
STATUTORY INSTRUMENTS

2004 No. 293

The European Parliamentary Elections Regulations 2004

PART 1

GENERAL

Citation, commencement and extent

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

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

(3) They shall extend to England, Wales, Scotland and Gibraltar.

Interpretation

2.—(1) 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⁾;

“1986 (Scotland) Regulations” means the Representation of the People (Scotland) Regulations 1986⁽³⁾;

“2000 Act” means the Political Parties, Elections and Referendums Act 2000⁽⁴⁾;

“2001 Franchise Regulations” means the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001⁽⁵⁾;

“2001 Regulations” means the Representation of the People (England and Wales) Regulations 2001⁽⁶⁾;

“2001 (Scotland) Regulations” means the Representation of the People (Scotland) Regulations 2001⁽⁷⁾;

“2002 Act” means the European Parliamentary Elections Act 2002;

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

“the absent voters list” means, in relation to any election, the list kept under paragraph 5 of Schedule 2 to these Regulations;

“Accession State” means any of the following states—

(a) the Czech Republic,

(1) 1983 c. 2.

(2) 1985 c. 50

(3) S.I.1986/1111 (S. 93), to which there are amendments not relevant to these Regulations.

(4) 2000 c. 41; which was amended by S.I. 2004/366.

(5) S.I. 2001/1184, which was amended by S.I. 2003/1557. Other amendments are not relevant to these Regulations.

(6) S.I. 2001/341, which was amended by 2002/881 and S.I. 2001/1700. Other amendments are not relevant to these Regulations.

(7) S.I. 2001/497 (S. 2), which was amended by S.I. 2002/881 and S.I. 2001/1749(S. 11). Other amendments are not relevant to these Regulations.

- (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,
- (h) the Republic of Poland,
- (i) the Republic of Slovenia, or
- (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⁽⁸⁾;

“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⁽⁹⁾, and “relevant citizen of the Union” means such a citizen who is not a Commonwealth citizen or a citizen of the Republic of Ireland;

“the City” means the City of London;

“Combination of Polls Regulations” means the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004⁽¹⁰⁾;

“Common Council” means the Common Council of the City;

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

“election” means a European Parliamentary election;

“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” means 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⁽¹¹⁾;

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

“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;

⁽⁸⁾ O. J. L 278, 08.10.1976, p. 21 (Cmnd. 6623).

⁽⁹⁾ The reference to the Treaty is to it as renumbered in accordance with the Treaty of Amsterdam (Cmnd. 3780).

⁽¹⁰⁾ S.I. 2004/294.

⁽¹¹⁾ Section 3 was amended by Schedule 2 to the Representation of the People Act 2000 (c. 2).

“list” means a list of candidates submitted by a registered party to accompany its nomination for election;

“local counting area” means any of the following—

- (a) a parliamentary constituency wholly or partly comprised in an electoral region in England, or in Wales or Scotland, or
- (b) Gibraltar;

“the list of proxies” has, in relation to any election, the meaning given by paragraph 3(4)(c) of Schedule 2 to these Regulations;

“mayoral election” means an election conducted under the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002(12);

“national election agent” means the person appointed under regulation 33;

“nominating officer” means the person registered under the 2000 Act as the officer with responsibility for the matters referred to in section 24(3) of that Act in respect of a registered party;

“overseas elector” means a person falling within subsection (2) of section 8 of the 2002 Act by virtue of paragraph (b) of that subsection or, in Gibraltar, a person falling within section 16(2) of the 2003 Act;

“overseas elector’s declaration” has the meaning given by section 2 of the 1985 Act or, in relation to Gibraltar, paragraph 15 of Schedule 4;

“person” includes (without prejudice to the provisions of the Interpretation Act 1978(13)) an association corporate or unincorporate;

“proper officer” in England and Wales means a proper officer within the meaning of section 270(3) and (4) of the Local Government Act 1972(14), or in Scotland section 235(5) of the Local Government (Scotland) Act 1973(15);

“referendum” means a referendum conducted under the Local Authorities (Conduct of Referendums) (England) Regulations 2001(16);

“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,
- (c) a register under regulation 5 of the 2001 Franchise Regulations, and
- (d) the Gibraltar register(17),

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

“registered party” means a party registered under Part 2 of the 2000 Act;

“registration officer” means an officer appointed under section 8 of the 1983 Act(18) or, in relation to Gibraltar, the clerk of the House of Assembly of Gibraltar(19);

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

(12) S.I. 2002/185; which was amended by S.I. 2004/225.

(13) 1978 c. 30.

(14) 1972 c. 70.

(15) 1973 c. 65.

(16) S.I. 2001/1298; which was amended by S.I. 2004/226.

(17) See section 14(1) of the European Parliament (Representation) Act 2003 (c. 7).

(18) Section 8 was amended by Schedules 16 and 18 to the Local Government (Wales) Act 1994 (c. 19) and Schedule 13 to the Local Government (Scotland) Act 1994 (c. 39).

(19) See section 14(2) of the European Parliament (Representation) Act 2003 (c. 7).

“sub-agent” has the meaning given by regulation 35(1) in relation to registered parties under Part 2 of the 2000 Act or regulation 39(1) in relation to individual candidates;

“Treaty of Athens” means the Treaty signed at Athens on 16th April 2003⁽²⁰⁾ 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⁽²¹⁾); 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.

(2) Part 1 of these Regulations shall (subject to any express provision contained in it) apply to the City as if the City were a London Borough and the Common Council were a London borough council.

For the purposes of this paragraph the Inner Temple and the Middle Temple shall be treated as forming part of the City.

(3) The modifications made by paragraph (2) do not affect regulation 19(3).

General application in relation to local government elections in England and Wales

3. In the application of these Regulations in relation to England and Wales, as respects local government elections—

“the 1999 Act” means the Greater London Authority Act 1999;

“Assembly constituency” has the same meaning as in the 1999 Act (see section 2(4) and (5) of that Act);

“Authority election” means—

- (a) any election of the Mayor of London;
- (b) any election of a constituency member of the London Assembly; or
- (c) the election of the London members of the London Assembly at an ordinary election;

“constituency member”, in relation to the London Assembly, has the same meaning as in the 1999 Act;

“election of a constituency member of the London Assembly” means—

- (a) any such election at an ordinary election; or
- (b) an election under section 10 of the 1999 Act (election to fill a vacancy in an Assembly constituency);

“election of the Mayor of London” means—

- (a) any such election at an ordinary election; or
- (b) an election under section 10 of the 1999 Act (election to fill a vacancy in the office of Mayor of London);

“electoral area” means—

⁽²⁰⁾ O.J. L 236, 23.09.2003.

⁽²¹⁾ 2000 c. 26.

- (a) any electoral division or ward or, in the case of a parish or community in which there are no wards, the parish or community, for which the election of councillors is held under the local government Act;
- (b) Greater London, in the case of—
 - (i) any election of the Mayor of London; or
 - (ii) the election of the London members of the London Assembly at an ordinary election;
- (c) any Assembly constituency for which the election of a constituency member of the London Assembly is held;

“local authority” means the Greater London Authority, a county council, a county borough council, a district council, a London borough council or a parish or community council;

“local government Act” means the Local Government Act 1972⁽²²⁾;

“local government area” means Greater London, a county, county borough, London borough, district, parish or community;

“local government election” means—

- (a) the election of councillors for any electoral area; or
- (b) any Authority election; and

“London member”, in relation to the London Assembly, has the same meaning as in the 1999 Act.

General application to Scotland

4.—(1) This regulation has (in addition to any express application elsewhere in these Regulations) effect for the general application of these Regulations to Scotland, and accordingly—

“electoral area”, in relation to a local government election, means the electoral ward for which the election is held;

“local authority” means a council constituted under section 2 of the Local Government etc (Scotland) Act 1994⁽²³⁾;

“local government area” means the area of a local authority; and

“local government election” means an election of councillors by local government electors for an electoral area.

(2) For a reference to the High Court substitute a reference to the Court of Session and for a reference to the county court or a judge of that court substitute a reference to the sheriff.

(3) The power conferred by regulation 22 on the Court of Session to make acts of sederunt for the appointment of judges to hear appeals under that regulation or to fill any vacancy among the judges so appointed is not required to be exercised by statutory instrument.

(4) For a reference to the Director of Public Prosecutions or the Attorney General substitute a reference to the Lord Advocate.

(5) For a reference to a plaintiff or defendant substitute respectively a reference to a pursuer or defender, for a reference to a recognisance substitute a reference to a bond of caution and for a reference to an injunction substitute a reference to an interdict.

(6) For a reference to the register of licences substitute a reference to the register kept in pursuance of section 20 of the Licensing (Scotland) Act 1976.

⁽²²⁾ 1972 c. 70.

⁽²³⁾ 1994 c. 39.

General application to Gibraltar

5.—(1) This regulation has (in addition to any express application elsewhere in these Regulations) effect for the general application of these Regulations to Gibraltar.

(2) “Gibraltar court”, as respects any purpose, means the court determined by or under the law of Gibraltar to be the court for that purpose.

(3) Except where the contrary intention appears, any reference to—

(a) a level of a fine on the standard scale shall be construed as a reference to that level on the standard scale pursuant to section 189 of, and Schedule 6 to, the Criminal Procedure Ordinance; and

(b) a fine not exceeding the statutory maximum shall be construed as a reference to a fine not exceeding level 5 on the standard scale pursuant to section 189 of, and Schedule 6 to, that Ordinance.

(4) Where reference is made to a time of day, in Gibraltar that reference shall be taken to be the time of day in Gibraltar (and in the United Kingdom that time shall be taken to be the time of day in the United Kingdom) unless otherwise stated.

(5) References in these Regulations to a named Ordinance are to the Gibraltar Ordinance of that name.

Conduct of poll and count in each local counting area

6.—(1) The local returning officer for each local counting area wholly or partly comprised in an electoral region shall be responsible for—

(a) the conduct of the poll in that area;

(b) unless the returning officer otherwise directs, the printing of the ballot papers;

(c) the issue and receipt of postal ballot papers for electors in that area and their proxies;

(d) the verification of the ballot paper accounts; and

(e) the counting of the votes given in that area.

(2) Subject to paragraph (3), the local returning officer for a local counting area shall be the person who, in relation to a parliamentary election, is the acting returning officer (in England and Wales) or the returning officer (in Scotland) for the parliamentary constituency which is coterminous with the local counting area.

(3) The local returning officer pursuant to section 6(5A)(b) of the 2002 Act⁽²⁴⁾ shall be the local returning officer for the Gibraltar local counting area.

Deputies and assistance

7.—(1) A returning officer and a local returning officer may, in writing, appoint deputies to discharge all or any of the functions imposed on them under these Regulations or the provisions applied by these Regulations.

(2) A 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

8.—(1) Every 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.

(24) Subsection 5A was inserted by section 20(1) and (3) of the European Parliament (Representation) Act 2003 (c. 7).

(2) Subject to paragraph (4), 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.

(4) In Gibraltar the polling districts and polling places designated for each district shall be the same as those used or designated for House of Assembly elections.

Rules for European Parliamentary elections and general duty of returning officers and local returning officers

9.—(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 and the local 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) The returning officer may give to any local returning officer for a local counting area in the electoral region for which he acts directions relating to the discharge of his functions, including directions requiring the provision to him of any information which that person has or is entitled to have.

(4) It shall be the duty of any local returning officer to whom directions are given under paragraph (3) to discharge his functions in accordance with the directions.

(5) No European Parliamentary election shall be declared invalid by reason of any act or omission by the returning officer, local 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.

Absent voting

10. Schedule 2, which makes provision with respect to the manner of voting at elections, and in particular absent voting, shall have effect.

Combination of polls

11. Where the poll at a European Parliamentary election is to be taken together with—

- (a) the poll at a parliamentary or local government election under section 15(1) or (2) of the 1985 Act; or
- (b) the poll at a mayoral election or a referendum in accordance with regulations made under sections 44 and 105 or 45 and 105 of the Local Government Act 2000(25),

or two or more such polls, the European Parliamentary elections rules shall have effect subject to—

(25) 2000 c. 22. Section 44 was amended by paragraphs 18 (1) and (2) of Schedule 21 to, and section 45 was amended by paragraphs 18 (1), (3) and (4) to Schedule 21 to, the Political Parties, Elections and Referendums Act 2000 (c. 41).

- (i) in England and Wales, the modifications in Part 1 of Schedule 3 to these Regulations, and
- (ii) in Scotland, the modifications in Part 2 of that Schedule.

Entitlement to registration and legal incapacity to vote in Gibraltar

12. Schedule 4, which makes provision as to—

- (a) legal incapacity to vote in Gibraltar as an elector at a European Parliamentary election; and
- (b) entitlement to registration in the Gibraltar register,

shall have effect.

Modification of the 2003 Act and these Regulations for 2004 elections in relation to citizens of Accession States

13. The provisions of the 2003 Act and 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 5 to these Regulations.

Title of returning officers and local returning officers

14. A European Parliamentary election is not liable to be questioned by reason of a defect in the title, or want of title, of the person presiding at or conducting the election, if that person was then in actual possession of, or acting in, the office giving the right to preside at or conduct the election.

Payments by and to returning officers and local returning officers

15.—(1) A returning officer or local 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 or local 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 or local returning officer concerned 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(26) 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 charged on and paid out of the Consolidated Fund on an account being submitted to the Secretary of State, but the Secretary of State may if he thinks fit before payment, apply for the account to be taxed under the provisions of regulation 16.

(7) Where the superannuation contributions required to be paid by a local authority in respect of any person are increased by any fee paid under this regulation as part of a returning officer's or local returning officer's charges at a European Parliamentary election, then on an account being submitted to the Secretary of State a sum equal to the increase shall be charged on and paid out of the Consolidated Fund to the authority.

(8) On the returning officer's or local 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.

(9) Regulations 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 a returning officer's or local returning officer's charges, and may include different provision for different cases, circumstances or areas.

(10) 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 and local returning officer's account

16.—(1) An application for a returning officer's or local returning officer's account to be taxed shall be made—

- (a) where the account relates to an election in an electoral region in England or Wales, to the county court,
- (b) where the account relates to an election in Scotland, to the Auditor of the Court of Session,
- (c) where the account is the account of the local returning officer for the Gibraltar local counting area, to the Gibraltar court,

and in this regulation the expression "the court" means that court or Auditor.

(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 or local 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.

(4) In paragraph (1)(a), the reference to an account which relates to an electoral region in England shall be construed as including a reference to an account which relates to the whole of the combined region.

Effect of registers

17.—(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;
 - (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⁽²⁷⁾, the 15th October immediately preceding the date of publication of the register;
 - (b) in relation to a person registered in the Gibraltar register, the date on which an application for registration is made or treated as having been made by virtue of paragraph 6 of Schedule 4;
 - (c) 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⁽²⁸⁾.
- (4) In the case of Gibraltar electors—
- (a) omit paragraph (2)(b)(ii); and
 - (b) in paragraph (2)(b)(iii) for “British citizen”, substitute “Commonwealth citizen”.

Effect of misdescription

18. 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,

⁽²⁷⁾ Section 13 was amended by paragraphs 1 and 6 of Schedule 1 to the Representation of the People act 2000 (c. 2).

⁽²⁸⁾ Section 4 was amended by section 1(2) of the Representation of the People act 2000 (c. 2).

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

19.—(1) Any of the duties and powers of a registration officer may be performed and exercised by any deputy for the time being approved by the council which appointed the registration officer, and the provisions of these Regulations apply to any such deputy so far as respects any duties or powers to be performed or exercised by him as they apply to the registration officer.

(2) In England and Wales, any acts authorised or required to be done by or with respect to the registration officer may, in the event of his incapacity to act or of a vacancy, be done by or with respect to the proper officer of the council by whom the registration officer was appointed.

(3) It shall be the duty—

- (a) in England, of a district council or London borough council,
- (b) in Wales, of a county or county borough council, and
- (c) in Scotland, of every local authority,

to assign such officers to assist the registration officer as may be required for carrying out his functions under these Regulations.

(4) This regulation shall apply as respects the European Parliamentary electoral registration officer for Gibraltar with the following modifications—

- (a) in paragraph (1), for “approved by the council which appointed the registration officer”, substitute “appointed for that purpose by the clerk to the House of Assembly for Gibraltar”;
- (b) in paragraph (2)—
 - (i) for “In England and Wales”, substitute “In Gibraltar”; and
 - (ii) for the words from “the proper officer” to the end, substitute “any deputy appointed under paragraph (1)”; and
- (c) in paragraph (3), insert after sub-paragraph (c)—
 - “(d) in Gibraltar, the Government of Gibraltar.”.

Payment of expenses of registration

20.—(1) Any expenses properly incurred by a registration officer in the performance of his functions under these Regulations (in these Regulations referred to as “registration expenses”) shall be paid by the local authority by whom the registration officer was appointed.

(2) Any fees paid to the registration officer under these Regulations shall be accounted for by him and paid to the local authority by whom he was appointed.

(3) On the request of a registration officer for an advance on account of registration expenses the local authority by whom the registration officer was appointed may, if they think fit, make such an advance to him of such an amount and subject to such conditions as they may approve.

(4) Any registration expenses or contributions to them paid by the Common Council shall be paid out of the general rate and any sums paid to the Common Council under this regulation shall be placed to the credit of that rate.

(5) This regulation does not apply to the European Parliamentary electoral registration officer for Gibraltar.

Registration appeals: England and Wales

21.—(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.

(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) No appeal lies from the decision of the Court of Appeal on appeal from a decision of the county court under this regulation.

(4) An appeal to the county court or Court of Appeal 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 of the appeal.

(5) Notice shall be sent to the registration officer in manner provided by rules of court of the decision of the county court or of the Court of Appeal on any appeal by virtue of this regulation.

(6) The registration officer shall undertake such duties in connection with appeals brought by virtue of this regulation as are set out in paragraph 21 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.

(7) In paragraph (2) “prescribed” means prescribed by paragraph 21 of Schedule 2.

(8) This regulation applies to Gibraltar subject to the following modifications—

- (a) any reference to the county court shall be construed as a reference to the Gibraltar court; and
- (b) any reference to the Court of Appeal shall be construed as a reference to the Gibraltar Court of Appeal.

Registration appeals: Scotland

22.—(1) Regulation 21 applies to Scotland subject to the following modifications—

- (a) paragraph (3) shall be omitted;
- (b) an appeal lies on any point of law from any decision of the sheriff under this regulation to the court of three judges constituted under paragraph (2); and
- (c) for any reference to the Court of Appeal there shall be substituted a reference to that court of three judges.

(2) The court for hearing appeals under sub-paragraph (b) of paragraph (1) shall consist of three judges of the Court of Session who shall be appointed by the Court of Session by act of sederunt and of whom one judge shall be appointed from each division of the Inner House and one from the Lords Ordinary in the Outer House; and the Principal Clerk of Session shall be clerk of the court.

(3) The Court of Session may by act of sederunt fill any vacancy in the court of three judges, and regulate its sittings and forms of process so as to carry out the provisions of these Regulations; and acts of sederunt under this regulation may be made, and the court of three judges may sit, either during the sitting of the Court of Session or in vacation or recess.

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.

Other voting offences

24.—(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 in the same electoral region at any European Parliamentary election; or
 - (ii) in more than one electoral region at a European Parliamentary election, or
 - (iii) in any electoral region 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 in any electoral region without applying for the cancellation of a previous appointment of a third person then in force in respect of that or another electoral

region or without withdrawing a pending application for such an appointment in respect of that or another electoral region.

- (4) A person shall be guilty of an offence if—
- (a) he votes as proxy for the same elector either—
 - (i) more than once in the same electoral region 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 in any electoral region 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) 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 107.

Breach of official duty

25.—(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 sheriff clerk, registration officer, returning officer, local 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) to (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

- 26.—(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 the list of candidates submitted by a registered party; 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) In Scotland, a person shall be guilty of an offence if—
- (a) at a European Parliamentary election, he forges any nomination paper, delivers to the returning officer any nomination paper knowing it to be forged, or forges or counterfeits any ballot paper or the official mark on any ballot paper; or
 - (b) he fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts.
- (3) If a returning officer, a local 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.
- (4) 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

27. 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 a returning officer for use in connection with the election a statement of the name or home address of a candidate at the election which he knows to be false in any particular.

Offences in connection with candidature

28.—(1) A person who makes a statement which he knows to be false in the declaration required by rule 9(2) 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 or, in Gibraltar, not exceeding £1000.

- (2) A person who, at a general election of MEPs—
- (a) consents to nomination as an individual candidate in more than one electoral region,

- (b) consents to nomination as an individual candidate in an electoral region and consents to being nominated in a list submitted by a registered party, whether in that region or some other,
- (c) consents to being nominated in the list submitted by more than one registered party in the same region, or
- (d) consents to being nominated in the lists submitted by a registered party or parties for more than one region,

is guilty of an illegal practice.

Requirement of secrecy

29.—(1) The following persons—

- (a) every local 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

30.—(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 6 months.

(3) In this regulation—

“close of the poll” means, in the case of a general election of MEPs, the close of the polling in the Member State whose electors are the last to vote in the election;

“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 registered party or individual candidate at the election is or are concerned.

PART 2

THE ELECTION CAMPAIGN

Interpretation of Part 2

31.—(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) below;

“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;

“declaration as to election expenses” means a declaration made under regulation 52;

“disputed claim” has the meaning given by regulation 49(1) as extended by regulation 50;

“election expenses”, in relation to a European Parliamentary election, shall be construed in accordance with regulations 60 to 62;

“individual candidate” means a person to whom paragraph (2)(b) applies;

“money” and “pecuniary reward” shall (except in regulations 42, 77 and 78 and Schedule 6 to these Regulations) 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; and

“return as to election expenses” means a return (including the bills and receipts to be delivered with it) to be made under regulation 51(1).

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

- (a) in the case of a person included in the list of candidates of a registered party to accompany its nomination for election, on the day on which the list is submitted by the party; or
- (b) in the case of a person not included in the list of candidates of a registered party to accompany its nomination for election—
 - (i) 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
 - (ii) 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

32.—(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) in relation to the combined region, a day which is a bank holiday under the Banking and Financial Dealings Act 1971(29) in England and Wales or a Bank or Public Holiday in Gibraltar not otherwise falling within paragraph (2);
- (b) in relation to an electoral region other than the combined region, a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom in which the electoral region is situated.

Election agents of registered parties

Appointment of national election agent of registered party

33.—(1) This regulation applies where, at a general election of MEPs, the nominating officer of a registered party (in accordance with the European Parliamentary elections rules) nominates, or authorises the nomination of, that party to stand for election in more than one electoral region.

(2) Not later than the latest date for the delivery of notices of withdrawal for an election, that officer shall name himself, or some other person, as the party's national election agent.

(3) The name and address of the person so named shall be declared in writing by or on behalf of the party's nominating officer to the Secretary of State not later than that time.

(4) One national election agent only shall be appointed for each registered party but the appointment (whether or not the national election agent appointed is the party's nominating officer) may be revoked.

(5) If (whether before, during or after the general election of MEPs) the appointment or deemed appointment of a national election agent is revoked or a national election agent dies, another national election agent shall be appointed forthwith and his name and address declared to the Secretary of State.

(6) The declaration as a party's national election agent of a person other than the nominating officer of that party 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.

(7) Upon the name and address of a national election agent being declared to the Secretary of State, the Secretary of State shall forthwith give public notice of that name and address.

(8) Where for any reason the nominating officer of a registered party is unable to act, functions conferred on him by this regulation shall be discharged by—

- (a) the person registered as leader of that party under the 2000 Act, or
- (b) where that person is also the nominating officer, the person who holds some other office in the party and is registered in pursuance of it under section 24 of that Act.

(9) In the following provisions of these Regulations, except regulations 38 to 41—

- (a) any reference to an election agent shall, in the case of a registered party to which this regulation applies, be construed as a reference to a national election agent, and
- (b) any reference to the election agent of a candidate shall, in the case of a registered party to which this regulation applies, be construed as a reference to that party's national election agent.

Appointment of election agent by a registered party standing in one electoral region only

34.—(1) This regulation applies where a registered party is nominated for election in one electoral region only.

(2) Not later than the latest date for the delivery of notices of withdrawal for an election, the nominating officer of a registered party shall name himself, or some other person, as the party's election agent.

(3) The name and address of the person so named shall be declared in writing by or on behalf of the party's nominating officer to the appropriate officer not later than that time.

(4) One election agent only shall be appointed for each registered party, but the appointment (whether or not the election agent appointed is the party's nominating officer) may be revoked.

(5) 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 to the appropriate officer.

(6) The declaration as a party's election agent of a person other than the nominating officer of that party 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.

(7) 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.

(8) Regulation 33(8) above applies for the purposes of this regulation as it applies for the purposes of that regulation.

(9) In the following provisions of these Regulations, except regulations 38 to 41, any reference to the election agent of a candidate shall, in the case of a registered party to which this regulation applies, be construed as a reference to that party's election agent.

Appointment of sub-agent for registered parties

35.—(1) A national election agent or a person authorised by him may appoint to act in any electoral region one, but not more than one, deputy election agent and in any part of an electoral region one, but not more than one, deputy election agent (referred to in these Regulations as a sub-agent).

(2) An election agent of a registered party may appoint to act in any part of the electoral region one, but not more than one, deputy election agent (referred to in these Regulations as a sub-agent).

(3) As regards matters in the area for which there is a sub-agent, the election agent (including the national 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 area shall be deemed to be done by or to the election agent (including the national election agent); and
- (b) any act or default of a sub-agent which, if he were the election agent (including the national 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.

(4) Not later than the fifth day before the day of the poll (calculated in accordance with regulation 32) the national election agent or a person acting on his behalf or, as the case may be, the election agent shall declare in writing to the returning officer—

- (a) the name and address of every sub-agent, and
- (b) the area for which he is appointed to act.

(5) The appointment of a sub-agent shall not be vacated by the national election agent or, as the case may be, the election agent who appointed him ceasing to be such an agent.

(6) The appointment of a sub-agent may be revoked by whoever is for the time being the national election agent or, as the case may be, election agent.

(7) Where the appointment of a sub-agent is revoked or the sub-agent dies, another sub-agent may be appointed, and the national election agent or a person acting on his behalf or, as the case may be, the election agent shall forthwith declare in writing to the returning officer—

- (a) the name and address of the sub-agent, and
- (b) the area for which he is appointed to act.

(8) On receipt of a declaration under paragraph (4) or (7) above, the returning officer shall forthwith give public notice of the name, address and area so declared.

(9) References in this regulation to an election agent are to the election agent of a registered party.

Office of agents of registered parties

36.—(1) Every national election agent, every election agent and every sub-agent of a registered party shall have an office to which all claims, notices, writs, summonses and documents may be sent.

(2) The office of a national election agent shall be in the United Kingdom and shall be—

- (a) declared to the Secretary of State 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.

(3) The office of the election agent or sub-agent of a registered party shall be within the United Kingdom or, in the case of a party standing for election in the combined region, Gibraltar and 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.

(4) Any claim, notice, writ, summons or document delivered at the address of the national election agent, election agent or sub-agent and addressed to him, shall be deemed to have been served on him and every national election agent, 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.

Effect of default in appointment of agents of registered parties

37.—(1) If no person's name and address are given as required by—

- (a) regulation 33 as the national election agent of a registered party, or
- (b) regulation 34 (where regulation 33 does not apply) as the election agent of a registered party for an electoral region,

by the latest time for delivery of notices of withdrawals, the nominating officer shall be deemed to have named himself as the national election agent or, as the case may be, the election agent and to have revoked any appointment of another person as that agent.

(2) If—

- (a) the person whose name and address have been so given as those of the party's national election agent or, as the case may be, election agent (not being the party's nominating officer) dies, and
- (b) a new appointment is not made on the day of the death or the following day,

the party's nominating officer shall be deemed to have appointed himself as from the time of the death to the office in question.

(3) If the appointment of a party's national election agent or, as the case may be, election agent is revoked without a new appointment being made, the party's nominating officer shall be deemed to have been appointed (or re-appointed) to the office in question.

(4) The deemed appointment of a nominating officer as his party's national election agent or, as the case may be, election agent may be revoked as if it were an actual appointment.

(5) Regulation 33(8) applies for the purposes of this regulation as it applies for the purposes of that regulation.

(6) Where a party's nominating officer or officer determined under regulation 33(8), as applied by paragraph (5) above, is by virtue of this regulation to be treated as the party's national election agent or, as the case may be, election agent, he shall be deemed to have his office at the address registered under the 2000 Act as the party's headquarters (or, if it has no headquarters, the address to which communications to the party may be sent).

(7) On being satisfied that a party's nominating officer or officer determined under paragraph (5) above is by virtue of this regulation to be treated as—

- (a) the party's national election agent, or
- (b) the party's election agent,

the Secretary of State or the appropriate officer (as the case may be) shall forthwith proceed to publish the like notice as if that officer's name and address and the address of his office had been duly given to him under regulations 33 and 36 or, as the case may be, regulations 34 and 36.

Election agents of individual candidates

Appointment of election agent for individual candidate

38.—(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 individual candidate as the individual candidate's election agent, and the name and address of the individual candidate's election agent shall be declared in writing by the individual candidate or some other person on his behalf to the appropriate officer not later than that time.

(2) An individual 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 an individual 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 individual candidate acting in his capacity of election agent.

(3) One election agent only shall be appointed for each individual candidate, but the appointment, whether the election agent appointed be the individual 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 an individual candidate's election agent of a person other than the individual 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.

Appointment of sub-agent for individual candidate

39.—(1) An election agent for an individual 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 fifth 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 individual 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 an individual candidate.

Office of election agent and sub-agent for individual candidate

40.—(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 elections agent or sub-agent shall be within the United Kingdom or, in the case of a candidate standing for election in the combined region, Gibraltar.

(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 an individual candidate.

Effect of default in election agent's appointment

41.—(1) If no person's name and address is given as required by regulation 38 as the election agent of an individual candidate who remains validly nominated at the latest time for delivery of notices of withdrawals, the individual 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.

(2) If—

- (a) the person whose name and address have been so given as those of the individual candidate's election agent (not being the individual candidate himself) dies, and
- (b) a new appointment is not made on the day of the death or on the following day, the individual candidate shall be deemed to have appointed himself as from the time of death.

(3) If the appointment of an individual candidate's election agent is revoked without a new appointment being made, the individual candidate himself shall be deemed to have been appointed (or re-appointed) election agent.

(4) The deemed appointment of an individual candidate as his own election agent may be revoked as if it were an actual appointment.

(5) Where an individual 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 an individual 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 individual candidate and the address of his office had been duly given to him under regulations 38 and 40.

*Election expenses***Control of donations to individual candidates**

42.—(1) In the case of any individual 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.

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

(4) Schedule 6 to these Regulations shall have effect for the purpose of controlling donations to individual 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 of individual candidates through election agent

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

- (a) an individual candidate at an election, or
- (b) any other person,

in respect of election expenses incurred by or on behalf of an individual 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 individual 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 44(1) or (2), 48(6) or 49(2), paid by the individual candidate;
- (b) any expenses which are paid in accordance with regulation 44(4) by a person authorised as mentioned in that provision;
- (c) any expenses included in a declaration made by the election agent under regulation 45; or
- (d) any expenses which are to be regarded as incurred by or on behalf of the individual candidate by virtue of regulation 60(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.

Individual candidate's personal expenses, and petty expenses

44.—(1) An individual 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 the candidate 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) An individual 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 48 and 49 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 of individual candidate incurred otherwise than for elections purposes

45.—(1) Neither regulation 43 nor regulations 48 and 49 shall apply to election expenses—

- (a) which are incurred by or on behalf of an individual candidate otherwise than for the purposes of the candidate's election, but
- (b) which by virtue of regulation 60(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 individual candidate's election agent shall make a declaration of the amount (determined in accordance with regulation 61) 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 60 to 62.

Prohibition of expenses of individual candidate not authorised by election agent

46.—(1) No expenses shall, with a view to promoting or procuring the election of an individual 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 registered party or its candidates or an independent candidate,

but 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, by Sianel Pedwar Cymru, by the Gibraltar Broadcasting Corporation or in a programme included in any service licensed under Part 1 or 3 of the Broadcasting Act 1990⁽³⁰⁾ or Part 1 or 2 of the Broadcasting Act 1996⁽³¹⁾; or
- (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 sub-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 (1)(ii)) 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 individual candidate or his election agent.

⁽³⁰⁾ 1990 c. 42, which was amended by section 360 of, and Schedules 15 and 19 to, the Communications Act 2003 (c. 21).

⁽³¹⁾ 1996 c. 55, which was amended by Schedules 15 and 19 to the Communications Act 2003 (c. 21).

(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 107.

(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 individual candidates

47.—(1) Sums paid out and election expenses incurred by or on behalf of an individual 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 an individual 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 a 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 an individual candidate at a European Parliamentary election is not required to cover the individual candidate's personal expenses.

Time for sending in and paying claims: individual candidates

48.—(1) Every claim against an individual 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 of an individual candidate 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 individual 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 individual 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.

(8) In the application of this regulation to Gibraltar, for the reference in paragraph (5) to the High Court or a county court, substitute a reference to the Gibraltar court.

Disputed claims: individual candidates

49.—(1) If the agent who incurred the expense disputes any claim sent in to him within the period of 21 days mentioned in regulation 48 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, including, in Gibraltar, the Gibraltar court, and any sum paid by the agent or individual 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 43(1) or of regulation 48(2).

(3) If the defendant in the action admits his liability but disputes the amount of the claim, that amount shall, unless the court on the claimant's application otherwise directs, be forthwith referred for taxation—

- (a) to a Circuit judge nominated under subsection (1)(a) of section 68 of the Supreme Court Act 1981(32), or
- (b) to the master, registrar or other proper officer of the court, or
- (c) in an action in a Gibraltar court, the registrar,

and the amount found due on the taxation shall be the amount to be recovered in the action in respect of the claim.

(4) Paragraphs (5) to (7) of regulation 48 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

50. 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: individual candidates

51.—(1) Within 50 days after the day on which the result of the election is declared, the election agent of every individual 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) under a separate heading with any expenses in respect of which a return is required by virtue of regulation 46(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 44(1) or (2), or
 - (ii) by any other person in accordance with regulation 44(4),together with all bills or receipts relating to any such payments made in accordance with regulation 44(2) or 44(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, county court or Gibraltar court;
 - (d) any declarations of value falling to be made by the candidate's election agent by virtue of regulation 45(2) or 62(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 60(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 6 to these Regulations; 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 48(5) for any claim to be paid, the agent of the 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 55.

(5) Regulation 48(7) applies for the interpretation of paragraph (4) as it applies for the interpretation of regulation 48.

Declarations as to election expenses: individual candidates

52.—(1) A return delivered under regulation 51(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 7 to this Act.

(4) Where the candidate is out of the United Kingdom or, in the case of an individual candidate resident in Gibraltar standing for election in the combined region, Gibraltar 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 or Gibraltar (as the case may be), 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 7.

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

Return as to personal expenses: candidates on party lists

53.—(1) Within 50 days after the day on which the result of the election is declared, every candidate on the list of a registered party shall deliver or cause to be delivered to the appropriate officer a true return containing as respects that candidate a statement of all personal expenses incurred by him on account of or incidental to the election.

(2) If a candidate knowingly makes the return required by this regulation falsely, he shall be guilty of a corrupt practice.

Penalty for failure as respects return or declarations: individual candidates

54. Subject to the provisions of regulation 55 if an individual candidate or election agent fails to comply with the requirements of regulation 51 or regulation 52 he shall be guilty of an illegal practice.

Authorised excuses for failures as to return and declarations: individual candidates

55.—(1) An individual 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 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) In the application of this regulation to Gibraltar, for the reference in paragraph (1) to a county court, substitute a reference to the Gibraltar court.

(9) Where a person makes an application under this regulation to the Gibraltar court, references in paragraph (2) to the Director of Public Prosecutions shall be construed as references to the Attorney General for Gibraltar.

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

56.—(1) Where on an application under regulation 55 it appears to the court that any person who is or has been an election agent or sub-agent of an individual candidate 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

57. Where the appropriate officer receives any return or declaration under regulations 46, 51, 52 or 53 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 Commission, he shall also deliver to them a copy of any accompanying documents.

Publication of time and place for inspection of returns and declarations

58.—(1) 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 for which the election was held 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.

(2) In the application of this regulation to the combined region, for the words “the electoral region” substitute “that part of the region which is in England and in at least one newspaper circulating in that part which is in Gibraltar”.

Inspection of returns and declaration

59.—(1) Where the appropriate officer receives any return or declaration under regulations 51(1) or 52 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 51(3)(f), the appropriate officer shall secure that the copy of the statement made available for public inspection under paragraph (a) or (as the case may be) supplied under paragraph (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 the returns or declarations (including the accompanying documents) to be destroyed.

Meaning of “election expenses”

60.—(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 61 and 62) 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 61 and 62, in respect of—

- (a) the payment of any deposit required by rule 10 of Schedule 1 to these Regulations;
- (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, by Sianel Pedwar Cymru or by the Gibraltar Broadcasting Corporation, or
 - (iii) a programme included in any service licensed under Part 1 or 3 of the Broadcasting Act 1990 or Part 1 or 2 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 other than facilities in respect of which expenses fall to be defrayed by virtue of regulation 67(4);
- (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 61 and 62 “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 at an election includes doing so by prejudicing the electoral prospects of another candidate or registered party at the election.

Incurring of election expenses for purposes of regulation 60

61.—(1) The election expenses which are to be regarded as incurred for the purposes of regulation 60(1) shall (subject to paragraph (2) and regulation 62) 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 60(1).

(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 60(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

62.—(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) in the case of an individual candidate, 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 60(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 6 to these Regulations 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.

General

Candidate’s right to send election address post free

63.—(1) An individual candidate and the nominating officer of a registered party which is included in the statement of parties and individual candidates nominated for the election or a person authorised in writing by that officer 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) An individual candidate and the nominating officer of a registered party which is included in the statement of parties and individual candidates nominated for the election or a person authorised in writing by that officer 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 an individual 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 an individual 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) Until the publication of the statement of parties and individual candidates nominated for the election in an electoral region, the nominating officer of a registered party or a person authorised in writing by him shall be entitled to exercise in that region 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 that party not be included in that statement as standing nominated.

(5) 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.

(6) In this regulation “universal service provider” has the same meaning as in the Postal Services Act 2000(33).

Broadcasting from outside United Kingdom

64.—(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 programme service (within the meaning of the Broadcasting Act 1990⁽³⁴⁾) or in any service which would, if Gibraltar were part of the United Kingdom, be a programme service provided from a place outside the United Kingdom and Gibraltar otherwise than in pursuance of arrangements made with—

- (a) in the United Kingdom,
 - (i) the British Broadcasting Corporation;
 - (ii) Sianel Pedwar Cymru;
 - (iii) the holder of any licence granted by the Office of Communications;
- (b) in Gibraltar, the Gibraltar Broadcasting Corporation,

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 107.

(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

65.—(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 in question 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 and the Gibraltar Regulatory Authority shall each do all that they can to secure that the code for the time being adopted by them under this regulation is observed

⁽³⁴⁾ See section 201 of the Broadcasting Act 1990 (c. 42), which was amended by paragraph 11 to Schedule 10 of the Broadcasting Act 1996 (c. 55) and sections 306(1) (a) and (b) and (2) of, and Schedule 19 to, the Communications Act 2003 (c. 21).

in the provision of relevant services; and the British Broadcasting Corporation and Sianel Pedwar Cymru shall each 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, the Office of Communications, Sianel Pedwar Cymru or the Gibraltar Regulatory Authority;

“candidate”, in relation to an election, means a candidate standing nominated at the election or included in a list of candidates submitted in connection with it;

“relevant services”—

- (a) in relation to the British Broadcasting Corporation or Sianel Pedwar Cymru, means services broadcast by that body;
- (b) in relation to the Office of Communications, means services licensed under Part 1 or 3 of the Broadcasting Act 1990 or Part 1 or 2 of the Broadcasting Act 1996; and
- (c) in relation to the Gibraltar Regulatory Authority, means services broadcast by the Gibraltar Broadcasting Corporation.

Imitation poll cards

66. No person shall for the purpose of promoting or procuring the election of a registered party or any individual 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 64 apply as if an offence under this regulation were an offence under that regulation.

Schools and rooms for European Parliamentary election meetings

67.—(1) Subject to the provisions of this regulation, a candidate at a European Parliamentary election is entitled for the purpose of holding public meetings in furtherance of his candidature or that of his party to the use free of charge at reasonable times between the last date on which notice of election may be published in accordance with the European Parliamentary elections rules and the day preceding the date of the poll of—

- (a) a suitable room in the premises of a school to which this regulation applies;
- (b) any meeting room to which this regulation applies.

(2) This regulation applies—

- (a) in England and Wales, to community, foundation and voluntary schools of which the premises are situated in the electoral region,
- (b) in Scotland, to any school of which the premises are so situated, not being an independent school within the meaning of the Education (Scotland) Act 1980; and
- (c) in Gibraltar, to a school the expense of maintaining which is payable wholly or partly out of public funds or out of any rate, or by a body whose expenses are so payable.

(3) This regulation applies to meeting rooms situated in the electoral region, the expense of maintaining which is payable wholly or mainly out of public funds or out of any rate, or by a body whose expenses are so payable.

(4) Where a room is used for a meeting in pursuance of the rights conferred by this regulation, the person by whom or on whose behalf the meeting is convened—

- (a) shall defray any expenses incurred in preparing, warming, lighting and cleaning the room and providing attendance for the meeting and restoring the room to its usual condition after the meeting; and
- (b) shall defray any damage done to the room or the premises in which it is situated, or to the furniture, fittings or apparatus in the room or premises.

(5) A candidate is not entitled to exercise the rights conferred by this regulation except on reasonable notice; and this regulation does not authorise any interference with the hours during which a room in school premises is used for educational purposes, or any interference with the use of a meeting room either for the purposes of the person maintaining it or under a prior agreement for its letting for any purpose.

(6) The provisions of Schedule 8 to these Regulations have effect with respect to the rights conferred by this regulation and the arrangements to be made for their exercise.

(7) For the purposes of this regulation (except those of paragraph (b) of paragraph (4)), the premises of a school shall not be taken to include any private dwelling, and in this regulation—

- (a) the expression “meeting room” means any room which it is the practice to let for public meetings; and
- (b) the expression “room” includes a hall, gallery or gymnasium.

Disturbances at election meetings

68.—(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 an 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.

(3) If a constable reasonably suspects any person of committing an offence under paragraph (1), he may if requested so to do by the chairman of the meeting require that person to declare to him immediately his name and address and, if that person refuses or fails so to declare his name and address or gives a false name and address, he shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale or, in Gibraltar, not exceeding £200.

Officials not to act for candidates

69.—(1) If—

- (a) any returning officer or local 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 registered party which has submitted a list, a candidate on that list or an individual candidate in the conduct or management of the election, he shall be guilty of an offence, but nothing in this paragraph prevents an individual 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 or, in Gibraltar, not exceeding £2500.

Illegal canvassing by police officers

70.—(1) No member of a police force 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 for an electoral region wholly or partly within the police area.

(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 or, in Gibraltar, not exceeding £1000, 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.

(3) In the application of this regulation to Gibraltar, the reference in paragraph (1) to the police area shall be construed as a reference to Gibraltar.

False statements as to candidates

71.—(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 registered party or individual candidate at the election,

makes or publishes any false statement of fact in relation to the personal character or conduct of a candidate on the list of that party or of that individual 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.

(3) In the application of this regulation to Gibraltar, in paragraph (2) for the reference to the county court substitute a reference to the Gibraltar court.

Corrupt withdrawal from candidature

72. Any person who corruptly induces or procures any other person to withdraw from being an individual 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

73.—(1) No payment or contract for payment shall for the purpose of promoting or procuring the election of a registered party or an individual 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

74.—(1) 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 registered party or an individual 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) Subject to paragraph (4), a candidate or election agent acting in contravention of paragraph (1) 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 be lawful by reason of—

- (a) the act being done in compliance with, or
- (b) the omission being made in reliance on,

any provisions of the new section 110 if it were substituted for paragraphs (1) to (3) with the modification in paragraph (5), it shall be deemed to be lawful.

(5) For the purposes of paragraph (4), the new section 110 shall be construed as if in subsection (1) for “candidate” there were substituted “individual candidate or a registered party”.

(6) In this regulation, “the new section 110” means the section 110 of the 1983 Act contained in paragraph 14 of Schedule 18 to the 2000 Act.

Prohibition of paid canvassers

75. 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 registered party or an individual 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

76. 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 108 to be an exception, that person shall be guilty of an illegal payment.

Bribery

77.—(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 individual candidate or registered party 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 or registered party 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

78.—(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

- 79.**—(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

- 80.** 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

81.—(1) 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 registered party or individual 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 registered party or individual candidate at the election,

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

PART 3

VACANCIES

Initial response to vacancies

82.—(1) Subject to paragraphs (2) and (5), as soon as practicable after the Secretary of State has—

- (a) received information of a vacancy in the seat of an MEP from the President of the European Parliament under the Act annexed to Council Decision 76/787, or
- (b) informed the European Parliament under that Act that a vacancy exists,

he shall send a notice in accordance with paragraph (4) to the returning officer for the electoral region in which the vacancy exists.

(2) Paragraph (1) does not apply where it appears from the declaration of the result of the election that the person whose seat is now vacant was an individual candidate.

(3) Subject to regulation 85(2), a by-election shall be held in the circumstances described in paragraph (2) to fill the vacancy and the period within which the poll at that election must take place is six months from the occurrence of the event specified in paragraph (1)(a) or (b), as the case may be.

(4) The notice referred to in paragraph (1) shall—

- (a) state that a vacancy exists, and
- (b) set out the name of the person who had been returned in the seat which is vacant, together with the name of the registered party on whose list his name was included.

(5) Paragraph (1) shall not apply where the event referred to 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.

(6) For the purpose of paragraph (5) and regulation 83(1), the period of the next general election of MEPs is that during which the next general election would take place in accordance with the Act annexed to Council Decision 76/787.

Filling of vacancies from a registered party's list

83.—(1) On receipt of a notice under regulation 82(4), the returning officer shall ascertain from the list submitted by the registered party named in the notice (“the relevant list”) 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 shall take such steps as appear to him to be reasonable to contact the first choice to ask whether he will—

- (a) state in writing that he 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 registered party which submitted the relevant list stating that he may be returned as that party's MEP.

(3) Paragraph (4) applies where—

- (a) within such period as the returning officer considers reasonable—
 - (i) he decides that the steps he has taken to contact the first choice have been unsuccessful, or
 - (ii) he has not received from the first choice the statement and certificate referred to in paragraph (2), or
- (b) the first choice has—

- (i) stated in writing that he is not willing or able to be returned as an MEP, or
- (ii) failed to deliver the certificate referred to in paragraph (2)(b).

(4) In the circumstances set out in paragraph (3), the returning officer shall repeat the procedure required by paragraph (2) in respect of the person (if any) whose name and address appears next in the relevant list (“the second choice”) or, where paragraph (3)(a) or (b) applies in respect of that person, in respect of the person (if any) whose name and address appear next highest after the second choice in that list and the returning officer shall continue to repeat the procedure until the seat is filled or the names in the list exhausted.

(5) Where a person whose name appears on the relevant list provides the statement and certificate referred to in paragraph (2), the returning officer shall (subject to paragraph (6)) declare in writing that person to be returned as an MEP.

(6) Where—

- (a) the returning officer has, in accordance with paragraph (4), asked a second or other subsequent choice the questions in paragraph (2), and
- (b) the person who was previously asked those questions then provides the statement and certificate referred to in paragraph (2),

that statement and certificate shall have no effect unless and until the circumstances described in sub-paragraph (a) or (b) of paragraph (3) apply in respect of the second or other subsequent choice.

(7) The returning officer shall give public notice of a declaration given under paragraph (5) and send a copy of it to the Secretary of State.

(8) Where the returning officer is unable to fill the seat under this regulation, he shall notify the Secretary of State that he is unable to do so.

By-election to fill certain vacancies

84.—(1) Subject to regulation 85(2), where the Secretary of State has received a notice from a returning officer under regulation 83(8), a by-election shall be held to fill that vacancy.

(2) The period within which the poll at any by-election which is required to be held under paragraph (1) must take place is six months from the date on which the Secretary of State receives the notice referred to in that paragraph.

When a by-election is not needed

85.—(1) The circumstances in which this regulation applies are where the latest date for the poll for a by-election would fall on or after the Thursday of the period of the next general election of MEPs (within the meaning of regulation 82(6)).

(2) In the circumstances in which this regulation applies, regulations 82(3) and 84(1) shall not apply and the Secretary of State shall not appoint a day for the poll for a by-election.

PART 4

LEGAL PROCEEDINGS

Interpretation of Part 4

86. 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;

“declaration as to election expenses” means a declaration made under regulation 52;

“elective office” means any office to which a local government election is held in England or Wales;

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

“Licensing Acts” means the Licensing Act 1964(35) and the Acts amending that Act, or the corresponding enactments forming part of the law of Scotland;

“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; and

“public office” in relation to Scotland means any office held in Scotland—

- (a) under the Crown, or
- (b) under the charter of a city or borough, or
- (c) under the Acts relating to local government or public health or public education,

whether the office is that—

- (i) of mayor, provost, chief magistrate, chairman, alderman, councillor, member of a board, commission or other local authority in any local government or other area; or
- (ii) of proper officer or other officer under a council, board, commission or other authority; or
- (iii) of any other office to which a person is elected or appointed under any such charter or enactment as is mentioned above, including any other municipal or parochial office; and

“return as to election expenses” means a return made under regulation 51.

Computation of time for purposes of Part 4

87. Regulation 32 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

88.—(1) No European Parliamentary election and no declaration of the result by the returning officer under rule 56 of the European Parliamentary elections rules shall be questioned except by a 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 24.

(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

89.—(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—

- (a) the returning officer,
- (b) any local returning officer,

the officer (or officers) in question shall be deemed to be the respondent (or respondents), 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—

- (a) the High Court, where it relates to the combined region or any electoral region wholly in England and Wales,
- (b) the Court of Session, where it relates to Scotland.

(4) The petition shall be presented by delivering it to the prescribed officer or otherwise dealing with it in the prescribed manner; and the prescribed officer shall send a copy of it to the returning officer of the electoral region to which the petition relates, who shall forthwith publish it in that 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

90. A European Parliamentary election petition shall be presented within 21 days after the day on which the result of the election was declared under rule 56 of the European Parliamentary elections rules.

Constitution of election court and place of trial

91.—(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 (or, in Scotland, a judge of the Court of Session presiding at the trial of a civil cause without a jury) and shall be a court of record.

(3) In the application of this regulation to a European Parliamentary election relating to the combined region, in paragraph (1), after the word “petitions”, in the first place where it occurs, insert “and a judge of the Gibraltar Supreme court”.

Judges' expenses and reception: England and Wales

92. In relation to the trial of a European Parliamentary election petition in England (including the combined region) and Wales, 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.

Judges' expenses and reception: Scotland

93. In relation to the trial of a European Parliamentary election petition in Scotland the travelling and other expenses of the judges, and of the officer or officers in attendance on them, and all expenses properly incurred in providing the judges with a proper court shall be defrayed by the Treasury out of moneys provided by Parliament.

Security for costs

94.—(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.

(2) 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; but in Scotland—

- (a) the amount mentioned above shall be such amount not exceeding £5,000 as the Court of Session or a judge of the Court of Session directs and the amount mentioned in subparagraph (b) shall be such amount not exceeding £2,500 as the election court or the sheriff directs; and
- (b) the persons finding caution for that amount may exceed four.

(3) 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.

(4) 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.

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

(6) 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.

(7) 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

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

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

- (a) where the petitioner gives the security for costs required by regulation 94 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 94(4) expires, or
 - (ii) if such an objection is made, that objection is disallowed or removed,
 whichever happens later.

Trial of election issue

96.—(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 registered parties or individual candidates at the election, and that the addition of a vote would entitle any of those registered parties or individual 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 registered parties or individual 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

97.—(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.

(5) In Scotland one of the deputies of the Lord Advocate or the procurator-fiscal of the district may, if the Lord Advocate so decides, and shall, if the election court so requests attend the trial of the petition as part of his official duty.

Duty to answer relevant questions

98.—(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—
 - (i) that person or that person’s husband or wife, or
 - (ii) in Scotland, that person; 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—

- (a) that person or that person’s husband or wife; or
- (b) in Scotland, that person.

Expenses of witnesses

99.—(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 97(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

100.—(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 that 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 differ as to any matter which they are required to determine, they shall certify that difference and, to the extent that there is such a difference, the result of the election shall stand.

Special case for determination of the High Court

101.—(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.

(4) In Scotland the decision of the Court of Session on a special case under paragraph (1) shall be final.

Withdrawal of petition

102.—(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 to which the petition relates.

(3) Where there are more petitioners than one, the application shall not be made except with the consent of all the petitioners.

(4) If a petition is withdrawn the petitioner shall be liable to pay the costs of the respondent.

Abatement of petition

103. —A European Parliamentary election petition shall be abated by the death of a sole petitioner or of the survivor of several petitioners.

(2) The abatement shall not affect the liability of the petitioner or any other person to the payment of costs previously incurred.

(3) On the abatement the prescribed notice of it shall be given in the electoral region to which the petition relates; and within the prescribed time after the notice is given, any person who might have been a petitioner in respect of the election may apply to the election court or High Court in the prescribed manner and in the prescribed time and place to be substituted as a petitioner; and the court may, if it thinks fit, substitute him accordingly.

(4) Security shall be given on behalf of a petitioner so substituted, as in the case of a new petition.

Costs of petition

104.—(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

105.—(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, or, in Scotland, the election 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,

but in Scotland the prescribed officer shall, where otherwise competent under the provisions of this paragraph—

- (i) certify that the conditions contained in the bond of caution have not been fulfilled; and
- (ii) it shall then be competent for the party or parties interested to register that bond, and do diligence upon it as accords of law.

Appeals and jurisdiction

106.—(1) No appeal lies without the special leave of the High Court from the decision of the High Court on any question of law, whether on appeal or otherwise, under the foregoing provisions of this Part of these Regulations, and if leave to appeal is granted the decision of the Court of Appeal in the case shall be final and conclusive.

(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 one or more of the masters of the Supreme Court (Queen’s Bench Division) as the Lord Chief Justice may determine.

(4) In the application of this regulation to Scotland, paragraphs (1) and (3) shall be omitted, but the duties to be performed in relation to European Parliamentary elections by the prescribed officer under this Part shall be performed by the Principal Clerk of Session.

Persons convicted of corrupt or illegal practices

107.—(1) Subject to the provisions of paragraph (2) and regulation 112, 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 registered as a European Parliamentary elector or voting at any European Parliamentary election in Gibraltar,
 - (iii) being elected to the House of Commons or the European Parliament, or
 - (iv) 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 24.

(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 by law within which notice of appeal may be given, or an application for leave to appeal may be made, by him in respect of the conviction, or
 - (b) if (at any time within that period) that period is extended—
 - (i) the end of the period as so extended, or
 - (ii) the end of the period of three months beginning with the date of the conviction, whichever is the earlier.
- (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 109 or 110; but each of those regulations has effect subject to regulation 112.
- (10) Subject to the provisions of regulation 112 but in addition to any incapacity arising by virtue of paragraph (1) or (7), a candidate or other person convicted of a corrupt practice—
- (a) shall for the period of five years beginning with the date of the conviction, be incapable of holding any public or judicial office in Scotland, and
 - (b) if already holding such an office, shall vacate it as from that date.

Application for relief

108.—(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 48(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 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.

- (4) This regulation shall apply to Gibraltar subject to the following modifications—
 - (a) in paragraph (1), for “a county court”, substitute “the Gibraltar court”;
 - (b) in paragraph (2), in the case of an application to the Gibraltar court, references in paragraph (2) to the Director of Public Prosecutions shall be construed as references to the Attorney General for Gibraltar.

Prosecution for corrupt practices

- 109.**—(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, 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 Acts 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

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

111. 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

112.—(1) Where any person is subject to any incapacity by virtue of a conviction and any witness who gave evidence against that person upon the proceeding for the conviction 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 so far as respects that person was based upon perjury, may order that the incapacity shall thenceforth cease.

(2) In the application of this regulation to Gibraltar, for “High Court” substitute “Gibraltar court”.

Illegal payments

113.—(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

114.—(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 Act 1980⁽³⁶⁾ for any such offence be substituted for any limitation of time contained in that Act.

(2) For the purposes of this regulation—

- (a) in England and Wales, the laying of an information; and
- (b) in Scotland, the granting of a warrant to apprehend or cite the accused (if, in relation to an offence alleged to have been committed within the United Kingdom, such warrant is executed without delay),

shall be deemed to be the commencement of a proceeding.

(3) In the application of this regulation to a proceeding in a Gibraltar court—

- (a) in paragraph (1), for the words “Magistrates' Courts” to the end of that paragraph, substitute “laws of Gibraltar governing proceedings before the Gibraltar court for any such offence be substituted for any limitation of time contained in those laws.”; and
- (b) in paragraph (2)(a), after “England and Wales” insert “or in Gibraltar”.

Prosecution of offences committed outside the United Kingdom

115. Proceedings in respect of an offence under these Regulations alleged to have been committed outside the United Kingdom or Gibraltar 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 or Gibraltar.

⁽³⁶⁾ 1980 c. 43.

Offences by associations

116. Where—

- (a) any corrupt or illegal practice or any illegal payment, employment or hiring, or
- (b) any offence under regulation 74,

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

117. 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, and
- (c) that a registered party named in the certificate submitted a list at the election,

shall be sufficient evidence of the facts stated in it.

Evidence by certificate of electoral registration

118. The certificate of a 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

119.—(1) Where information is given to the Director of Public Prosecutions 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) 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.

(5) 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.

(6) In the application of this regulation to Scotland, paragraphs (2) to (5) shall be omitted.

(7) In the application of this regulation to Gibraltar, in paragraph (1) the reference to the Director of Public Prosecutions shall be construed as a reference to the Attorney General for Gibraltar.

Rules of procedure

120.—(1) The authority having for the time being power to make rules of court for the Supreme Court may make rules for the purposes of Part 2 and this Part of these Regulations.

(2) In relation to the power conferred by paragraph (1) to make rules—

(a) that power shall be exercisable by statutory instrument, and be treated for the purposes of the Statutory Instruments Act 1946(37) as if conferred by an Act on a Minister of the Crown; and

(b) a statutory instrument containing rules under paragraph (1) shall be subject to annulment in pursuance of a resolution of either House of Parliament; and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

(3) The above provisions of this regulation do not apply to Scotland, but the Court of Session has power to make acts of sederunt for the purposes of Part 2 and this Part.

(4) The above provisions of this regulation do not apply to Gibraltar courts, but in those courts Gibraltar rules of court apply.

Costs

121.—(1) The rules of the Supreme Court 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.

(3) The above provisions of this regulation do not apply to Scotland, but those costs shall, subject to any provision which the Court of Session may make by act of sederunt, be taxed as nearly as possible according to the same principles as expenses between solicitor and client are taxed in a cause in the Court of Session.

(4) The above provisions of this regulation do not apply to Gibraltar courts, but those costs shall be taxed as nearly as possible according to the same principles as expenses between solicitor and client are taxed in a cause in the Gibraltar court.

Services of notices

122.—(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, as the case may be, the area of the authority for which the election was held; or

(b) if the proceeding is before any court in such other manner as the court may direct.

(37) 1946 c. 36.

(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.

(3) In the application of the above provisions to post sent in Gibraltar, references to the postal operator shall be construed as references to the Gibraltar Post Office.

(4) This regulation does not apply in respect of any proceedings before the Gibraltar court.

PART 5

MISCELLANEOUS

Public notices and declarations

123.—(1) A public notice required by or under these Regulations to be given by a 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) A public notice required by or under these Regulations to be given by a local returning officer shall be given by posting the notice in some conspicuous place or places in the local counting area and may also be given in such other manner as he thinks fit.

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

(4) In the application of paragraph (1) to the combined region, the notice shall be given by posting it in some conspicuous place or places in that part of the combined region which is in the United Kingdom and in some conspicuous place or places in that part which is in Gibraltar.

Remuneration for free postal services provided under the Regulations

124.—(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—

(a) at the rate fixed in relation to them by virtue of a scheme under section 89 of the Postal Services Act 2000; or

(b) in the case of any postal communication sent to a place or an elector in the combined region in pursuance of regulation 63 for which there is no such scheme for those services, at a rate fixed in relation to those services in accordance with paragraph (3).

(3) The rate referred to in paragraph (2)(b) must correspond substantially to the rate fixed in relation to the provision of services in pursuance of regulation 63 which would apply by virtue of a scheme under section 89 of the Postal Services Act 2000 if the whole of the combined region were in England, except that it may include an element for additional expenses associated with providing such services in the combined region.

(4) 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.

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

Application of Local Government Finance Act 1988 for European Parliamentary Elections

125. Section 65(6) of the Local Government Finance Act 1988⁽³⁸⁾ (hereditaments to be treated as unoccupied notwithstanding use for election purposes) shall apply in relation to a European Parliamentary election as it applies in relation to a parliamentary election and as though the reference in section 65(6) to a person's candidature included a reference to a registered party's; and as though the reference to a returning officer was a reference to a local returning officer.

Revocation

126. The European Parliamentary Elections Regulations 1999⁽³⁹⁾ are hereby revoked.

Signed on behalf of the Secretary of State for Constitutional Affairs

Dated 22nd March 2004

Christopher Leslie
Parliamentary Under Secretary of State
Department for Constitutional Affairs

⁽³⁸⁾ 1988 c. 41.
⁽³⁹⁾ S.I. 1999/1214.