

## SCHEDULE 3

Article 7

### ACCESS TO MARKED REGISTERS AND OTHER DOCUMENTS OPEN TO PUBLIC INSPECTION AFTER AN ELECTION

#### Interpretation and general

1.—(1) In this Schedule—

“1985 Order” means the Local Elections (Northern Ireland) Order 1985(1);

“2008 Regulations” means the Representation of the People (Northern Ireland) Regulations 2008(2);

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

“edited register” has the same meaning as in regulation 93 of the 2008 Regulations;

“enactment” has the same meaning as in section 17(2) of the Representation of the People Act 2000(3);

“the full register” means the register published under section 13(1) or (3) of the Representation of the People Act 1983(4);

“Local Elections Rules” means the Rules contained in Schedule 5 to the Electoral Law Act (Northern Ireland) 1962;

“the marked register or lists” means any of the marked copies of the full register, marked copy notices under section 13BA(9) of the Representation of the People Act 1983, list of proxies, absent voters list and proxy postal voters list retained by the proper officer, under rule 60 of the Local Elections Rules or paragraph 19 of Part 3 of Schedule 2 to the 1985 Order;

“processor” means any person who provides a service which consists of putting information in data form or processing information in data form and any reference to a processor includes a reference to that processor’s employees;

“proper officer” means the person referred to as the proper officer of the council in rules 59 and 60 of the Local Elections Rules; and

“research purposes” is to be construed in accordance with section 33(1) of the Data Protection Act 1998(5).

(2) In this Part, any reference to an employee of any person who has access to a copy of the full register is deemed to include a person working or providing services for the purposes of that person or employed by or on behalf of, or working for, any person who is so working or who is supplying such a service.

(3) The processor may not disclose the full register or the information contained in it except to the person who supplied it to the processor or an employee of that person or a person who is entitled to obtain a copy of the full register under the 2008 Regulations or any employee of such a person.

(4) In computing a period of days for the purposes of this Schedule, Saturday, Sunday, Christmas Eve, Christmas Day, Good Friday or a bank holiday is to be disregarded.

(5) In paragraph (4) “bank holiday” means a day which is a bank holiday under the Banking and Financial Dealings Act 1971(6) in Northern Ireland.

(1) S.I. 1985/454; Schedule 2 to the 1985 Order is amended by Schedule 2 to this Order.

(2) S.I. 2008/1741; these Regulations were amended by S.I. 2010/278.

(3) S.I.2000 c.2 (“the 2000 Act”)

(4) 1983 c.2; section 13 was substituted by section 8 of, and Schedule 1 to, the 2000 Act; subsection (1) was subsequently substituted by section 5 of the Northern Ireland (Miscellaneous Provisions) Act 2006 (c.33); and section 13BA was inserted by section 6 of that Act.

(5) 1998 c. 29.

(6) 1971 c.80.

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(6) Any duty on the proper officer to supply records or lists or make them available for inspection under this Schedule imposes only a duty to provide that information in the form in which the proper officer holds it.

### **Supply of the marked register or lists after a local election**

2.—(1) Any person entitled to be supplied in accordance with regulation 99, 102, 103, 104, 105, 106, 107 or 111 of the 2008 Regulations with copies of the full register at a local election is also a person entitled, subject to this paragraph and paragraph 5, to request that the proper officer supplies copies of the relevant part of the marked register or lists a proper officer is required to keep.

(2) A person whose entitlement to request copies of the marked register or lists under paragraph (1) arises from being in a category of persons to whom regulation 102, 103, 104, 105, or 106 applies before a particular local election, is entitled to request those documents regardless of whether, after that election, he or she remains in a category of persons who are entitled under those provisions.

(3) A request under sub-paragraph (1) must be made in writing and must—

- (a) specify which of the marked register or lists (or the relevant part of the register or lists) are requested;
- (b) state whether a printed copy is requested or a copy in data form; and
- (c) state the purpose for which the marked register or lists will be used and why the supply or purchase of a copy of the full register or unmarked lists would not be sufficient to achieve that purpose.

(4) The proper officer must forward the request to the Chief Electoral Officer so the Chief Electoral Officer can make the determination required by sub-paragraph (5)(a).

(5) The proper officer must supply a copy of the relevant part of the marked register or lists where a request is duly made, and—

- (a) the Chief Electoral Officer is satisfied that the requestor needs to see the marks on the marked register or lists in order to achieve the purpose for which they are requested; and
- (b) the proper officer has received payment of a fee calculated in accordance with paragraph 6.

(6) If the Chief Electoral Officer is not satisfied in accordance with sub-paragraph (5)(a) the Chief Electoral Officer may treat the request for a copy of the marked register or lists as a request for information in unmarked lists under paragraph 15 of Part 1 of Schedule 2 to the 1985 Order or for the published copy of the full register in accordance with regulation 110 of the 2008 Regulations, or both and the proper officer must inform the requestor of the Chief Electoral Officer's determination in this regard.

(7) A person who obtains a copy of any part of the marked register or lists under this paragraph may only use it for the permitted purpose specified in paragraph 5(3), and any restrictions on the supply, disclosure and use of information—

- (a) referred to in paragraph 5(2), or
- (b) which would apply to the use of the full register under whichever of regulations 99, 102, 103, 104, 105, 106, 107 or 111 of the 2008 Regulations entitled that person to obtain that document,

apply to such use.

(8) Any person who has obtained or is entitled to obtain a copy of the marked register or lists under this paragraph may—

- (a) supply a copy of the marked register or lists to a processor for the purpose of processing the information contained therein, or

(b) procure that a processor processes and supplies to them any copy of the information in the marked register or lists which the processor has obtained under this paragraph, for use in respect of the purposes for which that person is entitled to obtain such copy or information (as the case may be).

(9) For the purposes of this paragraph the relevant part of the marked register or lists is—

(a) where the person is entitled under the 2008 Regulations to the whole of the full register, the whole of the marked register or lists;

(b) where the person is entitled under the 2008 Regulations to so much of the full register as relates to a particular area, so much of the marked register or lists as relates to that area.

### **Public inspection of the marked register or lists**

3.—(1) Any person is entitled to request that the proper officer make available for inspection a copy of the marked register or lists.

(2) A request under sub-paragraph (1) must be made in writing and must specify—

(a) which of the marked register or lists are requested,

(b) the purpose for which the information will be used,

(c) any reason why inspecting the full register or unmarked notices or lists would not be sufficient to achieve that purpose,

(d) who will inspect the register or lists,

(e) the date on which they wish to inspect the register or lists, and

(f) whether they would prefer to inspect the register or lists in printed or data form.

(3) The proper officer must forward the request to the Chief Electoral Officer so the Chief Electoral Officer can make the determination required by sub-paragraph (4).

(4) Where the Chief Electoral Officer is satisfied that the purposes of the requestor cannot be met by inspection of the full register or unmarked notices or lists the proper officer must make the marked register or lists available for inspection in accordance with the following provisions of this paragraph.

(5) Where the Chief Electoral Officer is not so satisfied, the proper officer must inform the requestor—

(a) of this decision, and

(b) provide the requestor with information concerning the availability of the published full register for inspection in accordance with regulation 52 of the 2008 Regulations or the unmarked lists in accordance with paragraph 15 of Schedule 2 to the 1985 Order(7).

(6) Subject to sub-paragraph (7) the inspection referred to in sub-paragraph (4) must take place under supervision during ordinary office hours and not later than 15 days after the date of receipt of a request that has been duly made under sub-paragraph (2).

(7) If the date on which the requestor wishes to inspect the marked register or lists is a day more than 15 days after the date of the receipt of the request, the proper officer must make the marked register or lists open to inspection on that date or, if that is a day disregarded by virtue of paragraph 1(4), the next day that is not so disregarded.

(8) A person who obtains information under this paragraph may use it only for the permitted purposes specified in paragraph 5, and any restrictions on the supply, disclosure and use of information referred to in that paragraph or sub-paragraph (8) below apply to such use.

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(7) Paragraph 15 is amended by paragraph 13 of Schedule 2 to this Order.

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(9) Where inspection takes place by providing the records on a computer screen or otherwise in data form, the proper officer must ensure the manner in which, and the equipment on which, that copy is provided do not permit any person consulting that copy to—

- (a) search it by electronic means by reference to the name of any person; or
- (b) copy or transmit any part of that copy by electronic or any other means.

(10) A person who inspects a copy of a register, notice or list may make hand-written notes but may not otherwise make copies of any part of them.

#### **Public inspection of other documents**

4.—(1) Any person is entitled to request that the proper officer make available for inspection a copy of any of the documents (referred to in this paragraph and paragraph 5 as the “documents open to public inspection”) which the proper officer is required to retain under rule 60 of the Local Elections Rules except—

- (a) ballot papers,
- (b) completed corresponding number lists, and
- (c) certificates of employment on the day of the election.

(2) A request under sub-paragraph (1) must be made in writing and must specify—

- (a) which documents are requested,
- (b) the purpose for which the information in any document will be used,
- (c) who will inspect the documents,
- (d) the date on which they wish to inspect the documents, and
- (e) whether they would prefer to inspect the documents in printed or data form.

(3) Subject to sub-paragraph (4) the proper officer must make the documents open to public inspection available for inspection under supervision not later than 15 days after the date of receipt of a request that has been duly made under sub-paragraph (2).

(4) If the date on which the requestor wishes to inspect the documents is a day more than 15 days after the date of the receipt of the request, the proper officer must make the documents open to inspection on that date or, if that is a day disregarded by virtue of paragraph 1(4), the next day that is not so disregarded.

(5) A person who obtains a copy of or information in any document open to public inspection under this rule may use it only for the permitted purposes specified in paragraph 5, and any restrictions on the supply, disclosure and use of information—

- (a) referred to in paragraph (5)(2),
- (b) referred to in sub-paragraph (7) below, or
- (c) which would apply to the use of the full register under regulation 107 of the 2008 Regulations where such a person has obtained a copy of that document under sub-paragraph (8) below,

apply to such use.

(6) Where inspection takes place by providing the records on a computer screen or otherwise in data form, the proper officer must ensure the manner in which, and the equipment on which, that copy is provided do not permit any person consulting that copy to—

- (a) search it by electronic means by reference to the name of any person; or
- (b) copy or transmit any part of that copy by electronic or any other means.

(7) Subject to sub-paragraph (8), a person who inspects a copy of a document open to public inspection, whether in printed copy or in data form, may not—

- (a) make copies of any part of it, or
- (b) record any particulars in it.

(8) The proper officer must, on request, supply free of charge copies of any documents open to public inspection to a person who has inspected those documents and who is entitled to be supplied with a copy of the marked register or lists by virtue of being a person to whom regulation 107 of the 2008 Regulations applies.

### **Restrictions on the use, supply and disclosure of documents open to public inspection**

**5.—**(1) In this paragraph “the documents open to public inspection” also includes the marked register or lists open to inspection under paragraph 3.

(2) Subject to sub-paragraphs (3) and (4), the restrictions on the supply, disclosure and use of information in regulations 94 and 95 of the 2008 Regulations—

- (a) apply to the documents open to public inspection as they apply to the full register; and
- (b) as if the reference in regulation 94 to the Chief Electoral Officer (save for that in paragraph (2)) includes a reference to the proper officer.

(3) Where a person—

- (a) obtains copies of information in the marked register or lists in accordance with paragraph 2(1), or
- (b) inspects information in accordance with paragraph 3(1) or paragraph 4(1),

the permitted purpose means either research purposes or electoral purposes.

(4) Where a copy of any information was supplied in the circumstances to which paragraph 4(8) applies, the permitted purpose means the purposes set out in regulation 107(3) of the 2008 Regulations.

### **Fees relating to the marked register or lists**

**6.—**(1) The fee to be paid in accordance with paragraph 2(5) by a person making a request for a copy of the whole or of any part of the marked register or lists is set out in sub-paragraph (2).

(2) The fee is—

- (a) where the copy is in printed form, the sum of £10 plus £5 for each 1000 entries (or remaining part of 1000 entries) in the register or lists; and
- (b) where the copy is in data form, the sum of £20 plus £1.50 for each 1000 entries (or remaining part of 1000 entries) in the register or lists.

(3) For the purposes of this paragraph, a request for a copy of the whole or the same part of the marked register or lists in both a printed and data form may be treated as two separate requests.

### **Access to the marked register or lists and other election documents: failure to comply with restrictions**

**7.—**(1) A person is guilty of an offence—

- (a) if he or she fails to comply with any of the restrictions imposed under paragraph 5; or
- (b) is an appropriate supervisor of a person (P) who fails to comply with any such restriction and he or she failed to take appropriate steps.

(2) P is not guilty of an offence under sub-paragraph (1) if—

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- (a) P has an appropriate supervisor, and
  - (b) P has complied with all the requirements imposed on him or her by his or her appropriate supervisor.
- (3) A person who is not P or an appropriate supervisor is not guilty of an offence under sub-paragraph (1) if that person takes all reasonable steps to ensure that he or she complies with the restrictions.
- (4) In sub-paragraphs (1)(b) and (2)—
- (a) an appropriate supervisor is a person who is a director of a company or concerned in the management of an organisation in which P is employed or under whose direction or control P is;
  - (b) appropriate steps are such steps as it was reasonable for the appropriate supervisor to take to secure the operation of procedures designed to prevent, so far as reasonably practicable, the occurrence of failure to comply with the restrictions.
- (5) A person guilty of an offence as mentioned in sub-paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.