
DRAFT STATUTORY INSTRUMENTS

2004 No.

European Parliamentary Elections
(Northern Ireland) Regulations 2004

PART 1

General

Citation, commencement and extent

1.—(1) These Regulations may be cited as the European Parliamentary Elections (Northern Ireland) Regulations 2004.

(2) These Regulations shall come into force on the day after the day on which they are made.

(3) These Regulations shall extend to Northern Ireland only.

Interpretation

2. Unless the context otherwise requires, in these Regulations—

“1983 Act” means the Representation of the People Act 1983⁽¹⁾;

“1985 Act” means the Representation of the People Act 1985⁽²⁾;

“2000 Act” means the Political Parties, Elections and Referendums Act 2000⁽³⁾;

“2001 Franchise Regulations” means the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001⁽⁴⁾;

“2002 Act” means the European Parliamentary Elections Act 2002⁽⁵⁾;

“2003 Act” means the European Parliament (Representation) Act 2003⁽⁶⁾;

“the absent voters list” means, in relation to any election, the list kept under regulation 9(6);

“Accession States” means any of the following states—

- (a) the Czech Republic,
- (b) the Republic of Estonia,
- (c) the Republic of Cyprus,
- (d) the Republic of Latvia,
- (e) the Republic of Lithuania,
- (f) the Republic of Hungary,
- (g) the Republic of Malta,

(1) 1983 c. 2.
(2) 1985 c. 50.
(3) 2000 c. 41.
(4) S.I.2001/1184
(5) 2002 c. 24.
(6) 2003 c. 7.

- (h) the Republic of Poland,
- (i) the Republic of Slovenia,
- (j) the Slovak Republic;

“the Act annexed to Council Decision 76/787” is the Act concerning the election of MEPs annexed to Council Decision 76/787/ECSC, EEC, Euratom of 20th September 1976;

“citizen of an Accession State” means a national of one of the Accession States and “relevant citizen of an Accession State” means such a citizen who is not a Commonwealth citizen or a citizen of the Republic of Ireland;

“citizen of the Union” shall be construed in accordance with Article 17.1 of the Treaty establishing the European Community⁽⁷⁾, and “relevant citizen of the Union” means such a citizen who is not a Commonwealth citizen or a citizen of the Republic of Ireland;

“dwelling” includes any part of a building where that part is occupied separately as a dwelling;

“election” means European Parliamentary election;

“election court” means in relation to a European Parliamentary election petition, the judges presiding at the trial;

“elector” in relation to an election, means any person whose name is for the time being on the register of electors, but does not include those shown in the register as below voting age on the day fixed for the poll;

“European Parliamentary elections rules” mean the rules in Schedule 1 to these Regulations;

“European Parliamentary election petition” means a petition presented in pursuance of Part 4 of these Regulations;

“European Parliamentary overseas elector” means a person falling within section 8(4) of the 2002 Act;

“European Parliamentary overseas elector’s declaration” means a declaration made in pursuance of regulations made under section 3 of the 1985 Act⁽⁸⁾;

“legal incapacity” includes (in addition to any incapacity by virtue of any subsisting provision of the common law) any disqualification imposed by these Regulations or by any Act;

“legal process” means a claim form, application, notice, writ, summons or other process;

“the list of proxies” means, in relation to any election, the list kept under regulation 11(8);

“overseas elector” means a person falling within subsection (2) of section 8 of the 2002 Act by virtue of paragraph (b) of that subsection;

“overseas elector’s declaration” has the meaning given by section 2 of the 1985 Act;

“person” includes (without prejudice to the provisions of the Interpretation Act 1978)⁽⁹⁾ an association corporate or unincorporate;

“register of electors” means any part of—

- (a) a register of parliamentary or, in the case of peers, local government electors,
- (b) a register under section 3 of the 1985 Act, and
- (c) a register under regulation 5 of the 2001 Franchise Regulations,

in force within the electoral region at the time of a European Parliamentary election in that region;

“registration officer” means the Chief Electoral Officer for Northern Ireland;

⁽⁷⁾ The reference to the Treaty is to it as renumbered in accordance with the Treaty of Amsterdam.

⁽⁸⁾ Section 3 was substituted by paragraph 4 of Schedule 2 to the Representation of the People Act 2000 (c. 2).

⁽⁹⁾ 1978 c. 30.

“service voter” means a person who has made a service declaration and is registered or entitled to be registered in pursuance of it;

“sub-agent” has the meaning given by regulation 35(1);

“Treaty of Athens” means the Treaty signed at Athens on 16th April 2003 concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union;

“universal postal service provider” means a universal service provider (within the meaning of the Postal Services Act 2000)(10); and

“voter” means a person voting at an election and includes a person voting as proxy and, except in the European Parliamentary elections rules, a person voting by proxy, and “vote” (whether noun or verb) shall be construed accordingly, except that in those rules any reference to an elector voting or an elector’s vote shall include a reference to an elector voting by proxy or an elector’s vote given by proxy.

Conduct of poll and count in the electoral region

3. The returning officer for the electoral region shall be responsible for—
- (a) the conduct of the poll in the electoral region;
 - (b) the printing of the ballot papers;
 - (c) the issue and receipt of postal ballot papers for electors in the electoral region and their proxies;
 - (d) the verification of the ballot paper accounts; and
 - (e) the counting of the votes given in the electoral region.

Deputies and assistance

4.—(1) The returning officer may, in writing, appoint deputies to discharge all or any of the functions imposed on him under these Regulations.

(2) The returning officer may appoint such clerks as may be necessary to assist him in his functions in relation to an election.

Polling districts and places

5.—(1) The electoral region shall be divided into polling districts and subject to the provisions of this regulation there shall be a polling place designated for each polling district.

(2) The polling districts and polling places designated under this regulation shall be the same as those used or designated for parliamentary elections, except where it appears to those responsible for designating parliamentary polling districts and places that special circumstances make it desirable for some other polling district or place to be designated.

- (3) An election shall not be questioned by reason of—
- (a) any non-compliance with the provisions of this regulation; or
 - (b) any informality relative to polling districts or polling places.

Rules for European Parliamentary elections

6.—(1) The proceedings at a European Parliamentary election shall be conducted in accordance with the European Parliamentary elections rules in Schedule 1 to these Regulations.

(2) It is the returning officer's general duty at a European Parliamentary election to do all such acts and things as may be necessary for effectually conducting the election in the manner provided by those rules.

(3) No European Parliamentary 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 in connection with the election or otherwise of the European Parliamentary elections rules if it appears to the tribunal having cognizance of the question that—

- (a) the election was so conducted as to be substantially in accordance with the law as to elections; and
- (b) the act or omission did not affect its result.

Manner of voting

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

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

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

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

(5) If he is not entitled as an elector to an absent vote at the election but cannot reasonably be expected to go in person to the polling station allotted to him under the European Parliamentary elections rules by reason of the particular circumstances of his employment, either as a constable or by the returning officer, on the date of the poll for a purpose connected with the election, he may vote in person at any polling station in the European Parliamentary electoral region.

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

- (a) a person to whom section 7 of the 1983 Act⁽¹¹⁾ (mental patients who are not detained offenders) applies and who are liable, by virtue of any enactment, to be detained in the mental hospital in question, or
- (b) a person to whom section 7A of that Act⁽¹²⁾ (persons remanded in custody) applies,

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

(7) For the purposes of these Regulations, a person entitled to vote as an elector at a European Parliamentary election is entitled as an elector to vote by post or entitled to vote by proxy at the election if he is shown in the absent voters list for the election as so entitled; and references to entitlement as an elector to an absent vote at a European Parliamentary election are references to entitlement as an elector to vote by post or entitlement to vote by proxy at the election.

⁽¹¹⁾ Section 7 was substituted by section 4 of the Representation of the People Act 2000 (c. 2).

⁽¹²⁾ Section 7A was inserted by section 5 of the Representation of the People Act 2000.

Absent vote at elections for an indefinite period

8.—(1) Where a person applies to the registration officer to vote by post, or to vote by proxy, at European Parliamentary elections for an indefinite period the registration officer shall grant the application (subject to paragraph (8)) if—

- (a) he is satisfied that the applicant is eligible for an absent vote at European Parliamentary elections for an indefinite period,
 - (b) he is satisfied that the applicant is or will be registered in the register for such elections,
 - (c) the application states the applicant's date of birth and the registration officer is satisfied that the date stated corresponds with the date supplied as the date of the applicant's birth pursuant to section 10(4A)(b), 10A(1A)(b) or 13A(2A)(b) of the 1983 Act⁽¹³⁾,
 - (d) the application is signed and (unless section 10(4B), 10A(1B) or 13A(2B) of the 1983 Act⁽¹⁴⁾ applies) the registration officer is satisfied that the signature on the application corresponds with the signature supplied as the applicant's signature pursuant to section 10(4A)(a), 10A(1A)(a) or 13A(2A)(a) of the 1983 Act,
 - (e) the application either states the applicant's national insurance number or states that he does not have one, and the registration officer is satisfied as mentioned in paragraph (2), and
 - (f) the application meets the requirements of Schedule 2 to these Regulations.
- (2) For the purposes of paragraph (1)(e), the registration officer must be satisfied—
- (a) if the application states a national insurance number, that the requirements of paragraph (3) are met, or
 - (b) if the application states that the applicant does not have a national insurance number, that no such number was supplied as his national insurance number pursuant to section 10(4A)(c)(i), 10A(1A)(c)(i) or 13A(2A)(c)(i) of the 1983 Act.
- (3) The requirements of this paragraph are met if—
- (a) the number stated as mentioned in paragraph (2)(a) is the same as the one supplied as the applicant's national insurance number pursuant to section 10(4A)(c)(i), 10A(1A)(c)(i) or 13A(2A)(c)(i) of the 1983 Act, or
 - (b) no national insurance number was supplied under any of those provisions, but the registration officer is not aware of any reason to doubt the authenticity of the application.
- (4) For the purposes of this regulation, a person is eligible for an absent vote at European Parliamentary elections for an indefinite period—
- (a) if he is or will be registered as a service voter,
 - (b) if he cannot reasonably be expected—
 - (i) to go in person to the polling station allotted or likely to be allotted to him under the European Parliamentary elections rules, or
 - (ii) to vote unaided there,by reason of blindness or other physical incapacity,
 - (c) if he cannot reasonably be expected to go in person to that polling station by reason of the general nature of his occupation, service or employment or that of his spouse, or by reason of his attendance on a course provided by an educational institution or that of his spouse, or
 - (d) if he cannot go in person from his qualifying address to that polling station without making a journey by air or sea,

⁽¹³⁾ Sections 10A and 13A were inserted by Schedule 1 to the Representation of the People Act 2000; sections 10(4A), 10A(1A) and 13A(2A) were inserted by section 1 of the Electoral Fraud (Northern Ireland) Act 2002 (c. 2).

⁽¹⁴⁾ Sections 10(4B), 10A(1B) and 13A(2B) were inserted by section 1 of the Electoral Fraud (Northern Ireland) Act 2002.

and is also eligible for an absent vote at European Parliamentary elections for an indefinite period if he is or will be registered in pursuance of an overseas elector's declaration (including a European Parliamentary overseas elector's declaration).

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

- (a) in the case of those who may vote by post, the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent, and
- (b) in the case of those who may vote by proxy, the names and addresses of those appointed as their proxies.

(6) The registration officer shall remove a person from the record kept under paragraph (5)—

- (a) if he applies to the registration officer to be removed,
- (b) in the case of any registered person, if he ceases to be registered or registered at the same qualifying address or ceases to be, or becomes, registered as a service voter or in pursuance of a declaration of local connection or an overseas elector's declaration, or
- (c) if the registration officer gives notice that he has reason to believe there has been a material change of circumstances.

(7) A person shown in the record kept under paragraph (5) as voting by post or, as the case may be, voting by proxy may subsequently alter his choice (subject to paragraph (8)) on an application to the registration officer that meets the requirements of Schedule 2 to these Regulations and the registration officer shall amend the record accordingly.

(8) A person applying to vote by post must provide an address in the United Kingdom as the address to which his ballot paper is to be sent.

Absent vote at a particular election and absent voters list

9.—(1) Where a person applies to the registration officer to vote by post, or to vote by proxy, at a particular European Parliamentary election, the registration officer shall grant the application (subject to paragraph (7)) if—

- (a) he is satisfied that the applicant's circumstances on the date of the poll will be or are likely to be such that he cannot reasonably be expected to vote in person at the polling station allotted or likely to be allotted to him under the European Parliamentary elections rules,
- (b) he is satisfied that the applicant is or will be registered in the register of electors,
- (c) the application states the applicant's date of birth and the registration officer is satisfied that the date stated corresponds with the date supplied as the date of the applicant's birth pursuant to section 10(4A)(b), 10A(1A)(b) or 13A(2A)(b) of the 1983 Act,
- (d) the application is signed and (unless section 10(4B), 10A(1B) or 13A(2B) of the 1983 Act applies) the registration officer is satisfied that the signature on the application corresponds with the signature supplied as the applicant's signature pursuant to section 10(4A)(a), 10A(1A)(a) or 13A(2A)(a) of the 1983 Act,
- (e) the application either states the applicant's national insurance number or states that he does not have one, and the registration officer is satisfied as mentioned in paragraph (2), and
- (f) the application meets the requirements of Schedule 2 to these Regulations.

(2) For the purposes of paragraph (1)(e), the registration officer must be satisfied—

- (a) if the application states a national insurance number, that the requirements of paragraph (3) are met, or

- (b) if the application states that the applicant does not have a national insurance number, that no such number was supplied as his national insurance number pursuant to section 10(4A)(c)(i), 10A(1A)(c)(i) or 13A(2A)(c)(i) of the 1983 Act.
- (3) The requirements of this paragraph are met if—
 - (a) the number stated as mentioned in paragraph (2)(a) is the same as the one supplied as the applicant's national insurance number pursuant to section 10(4A)(c)(i), 10A(1A)(c)(i) or 13A(2A)(c)(i) of the 1983 Act, or
 - (b) no national insurance number was supplied under any of those provisions, but the registration officer is not aware of any reason to doubt the authenticity of the application.
- (4) Paragraph (1) does not apply to a person who is included in the record kept under regulation 8, but such a person may, in respect of a particular European Parliamentary election, apply to the registration officer—
 - (a) for his ballot paper to be sent to a different address in the United Kingdom, or
 - (b) to vote by proxy,if he is shown in the record so kept as voting by post at European Parliamentary elections.
- (5) The registration officer shall grant an application under paragraph (4) if it meets the requirements of Schedule 2 to these Regulations.
- (6) The registration officer shall, in respect of each European Parliamentary election, keep a special list (“the absent voters list”) consisting of—
 - (a) a list of—
 - (i) those whose applications under paragraph (1) to vote by post at the election have been granted, together with the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent, and
 - (ii) those who are for the time being shown in the record kept under regulation 8 as voting by post at European Parliamentary elections (excluding those so shown whose applications under paragraph (4) to vote by proxy at the election have been granted) together with the addresses provided by them in their applications under that regulation or, as the case may be, paragraph (4) as the addresses to which their ballot papers are to be sent, and
 - (b) a list (“the list of proxies”) of those whose applications under this regulation to vote by proxy at the election have been granted or who are for the time being shown in the record kept under regulation 8 as voting by proxy at European Parliamentary elections, together with the names and addresses of those appointed as their proxies.
- (7) A person applying to vote by post must provide an address in the United Kingdom as the address to which his ballot paper is to be sent.

Proxies at elections

- 10.**—(1) Subject to the provisions of this regulation, any person is capable of being appointed proxy to vote for another (in this regulation and regulation 11 referred to as “the elector”) at any European Parliamentary election and may vote in pursuance of the appointment.
- (2) The elector cannot have more than one person at a time appointed as proxy to vote for him at European Parliamentary elections.
 - (3) A person is not capable of being appointed to vote, or voting, as proxy at a European Parliamentary election—
 - (a) if he is subject to any legal incapacity (age apart) to vote at that election as an elector, or
 - (b) if he is neither a Commonwealth citizen nor a citizen of the Union.

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

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

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

(a) registered in the register, and

(b) shown in the record kept under regulation 8 as voting by proxy at such elections,

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

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

(a) registered in the register of electors for that election, and

(b) entitled to vote by proxy at that election by virtue of an application under regulation 9,

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

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

(9) The appointment may be cancelled by the elector by giving notice to the registration officer, and shall also cease to be in force on the issue of a proxy paper appointing a different person to vote for him at any European Parliamentary election or elections.

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

(a) in the case of an appointment for a particular election, for that election, and

(b) in any other case, while the elector is shown as voting by proxy in the record kept under regulation 8 in pursuance of the same application under that regulation.

Voting as proxy

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

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

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

(4) Where a person applies to the registration officer to vote by post as proxy at European Parliamentary elections, for an indefinite period, the registration officer shall (subject to paragraphs (9) and (11)) grant the application if—

(a) the applicant is included in any record kept under regulation 8, or

(b) the address provided by the applicant in his application as the address to which his ballot paper is to be sent is not in the same ward as the elector's qualifying address or, where the

elector is registered in pursuance of an overseas elector's declaration, the address specified in the declaration in accordance with section 2(4) of the 1985 Act, and the application meets the requirements of Schedule 2 to these Regulations.

(5) The registration officer shall keep a record of those whose applications under paragraph (4) have been granted showing the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent.

(6) Where a person applies to the registration officer to vote by post as proxy at a particular election and the application meets the requirements of Schedule 2 to these Regulations, the registration officer shall (subject to paragraphs (9) and (11)) grant the application if—

- (a) he is satisfied that the applicant's circumstances on the date of the poll will be or are likely to be such that he cannot reasonably be expected to vote in person at the polling station allotted or likely to be allotted to the elector under the European Parliamentary elections rules, or
- (b) the applicant is, or the registration officer is satisfied that he will be, included in the absent voters list for that election.

(7) Where, in the case of a particular election, a person included in the record kept under paragraph (5) applies to the registration officer for his ballot paper to be sent to a different address in the United Kingdom, the registration officer shall grant the application if it meets the requirements of Schedule 2 to these Regulations.

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

- (a) those who are for the time being included in the record kept under paragraph (5) together with the addresses provided by them in their applications under that paragraph or, as the case may be, paragraph (7) as the addresses to which their ballot papers are to be sent, and
- (b) those whose applications under paragraph (6) have been granted in respect of the election concerned, together with the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent.

(9) The registration officer shall not grant any application under this regulation unless—

- (a) he is satisfied that the elector is or will be registered in the register of electors, and
- (b) there is in force an appointment of the applicant as the elector's proxy to vote for him at European Parliamentary elections or, as the case may be, the election concerned.

(10) The registration officer shall remove a person from the record kept under paragraph (5)—

- (a) if he applies to the registration officer to be removed,
- (b) where he was included in the record on the ground mentioned in paragraph (4)(a), if he ceases to be included in any record kept under regulation 8 or becomes so included in pursuance of a further application under that regulation,
- (c) if the elector ceases to be registered as mentioned in paragraph (9)(a), or
- (d) if the appointment of the person concerned as the elector's proxy ceases to be in force (whether or not he is re-appointed).

(11) A person applying to vote by post as proxy must provide an address in the United Kingdom as the address to which his ballot paper is to be sent.

Offences as to declarations

12. A person who—

- (a) in any declaration or form used for any of the purposes of regulations 7 to 11, makes a statement which he knows to be false, or

- (b) attests an application under regulation 8 or 9 when he knows that he is not authorised to do so or that it contains a statement which is false,

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

Absent voting

- 13. Schedule 2 (which makes provision with respect to absent voting) shall have effect.

Modification of the Regulations for 2004 elections

- 14. The provisions of these Regulations shall apply for the purposes of—
 - (a) the registration of relevant citizens of the Accession States as European Parliamentary electors before 1st May 2004,
 - (b) making arrangements for persons so registered to exercise the right to vote if they become relevant citizens of the Union on 1st May 2004, and
 - (c) the alteration or removal of entries on the register in relation to relevant citizens of the Accession States after that date,

subject to the modifications made in Schedule 3.

Returning officers

- 15. A person is not subject to any incapacity to vote at a European Parliamentary election by reason of being or acting as returning officer at that election.

Payments by and to returning officers

16.—(1) The returning officer shall be entitled to recover his charges in respect of services properly rendered, or expenses properly incurred, for or in connection with a European Parliamentary election if—

- (a) the services or expenses are of a kind specified in an order made by the Secretary of State; and
- (b) the charges are reasonable.

(2) In any order made under paragraph (1) the Secretary of State may specify a maximum recoverable amount for services or expenses of any specified description and, subject to paragraph (3), the returning officer may not recover more than that amount in respect of any such services or expenses.

(3) The Secretary of State may, in a particular case, authorise the payment of more than the specified maximum amount for any specified services or expenses if satisfied—

- (a) that it was reasonable for the returning officer to render the services or incur the expenses; and
- (b) that the charges in question are reasonable.

(4) Any order under paragraph (1) which specifies a maximum amount for services or expenses of a particular description may—

- (a) provide for that amount to increase at prescribed dates, or after prescribed periods, by reference to such formula or other method of determination as may be specified in the order; and

(b) make such transitional provision in connection with any such increase as the Secretary of State considers appropriate.

(5) The power to make orders under paragraph (1) shall be exercised by statutory instrument and section 1 of the Statutory Instruments Act 1946⁽¹⁵⁾ shall apply accordingly; and any such order may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the Secretary of State thinks fit.

(6) The amount of any charges recoverable in accordance with this regulation shall be paid by the Secretary of State on an account being submitted to him, but he may if he thinks fit before payment, apply for the account to be taxed under the provisions of regulation 17.

(7) On the returning officer's request for an advance on account of his charges, the Secretary of State may, on such terms as he thinks fit, make such an advance.

(8) Regulations made by the Secretary of State may make provision as to the time when and the manner and form in which accounts are to be rendered to the Secretary of State for the purposes of the payment of the returning officer's charges.

(9) Any exercise by the Secretary of State of his functions under paragraphs (1) and (2) shall require the consent of the Treasury.

Taxation of returning officer's account

17.—(1) An application for the returning officer's account to be taxed shall be made to the county court having jurisdiction at the place for delivery of nomination papers for the election.

(2) On any such application the court has jurisdiction to tax the account in such manner and at such time and place as the court thinks fit, and finally to determine the amount payable to the returning officer.

(3) On any such application the returning officer may apply to the court to examine any claim made by any person against him in respect of matters charged in the account; and the court, after notice given to the claimant and after giving him an opportunity to be heard and to tender any evidence, may allow or disallow or reduce the claim objected to with or without costs; and the determination of the court shall be final for all purposes and as against all persons.

Effect of registers

18.—(1) Any entry in the register of electors, if it gives a date as that on which the person named will attain voting age, shall for any purpose of this Part relating to him as elector be conclusive that until the date given in the entry he is not of voting age nor entitled to be treated as an elector except for the purposes of an election at which the day fixed for the poll is that or a later date.

(2) A person whose registration as an elector or entry in the list of proxies entitles him to vote shall not be excluded from voting on any of the following grounds: but this shall not prevent the rejection of the vote on a scrutiny, or affect his liability to any penalty for voting.

The grounds are—

- (a) that he is not of voting age;
- (b) that he is not, or, on the relevant date or the date of his appointment (as the case may be), was not—
 - (i) a Commonwealth citizen;
 - (ii) a citizen of the Republic of Ireland;
 - (iii) in the case of a person registered as a European Parliamentary elector in pursuance of an overseas elector's declaration, a British citizen;

(15) 1946 c. 36.

- (iv) in the case of a person registered as an elector or entered in the list of proxies by virtue of being a relevant citizen of the Union, a relevant citizen of the Union;
 - (c) that he is, or, on the relevant date or the date of his appointment (as the case may be), was, otherwise subject to any other legal incapacity to vote.
- (3) In paragraph (2) “the relevant date” means—
- (a) in relation to a person registered in the register in question as published in accordance with section 13(1) of the 1983 Act(16), the 15th October immediately preceding the date of publication of the register;
 - (b) in relation to any other person registered in the register in question, the relevant date for the purposes of section 4 of the 1983 Act(17).

Effect of misdescription

- 19.** No misnomer or inaccurate description of any person or place named—
- (a) in the register of electors, or
 - (b) in any list, record, proxy paper, nomination paper, ballot paper, notice or other document required for the purposes of this Part of these Regulations,

affects 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.

Discharge of registration duties

20. Sections 14(5) and 14A(2) and (3) of the Electoral Law Act (Northern Ireland) 1962(18) shall have effect in relation to the Chief Electoral Officer for Northern Ireland in his capacity as registration officer.

Payment of expenses of registration

21.—(1) Any expenses properly incurred by the Chief Electoral Officer for Northern Ireland in his capacity as registration officer in the performance of his functions under these Regulations (in these Regulations referred to as “registration expenses”) shall be paid out of money provided by Parliament.

(2) Any fees paid to the registration officer under these Regulations shall be accounted for by him to the Secretary of State and paid into the Consolidated Fund.

(3) On the request of a registration officer for an advance on account of registration expenses the Secretary of State may, if he thinks fit, make such an advance to him of such an amount and subject to such conditions as he may approve.

Registration appeals

22.—(1) Subject to paragraph (2), an appeal lies to the county court, from any decision under these Regulations of the registration officer disallowing a person’s application to vote by proxy or by post as elector or to vote by post as proxy, in any case where the application is not made for a particular election only.

(16) Section 13 was substituted by Schedule 1 to the Representation of the People Act 2000.

(17) Section 4 was substituted by section 1(2) of the Representation of the People Act 2000.

(18) 1962 c. 14 (N.I.); section 14 was substituted and section 14A was inserted by the Electoral Law (Northern Ireland) Order 1972 (S.I. 1972/1264 (N.I. 13)).

(2) No appeal lies where the person desiring to appeal has not availed himself of a prescribed right to be heard by or make representations to the registration officer on the matter which is the subject of the appeal, or has not given the prescribed notice of appeal within the prescribed time.

(3) An appeal to the county court by virtue of this regulation which is pending when notice of an election is given shall not prejudice the operation as respects the election of the decision appealed against, and anything done in pursuance of the decision shall be as good as if no such appeal had been brought and shall not be affected by the decision on the appeal.

(4) The registration officer shall, in accordance with sections 13A and 13B of the 1983 Act⁽¹⁹⁾, make such alterations in the register as may be required to give effect to the decision.

(5) Where, as a result of the decision on an appeal, an alteration in the register made in pursuance of paragraph (4) takes effect under section 13(5), 13A(2) or 13B(3) of the 1983 Act on or before the last day on which nomination papers at an election may be delivered to the returning officer, paragraph (3) does not apply to that appeal as respects that election.

(6) The registration officer shall undertake such duties in connection with appeals brought by virtue of this regulation as are set out in paragraph 10 of Schedule 2 and shall on any such appeal be deemed to be a party to the proceedings, and the registration expenses payable to a registration officer shall include any expenses properly incurred by him by virtue of this paragraph.

Personation

23.—(1) A person shall be guilty of a corrupt practice if he commits, or aids, abets, counsels or procures the commission of, the offence of personation.

(2) A person shall be deemed to be guilty of personation at a European Parliamentary election if he—

- (a) votes in person or by post as some other person, whether as an elector or as proxy, and whether that other person is living or dead or is a fictitious person; or
- (b) votes in person or by post as proxy—
 - (i) for a person whom he knows or has reasonable grounds for supposing to be dead or to be a fictitious person; or
 - (ii) when he knows or has reasonable grounds for supposing that his appointment as proxy is no longer in force.

(3) For the purposes of this regulation, 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.

Offences relating to specified documents

24.—(1) A person commits an offence if, on the day of or the day next preceding the poll for a European Parliamentary election, he has possession of a document to which this regulation applies, with the intention of committing or of enabling another person to commit the offence of personation at the election.

(2) This regulation applies to—

- (a) a document which is not, but purports to be, a specified document within the meaning of rule 37 of the European Parliamentary elections rules, and
- (b) a specified document within the meaning of that rule which either falsely bears the name of the person in possession or does not bear that name.

⁽¹⁹⁾ Section 13B was inserted by Schedule 1 to the Representation of the People Act 2000.

- (3) If a constable has reasonable grounds for suspecting that a person has possession of a document in contravention of paragraph (1), the constable may—
- (a) search that person, and detain him for the purpose of searching him;
 - (b) search any vehicle in which the constable suspects that the document may be found, and for that purpose require the person in control of the vehicle to stop it;
 - (c) seize and retain, for the purpose of proceedings for an offence under paragraph (1), any document found in the course of the search if there are reasonable grounds for suspecting that it is a document to which this regulation applies.
- (4) If a resident magistrate is satisfied by complaint on oath that there are reasonable grounds for suspecting that a person has possession on any premises of a document in contravention of paragraph (1), he may grant a warrant authorising any constable
- (a) to enter, if need be by force, the premises named in the warrant,
 - (b) to search the premises and any person found there, and
 - (c) to seize and retain, for the purpose of proceedings for an offence under paragraph (1), any document found in the course of the search if there are reasonable grounds for suspecting that it is a document to which this regulation applies.
- (5) A person commits an offence if he—
- (a) intentionally obstructs a constable in the exercise of his powers under this regulation, or
 - (b) conceals from a constable acting in the exercise of those powers any document to which this regulation applies.
- (6) A constable may arrest without warrant a person who has committed, or whom the constable has reasonable grounds for suspecting to have committed, an offence under paragraph (1) or (5) if—
- (a) he has reasonable grounds for believing that that person will abscond unless arrested,
 - (b) the name and address of that person are unknown to, and cannot be ascertained by, him, or
 - (c) he is not satisfied that a name and address furnished by that person as his name and address are true.
- (7) A person is guilty of a corrupt practice if he commits, or aids, abets, counsels or procures the commission, of an offence under paragraph (1).
- (8) A person guilty of an offence under paragraph (5) shall be liable 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.
- (9) A prosecution shall not be instituted in respect of an offence under paragraph (1) except by or with the consent of the Director of Public Prosecutions for Northern Ireland.
- (10) In this regulation—
- “premises” includes any place and, in particular, includes any moveable structure, and
 - “vehicle” means a vehicle intended or adapted for use on land (however propelled, and including a caravan or other vehicle intended or adapted to be drawn).

Other voting offences

- 25.—**(1) A person shall be guilty of an offence 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 European Parliamentary election knowing that he is subject to a legal incapacity to vote at the election; or

- (b) he applies for the appointment of a proxy to vote for him at any European Parliamentary election knowing that he is or the person to be appointed is subject to a legal incapacity to vote at the election; or
- (c) he votes, whether in person or by post, as proxy for some other person at a European Parliamentary election, knowing that that person is subject to a legal incapacity to vote.

For the purposes of this 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 or for which they are done, include his being below voting age if he will be of voting age on that day.

(2) References in paragraph (1) to legal incapacity to vote at a European Parliamentary election include incapacity to vote at the kind of election from which the entitlement to vote at a European Parliamentary election derives.

(3) A person shall be guilty of an offence if—

- (a) he votes as elector otherwise than by proxy either—
 - (i) more than once at any European Parliamentary election; or
 - (ii) in more than one electoral region at a European Parliamentary election, or
 - (iii) at a European Parliamentary election when there is in force an appointment of a person to vote as his proxy at the election in respect of an address other than the address by virtue of which he votes as elector; or
- (b) he votes as elector in person at a European Parliamentary election at which he is entitled to vote by post; or
- (c) he votes as elector in person at a European Parliamentary 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 at the election; or
- (d) he applies for a person to be appointed as his proxy to vote for him at European Parliamentary elections without applying for the cancellation of a previous appointment of a third person then in force or without withdrawing a pending application for such an appointment.

(4) A person shall be guilty of an offence if—

- (a) he votes as proxy for the same elector either—
 - (i) more than once at any European Parliamentary election; or
 - (ii) in more than one electoral region at a European Parliamentary election; or
- (b) he votes in person as proxy for an elector at a European Parliamentary 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 European Parliamentary election knowing that the elector has already voted in person at the election.

(5) A person shall also be guilty of an offence if he votes at a European Parliamentary election as proxy for more than two persons of whom he is not the husband, wife, parent, grandparent, brother, sister, child or grandchild.

(6) A person shall also be guilty of an offence 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 paragraphs of this regulation.

(7) For the purposes of this regulation 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 paragraph (5), a previous

application made in circumstances which entitle the applicant only to mark a tendered ballot paper shall, if he does not exercise that right, be disregarded.

(8) Where a person is alleged to have committed an offence under paragraph (3)(a)(i) or (4)(a)(i) by voting on a second or subsequent occasion at a European Parliamentary election, he shall not be deemed by virtue of paragraph (7) 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 40 (4) of the European Parliamentary election rules.

(9) An offence under this regulation shall be an illegal practice, but the court before whom a person is convicted of any such offence may, if they think it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of regulation 97.

Breach of official duty

26.—(1) If a person to whom this regulation applies is, without reasonable cause, guilty of any act or omission in breach of his official duty, he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) No person to whom this regulation applies shall be liable for breach of his official duty to any penalty at common law and no action for damages shall lie in respect of the breach by such a person of his official duty.

(3) The persons to whom this regulation applies are—

- (a) any registration officer, returning officer or presiding officer,
- (b) any official designated by a universal postal service provider, and
- (c) any deputy of a person mentioned in any of sub-paragraphs (a) and (b) or any person appointed to assist or in the course of his employment assisting a person so mentioned in connection with his official duties;

and “official duty” shall for the purposes of this regulation be construed accordingly, but shall not include duties imposed otherwise than by the law relating to European Parliamentary elections or the registration of parliamentary or local government electors.

Tampering with nomination papers, ballot papers, etc

27.—(1) A person shall be guilty of an offence if, at a European Parliamentary election, he—

- (a) fraudulently defaces or fraudulently destroys any nomination paper; or
- (b) fraudulently defaces or fraudulently destroys any ballot paper, or the official mark on any ballot paper, or any declaration of identity or official envelope used in connection with voting by post; or
- (c) without due authority supplies any ballot paper to any person; or
- (d) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorised by law to put in; or
- (e) fraudulently takes out of the polling station any ballot paper; or
- (f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election; or
- (g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts.

(2) If the returning officer, 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 is guilty of an offence under this section, he shall be liable—

- (a) on conviction on indictment to a fine, or to imprisonment for a term not exceeding 2 years, or to both;
- (b) on summary conviction, to a fine not exceeding the statutory maximum, or to imprisonment for a term not exceeding 6 months, or to both.

(3) If any other person is guilty of an offence under this regulation, he shall be liable 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.

False statement in nomination papers

28. A person is guilty of a corrupt practice if, in the case of a European Parliamentary election, he causes or permits to be included in a document delivered or otherwise furnished to the returning officer for use in connection with the 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.

Offences in connection with candidature

29. A person who makes a statement which he knows to be false in the declaration required by rule 8(1) of the European Parliamentary elections rules is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Requirement of secrecy

30.—(1) The following persons—

- (a) the returning officer and every presiding officer or clerk attending at a polling station,
- (b) every candidate or election agent or polling agent so attending,
- (c) every representative of the Electoral Commission so attending,

shall maintain and aid in maintaining the secrecy of voting and shall not, except for some purpose authorised by law, communicate to any person before the poll is closed any information as to—

- (i) the name of any elector or proxy for an elector who has or has not applied for a ballot paper or voted at a polling station;
- (ii) the number on the register of electors of any elector who, or whose proxy, has or has not applied for a ballot paper or voted at a polling station; or
- (iii) the official mark.

(2) Every person attending at the verification of the ballot paper accounts or the counting of the votes shall maintain and aid in maintaining the secrecy of voting and shall not—

- (a) ascertain or attempt to ascertain at the counting of the votes the number on the back of any ballot paper;
- (b) communicate any information obtained at the verification of the ballot paper accounts or the counting of the votes as to the way in which any vote is given on any particular ballot paper.

(3) No person attending at the verification of the ballot paper accounts shall express to any person an opinion based on information obtained at that verification as to the likely result of the election.

(4) No person shall—

- (a) interfere with or attempt to interfere with a voter when recording his vote;
- (b) otherwise obtain or attempt to obtain in a polling station information as to the way in which a voter in that station is about to vote or has voted;
- (c) communicate at any time to any person any information obtained in a polling station as to the way in which a voter in that station is about to vote or has voted, or as to the number on the back of the ballot paper given to a voter at that station;
- (d) directly or indirectly induce a voter to display his ballot paper after he has marked it so as to make known to any person the way in which he has voted.

(5) Every person attending the proceedings in connection with the issue or the receipt of ballot papers for persons voting by post shall maintain and aid in maintaining the secrecy of the voting and shall not—

- (a) except for some purpose authorised by law, communicate, 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, communicate 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, attempt to ascertain at the proceedings in connection with the receipt of ballot papers the number on the back of any ballot paper; or
- (d) attempt to ascertain at the proceedings in connection with the receipt of the ballot papers the way in which any vote is given in any particular ballot paper or communicate any information with respect thereto obtained at those proceedings.

(6) No person having undertaken to assist a voter with disabilities to vote shall communicate at any time to any person any information as to the way in which that voter intends to vote or has voted, or as to the number on the back of the ballot paper given for the use of that voter.

(7) If a person acts in contravention of this regulation he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months.

Prohibition on publication of exit polls

31.—(1) No person shall in the case of a European Parliamentary election publish before the close of the poll—

- (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.

(2) If a person acts in contravention of paragraph (1), he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding six months.

(3) In this regulation—

“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 at the election is concerned.

PART 2

The Election Campaign

Interpretation of Part 2

32.—(1) In this Part of these Regulations, unless the context otherwise requires—

“appropriate officer” means the returning officer;

“candidate” shall be construed in accordance with paragraph (2);

“committee room” does not include any house or room occupied by a candidate as a dwelling, by reason only of the candidate transacting business there 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 in it electors, committee members or others;

“date of the allowance of an authorised excuse” has the meaning given by regulation 50(8);

“declaration as to election expenses” means a declaration made under regulation 48;

“disputed claim” has the meaning given by regulation 45 as extended by regulation 46;

“election expenses”, in relation to a European Parliamentary election, shall be construed in accordance with regulations 55 to 57;

“money” and “pecuniary reward” shall (except in regulations 38, 71 and 72 and Schedule 4) be deemed to include—

- (a) any office, place or employment, and
- (b) any valuable security or other equivalent of money, and
- (c) any valuable consideration,

and expressions referring to money shall be construed accordingly;

“payment” includes any pecuniary or other reward;

“personal expenses” as used with respect to the expenditure of a candidate in relation to any European Parliamentary election includes the reasonable travelling expenses of the candidate, and the reasonable expenses of his living at hotels or elsewhere for the purposes of and in relation to the election;

“return as to election expenses” means a return (including the bills and receipts to be delivered with it) to be made under regulation 47(1).

(2) A person becomes a candidate at an election—

- (a) on the last day for publication of the notice of the election if on or before that day he is declared by himself or by others to be a candidate at the election; and
- (b) otherwise, on the day on which he is so declared by himself or by others or on which he is nominated as a candidate at the election (whichever is the earlier).

Computation of time for purposes of Part 2

33.—(1) Where the day or last day on which anything is required or permitted to be done by or in pursuance of this Part of these Regulations is any of the days mentioned in paragraph (2)—

- (a) the requirement or permission shall be deemed to relate to the first day thereafter which is not one of those days; and

(b) in computing any period of not more than 7 days for the purposes of this Part any of the days so mentioned shall be disregarded.

(2) The days referred to in paragraph (1) are Saturday, Sunday, Christmas Eve, Christmas Day, Maundy Thursday, Good Friday, a bank holiday or a day appointed for public thanksgiving or mourning.

(3) In this regulation “bank holiday”, in relation to any European Parliamentary election, means a day which is a bank holiday in Northern Ireland.

Appointment of election agent

34.—(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 appropriate officer not later than that time.

(2) A candidate may name himself as election agent, and upon doing so shall, so far as circumstances admit, be subject to the provisions of these Regulations both as a candidate and as an election agent, and, except where the context otherwise requires, any reference in these Regulations to an election agent shall be construed to refer 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 (or 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 appropriate officer.

(5) The declaration as a candidate’s election agent of a person other than the candidate shall be of no effect under this regulation unless it is made and signed by that person or is accompanied by a written declaration of acceptance signed by him.

(6) Upon the name and address of an election agent being declared to the appropriate officer, the appropriate officer shall forthwith give public notice of that name and address.

(7) In this Part of these Regulations the expression “appropriate officer” means the returning officer at a European Parliamentary election.

Appointment of sub-agent

35.—(1) An election agent for a candidate may appoint to act in any part of the electoral region one, but not more than one, deputy election agent (in these Regulations referred to as a sub-agent).

(2) As regards matters in a part of the electoral region for which there is a sub-agent the election agent may act by the sub-agent and—

(a) anything done for the purposes of these Regulations by or to the sub-agent in his part of the electoral region shall be deemed to be done by or to the election agent; and

(b) any act or default of a sub-agent which, if he were the election agent, would be an illegal practice or other offence against these Regulations shall be an illegal practice and offence against these Regulations committed by the sub-agent, and the sub-agent shall be liable to punishment accordingly.

(3) Not later than the second day before the day of the poll the election agent shall declare in writing the name and address of every sub-agent to the appropriate officer, and the appropriate officer shall forthwith give public notice of the name and address of every sub-agent so declared.

(4) The appointment of a sub-agent—

- (a) shall not be vacated by the election agent who appointed him ceasing to be election agent, but
 - (b) may be revoked by whoever is for the time being the candidate's election agent,
- 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 appropriate officer, who shall forthwith give public notice of the name and address so declared.
- (5) The declaration to be made to the appropriate officer, and the notice to be given by him, under paragraph (3) or paragraph (4) shall specify the part of the electoral region within which any sub-agent is appointed to act.
- (6) In paragraphs (2) to (4) references to an election agent are to an election agent of a candidate.

Office of election agent and sub-agent

- 36.**—(1) Every election agent and every sub-agent shall have an office to which all claims, notices, writs, summonses and legal process and other documents may be sent, and the address of the office shall be—
- (a) declared to the appropriate officer at the same time as the appointment of the agent is declared to him; and
 - (b) stated in the public notice of the name of the agent.
- (2) The office of the election agent or sub-agent shall be within the United Kingdom.
- (3) Any claim, notice, writ, summons or legal process or other 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 in respect of any matter connected with the election in which he is acting be sued in any court having jurisdiction at the place where his office is situated.
- (4) In this regulation, references to an election agent and sub-agent are to an election agent or sub-agent of a candidate.

Effect of default in election agent's appointment

- 37.**—(1) If no person's name and address is given as required by regulation 34 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 have named himself as election agent and to have revoked any appointment of another person as his election agent.
- (a) (2) (a) the person whose name and address have been so given as those of the candidate's election agent (not being the candidate himself) dies, and
 - (b) 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 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.
- (4) The deemed appointment of a candidate as his own election agent may be revoked as if it were an actual appointment.
- (5) Where a candidate is by virtue of this regulation 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.
- (6) The appropriate officer on being satisfied that a candidate is by virtue of this regulation 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 regulations 34 and 36.

Control of donations to candidates

38.—(1) In the case of any candidate at a European Parliamentary election, any money or other property provided (whether as a gift or loan)—

(a) by any person other than the candidate or his election agent, and

(b) for the purpose of meeting election expenses incurred by or on behalf of the candidate, must be provided to the candidate or his election agent.

(2) Paragraph (1) does not apply to any money or other property so provided for the purpose of meeting any such expenses which may be lawfully paid by a person other than the candidate, his election agent or any sub-agent (in the case of an election where sub-agents may be appointed).

(3) A person who provides any money or other property in contravention of paragraph (1) shall be guilty of an illegal practice.

(4) Schedule 4 shall have effect for the purpose of controlling donations to candidates.

(5) In this regulation and that Schedule “property” includes any description of property, and references to the provision of property accordingly include the supply of goods.

Payment of expenses through election agent

39.—(1) Subject to paragraph (5), no payment (of whatever nature) shall be made by—

(a) a candidate at an election, or

(b) any other person,

in respect of election expenses incurred by or on behalf of a candidate unless it is made by or through the candidate’s election agent.

(2) Every payment made by an election agent in respect of any election expenses shall, except where less than £20, be vouched for by a bill stating the particulars or by a receipt.

(3) The references in the foregoing provisions of this regulation to an election agent shall be taken as references to the election agent acting by himself or a sub-agent or a person authorised in writing by the election agent or sub-agent.

(4) All money provided by any person other than the candidate for any election expenses, whether as gift, loan, advance or deposit, shall be paid to the candidate or his election agent or sub-agent and not otherwise.

(5) This regulation does not apply to—

(a) any expenses which are, in accordance with regulations 40(1) or (2), 44(6) or 45(2), paid by the candidate;

(b) any expenses which are paid in accordance with regulation 40(4) by a person authorised as mentioned in that provision;

(c) any expenses included in a declaration made by the election agent under regulation 41; or

(d) any expenses which are to be regarded as incurred by or on behalf of the candidate by virtue of regulation 55(5)(b).

(6) A person who makes any payment (of whatever nature) in contravention of paragraph (1), or pays in contravention of paragraph (4) any money so provided as mentioned above, shall be guilty of an illegal practice.

Candidate’s personal expenses, and petty expenses

40.—(1) The candidate at a European Parliamentary election may pay any personal expenses incurred by him on account of or in connection with or incidental to the election, but the amount

which a candidate at a European Parliamentary election may pay shall not exceed £900, and where this applies any further personal expenses so incurred by him shall be paid by his election agent.

(2) The candidate at a European Parliamentary election may also pay any election expenses (other than expenses falling within paragraph (1)) which were incurred by him or on his behalf and in respect of which payment falls to be made before the date on which he appoints (or is deemed to have appointed) an election agent.

(3) The candidate shall send to his election agent within the time limited by these Regulations for sending in claims a written statement of the amount of expenses paid as mentioned in paragraph (1) or (2) by the candidate.

(4) Any person may, if so authorised in writing by an election agent or sub-agent, pay any election expenses to a total amount not exceeding that named in the authority, but any excess above that amount so named shall be paid by the agent who authorised that person.

(5) A statement of the particulars of payments made by any person so authorised shall be sent to the agent who authorised them within the time limited by these Regulations for sending in claims, and shall be vouched for by a bill containing that person's receipt and, where that agent is the sub-agent, he shall forward the statement, together with his authority, to the election agent.

(6) Regulations 44 and 45 do not apply to expenses which, in accordance with any provision of this regulation, are paid otherwise than by the candidate's election agent.

Expenses incurred otherwise than for election purposes

41.—(1) Neither regulation 39 nor regulations 44 and 45 shall apply to election expenses—

- (a) which are incurred by or on behalf of a candidate otherwise than for the purposes of the candidate's election, but
- (b) which by virtue of regulation 55(1) fall to be regarded as election expenses by reason of the property, services or facilities in respect of which they were incurred being used for the purposes of the candidate's election.

(2) The candidate's election agent shall make a declaration of the amount (determined in accordance with regulation 56) of any election expenses falling within paragraph (1).

(3) In this regulation "for the purposes of the candidate's election" has the same meaning as in regulations 55 to 57.

Prohibition of expenses not authorised by election agent

42.—(1) 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 that candidate or his views or the extent or nature of his backing or disparaging a candidate,

but sub-paragraphs (a) to (c) of this paragraph shall not—

- (i) restrict the publication of any matter relating to the election in a newspaper or other periodical or in a broadcast made by the British Broadcasting Corporation or in a programme included in any service licensed under Part I or III of the Broadcasting Act 1990⁽²⁰⁾ or Part I or II of the Broadcasting Act 1996⁽²¹⁾; or

⁽²⁰⁾ 1990 c. 42.

⁽²¹⁾ 1996 c. 55.

(ii) apply to any expenses 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.

(2) For the purposes of paragraph (1)(ii), “the permitted sum” means £5,000; and expenses shall 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 to promoting or procuring the election of the same candidate, expenses which (disregarding sub-paragraph (ii) of paragraph (1)) fall within paragraph (1).

(3) Where a person incurs any expenses required by this regulation to be authorised by the election agent—

- (a) that person shall, within 21 days after the day on which the result of the election is declared, deliver to the agent who authorised the expenses a return of the amount of them, and
- (b) the return shall be accompanied by a declaration made by that person (or in the case of an association or body of persons, by a director, general manager, secretary or other similar officer of the association or body) verifying the return and giving particulars of the matters for which the expenses were incurred,

but this paragraph does not apply to any person engaged or employed for payment or promise of payment by the candidate or his election agent.

(4) The authority of the agent who authorised the incurring of the expenses shall be annexed to and deemed to form part of the return.

(5) If a person—

- (a) incurs, or aids, abets, counsels or procures any other person to incur, any expenses in contravention of this regulation, or
- (b) knowingly makes the declaration required by paragraph (3) falsely,

he shall be guilty of a corrupt practice; and if a person fails to deliver any declaration or return as required by this regulation he shall be guilty of an illegal practice, but the court before whom a person is convicted under this paragraph may, if they think it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of regulation 97.

(6) 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 this regulation, any person who at the time of the act or omission was a director, general manager, secretary or other 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—

- (a) that the act or omission took place without his consent or connivance; and
- (b) 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.

(7) References in this regulation to an election agent include a sub-agent.

Limitation of election expenses for candidates

43.—(1) Sums paid out and election expenses incurred by or on behalf of a candidate at an election must not in the aggregate exceed the maximum amount specified in paragraph (4).

(2) The references in paragraph (1) to sums paid out and expenses incurred on behalf of a candidate include sums being paid and expenses being incurred by the election agent or by a person acting on the written authority of an election agent or sub-agent.

(3) Where any election expenses are incurred in excess of the maximum amount specified in paragraph (4), any candidate or election agent who—

- (a) incurred, or authorised the incurring of, the election expenses, and
- (b) knew or ought reasonably to have known that the expenses would be incurred in excess of that maximum amount,

shall be guilty of an illegal practice.

(4) That maximum amount is £45,000 multiplied by the number of MEPs to be returned for the electoral region at that election.

(5) The maximum amount mentioned above for a candidate at a European Parliamentary election is not required to cover the candidate's personal expenses.

Time for sending in and paying claims

44.—(1) Every claim against a candidate or his election agent in respect of election expenses which is not sent in to the agent who incurred the expense not later than 21 days after the day on which the result of the election is declared shall be barred and not paid.

(2) All election expenses shall be paid not later than 28 days after that day.

(3) Where the agent who incurred the expense is not the election agent, he shall send to that agent, forthwith on payment of the expense, the bill and a record of the fact that he has paid it and, on receiving a receipt for that payment, shall send that receipt to that agent.

(4) An election agent or the agent who incurred the expense who pays a claim in contravention of paragraph (1) or makes a payment in contravention of paragraph (2) shall be guilty of an illegal practice.

(5) The claimant or the agent or candidate who incurred the expense may apply to the High Court or to a county court for leave to pay a claim for any election expenses, although sent in after that period of 21 days or although sent in to the candidate and not to the agent who incurred the expense, and the court on cause shown to their satisfaction may by order grant the leave.

(6) Any sum specified in the order of leave may be paid by the agent or candidate who incurred the expense and when paid in pursuance of the leave shall not be deemed to be in contravention of paragraph (2); and paragraph (3) shall apply to any such payment.

(7) References in this regulation to the agent who incurred the expense are references to the election agent or sub-agent or an agent who did so on the written authority of such an agent.

Disputed claims

45.—(1) If the agent who incurred the expense disputes any claim sent in to him within the period of 21 days mentioned in regulation 44 or refuses or fails to pay the claim within the period of 28 days so mentioned, 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 agent or candidate who incurred the expense in pursuance of the judgment or order of the court shall not be deemed to be in contravention of regulation 39(1) or of regulation 44(2).

(3) Paragraphs (5) to (7) of regulation 44 apply in relation to a disputed claim as they apply in relation to a claim for election expenses sent in after that period of 21 days.

Election agent's claim

46. So far as circumstances admit, these Regulations apply to an election agent's claim for his remuneration and to its payment in like manner as if he were any other creditor, and if any difference

arises about the amount of the claim, the claim shall be a disputed claim within the meaning of these Regulations and be dealt with accordingly.

Return as to election expenses

47.—(1) Within 50 days after the day on which the result of the election is declared, the election agent of every candidate at the election shall deliver or cause to be delivered to the appropriate officer a true return containing as respects that candidate—

- (a) a statement of all election expenses incurred by or on behalf of the candidate; and
 - (b) a statement of all payments made by the election agent together with all bills or receipts relating to the payments.
- (2) A return under this regulation must—
- (a) specify the poll by virtue of which the return is required;
 - (b) specify the name of the candidate to whom the return relates and of the candidate's election agent; and
 - (c) deal under a separate heading with any expenses in respect of which a return is required by virtue of regulation 40(2).
- (3) The return shall also contain as respects that candidate—
- (a) a statement of all payments made—
 - (i) by the candidate in accordance with regulation 40(1) or (2), or
 - (ii) by any other person in accordance with regulation 40(4),
 together with all bills or receipts relating to any such payments made in accordance with regulation 40(2) or (4);
 - (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) any declarations of value falling to be made by the candidate's election agent by virtue of regulation 41(2) or 57(2);
 - (e) a declaration of the amount of expenses which are to be regarded as election expenses incurred by or on behalf of the candidate by virtue of regulation 55(5)(b);
 - (f) a statement of donations made to the candidate or his election agent which complies with the requirements of paragraphs 11 and 12 of Schedule 4; and
 - (g) a statement of the amount, if any, of money provided by the candidate from his own resources for the purpose of meeting election expenses incurred by him or on his behalf.

(4) Where after the date at which the return as to election expenses is delivered, leave is given by the court under regulation 44(5) for any claim to be paid, the agent or candidate who incurred the expenses shall, within seven days after its payment, deliver or cause to be delivered to the appropriate 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 regulation without such authorised excuse as is mentioned in regulation 50.

(5) Regulation 44(7) applies for the interpretation of paragraph (4) as it applies for the interpretation of regulation 44.

Declarations as to election expenses

48.—(1) The return delivered under regulation 47(1) shall be accompanied by a declaration made by the election agent in the appropriate form.

(2) At the same time that the election agent delivers or causes to be delivered that return, or within seven days afterwards, the candidate shall deliver or cause to be delivered to the appropriate officer a declaration made by him in the appropriate form.

(3) For the purposes of paragraphs (1) and (2), “the appropriate form” is the form in Schedule 5.

(4) Where the candidate is out of the United Kingdom when the return is so delivered—

(a) the declaration required by paragraph (2) may be made by him within 14 days after his return to the United Kingdom, and

(b) in that case, the declaration shall be forthwith delivered to the appropriate officer,

but the delay authorised by this provision in making the declaration shall not exonerate the election agent from complying with the provisions of these Regulations relating to the return and declaration as to election expenses.

(5) 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 Schedule 5.

(6) If a candidate or election agent knowingly makes the declaration required by this regulation falsely, he shall be guilty of a corrupt practice.

Penalty for failure as respects return or declarations

49. Subject to the provisions of regulation 50, if a candidate or election agent fails to comply with the requirements of regulation 47 or regulation 48 he shall be guilty of an illegal practice.

Authorised excuses for failures as to return and declarations

50.—(1) A candidate or his election agent may apply for relief under this regulation to—

(a) the High Court;

(b) an election court; or

(c) a county court.

(2) Where a person makes an application under this regulation he shall notify the Director of Public Prosecutions for Northern Ireland of the application and the Director or his assistant or any barrister, advocate 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.

(3) Relief under this regulation may be granted—

(a) to a candidate, in respect of any failure to deliver the return and declarations as to election expenses, or any part of them, or in respect of any error or false statement in them; or

(b) to an election agent, in respect of the failure to deliver the return and declarations which he was required to deliver, or any part of them, or in respect of any error or false statement in them.

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

(a) by reason of the applicant’s illness; 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 applicant's part.

(5) The court may—

- (a) after such notice of the application in the electoral region as it considers fit, and
- (b) on production of such evidence of the grounds stated in the application and of the good faith of the application, and otherwise, as it considers fit,

make such order for allowing an authorised excuse for the failure, error or false statement as it considers just.

(6) An order under paragraph (5) may make the allowance conditional on the making of the return and declaration in a modified form or within an extended time, and upon the compliance with such other terms as to the court seem best calculated for carrying into effect the objects of this Part of these Regulations.

(7) An order under paragraph (5) shall relieve the applicant for the order from any liability or consequences under these Regulations 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 these Regulations as the date of the allowance of the excuse.

Court's power to require information from election agent or sub-agent

51.—(1) Where on an application under regulation 50 it appears to the 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 to comply with the provisions of these Regulations as to the return or declarations as to election expenses, the court, before making an order under that regulation, 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—

- (a) to make the return and declaration, or
- (b) to deliver a statement of the particulars required to be contained in the return,

as the court considers just, within such time, to such person and in such manner as it 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 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) References in this regulation to the election agent or sub-agent include a person authorised in writing by the election agent or any sub-agent to incur election expenses.

Duty of appropriate officer to forward returns and declarations to Electoral Commission

52. Where the appropriate officer receives any return or declaration under regulations 42, 47 or 48 in respect of a European Parliamentary election he shall as soon as reasonably practicable after receiving the return or declaration deliver a copy of it to the Electoral Commission and, if so requested by the Electoral Commission, he shall also deliver to them a copy of any accompanying documents.

Publication of time and place for inspection of returns and declarations

53. At a European Parliamentary election—

- (a) the returning officer shall, within 10 days after the end of the time allowed for delivering to him returns as to election expenses, publish in at least one newspaper circulating in the electoral region a notice of the time and place at which the returns and declarations (including the accompanying documents) can be inspected; but
- (b) if any return or declaration has not been received by the returning officer before the notice is despatched for publication, the notice shall so state, and a like notice about that return or declaration, if afterwards received, shall within 10 days after the receipt be published in like manner.

Inspection of returns and declarations

54.—(1) Where the appropriate officer receives any return or declaration under regulation 47 (1) or 48 he shall—

- (a) as soon as reasonably practicable after receiving the return or declaration make a copy of it, and any accompanying documents, available for public inspection at his office, or some other convenient place chosen by him, for a period of 12 months beginning with the date when the return is received by him;
- (b) if requested to do so by any person, and on payment of the prescribed fee, supply that person with a copy of the return or declaration and any accompanying documents.

(2) If any such return contains a statement of donations in accordance with regulation 47(3)(f), the appropriate officer shall secure that the copy of the statement made available for public inspection under paragraph (1)(a) or (as the case may be) supplied under paragraph (1)(b) does not include, in the case of any donation by an individual, the donor's address.

(3) After the expiry of those 12 months the appropriate officer may cause those returns and declarations (including the accompanying documents) to be destroyed.

Meaning of “election expenses”

55.—(1) In this Part of these Regulations “election expenses”, in relation to a candidate at an election, means (subject to paragraphs (2) and (3) and regulations 56 and 57) any expenses incurred in respect of—

- (a) the acquisition or use of any property, or
- (b) the provision by any person of any goods, services or facilities,

which is or are used for the purposes of the candidate's election after the date when he becomes a candidate at the election.

(2) Paragraph (1) applies whether the expenses are incurred before or after that date.

(3) No election expenses shall be regarded as incurred, by virtue of paragraph (1) or (2) or regulations 56 and 57, in respect of—

- (a) the payment of any deposit required by rule 9 of the European Parliamentary elections rules;
- (b) the publication of any matter, other than an advertisement, relating to the election in—
 - (i) a newspaper or periodical,
 - (ii) a broadcast made by the British Broadcasting Corporation, or
 - (iii) a programme included in any service licensed under Part I or III of the Broadcasting Act 1990 or Part I or II of the Broadcasting Act 1996;
- (c) the provision of any facilities provided in pursuance of any right conferred on candidates at an election by these Regulations;

(d) the provision by any individual of his own services which he provides voluntarily in his own time and free of charge.

(4) In this regulation and in regulations 56 and 57 “for the purposes of the candidate’s election” means with a view to, or otherwise in connection with, promoting or procuring the election of a candidate at the election.

(5) For the purposes of this Part of these Regulations—

(a) election expenses are incurred by or on behalf of a candidate at an election if they are incurred—

(i) by the candidate or his election agent, or

(ii) by any person authorised by the candidate or his election agent to incur the expenses; and

(b) any reference to election expenses incurred by or on behalf of a candidate at an election includes expenses which are incurred as mentioned in sub-paragraph (a)(i) or (ii) before the date when he becomes a candidate at the election but which by virtue of paragraph (1) and (2) fall to be regarded as election expenses.

(6) In this Part, and in Part 4 of these Regulations, any reference (in whatever terms) to promoting or procuring the election of a candidate’s election at an election includes doing so by prejudicing the electoral prospects of another candidate at the election.

Incurring of election expenses for purposes of regulation 55

56.—(1) The election expenses which are to be regarded as incurred for the purposes of regulation 55(1) shall (subject to paragraph (2) and regulation 57) be the actual expenses incurred in respect of the acquisition or use of the property, or (as the case may be) the provision of the goods, services or facilities mentioned in regulation 55.

(2) Where the property, goods, services or facilities mentioned in paragraph (1) is or are not used exclusively for the purposes of the candidate’s election, the election expenses to be regarded as incurred for the purposes of regulation 55(1) shall be such proportion of the expenses incurred in respect of their acquisition, use or provision (as the case may be) as is reasonably attributable to the use of the property or (as the case may be) the goods, services or facilities for the purposes of the candidate’s election.

Property, goods, services etc provided free of charge or at a discount

57.—(1) This regulation applies where, in the case of a candidate at an election—

(a) either—

(i) property or goods is or are transferred to the candidate or his election agent free of charge or at a discount of more than 10 per cent of the market value of the property or goods, or

(ii) property, goods, services or facilities is or are provided for the use or benefit of the candidate free of charge or at a discount of more than 10 per cent of the commercial rate for the use of the property or for the provision of the goods, services or facilities, and

(b) the property, goods, services or facilities is or are made use of by or on behalf of the candidate in circumstances such that, if any expenses were to be (or are) actually incurred by or on behalf of the candidate in respect of that use, they would be (or are) election expenses incurred by or on behalf of the candidate.

(2) Where this regulation applies—

- (a) an amount of election expenses determined in accordance with this regulation (“the appropriate amount”) shall be treated, for the purposes of this Part of these Regulations, as incurred by the candidate, and
- (b) the candidate’s election agent shall make a declaration of that amount, unless that amount is not more than £50.

This paragraph has effect subject to regulation 55(3).

- (3) Where paragraph (1)(a)(i) applies, the appropriate amount is such proportion of either—
 - (a) the market value of the property or goods (where the property or goods is or are transferred free of charge), or
 - (b) the difference between the market value of the property or goods and the amount of expenses actually incurred by or on behalf of the candidate in respect of the property or goods (where the property or goods is or are transferred at a discount),

as is reasonably attributable to the use made of the property or goods as mentioned in paragraph (1)(b).

- (4) Where paragraph (1)(a)(ii) applies, the appropriate amount is such proportion of either—
 - (a) the commercial rate for the use of the property or the provision of the goods, services or facilities (where the property, goods, services or facilities is or are provided free of charge), or
 - (b) the difference between that commercial rate and the amount of expenses actually incurred by or on behalf of the candidate in respect of the use of the property or the provision of the services or facilities (where the property, goods, services or facilities is or are provided at a discount),

as is reasonably attributable to the use made of the property, goods, services or facilities as mentioned in paragraph (1)(b).

(5) Where the services of an employee are made available by his employer for the use or benefit of a candidate, then for the purposes of this regulation the commercial rate for the provision of those services shall be the amount of the remuneration and allowances payable to the employee by his employer in respect of the period for which his services are so made available (but shall not include any amount in respect of any contributions or other payments for which the employer is liable in respect of the employee).

(6) In this regulation “market value”, in relation to any property or goods, means the price which might reasonably be expected to be paid for the property or goods on a sale in the open market; and paragraph 2(6)(a) of Schedule 4 shall apply with any necessary modifications for the purpose of determining, for the purposes of paragraph (1), whether property or goods is or are transferred to a candidate or his election agent.

Candidate’s right to send election address post free

58.—(1) A candidate at a European Parliamentary election is, subject to such reasonable terms and conditions as the universal service provider concerned may specify, entitled to send free of any charge for postage which would otherwise be made by a universal service provider either—

- (a) one unaddressed postal communication, containing matter relating to the election only and not exceeding 60 grammes in weight, to each place in the electoral region which, in accordance with those terms and conditions, constitutes a delivery point for the purposes of this paragraph; or
- (b) one such postal communication addressed to each elector.

(2) A candidate is also, subject as mentioned above, entitled to send free of any such charge for postage as mentioned above to each person entered in the list of proxies for the election one

such communication as mentioned above for each appointment in respect of which that person is so entered.

(3) A person shall not be deemed to be a candidate for the purposes of this regulation unless he is shown as standing 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 regulation if he gives such security as may be required by the universal service provider concerned for the payment of postage should he not be shown as standing nominated as mentioned above.

(4) For the purposes of this regulation “elector” means a person—

- (a) who is registered in the register of electors to be used at the election in the electoral region on the last day for publication of notice of the election; and
- (b) includes a person who is registered in such a 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.

(5) In this regulation “universal service provider” has the same meaning as in the Postal Services Act 2000.

Broadcasting from outside United Kingdom

59.—(1) No person shall, with intent to influence persons to give or refrain from giving their votes at a European Parliamentary election, include, or aid, abet, counsel or procure the inclusion of, any matter relating to the election in any programmes service (within the meaning of the Broadcasting Act 1990) provided from a place outside the United Kingdom otherwise than in pursuance of arrangements made with—

- (a) the British Broadcasting Corporation; or
- (b) the holder of any licence granted by the Office of Communications,

for the reception and re-transmission of that matter by that body or the holder of that licence.

(2) An offence under this regulation shall be an illegal practice, but the court before whom a person is convicted of an offence under this regulation may, if they think it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of regulation 97.

(3) Where any act or omission of an association or body of persons, corporate or unincorporate, is an illegal practice under this regulation, any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or was purporting to act in any such capacity, shall be deemed to be guilty of the illegal practice, unless he proves—

- (a) that the act or omission took place without his consent or connivance; and
- (b) that he exercised all such diligence to prevent the commission of the illegal practice as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

Broadcasting of local items during election period

60.—(1) Each broadcasting authority shall adopt a code of practice with respect to the participation of candidates at a European Parliamentary election in items about the electoral region which are included in relevant services during the election period.

(2) The code for the time being adopted by a broadcasting authority under this section shall be either—

- (a) a code drawn up by that authority, whether on their own or jointly with one or more other broadcasting authorities, or
- (b) a code drawn up by one or more other such authorities;

and a broadcasting authority shall from time to time consider whether the code for the time being so adopted by them should be replaced by a further code falling within paragraph (a) or (b).

(3) Before drawing up a code under this section a broadcasting authority shall have regard to any views expressed by the Electoral Commission for the purposes of this regulation; and any such code may make different provision for different cases.

(4) The Office of Communications shall do all that they can to secure that the code for the time being adopted by them under this regulation is observed in the provision of relevant services; and the British Broadcasting Corporation shall observe in the provision of relevant services the code so adopted by them.

(5) For the purposes of paragraph (1) “the election period”, in relation to an election, means the period beginning with the last date for publication of notice of the election and ending with the close of the poll.

(6) In this regulation—

“broadcasting authority” means the British Broadcasting Corporation or the Office of Communications;

“candidate”, in relation to an election, means a candidate standing nominated at the election;

“relevant services”—

- (a) in relation to the British Broadcasting Corporation, means services broadcast by that body; and
- (b) in relation to the Office of Communications, means services licensed under Part I or III of the Broadcasting Act 1990 or Part I or II of the Broadcasting Act 1996.

Imitation poll cards

61. No person shall for the purpose of promoting or procuring the election of any candidate at a European Parliamentary election issue any poll card or document so closely resembling an official poll card as to be calculated to deceive, and paragraphs (2) and (3) of regulation 59 apply as if an offence under this regulation were an offence under that regulation.

Disturbances at election meetings

62.—(1) A person who at a lawful public meeting to which this regulation applies acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together shall be guilty of an illegal practice.

(2) This regulation applies to a political meeting held in the electoral region in connection with a European Parliamentary election between the last date on which notice of election may be published in accordance with the European Parliamentary elections rules and the date of the poll.

Officials not to act for candidates

63.—(1) If—

- (a) the returning officer at a European Parliamentary election, or
- (b) any officer or clerk appointed under the European Parliamentary elections rules, or
- (c) any partner or clerk of any such person,

acts as an agent of a candidate in the conduct or management of the election, he shall be guilty of an offence, but nothing in this paragraph prevents a candidate from acting as his own election agent.

(2) A person guilty of an offence under this regulation shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Illegal canvassing by police officers

64.—(1) No member of the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve shall by word, message, writing or in any other manner, endeavour to persuade any person to give, or dissuade any person from giving, his vote, whether as an elector or as proxy at any European Parliamentary election.

(2) A person acting in contravention of paragraph (1) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale, but nothing in that paragraph shall subject a member of a police force to any penalty for anything done in the discharge of his duty as a member of the force.

False statements as to candidates

65.—(1) A person who, or any director of any body or association corporate which—

- (a) before or during an election,
- (b) for the purpose of affecting the return of any candidate at the election,

makes or publishes any false statement of fact in relation to the personal character or conduct of that 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) A person making or publishing any false statement of fact as mentioned above may be restrained by interim or perpetual injunction by the High Court or the county court from any repetition of that false statement or of a false statement of a similar character in relation to the candidate and, for the purpose of granting an interim injunction, prima facie proof of the falsity of the statement shall be sufficient.

Corrupt withdrawal from candidature

66. Any person who corruptly induces or procures any other person to withdraw from being a candidate at an election, in consideration of any payment or promise of payment, and any person withdrawing in pursuance of the inducement or procurement, shall be guilty of an illegal payment.

Payments for exhibition of election notices

67.—(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 his 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—

- (a) it is the ordinary business of the elector or proxy as an advertising agent to exhibit for payment bills and advertisements; and
- (b) 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 regulation either before, during or after an election—

- (a) the person making the payment or contract, and
- (b) if he knew it to be in contravention of these Regulations, any person receiving the payment or being a party to the contract,

shall be guilty of an illegal practice.

Details to appear on election publications

68.—(1) Subject to paragraph (4), a person shall not—

- (a) print or publish, or cause 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) post or cause to be posted any such bill, placard or poster as mentioned above, or
- (c) distribute or cause to be distributed any printed document for that purpose,

unless the bill, placard, poster or document bears upon its face the name and address of the printer and publisher.

(2) For the purposes of paragraph (1), any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printing and the expression “printer” shall be construed accordingly.

(3) A candidate or election agent acting in contravention of this regulation shall be guilty of an illegal practice, and any other person so acting shall on summary conviction be liable to a fine not exceeding level 5 on the standard scale.

(4) Where any act or omission would satisfy the requirements of paragraphs (5) to (10), that act or omission shall be deemed to be lawful despite paragraphs (1) to (3).

(5) The provisions of this paragraph and paragraphs (6) to (15) apply to any material which—

- (a) is, or is contained in, such a document as is mentioned in paragraph (8), (9) or (10); and
- (b) can reasonably be regarded as intended to promote or procure the election of a candidate at an election (whether or not it can be so regarded as intended to achieve any other purpose as well).

(6) No material to which paragraph (5) applies shall be published unless the requirements of paragraph (8), (9) or (10) are complied with.

(7) For the purposes of paragraphs (8) to (10) the following details are “the relevant details” in the case of any material falling within paragraph (5), namely—

- (a) the name and address of the printer of the document;
- (b) the name and address of the promoter of the material; and
- (c) the name and address of any person on behalf of whom the material is being published (and who is not the promoter).

(8) Where the material is a document consisting (or consisting principally) of a single side of printed matter, the relevant details must appear on the face of the document.

(9) Where the material is a printed document other than one to which paragraph (8) applies, the relevant details must appear either on the first or the last page of the document.

(10) Where the material is an advertisement contained in a newspaper or periodical—

- (a) the name and address of the printer of the newspaper or periodical must appear either on its first or last page; and
- (b) the relevant details specified in paragraph (7)(b) and (c) must be included in the advertisement.

(11) Where any material falling within paragraph (5) is published in contravention of paragraph (6), and paragraph (3) does not apply then (subject to paragraphs (12) and (13))—

- (a) the promoter of the material,

- (b) any other person by whom the material is so published, and
- (c) the printer of the document,

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

- (12) It shall be a defence for a person charged with an offence under paragraph (11) to prove—
- (a) that the contravention of paragraph (6) arose from circumstances beyond his control; and
 - (b) that he took all reasonable steps, and exercised all due diligence, to ensure that that contravention would not arise.

(13) Where a candidate or his election agent would (apart from this paragraph) be guilty of an offence under paragraph (11), he shall instead be guilty of an illegal practice.

- (14) In paragraphs (5) to (15)—

- “print” means print by whatever means, and “printer” shall be construed accordingly;
- “the promoter”, in relation to any material to which this regulation applies, means the person causing the material to be published;
- “publish” means make available to the public at large, or any section of the public, in whatever form and by whatever means.

(15) For the purpose of determining whether any material is material such as is mentioned in paragraph (5), it is immaterial that it does not expressly mention the name of any candidate.

Prohibition of paid canvassers

69. If a person is, either before, during or after a European Parliamentary election, engaged or employed for payment or promise of payment as a canvasser for the purpose of promoting or procuring the election of a candidate—

- (a) the person so engaging or employing him, and
- (b) the person so engaged or employed,

shall be guilty of illegal employment.

Providing money for illegal purposes

70. Where a person knowingly provides money—

- (a) for any payment which is contrary to the provisions of these Regulations, or
- (b) for any expenses incurred in excess of the maximum amount allowed by these Regulations, or
- (c) 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 regulation 98 to be an exception, that person shall be guilty of an illegal payment.

Bribery

71.—(1) A person shall be guilty of a corrupt practice if he is guilty of bribery.

(2) 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 mentioned above on account of any voter having voted or refrained from voting, or
- (c) makes any such gift or procurement as mentioned above to or for any person in order to induce that person to procure, or endeavour to procure, the return of any person at a European Parliamentary election or the vote of any voter,

or if upon or in consequence of any such gift or procurement as mentioned above he procures or engages, promises or endeavours to procure the return of any person at a European Parliamentary election or the vote of any voter.

For the purposes of this paragraph—

- (i) references to giving money 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 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.

(3) A person shall be guilty of bribery if he advances or pays or causes to be paid any money to or for the use of any other person with the intent that that money or any part of it shall be expended in bribery at any European Parliamentary 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.

(4) The foregoing provisions of this regulation shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses incurred in good faith at or concerning a European Parliamentary election.

(5) A voter shall be guilty of bribery if before or during a European Parliamentary 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.

(6) A person shall be guilty of bribery if after a European Parliamentary 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.

(7) In this regulation the expression “voter” includes any person who has or claims to have a right to vote.

Treating

72.—(1) A person shall be guilty of a corrupt practice if he is guilty of treating.

(2) A person shall be guilty of treating if he corruptly, by himself or by any other person, either before, during or after a European Parliamentary election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing, any meat, 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
- (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.

(3) Every elector or his proxy who corruptly accepts or takes any such meat, drink, entertainment or provision shall also be guilty of treating.

Undue influence

- 73.—(1) A person shall be guilty of a corrupt practice if he is guilty of undue influence.
- (2) 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 for an elector, or so compels, induces or prevails upon an elector or proxy for an elector either to vote or to refrain from voting.

Rights of creditors

74. The provisions of this Part of these Regulations prohibiting—
- (a) payments and contracts for payments,
 - (b) the payment or incurring of election expenses in excess of the maximum amount allowed by these Regulations; or
 - (c) the incurring of expenses not authorised by the election agent,

do 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 these Regulations.

Savings as to European Parliamentary elections

75. Nothing in this Part makes it illegal for an employer to permit European Parliamentary electors or their proxies to absent themselves from his employment for a reasonable time for the purpose of voting at the poll at a European Parliamentary election without having any deduction from their salaries or wages on account of their absence, if the permission—

- (a) is (so far as practicable without injury to the employer's business) given equally to all persons alike who are at the time in his employment, and
- (b) is not given with a view to inducing any person to record his vote for any particular candidate at the election, and
- (c) is not refused to any person for the purpose of preventing him from recording his vote for any particular candidate at the election,

but this regulation shall not be construed as making illegal any act which would not be illegal apart from this regulation.

PART 3

Vacancies

By-elections

- 76.—(1) Subject to paragraph (3) below, where the Secretary of State has—
- (a) received information of a vacancy in the seat of an MEP from the European Parliament under Article 12(2) of the Act annexed to Council Decision 76/787, or
 - (b) informed the European Parliament under that Article that a vacancy exists,

a by-election shall be held to fill the vacancy.

(2) The period within which the poll at that by-election must take place is six months from the occurrence of the event specified in paragraph (1)(a) or (b) above, as the case may be.

(3) Paragraph (1) above shall not apply where the event specified in sub-paragraph (a) or (b) of that paragraph occurred less than six months before the Thursday of the period of the next general election of MEPs.

(4) That period is the one during which the next general election would take place in accordance with Article 10(2) of the Act annexed to Council Decision 76/787.

PART 4

Legal Proceedings

Interpretation of Part 4

77. In this Part of these Regulations, unless the context otherwise requires—

“appropriate officer” means the returning officer;

“candidate” has the same meaning as in Part 2 of these Regulations;

“costs” includes charges and expenses;

“date of the allowance of an authorised excuse” has the meaning assigned to it by regulation 50(8);

“declaration as to election expenses” means a declaration made under regulation 48;

“judicial office” includes the office of justice of the peace;

“Licensing Order” means the Licensing (Northern Ireland) Order 1996(22) and any enactment amending that Order;

“money” and “pecuniary reward” shall be deemed to include—

- (a) any office, place or employment, and
- (b) any valuable security or other equivalent of money, and
- (c) any valuable consideration,

and expressions referring to money shall be construed accordingly;

“payment” includes any pecuniary or other reward;

“prescribed” means prescribed by rules of court under section 55 of the Judicature (Northern Ireland) Act 1978(23);

“return as to election expenses” means a return made under regulation 47.

Computation of time for purposes of Part 4

78. Regulation 33 applies in computing any period of time for the purposes of this Part of these Regulations as for the purposes of Part 2 of these Regulations.

Method of questioning European Parliamentary elections

79.—(1) No European Parliamentary election and no declaration of the result by the returning officer under rule 60 of the European Parliamentary elections rules shall be questioned except by a

(22) S.I. 1996/3158 (N.I. 22).

(23) 1978 c. 23.

petition complaining of an undue election or undue declaration ("a European Parliamentary election petition") presented in accordance with this Part of these Regulations.

(2) A petition complaining that no declaration of the result has been given by the returning officer shall be deemed to be a European Parliamentary election petition and the High Court—

- (a) may make such order on the petition as they think expedient for compelling a declaration to be made; or
- (b) may allow the petition to be heard by an election court as provided with respect to ordinary European Parliamentary election petitions.

(3) No European Parliamentary election petition may be brought on the grounds of the commission of corrupt or illegal practices, except those in regulations 23 and 25.

(4) No European Parliamentary election petition may be brought where an application may be made under section 11 of the 2002 Act.

Presentation and service of European Parliamentary election petitions

80.—(1) A European 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) If the petition complains of the conduct of the returning officer, the officer in question shall be deemed to be the respondent, together with any MEP returned at the election.

(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.

(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, who shall forthwith publish it in the electoral region.

(5) The petition shall be served in such manner as may be prescribed.

Time for presentation or amendment of European Parliamentary election petition

81.—(1) Subject to the provisions of this regulation, a European Parliamentary election petition shall be presented within 21 days after the day on which the relevant result was declared in accordance with rule 60 of the European Parliamentary elections rules.

(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 by the MEP or on his account or with his privity since the time of that declaration of the result of the election in pursuance or in furtherance of the alleged corrupt practice, it may be presented within 28 days after the date of the payment.

(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) within 21 days after the day specified in paragraph (4); or
- (b) if specifically alleging a payment of money or some other act to have been made or done since the day so specified by the MEP 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 that alleged illegal practice, within 28 days after the date of the payment or other act.

(4) The day referred to in paragraph (3) is the tenth day after the end of the time allowed for delivering to the returning officer returns as to election expenses at the election or, if later—

- (a) that on which the returning officer receives the return and declarations as to election expenses by that MEP and 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 paragraph (1) or (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 paragraph (3).

(6) Paragraphs (3), (4) and (5) apply—

- (a) notwithstanding that the act constituting the alleged illegal practice amounted to a corrupt practice; and
- (b) to a corrupt practice under regulation 42, as if it were an illegal practice.

Constitution of election court and place of trial

82.—(1) A European Parliamentary election petition shall be tried by two judges on the rota for the trial of parliamentary election petitions, and the judges for the time being on that rota shall, unless they otherwise agree, try the European Parliamentary election petitions standing for trial according to their seniority, and the judges presiding at the trial of a European Parliamentary election petition are hereinafter referred to as the election court.

(2) The election court has, subject to the provisions of these Regulations, the same powers, jurisdiction and authority as a judge of the High Court and shall be a court of record.

Judges' expenses

83. In relation to the trial of a European Parliamentary election petition, the travelling and other expenses of the judges and all expenses properly incurred in providing them with necessary accommodation and with a proper court shall be defrayed by the Treasury out of moneys provided by Parliament.

Security for costs

84.—(1) At the time of presenting a European Parliamentary 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.

The security shall be such amount not exceeding £5,000 as the High Court or a judge of the High Court directs on an application made by the petitioner; 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.

(2) Within the prescribed time after giving the security the petitioner shall serve on the respondent in the prescribed manner—

- (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.

(3) Within a further prescribed time, 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.

(4) An objection to a recognisance shall be decided in the prescribed manner.

(5) If the objection is allowed, the petitioner may within a further prescribed time, 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.

(6) If no security is given as required by this regulation or any objection is allowed and not removed as mentioned above, no further proceedings shall be had on the petition.

Petition at issue

85.—(1) The petition shall be at issue as from the relevant time, as defined by paragraph (2).

(2) In this regulation “the relevant time” means—

(a) where the petitioner gives the security for costs required by regulation 84 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 regulation 84(3) expires, or

(ii) if such an objection is made, that objection is disallowed or removed,

whichever happens later.

List of petitions

86.—(1) The prescribed officer shall—

(a) as soon as may be, make out a list of all election petitions at issue presented to the court of which he is officer, placing them in the order in which they were presented, and

(b) keep at his office a copy of the list, open to inspection in the prescribed manner.

(2) The petitions shall, so far as convenient, be tried in the order in which they stand in the list.

(3) Two or more candidates may be made respondents to the same petition, and their cases may be tried at the same time, but for the purposes of this Part of these Regulations the 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, all those petitions shall be bracketed together in the election list and shall be dealt with as one petition, standing, unless the High Court otherwise direct, in the election list in the place where the last of them would have stood if it had been the only petition presented.

Trial of election issue

87.—(1) A European Parliamentary 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 14 days before the day of 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 European Parliamentary election petition shall be proceeded with notwithstanding that one (or more) of the respondents is no longer an MEP.

(4) 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 was not duly elected, in the same manner as if he had presented a petition against the election of that person.

(5) If the petition relates to an election conducted under the European Parliamentary elections rules and it appears 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 European Parliamentary elections rules, 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.

Witnesses

88.—(1) Witnesses shall be summoned and sworn in the same manner as nearly as circumstances admit as in an action tried in the High Court.

(2) On the trial a member of the election court may, by order signed by him, 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.

Duty to answer relevant questions

89.—(1) 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—

- (a) on the ground that the answer to it may incriminate or tend to incriminate that person or that person's husband or wife; or
- (b) on the ground of privilege.

(2) 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 that person or that person's husband or wife.

Expenses of witnesses

90.—(1) The reasonable expenses incurred by any person in appearing to give evidence at the trial of a European Parliamentary election petition, according to the scale allowed to witnesses on the trial of civil actions, may be allowed to him by a certificate of the election court or of the prescribed officer.

(2) If the witness was called and examined by virtue of regulation 88(2), the expenses referred to in paragraph (1) shall be deemed part of the expenses of providing a court, but otherwise they shall be deemed costs of the petition.

Conclusion of trial of European Parliamentary election petition

91.—(1) At the conclusion of the trial of a European Parliamentary election petition, the election court shall determine whether—

- (a) the member or members whose election is complained of were duly elected,
 - (b) some other person or persons should have been declared to be elected, or
 - (c) the election of all members for the electoral region was void,
- and the determination so certified shall be final to all intents as to the matters at issue on the petition.
- (2) The election court shall forthwith certify in writing the determination to the Secretary of State.
 - (3) If the judges constituting the election court—
 - (a) differ as to whether the MEP whose election or return is complained of was duly elected or returned, they shall certify that difference and the MEP shall be deemed to be duly elected or returned;
 - (b) determine that the MEP 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.

Special case for determination of the High Court

92.—(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 and the special case shall be heard before the High Court.

(2) In the case of a European Parliamentary election petition, the High Court shall certify to the Secretary of State its decision on the special case.

(3) If it appears to the election court on the trial of a European Parliamentary election petition that any question of law as to the admissibility of evidence or otherwise requires further consideration by the High Court, the election court may postpone the granting of a certificate until the question has been determined by the High Court, and for this purpose may reserve the question by stating a case for the decision of the High Court.

Withdrawal of petition

93.—(1) A petitioner shall not withdraw a European Parliamentary 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 electoral region.

(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.

Costs of petition

94.—(1) All costs of and incidental to the presentation of a European Parliamentary election petition and the proceedings consequent on it, except such as are by these Regulations 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.

(2) In particular—

- (a) 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
- (b) 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.

Neglect or refusal to pay costs

95.—(1) Paragraph (2) applies if, in the case of a European Parliamentary election petition, a petitioner neglects or refuses for six 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 that person or the respondent for his costs, and the neglect or refusal is, within one year after the demand, proved to the satisfaction of the High Court.

(2) Where paragraph (1) applies, every person who under these Regulations entered into a recognisance relating to that petition shall be held to be in default of the recognisance, and—

- (a) the prescribed officer shall thereupon certify the recognisance to be forfeited, and
- (b) it shall be dealt with as if forfeited by the Crown Court.

Appeals and jurisdiction

96.—(1) Subject to the provisions of these Regulations, the principles, practice and rules on which election courts act in dealing with parliamentary election petitions shall be observed, so far as may be, by the High Court and election court in the case of European Parliamentary election petitions.

(2) The High Court has, subject to the provisions of these Regulations, the same powers, jurisdiction and authority with respect to a European Parliamentary election petition and the proceedings on it as if the petition were an ordinary action within its jurisdiction.

(3) The duties to be performed in relation to European Parliamentary elections by the prescribed officer under this Part shall be performed by such officer of the Supreme Court of Judicature of Northern Ireland as the Lord Chief Justice of Northern Ireland may determine.

Persons convicted of corrupt or illegal practices

97.—(1) Subject to the provisions of paragraph (2) and regulation 102, a candidate or other person convicted of a corrupt or illegal practice—

- (a) shall during the relevant period specified in paragraph (3) be incapable of—
 - (i) being registered as an elector or voting at any parliamentary or European Parliamentary election in the United Kingdom or at any local government election in Great Britain,
 - (ii) being elected to the House of Commons or the European Parliament, or
 - (iii) holding any elective office; and
- (b) if already elected to a seat in the House of Commons or the European Parliament, or holding any such office, shall vacate the seat or office as from the date of the conviction.

(2) The incapacity imposed by paragraph (1)(a)(i) applies only to a candidate or other person convicted of a corrupt practice under regulation 23 or of an illegal practice under regulation 25.

(3) For the purposes of paragraph (1) 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.

(4) Where paragraph (1)(b) applies to any person, he shall (subject to paragraph (5)) vacate the seat or office in question at the appropriate time for the purposes of this regulation, namely—

- (a) the end of the period which is the period prescribed 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.

(5) If (before the appropriate time mentioned in paragraph (4)) 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 seat or 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 seat or 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 seat or office shall not be vacated by him).

(6) Where such a person vacates a seat or office in accordance with paragraph (4) or (5), no subsequent determination of a court that his conviction should not be upheld shall entitle him to resume the seat or office.

(7) If a person convicted of a corrupt or illegal practice has already been elected to a seat in the House of Commons or the European Parliament or to any elective office, he shall (in addition to being subject to the incapacities mentioned in paragraph (1)(a)) be suspended from performing any of his functions as a Member of Parliament or a Member of the European Parliament, or (as the case may be) any of the functions of that office, during the period of suspension specified in paragraph (8).

(8) For the purposes of paragraph (7) the period of suspension is the period beginning with the date of the conviction and ending with—

- (a) the date on which the seat or office is vacated in accordance with paragraph (4) or (5), or
- (b) where paragraph (5)(b) applies, the date on which the court determines that the conviction should not be upheld.

(9) Any incapacities or other requirement applying to a person by virtue of paragraph (1) or (7) applies in addition to any punishment imposed under regulation 99 or 100; but each of those regulations has effect subject to regulation 102.

Application for relief

98.—(1) An application for relief under this regulation may be made to the High Court or an election court or else, if in respect of a payment made in contravention of regulation 44(1) or (2), to a county court.

(2) Where a person makes an application under this regulation he shall notify the Director of Public Prosecutions for Northern Ireland of the application and the Director or his assistant or representative may attend the hearing of the application and make representations at the hearing in respect of it.

(3) If it is shown to the court by such evidence as to the court seems sufficient—

- (a) that any act or omission of any person would apart from this regulation by reason of being in contravention of these Regulations 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 electoral region as to the court seems fit,

and under 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 these Regulations of the act or omission, the court may make an order allowing the act or omission to be an exception from the provisions of these Regulations making it an illegal practice, payment, employment or hiring and upon the making of the order no person shall be subject to any of the consequences under these Regulations of that act or omission.

Prosecutions for corrupt practices

99.—(1) A person who is guilty of a corrupt practice shall be liable—

- (a) on conviction on indictment—
 - (i) in the case of a corrupt practice under regulation 23 or 24, 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.

(2) If it appears to the court by which any person holding a licence or certificate under the Licensing Order is convicted of the offence of bribery or treating that the offence was committed on his licensed premises—

- (a) the court shall direct the conviction to be entered in the proper register of licences, and
- (b) the entry shall be taken into consideration by the licensing authority in determining whether they will or will not grant a renewal of the licence or certificate, and may be a ground, if the authority think fit, for refusing its renewal.

Prosecutions for illegal practices

100. A person who is guilty of an illegal practice shall be liable—

- (a) in the case of an illegal practice under regulation 43(1), on conviction on indictment, to a fine;
- (b) in the case of any illegal practice (including the one mentioned in paragraph (a)), on summary conviction, to a fine not exceeding level 5 on the standard scale;

and on a prosecution for an illegal practice it shall be sufficient to allege that the person charged was guilty of an illegal practice.

Conviction of illegal practice on charge of corrupt practice

101. A person charged with a corrupt practice may, if the circumstances warrant such finding, be found guilty of an illegal practice (which offence shall for that purpose be an indictable offence), and a person charged with an illegal practice may be found guilty of that offence notwithstanding that the act constituting the offence amounted to a corrupt practice.

Mitigation and remission etc

102.—(1) Where—

- (a) any person is subject to any incapacity by virtue of the report of an election court, and
- (b) 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.

(2) Where any person who is subject to any incapacity as mentioned above is on a prosecution convicted of any such matters as are mentioned above, 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 so far as it is imposed by regulation 97 in respect of the matters of which he is convicted, as if the incapacity had been imposed by reason of the conviction.

(3) A court exercising any of the powers conferred by paragraphs (1) and (2) shall make an order declaring how far, if at all, the incapacities imposed by virtue of the relevant report remain unaffected by the exercise of that power, and that order shall be conclusive for all purposes.

(4) Where a person convicted of a corrupt or illegal practice is subsequently reported to have been guilty of that practice by an election court, no further incapacity shall be imposed on him under regulation 97 by reason of the report.

(5) 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 the 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.

Illegal payments

103.—(1) A person guilty of an offence of illegal payment or employment shall, on summary conviction, be liable to a fine not exceeding level 5 on the standard scale; and on a prosecution for such an offence it shall be sufficient to allege that the person charged was guilty of an illegal payment or employment as the case may be.

(2) A candidate or election agent who is personally guilty of an offence of illegal payment or employment shall be guilty of an illegal practice.

(3) Any person charged with an offence of illegal payment or employment may be found guilty of that offence, notwithstanding that the act constituting the offence amounted to a corrupt or illegal practice.

Time limit for prosecution

104.—(1) A proceeding against a person in respect of any offence under any provision contained in these Regulations shall be commenced within one year after the offence was committed, and the time so limited by this regulation shall, in the case of any proceedings under the Magistrates' Courts (Northern Ireland) Order 1981(24) for any such offence be substituted for any limitation of time contained in that Order.

(2) For the purposes of this regulation, the making of a complaint shall be deemed to be the commencement of a proceeding.

Prosecution of offences committed outside the United Kingdom

105. Proceedings in respect of an offence under these Regulations alleged to have been committed outside the United Kingdom by a Commonwealth citizen or citizen of the Union may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the United Kingdom.

Offences by associations

106. Where—

- (a) any corrupt or illegal practice or any illegal payment, employment or hiring, or
- (b) any offence under regulation 68,

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 liable to any fine or punishment imposed for that offence by these Regulations.

Evidence by certificate of holding of elections

107. On any prosecution for a corrupt or illegal practice or for any illegal payment, employment or hiring, the certificate of the returning officer at a European Parliamentary election—

- (a) that the election mentioned in the certificate was duly held, and
- (b) that the person named in the certificate was a candidate at the election,

shall be sufficient evidence of the facts stated in it.

Evidence by certificate of electoral registration

108. The certificate of the registration officer that any person is or is not, or was or was not at any particular time, duly registered in one of the officer's registers in respect of any address shall be sufficient evidence of the facts stated in it; and a document purporting to be such a certificate shall be received in evidence and presumed to be such a certificate unless the contrary is proved.

Director of Public Prosecutions

109.—(1) Where information is given to the Director of Public Prosecutions for Northern Ireland that any offence under these Regulations has been committed, it is his duty to make such inquiries and institute such prosecutions as the circumstances of the case appear to him to require.

(2) The Director by himself or by his assistant or by his representative appointed under paragraph (3) may and, if the election court so requests him, shall attend the trial of every European Parliamentary election petition.

(3) The Director may nominate a barrister or solicitor to be his representative for the purposes of this Part of these Regulations.

(4) The Director in performing any duty under these Regulations shall act in accordance with the directions (if any) given to him by the Attorney General for Northern Ireland; and any assistant or representative of the Director in performing any duty under this Part shall act in accordance with those directions (if any) and with the directions given to him by the Director.

(5) There shall be allowed to the Director and his assistant or representative for the purposes of this Part (other than his general duties under paragraph (1)) such allowances for expenses as the Treasury may approve.

(6) The costs incurred in defraying the expenses of the Director incurred for those purposes (including the remuneration of his representative) shall, in the first instance, be paid by the Treasury,

and shall be deemed to be expenses of the election court; but if for any reasonable cause it seems just to the court so to do, the court shall order all or part of those costs to be repaid to the Treasury by the parties to the petition, or such of them as the court may direct.

Costs

110.—(1) The rules of the Supreme Court of Judicature of Northern Ireland with respect to costs to be allowed in actions, causes and matters in the High Court shall in principle and so far as practicable apply to the costs of petition and other proceedings under Part 2 or this Part of these Regulations, and the taxing officer shall not allow any costs higher than would be allowed in any action, cause or matter in the High Court on a common fund basis.

(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 due from that person to the person or persons to whom they are to be paid and, if payable to the Treasury, shall be a debt due to Her Majesty and in either case may be recovered accordingly.

Service of notices

111.—(1) Any notice, legal process or other document required to be served on any person with reference to any proceeding respecting an election for the purpose of causing him to appear before the High Court, the county court, or any election court, or otherwise or of giving him an opportunity of making a statement, or showing cause, or being heard by himself before any court for any purpose of this Part of these Regulations may be served—

- (a) by delivering it to that person, or by leaving it at, or sending it by post by a registered letter or by the recorded delivery service, to his last known place of abode in the electoral region; or
- (b) if the proceeding is before any court in such other manner as the court may direct.

(2) In proving service by post under this regulation it shall be sufficient to prove that the letter was prepaid, properly addressed, and registered or recorded with the postal operator (within the meaning of the Postal Services Act 2000) concerned.

PART 5

Miscellaneous

Public notices and declarations

112.—(1) A public notice required by or under these Regulations to be given by the returning officer for a European Parliamentary election shall be given by posting the notice in some conspicuous place or places in the electoral region and may also be given in such other manner as he thinks desirable for publicising it.

(2) Any person before whom a declaration is authorised to be made under these Regulations may take the declaration.

Remuneration for free postal services provided under the Regulations

113.—(1) This regulation applies where any postal services are provided without charge by a universal service provider in pursuance of these Regulations.

(2) The universal service provider shall be entitled to be remunerated for having provided the services at the rate fixed in relation to them by virtue of a scheme under section 89 of the Postal Services Act 2000.

(3) A sum which a universal service provider is entitled to receive by virtue of this regulation shall be charged on, and issued out of, the Consolidated Fund.

(4) In this regulation “postal services” and “universal service provider” have the same meanings as in the Postal Services Act 2000.

Rateability of premises

114.—(1) The use of any premises for the holding of public meetings in furtherance of any person’s candidature at any European Parliamentary election shall not render any person liable to be rated or to pay any rate for the premises.

(2) The use of a room in an unoccupied house by the returning officer for the purpose of taking the poll or conducting the count does not render a person liable to be rated or to pay any rate for the house.

Combination of polls

115. Where the poll at a European Parliamentary election is to be taken together with the poll at a parliamentary or local election under section 15(1) or (2) of the 1985 Act, the European Parliamentary elections rules in Schedule 1, and the provisions with respect to absent voting in Schedule 2, shall have effect subject to the modifications in Schedule 6.

Revocation

116. The instruments listed in column 1 of Schedule 7 (which have the references listed in column 2) are hereby revoked to the extent indicated in column 3 of that Schedule.

Northern Ireland Office
2004

One of Her Majesty’s Principal Secretaries of
State