homes Act 1984<sup>(2)</sup> as carrying on a residential care home within the meaning of section 1 of that Act, where the applicant states that he is resident in such a home;
- (e) the matron or other person in charge of residential accommodation provided by a local authority under section 21(1) of the National Assistance Act 1948<sup>(3)</sup>, where the applicant states that he is resident in such accommodation; or
- (f) the warden of premises forming one of a group of premises provided for persons of pensionable age or physically disabled persons for which there is a resident warden, where the applicant states that he resides in such premises.

(3) A person who qualifies by virtue of sub-paragraph (a), (b) or (c) of paragraph (2) above may not attest an application for this purpose unless he is treating the applicant for the physical incapacity specified in the application or the applicant is receiving care from him in respect of that incapacity.

(4) The person attesting the application shall state—

- (a) his name and address and the qualification by virtue of which he attests the application, and where the person who attests the application is a person referred to in paragraph (3) above, that he is treating the applicant for the physical incapacity specified in the application or the applicant is receiving care from him in respect of that incapacity;
- (b) that, to the best of his knowledge and belief, the applicant is suffering from the physical incapacity specified in the application and that he cannot reasonably be expected to go in person to his allotted polling station or to vote unaided there by reason of that incapacity; and

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(1) 1997 c. 24.

(2) 1984 c. 23.

(3) 11 & 12 Geo.6 c. 29.

- (c) that, to the best of his knowledge and belief, the physical incapacity specified in the application is likely to continue either indefinitely or for a period specified by the person attesting the application.
- (5) Paragraphs (2) to (4) above shall not apply where—
  - (a) the application is based on the applicant's blindness and the applicant is registered as a blind person by the local authority which is specified in the application under section 29(4)(g) of the National Assistance Act 1948; or
  - (b) the application states that the applicant is in receipt of the higher rate of the mobility component of a disability living allowance (payable under section 73 of the Social Security Contributions and Benefits Act 1992(4)) because of the physical incapacity specified in the application.
- (6) The fact that an applicant is registered with a local authority under section 29(4)(g) of the National Assistance Act 1948 shall be deemed sufficient evidence that he is eligible to vote by proxy on the grounds set out in paragraph 3(3)(b) of Schedule 4.
- (7) In this regulation and in regulations 54 and 55 below, "his allotted polling station", in relation to an elector means the polling station allotted or likely to be allotted to him under the appropriate rules (as defined in paragraph 1 of Schedule 4).

**Additional requirements for applications for a proxy vote for a definite or indefinite period based on occupation, service, employment or attendance on a course**

- 54.—**(1) An application to vote by proxy for a definite or indefinite period under paragraph 3(3)(c) of Schedule 4 shall state—
- (a) whether the occupation, service or employment in respect of which it is made is that of the applicant or his spouse or, as the case may be, it is the applicant or his spouse who is attending the course provided by an educational institution in respect of which the application is made;
  - (b) the nature of the occupation, service or employment or course provided by an educational institution giving rise to the application;
  - (c) where the person in respect of whose occupation, service or employment it is made (in this regulation referred to as "the employed person") is self employed, that fact; and in any other case the name of that person's employer;
  - (d) the reason, relevant to the general nature of the employment, service or occupation in question or the course provided by an educational institution, why the applicant cannot reasonably be expected to go in person to his allotted polling station.
- (2) Such an application shall be attested and signed—
- (a) where the person is self-employed, by a person who—
    - (i) is aged 18 years or over;
    - (ii) knows the self-employed person; and
    - (iii) is not related to him;
  - (b) by the employer of the employed person or by another employee to whom this function is delegated by the employer; and
  - (c) in the case of a course provided by an educational institution, by the director or tutor of that course or by the principal or head of that institution or an employee to whom this function is delegated by the head or principal.

- (3) The person attesting an application made under paragraph (2) above shall—
  - (a) where the applicant is the employed person or the person attending the course, certify that the statements required by sub-paragraphs (a) to (d) of paragraph (1) above to be included in the application are true; or
  - (b) where the applicant is the spouse of the employed person or the person attending the course, certify that the statements included in the application in accordance with the requirements of sub-paragraphs (a) to (c) of paragraph (1) above are true.
- (4) The person attesting an application under paragraph (2) above shall also state—
  - (a) his name and address, that he is aged 18 years or over, that he knows the employed person, self-employed person or person attending a course provided by an educational institution but is not related to him; and
  - (b) if he is attesting as or on behalf of the employer of the employed person, that he is the employer or the position he holds in the employment of that employer; or
  - (c) if he is attesting an application made on the grounds of attendance at a course provided by an educational institution, the post he holds at that institution.
- (5) For the purposes of this regulation, one person is related to another if he is the husband, wife, parent, grandparent, brother, sister, child or grandchild of the other.

#### **Additional requirements for applications for a proxy vote in respect of a particular election**

**55.** An application under paragraph 4(2) of Schedule 4 to vote by proxy at a particular election shall set out why the applicant's circumstances on the date of the poll for that election in respect of which it is made will be or are likely to be such that he cannot reasonably be expected to vote in person at his allotted polling station.

#### **Closing date for applications**

**56.—**(1) An application under paragraph 3(6) of Schedule 4 shall be disregarded for the purposes of a particular parliamentary or local government election and an application under paragraph 4(3) of Schedule 4 shall be refused if it is received by the registration officer after 5 p.m. on the eleventh day before the date of the poll at that election.

(2) An application under paragraph 3(1) or (2), or 6(7) or 7(4) of Schedule 4 shall be disregarded for the purposes of a particular parliamentary or local government election if it is received by the registration officer after 5 p.m. on the sixth day before the date of the poll at that election.

(3) An application under paragraph 4(1) or (2) or 6(8) of Schedule 4 shall be refused if it is received by the registration officer after 5 p.m. on the sixth day before the date of the poll at the election for which it is made.

(4) An application under paragraph 7(7) of Schedule 4 shall be refused if it is received by the registration officer after 5 p.m. on the eleventh day before the date of the poll at the election for which it is made.

(5) An application under—

- (a) paragraph 3(5)(a) of Schedule 4 by an elector to be removed from the record kept under paragraph 3(4) of that Schedule, or
- (b) paragraph 7(9)(a) of Schedule 4 by a proxy to be removed from the record kept under paragraph 7(6) of that Schedule,

and a notice under paragraph 6(10) of that Schedule by an elector cancelling a proxy's appointment shall be disregarded for the purposes of a particular parliamentary or local government election if it is received by the registration officer after—

(i) 5 p.m. on the eleventh day before the date of the poll at that election in the case of an application by an elector who is entitled to vote by post to be removed from the record kept under paragraph 3(4) of Schedule 4, and

(ii) 5 p.m. on the sixth day before the date of the poll at that election in any other case.

(6) In computing a period of days for the purposes of this regulation, Saturday, Sunday, Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a bank holiday shall be disregarded.

(7) In paragraph (6) above “bank holiday” means—

- (a) in relation to a parliamentary general election, a day which is a bank holiday under the Banking and Financial Dealings Act 1971<sup>(5)</sup> in any part of the United Kingdom, and
- (b) in relation to a parliamentary by-election or a local government election, a day which is a bank holiday under that Act in England and Wales;

except that where, at a parliamentary general election, any proceedings are commenced afresh by reason of a candidate’s death, sub-paragraph (b), not (a), shall apply.

### **Grant or refusal of applications**

**57.**—(1) Where the registration officer grants an application to vote by post, he shall, where practicable, notify the applicant of his decision.

(2) Where the registration officer grants an application for the appointment of a proxy, he shall confirm in writing to the elector that the proxy has been appointed, his name and address, and the duration of the appointment.

(3) The form of proxy paper (as amended for use also in respect of European Parliamentary elections) in Form E is hereby prescribed for the purposes of paragraph 6(9) of Schedule 4.

(4) Where the registration officer refuses an application under Schedule 4, he shall notify the applicant of his decision and of the reason for it.

(5) Where, under regulation 56 above, a registration officer disregards an application for the purposes of any particular parliamentary or local government election, he shall, where practicable, notify the applicant of this.

(6) At a parliamentary election where the registration officer is not the acting returning officer for any constituency or part of a constituency in the area for which he is the registration officer, he shall send to that officer details of any application to vote by post which he has granted as soon as practicable after doing so.

### **Notice of appeal**

**58.**—(1) A person desiring to appeal under section 56(1)(b) of the 1983 Act<sup>(6)</sup> against the decision of a registration officer must give notice of the appeal to the registration officer within 14 days of the receipt of the notice given under regulation 57(4) above specifying the grounds of appeal.

(2) The registration officer shall forward any such notice to the appropriate county court in the manner directed by rules of court together in each case with a statement of the material facts which in his opinion have been established in the case, of his decision upon the whole case and on any point which may be specified as a ground of appeal.

(3) Where it appears to the registration officer that any notices of appeal given to him are based on similar grounds, he shall inform the county court of this to enable the court (if it thinks fit) to consolidate the appeals or select a case as a test case.

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<sup>(5)</sup> 1971 c. 80.

<sup>(6)</sup> Section 56(1)(b) was amended by Schedule 2 to the 1985 Act.

### **Cancellation of proxy appointment**

**59.** Where the appointment of a proxy is cancelled by notice given to the registration officer under paragraph 6(10) of Schedule 4 or ceases to be in force under that provision or is no longer in force under paragraph 6(11)(b) of that Schedule, the registration officer shall—

- (a) notify the person whose appointment as proxy has been cancelled, expired, ceases to be or is no longer in force, unless the registration officer has previously been notified by that person that he no longer wishes to act as proxy, and
- (b) remove his name from the record kept under paragraph 3(4)(c) of Schedule 4.

### **Inquiries by registration officer**

**60.**—(1) The registration officer may, at such times as he thinks fit, make inquiries of a person—

- (a) who is shown as voting by proxy in the record kept under paragraph 3(4) of Schedule 4 in pursuance of an application granted on the grounds set out in paragraph 3(3)(b) and (c) of that Schedule; or
- (b) who immediately before the date of the commencement of Schedule 4 was entitled to vote by proxy for an indefinite period at parliamentary elections, local government elections or both in pursuance of an application granted on grounds corresponding to those set out in paragraph 3(3)(b) and (c) of Schedule 4 (physical incapacity, blindness, occupation, service or employment),

for the purpose of determining whether there has been a material change of circumstances.

(2) Where the grant of an application for a proxy vote for an indefinite or defined period was based on the grounds referred to in paragraph 3(3)(c) of Schedule 4 (or grounds corresponding to those grounds), the registration officer shall make the inquiries referred to not later than three years after the granting of the application or the last such inquiries, as the case may be.

(3) The registration officer may treat the failure by a person of whom inquiries have been made to respond to such inquiries within one month of the date on which they were made as sufficient evidence of a material change in circumstances.

### **Records and lists kept under Schedule 4**

**61.**—(1) The registration officer shall, on request, supply free of charge a copy of the list kept under paragraphs 5 and 7(8) of Schedule 4 to each candidate or his election agent.

(2) The registration officer shall make available for inspection at his office a copy of the records kept under paragraph 3(4) or 7(6) of Schedule 4.

(3) As soon as practicable after the sixth day before the day of the poll (calculated in accordance with regulation 56 above) the registration officer shall—

- (a) publish the lists kept under paragraphs 5 and 7(8) of Schedule 4 by making a copy of them available for inspection at his office; and
- (b) at a parliamentary election if he is not the acting returning officer for any constituency or part of a constituency in the area for which he is the registration officer, send to that officer a copy of those lists.

### **Marked register for polling stations**

**62.** To indicate that an elector or his proxy is entitled to vote by post and is for that reason not entitled to vote in person, the letter “A” shall be placed against the name of that elector in any copy of the register, or part of it, provided for a polling station.

### **Certificate of employment at a parliamentary election**

**63.**—(1) The form of certificate in Form F is hereby prescribed for the purposes of rule 32(3) of the elections rules in Schedule 1 to the 1983 Act.

(2) The prescribed officer of police for those purposes is one of or above the rank of inspector.