

SCHEDULES

SCHEDULE 2

Section 17

ELECTION OF ADDITIONAL MEP

Interpretation

- 1 In this Schedule—
- “list of candidates”, in relation to a registered party, means the list of candidates that accompanied the party’s nomination paper for the general election of members of the European Parliament held on 4 June 2009, in accordance with rules 6 and 7 of the European Parliamentary elections rules in Schedule 1 to the European Parliamentary Elections Regulations 2004 (S.I. 2004/293);
 - “MEP” means a Member of the European Parliament;
 - “nominating officer”, in relation to a registered party, has the meaning given by section 5(5) of the 2002 Act;
 - “registered party” has the meaning given by section 2(10) of the 2002 Act.

Allocation to a registered party

- 2 (1) The returning officer for the West Midlands electoral region must ascertain the registered party to which the additional seat provided for by section 16 falls to be allocated in accordance with section 17(1).
- (2) In the following provisions, that registered party is referred to as “the qualifying party”.
- 3 (1) The returning officer must ascertain from the qualifying party’s list of candidates the name and address of the person whose name appears highest on that list (“the first choice”), disregarding the name of any person who has been returned as an MEP or who has died.
- (2) The returning officer must take such steps as the returning officer considers reasonable to contact the first choice to ask whether he or she will—
- (a) state in writing that he or she is willing and able to be returned as an MEP, and
 - (b) deliver a certificate, signed by or on behalf of the nominating officer of the qualifying party, stating that he or she may be returned as that party’s MEP.
- 4 (1) This paragraph applies where—
- (a) within such period as the returning officer considers reasonable, the returning officer decides that steps taken to contact the first choice have been unsuccessful,
 - (b) the first choice has not provided to the returning officer, within such period as the returning officer considers reasonable, the statement and certificate referred to in paragraph 3(2), or

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- (c) the first choice has provided to the returning officer a statement in writing that he or she is not willing or able to be returned as an MEP.
 - (2) The returning officer must ascertain from the qualifying party's list of candidates the name and address of the person whose name appears next in the qualifying party's list of candidates ("the subsequent choice"), disregarding the name of any person who has died.
 - (3) The returning officer must take such steps as the returning officer considers reasonable to contact the subsequent choice to ask the question in paragraph 3(2) (a) and (b).
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- (1) This paragraph applies where—
 - (a) within such period as the returning officer considers reasonable, the returning officer decides that the steps taken to contact the subsequent choice have been unsuccessful,
 - (b) the subsequent choice has not provided to the returning officer, within such period as the returning officer considers reasonable, the statement and certificate referred to in paragraph 3(2), or
 - (c) the subsequent choice has provided to the returning officer a statement in writing that he or she is not willing or able to be returned as an MEP.
 - (2) The returning officer must repeat the procedure under paragraph 4(2) and (3) until—
 - (a) the seat is filled, or
 - (b) there are no more names on the qualifying party's list of candidates.
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- Where—
- (a) the returning officer has, in accordance with this Schedule, asked a subsequent choice the questions in paragraphs 3(2)(a) and (b), and
 - (b) a person who was previously asked those questions ("the prior choice") then provides the statement and certificate referred to in that paragraph,
- the statement and certificate provided by the prior choice are to have no effect unless and until any of the circumstances described in paragraph 5(1)(a), (b) or (c) apply in respect of the subsequent choice.
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- (1) Where, on being asked under paragraphs 3 to 5 by the returning officer, a person whose name appears on the qualifying party's list of candidates provides the statement and certificate referred to in paragraph 3(2)(a) and (b), the returning officer must—
 - (a) declare in writing that person to be returned as an MEP, and
 - (b) prepare a statement containing the information specified in subparagraph (2).
 - (2) The statement must specify—
 - (a) the total number of valid votes (as notified to the returning officer) given to each registered party at the general election of members of the European Parliament held on 4 June 2009, and
 - (b) the number of votes which each party to which a seat has been allocated had after the application of subsections (5) to (9) of section 2 of the 2002 Act (including that section as applied by section 17(1)) at any stage when a seat was allocated to the party.
 - (3) The returning officer must—

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- (a) give public notice of a declaration given and a statement prepared under this paragraph, and
- (b) send a copy of the notice and statement to the Secretary of State.

By-election if seat not filled from qualifying party's list of candidates

- 8 (1) This paragraph applies where the additional seat cannot be filled in accordance with paragraphs 3 to 7.
- (2) The returning officer must notify the Secretary of State that the seat cannot be filled in accordance with paragraphs 3 to 7.
- (3) A by-election is to be held to fill the seat.
- (4) The by-election is to take place on a day specified by order of the Secretary of State.
- (5) The by-election is to be conducted in accordance with regulations made under the 2002 Act.
- 9 (1) An order under paragraph 8(4) is to be made by statutory instrument.
- (2) A statutory instrument containing such an order is to be laid before Parliament after being made.