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STATUTORY INSTRUMENTS

2006 No. 884

CONSTITUTIONAL LAW

DEVOLUTION, WALES

REPRESENTATION OF THE PEOPLE

**The National Assembly for Wales (Representation
of the People) (Amendment) Order 2006**

Made - - - - 22nd March 2006

Coming into force in accordance with article 1(1)

The Secretary of State for Wales, in exercise of the powers conferred upon him by Section 11 of the Government of Wales Act 1998⁽¹⁾ and after consulting the Electoral Commission ⁽²⁾, makes the following order, a draft of which has been laid before, and approved by, a resolution of each House of Parliament.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the National Assembly for Wales (Representation of the People) (Amendment) Order 2006 and shall come into force on the day after the day on which it is made.

(2) “The 2003 Order” means The National Assembly for Wales (Representation of the People) Order 2003⁽³⁾.

Amendment of the 2003 Order

2. The 2003 Order is amended in accordance with the following provisions of this Order.

(1) 1998 c. 38 Section 11 was amended by the Political Parties, Elections and Referendums Act 2000 (c. 41), section 158(1), schedule 21, paragraph 12(1), (3).
(2) Consultation with the Electoral Commission is required by the Political Parties, Elections and Referendums Act 2000, section 7(1).
(3) S.I.2003/284.

Article 8

3. In article 8 (absent vote at Assembly elections for a particular or an indefinite period), omit paragraph (8).

Article 9

4. In article 9 (absent vote at a particular Assembly election)—
- (a) in paragraph (1), omit “(subject to paragraph (4))”;
 - (b) in paragraph (2) (a), for “in the United Kingdom” substitute “from that shown in the record”; and
 - (c) omit paragraph (4).

Article 12

5. In article 12 (voting as proxy at Assembly elections)—
- (a) in paragraph (4), omit “(subject to paragraph (10))”;
 - (b) in paragraph (7), for “in the United Kingdom” substitute “from that shown in the record”; and
 - (c) omit paragraph (10).

Schedule 2

6. In Schedule 2 (absent voting at Assembly elections)—
- (a) in paragraph 1(1), omit “, in addition to the address which is required by article 8(8), 9(4) or 12(10)(as the case may be),”;
 - (b) in paragraph 1(1) (b) and paragraph 1(2), for “or will be registered” substitute “registered or has applied to be (or is treated as having applied to be) registered”;
 - (c) after paragraph 1, insert—

“Additional provision concerning the requirement for the application for an absent vote to be signed by the applicant

1A. The registration officer may satisfy himself that an application for an absent vote meets the requirement in paragraph 1 above that it has been signed by the applicant by referring to any signature previously provided by the applicant to the registration officer or the returning officer.

Additional requirements for applications for ballot papers to be sent to a different address from that shown in the record kept under articles 8 or 12

- 1B. An application under—
- (a) article 9 (2) (a) by a person shown as voting by post in the record kept under Article 8, or
 - (b) article 12 (7) by a person shown as voting by post in the record kept under Article 12 (6),

for his ballot paper to be sent to a different address from that shown in the record shall set out why the applicant’s circumstances will be or are likely to be such that he requires his ballot paper to be sent to that address.”

- (d) for paragraph 4 substitute—

“4.—(1) An application under article 9 to vote by proxy at a particular election shall set out why the applicant’s circumstances on the date of the poll for that election will be or are likely to be such that he cannot reasonably be expected to vote in person at his allotted polling station.

(2) Where an application under article 9 to vote by proxy at a particular election—

- (a) is made on the grounds of the applicant’s physical incapacity, and
- (b) is made after 5pm on the sixth day before the date of the poll at the election for which it is made,

the requirements of paragraph 2 as to the matters to be specified and the attestation shall apply.

(3) Where the application mentioned in sub-paragraph (2) above is made, the person who attests the application shall state, in addition to those matters specified in paragraph 2(4), to the best of his knowledge and belief, the date upon which the applicant became physically incapacitated.”

(e) for paragraph 6(1) substitute—

“6.—(1) An application—

- (a) to vote by post under article 8(1) or 9(1), or
- (b) from a proxy to vote by post under article 12(4),

shall be disregarded for the purposes of any particular Assembly election if it is received by the registration officer after 5pm on the eleventh day before the date of the poll at that election.

(1A) Subject to sub-paragraph (1B) an application—

- (a) to vote by proxy under article 8(1) or 9(1), or
- (b) for the appointment of a proxy under article 11(6) or 11(7),

shall be disregarded for the purposes of any particular Assembly election if it is received by the registration officer after 5pm on the sixth day before the date of the poll at that election.

(1B) Where—

- (a) an application under article 9(1) is made on the grounds of the applicant’s physical incapacity, and
- (b) the applicant became physically incapacitated after 5pm on the sixth day before the date of the poll at the election for which it was made,

the application, or an application under article 11(7) made by virtue of that application, shall be refused if it is received after 5pm on the day of the poll at the election for which it is made.”.

(f) in paragraph 7—

(i) in sub-paragraphs (1), (2) and (5) omit “, where practicable,” ; and

(ii) after sub paragraph (4), insert—

“(4A) Where the registration officer grants an application made under—

- (a) article 9 (2) (a) by a person shown as voting by post in the record kept under article 8, or
- (b) article 12(7) by a person shown as voting by post in the record kept under article 12(6),

he shall notify the applicant of this.

(4B) Where a person is removed from the record kept pursuant to article 8, the registration officer shall notify him of this and the reason for it.

(4C) Where the appointment of a proxy is cancelled by the elector or otherwise ceases to be in force, the registration officer shall notify the elector that the appointment has been cancelled or, as the case may be, notify him that the appointment has ceased and the reason for it.”.

Schedule 3

7. In Schedule 3 (issue and receipt of postal ballot papers)—

(a) in paragraph 14—

(i) for sub-paragraphs (1) and (2) substitute—

“(1) If a postal voter has inadvertently dealt with his ballot paper or declaration of identity in such a manner that it cannot be conveniently used as a ballot paper (referred to as “a spoilt ballot paper”) or, as the case may be, a declaration of identity (referred to as “a spoilt declaration of identity”) he may return (either by hand or by post) to the constituency returning officer the spoilt ballot paper or, as the case may be, the spoilt declaration of identity.

(2) Where the postal voter exercises the entitlement conferred by sub-paragraph (1), he shall also return—

- (a) the postal ballot paper or, as the case may be, the declaration of identity, whether spoilt or not,
- (b) where postal ballot papers for more than one election have been issued together at an ordinary election or under paragraph 2, all other ballot papers so issued, whether spoilt or not, and
- (c) the envelopes supplied for the return of the documents mentioned in sub-paragraphs (1) and (2) (a) and (b).”;

(ii) in sub-paragraph (3)—

(aa) after “except”, insert “(subject to sub-paragraph (3A))”, and

(bb) after “5pm on the day” omit “before the day”;

(iii) after sub-paragraph (3), insert—

“(3A) Where the constituency returning officer receives the documents referred to in sub-paragraph (1) and, where applicable sub-paragraph (2), after 5pm on the day before the day of the poll, he shall only issue another postal ballot paper or, as the case may be, ballot papers if the postal voter returned the documents by hand.”;

(iv) for sub-paragraph (5) substitute—

“(5) Any postal ballot paper or declaration of identity, whether spoilt or not, returned in accordance with paragraph (1) or (2) shall be immediately cancelled.”;

(v) for sub-paragraph (7) substitute—

“(7) Where a postal voter applies in person—

- (a) by 5pm on the day before the day of the poll, the constituency returning officer may hand a replacement postal ballot paper to him; or
- (b) after 5pm on the day before the day of the poll, the constituency returning officer may only hand a replacement postal ballot paper to him,

instead of delivering it in accordance with paragraph 12.”.

(b) in paragraph 15—

(i) for sub-paragraph (1) substitute—

“(1) Where a postal voter claims either to have lost or not to have received

- (a) his postal ballot paper, or
- (b) the declaration of identity, or
- (c) one or more of the envelopes supplied for their return

by the fourth day before the day of the poll, he may apply (whether or not in person) to the constituency returning officer for a replacement ballot paper.”;

(ii) after sub-paragraph (2), insert—

“(2A) Where a postal voter exercises the entitlement conferred by sub-paragraph (1), he shall return

- (a) the documents referred to in sub-paragraph (1)(a), (b) and (c) , and
- (b) where postal ballot papers for more than one election have been issued together at an ordinary election or under paragraph 2, all other ballot papers so issued,

which he has received and which have not been lost.

(2B) Any postal ballot paper or declaration of identity returned in accordance with sub-paragraph (2A) shall be immediately cancelled.

(2C) The constituency returning officer, as soon as practicable after cancelling those documents, shall make up those documents in a separate packet and shall seal the packet; and if on any subsequent occasion documents are cancelled as mentioned above, the sealed packet shall be opened and the additional cancelled documents included in it and the packet shall be again made up and sealed.”;

(iii) in sub-paragraph (3)—

- (aa) for “Where” substitute “Subject to sub-paragraph (3A), where”,
- (bb) after “5pm on the day”, omit “before the day”, and
- (cc) after “the postal voter”, insert “has lost or”, and
- (dd) after “original postal ballot paper” insert “ or the declaration of identity or one or more of the envelopes provided for their return”;

(iv) after sub-paragraph (3), insert—

“(3A) Where the application is received by the constituency returning officer after 5pm on the day before the day of the poll, he shall only issue another postal ballot paper or, as the case may be, other ballot papers if the postal voter applied in person.”;

(v) in sub-paragraph (4)—

- (aa) for “lost postal ballot paper” substitute “postal ballot paper which has been lost or not received”, and
- (bb) after “where the postal voter”, omit “whose ballot paper is lost”;

(vi) for sub-paragraph (6) substitute—

“(6) Where the postal voter applies in person—

- (a) by 5pm on the day before the day of the poll, the constituency returning officer may hand a replacement paper to him, or
- (b) after 5pm on the day before the day of the poll, the constituency returning officer may only hand a replacement postal ballot paper to him

instead of delivering it in accordance with paragraph 12.”;

(vii) in sub-paragraph (7)—

(aa) after “issues another”, insert “postal”, and

(bb) for “lost ballot paper” substitute “postal ballot paper which has been lost or not received”.

(c) in paragraph 27—

(i) in sub-paragraph (1), after “14(6)”, insert “,15(2C)”, and

(ii) in sub-paragraph (4), after “the Assembly”, insert “and the Electoral Commission in the period which starts 10 days after the day of the poll and ends 15 days after that day”.

Schedule 5

8. In Schedule 5 (conduct of Assembly elections and return of Assembly members), in paragraph 50—

(a) in sub-paragraph (1), for “Where” substitute “Subject to sub-paragraph (6A), where”; and

(b) after sub-paragraph (6), insert—

“(6A) The constituency returning officer may collect, or cause to be collected, any postal ballot paper or declaration of identity which by virtue of paragraph (6) the presiding officer of a polling station would otherwise be required to deliver or cause to be delivered to him.

(6B) Where the constituency returning officer collects, or causes to be collected, any postal ballot paper or declaration of identity in accordance with sub-paragraph (6A) the presiding officer shall first make it (or them) up into a packet (or packets) sealed with his own seal and the seals of such polling agents as are present and desire to affix their seals.”.

22nd March 2006

Peter Hain
Secretary of State for Wales

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the National Assembly for Wales (Representation of the People) Order 2003 (“the principal Order”).

Articles 3, 4, 5 and 6(a) of this Order correct an error in the principal Order by amending articles 8,9 and 12 of that Order so as to remove the requirement to provide an address in the United Kingdom to which postal ballot papers should be sent.

The remainder of article 6 amends Schedule 2 to the principal Order in relation to absent voting at Assembly elections.

Paragraph (b) of article 6 amends paragraph 1 of Schedule 2 so as to allow voters to apply for a postal vote when they apply to be registered to vote.

Paragraph (c) inserts new paragraphs 1A and 1B into Schedule 2. Paragraph 1A provides that the registration officer may satisfy himself that an application for an absent vote has been signed by the applicant by referring to any signature which the applicant has provided previously to the registration officer or the returning officer. Paragraph 1B requires that an application by a person for his ballot paper to be sent to a different address from that shown in the record should set out the reason for it.

Paragraph (d) substitutes a new paragraph 4 of Schedule 2 specifying additional requirements where an application to vote by proxy at a particular Assembly election is made on the grounds of the applicant’s physical incapacity and is made after 5pm on the sixth working day before the date of the poll.

Paragraph (e) substitutes a new sub-paragraph (1) and inserts new sub-paragraphs (1A) and (1B) in paragraph 6 of schedule 2 in relation to closing dates for applications to vote by post or proxy or for the appointment of a proxy. Applications to vote by post must be received by 5pm on the eleventh working day before the date of the poll. Applications to vote by proxy or for the appointment of a proxy must be received by 5pm on the sixth working day before the date of the poll unless the application is one to vote by proxy at a particular Assembly election on the grounds of the of the applicant’s physical incapacity and the applicant became incapacitated after 5pm on the sixth working day before the date of the poll. In such a case the application must be received by 5pm on the day of the poll.

Paragraph (f) amends paragraph 7 of Schedule 2 in relation to the requirements for the registration officer to notify the applicant of his decision to grant an application to vote by post or by proxy or for the appointment of a proxy. It also makes provision for the notification to the applicant of the grant of an application for a ballot paper to be sent to a different address from that shown in the record, for notification of the removal of a person from the record of absent voters and for notification of the cancellation of the appointment of a proxy.

Article 7 amends Schedule 3 to the principal Order in relation to the issue and receipt of postal ballot papers.

Paragraph (a) of article 7 amends paragraph 14 of Schedule 3 so as to permit a replacement ballot paper to be issued in the case of a spoilt declaration of identity as well as in the case of a spoilt ballot paper. A replacement ballot paper may be issued up to 5pm on the day of the poll but an application for a replacement ballot paper made after 5pm on the day before the date of the poll must be made in person.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Paragraph (b) amends paragraph 15 of Schedule 3 so as to permit an application for a replacement ballot paper to be made by a postal voter who claims to have lost or not to have received the ballot paper itself or the declaration of identity or one or more of the envelopes supplied for their return. Again a replacement ballot paper may be issued up to 5pm on the day of the poll but an application for a replacement ballot paper made after 5pm on the day before the day of the poll must be made in person.

Paragraph (c) amends paragraph 27 of Schedule 3 so as to require a copy of the statement of the number of postal ballot papers issued to be sent by the returning officer to the Electoral Commission as well as to the Assembly between 10 and 15 days after the date of the poll.

Article 8 amends paragraph 50 of Schedule 5 to the principal Order so as to enable the returning officer to collect postal ballot papers and declarations of identity from polling stations.