



Representation of the People Act 1983

1983 CHAPTER 2

PART I

PARLIAMENTARY AND LOCAL GOVERNMENT FRANCHISE AND ITS EXERCISE

Parliamentary and local government franchise

1 Parliamentary electors

- (1) A person entitled to vote as an elector at a parliamentary election in any constituency is one who—
 - (a) is resident there on the qualifying date (subject to subsection (2) below in relation to Northern Ireland); and
 - (b) on that date and on the date of the poll—
 - (i) is not subject to any legal incapacity to vote (age apart); and
 - (ii) is either a Commonwealth citizen or a citizen of the Republic of Ireland; and
 - (c) is of voting age (that is, 18 years or over) on the date of the poll.
- (2) A person is not entitled to vote as an elector at a parliamentary election in any constituency in Northern Ireland unless he was resident in Northern Ireland during the whole of the period of three months ending on the qualifying date for that election.
- (3) A person is not entitled to vote as an elector in any constituency unless registered there in the register of parliamentary electors to be used at the election.
- (4) A person is not entitled to vote as an elector—
 - (a) more than once in the same constituency at any parliamentary election;
 - (b) in more than one constituency at a general election.

2 Local government electors

- (1) A person entitled to vote as an elector at a local government election in any electoral area is one who—
 - (a) is resident there on the qualifying date; and
 - (b) on that date and on the date of the poll—
 - (i) is not subject to any legal incapacity to vote (age apart); and
 - (ii) is either a Commonwealth citizen or a citizen of the Republic of Ireland; and
 - (c) is of voting age (that is, 18 years or over) on the date of the poll.
- (2) A person is not entitled to vote as an elector in any electoral area unless registered there in the register of local government electors to be used at the election.
- (3) A person is not entitled to vote as an elector—
 - (a) more than once in the same electoral area at any local government election; and
 - (b) in more than one electoral area at an ordinary election for any local government area which is not a single electoral area.

3 Disfranchisement of offenders in prison etc.

- (1) A convicted person during the time that he is detained in a penal institution in pursuance of his sentence is legally incapable of voting at any parliamentary or local government election.
- (2) For this purpose—
 - (a) " convicted person " means any person found guilty of an offence (whether under the law of the United Kingdom or not), including a person found guilty by a court-martial under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957 or on a summary trial under section 49 of the Naval Discipline Act 1957, or by a Standing Civilian Court established under the Armed Forces Act 1976, but not including a person dealt with by committal or other summary process for contempt of court; and
 - (b) " penal institution " means an institution to which the Prison Act 1952, the Prisons (Scotland) Act 1952 or the Prison Act (Northern Ireland) 1953 applies; and
 - (c) a person detained for default in complying with his sentence shall not be treated as detained in pursuance of the sentence, whether or not the sentence provided for detention in the event of default, but a person detained by virtue of a conditional pardon in respect of an offence shall be treated as detained in pursuance of his sentence for the offence.
- (3) It is immaterial for the purposes of this section whether a conviction or sentence was before or after the passing of this Act.

4 Qualifying date

- (1) In England and Wales and Scotland, 10th October in any year is the qualifying date for a parliamentary or local government election at which the date fixed for the poll falls within the period of twelve months beginning with 16th February in the next following year.

- (2) In Northern Ireland, 15th September in any year is the qualifying date for such a parliamentary election as is mentioned above, subject to the Secretary of State's power under section 13(2) below.

5 Residence

- (1) For the purposes of sections 1 and 2 above any question as to a person's residence on the qualifying date for an election—
- (a) shall be determined in accordance with the general principles formerly applied in determining questions as to a person's residence on a particular day of the qualifying period within the meaning of the Representation of the People Act 1918 ; and
 - (b) in particular regard shall be had to the purpose and other circumstances, as well as to the fact, of his presence at or absence from the address in question.
- (2) Without prejudice to those general principles, a person's residence in a dwelling house shall not be deemed for the purposes of sections 1 and 2 to have been interrupted—
- (a) by reason of that person's absence in the performance of any duty arising from or incidental to any office, service or employment held or undertaken by him, if he intends to resume actual residence within six months of giving it up and will not be prevented by the performance of that duty ; or
 - (b) by reason of permission being given by letting or otherwise for its occupation furnished by some other person—
 - (i) if the permission is given in the expectation that throughout the period for which it is given the person giving it or his wife or her husband will be absent in the performance of any such duty as is mentioned above ; or
 - (ii) if the first mentioned person intends to resume actual residence within nine weeks of giving it up and will not be prevented by the permission given as mentioned above.
- (3) A person who is detained at any place in legal custody shall not by reason thereof be treated for the purposes of sections 1 and 2 as resident there.

6 Residence: merchant seamen

At any time when a merchant seaman is not resident in the United Kingdom and would have been resident there but for the nature of his occupation, he shall be entitled to be treated for the purposes of sections 1 and 2 above as resident—

- (a) at any place at which he would have been resident but for the nature of his occupation ; or
- (b) at any hostel or club providing accommodation for merchant seamen at which he commonly stays in the course of his occupation.

For this purpose " merchant seaman " means any person not having a service qualification whose employment or the greater part of it is carried out on board seagoing ships, and includes any such person while temporarily without employment.

7 **Residence: detained and voluntary mental patients**

(1) A person who is detained at any place by virtue of any enactment relating to persons suffering from mental disorder shall not by reason thereof be treated for the purposes of sections 1 and 2 above as resident there.

(2) In the following provisions of this section—

" assistance " does not include assistance necessitated by blindness or other physical incapacity ;

" mental hospital " means any establishment maintained wholly or mainly for the reception and treatment of persons suffering from any form of mental disorder;

" patient's declaration " means a declaration made under this section by a voluntary mental patient;

" voluntary mental patient " means a person who is a patient in a mental hospital but is not liable to be detained there by virtue of any enactment.

(3) A person who on the qualifying date is a voluntary mental patient shall not be entitled to be registered as mentioned in section 12(1) or (2) below except in pursuance of a declaration made with reference to that date in accordance with subsection (4) below.

This subsection is without prejudice to the registration of a voluntary mental patient by virtue of his residence at an address other than the mental hospital in which he is a patient in any case in which he would be entitled to be so registered apart from this subsection and the following subsections of this section.

(4) A voluntary mental patient may make a declaration under this subsection if he is able to do so without assistance; and a patient's declaration—

(a) shall be made with a view to registration in the register of electors for a particular year and with reference to the qualifying date for that register,

(b) shall be made during the 12 months ending with the qualifying date by reference to which it is made but shall not have effect if after it is made and before that date the declarant ceases to be a voluntary mental patient or cancels the declaration,

(c) may be made by a declarant notwithstanding the fact that by reason of his age he is not yet entitled to vote,

(d) shall state that it was made by the declarant without assistance, and shall state—

(i) the date of the declaration,

(ii) that on that date and, unless it is the qualifying date, on the qualifying date next following the declarant is or will be a voluntary mental patient,

(iii) the address of the mental hospital in which the declarant is a voluntary mental patient,

(iv) the address where the declarant would be resident in the United Kingdom if he were not a voluntary mental patient or, if he cannot give any such address, an address (other than a mental hospital) at which he has resided in the United Kingdom,

(v) that on the date of the declaration the declarant is a Commonwealth citizen or a citizen of the Republic of Ireland, and

Status: This is the original version (as it was originally enacted).

- (vi) whether the declarant had on the date of the declaration attained the age of 18 years and, if he had not, the date of his birth, and a patient's declaration shall be attested in the prescribed manner.
- (5) If a person—
- (a) makes a patient's declaration declaring to more than one address, or
 - (b) makes more than one patient's declaration bearing the same date and declaring to different addresses,
- the declaration or declarations shall be void.
- (6) A patient's declaration may at any time be cancelled by the declarant and (subject to subsection (5) above) a patient's declaration bearing a later date shall, without any express cancellation, cancel a declaration bearing an earlier date if it is made with reference to the same qualifying date.
- (7) A voluntary mental patient whose patient's declaration is made with reference to the qualifying date for any register shall be treated in relation to that register—
- (a) as resident on the qualifying date at the address specified in the declaration pursuant to paragraph (d)(iv) of subsection (4) above;
 - (b) in the case of registration in Northern Ireland, as resident in Northern Ireland during the whole of the period of 3 months ending on the qualifying date; and
 - (c) in any case, until the contrary is proved, as being a Commonwealth citizen or a citizen of the Republic of Ireland of the age appearing from the declaration and as not being subject to any legal incapacity except as so appearing.
- (8) Where a patient's declaration appearing to be properly made out and attested is transmitted to the registration officer in the proper manner, the declarant shall, until the contrary is proved, be treated for the purposes of registration as having been from the date of the declaration or such later date, if any, as appears from it, and as continuing to be, qualified to be registered as an elector.
- (9) No patient's declaration shall be specially made by a person for the purpose of local government elections, and any patient's declaration made for the purpose of parliamentary elections shall have effect also for the purpose of local government elections; but—
- (a) a patient's declaration may be made for the purpose of local government elections only by a person who is a peer subject to a legal incapacity to vote at parliamentary elections; and
 - (b) where so made, shall be marked to show that it is available for local government elections only, but shall in all other respects be the same as any other patient's declaration.

Registration of parliamentary and local government electors

8 Registration officers

- (1) For the registration of electors there shall be electoral registration officers (in this Act referred to as "registration officers").
- (2) In England and Wales—

Status: This is the original version (as it was originally enacted).

- (a) the council of every district and London borough shall appoint an officer of the council to be registration officer for any constituency or part of a constituency coterminous with or situated in the district or borough, and
 - (b) the Common Council shall appoint an officer to be registration officer for the part of the constituency containing the City and the Inner Temple and the Middle Temple.
- (3) In Scotland, the council of every region and islands area shall appoint an officer of the council for their area or for any adjoining region or islands area, or an officer appointed by any combination of such councils, to be registration officer for any constituency or part of a constituency which is situated within that region or islands area.
- (4) In Northern Ireland, the Chief Electoral Officer for Northern Ireland is the registration officer for each constituency.

9 Registers of electors

- (1) It is every registration officer's duty to prepare and publish in each year—
- (a) a register of parliamentary electors for each constituency or part of a constituency in the area for which he acts; and
 - (b) a register of local government electors for the local government areas or parts of local government areas included in the area for which he acts.
- (2) The registers of parliamentary electors and of local government electors shall so far as practicable be combined, the names of persons registered only as local government electors being marked to indicate that fact.
- (3) A registration officer's general duty to prepare and publish registers of electors in conformity with this Act includes the duty to take reasonable steps to obtain information required by him for that purpose (without prejudice to any specific requirement of this Act or regulations under it).

10 Preparation of registers

With a view to the preparation of registers, the registration officer shall—

- (a) have a house to house or other sufficient inquiry made as to the persons entitled to be registered (excluding persons entitled to be registered in pursuance of a service declaration);
- (b) have prepared and published electors lists showing the persons appearing to him to be entitled to be registered together with their qualifying addresses ;
- (c) determine all claims for registration duly made by any person, and all objections to any person's registration duly made by another person appearing from the electors lists to be himself entitled to be registered including claims and objections asking for the omission, insertion or alteration of a date as that on which a person will become of voting age and entitled to be treated as an elector.

11 Correction of registers

- (1) Where a register of electors as published does not carry out the registration officer's intention—

Status: This is the original version (as it was originally enacted).

- (a) to include the name of any person shown in the electors lists as a person entitled to be registered, or
- (b) to give or not to give in a person's entry a date as that on which he will attain voting age, or as to the date to be given, or
- (c) to give effect to a decision on a claim or objection made with respect to the electors lists,

then (subject to the decision on any appeal from a decision on a claim or objection) the registration officer on becoming aware of the fact shall make the necessary correction in the register.

(2) Where—

- (a) paragraph (a) of subsection (1) above does not apply, but
- (b) the registration officer is satisfied by such evidence as he may require that any person whose name is not included in a register of electors as published is entitled to be registered in that register,

the registration officer shall make the necessary correction in the register.

(3) An alteration made in a register of electors under subsection (1) or subsection (2) above on or after the date on which notice of an election is given shall not have effect for the purposes of that election.

(4) No alteration shall be made in a register of electors as published otherwise than under—

- (a) subsection (1) or subsection (2); or
- (b) the provisions of sections 56 to 58 below relating to appeals.

12 Right to be registered

(1) A person who may be entitled to vote as an elector at parliamentary elections for which any register is to be used is entitled to be registered in that register, subject to—

- (a) section 7(3) above, as to a person who on the qualifying date is a voluntary mental patient, and subsections (3) and (4) below as to one who on the qualifying date has a service qualification ; and
- (b) any enactment imposing a disqualification for registration as a parliamentary elector.

(2) A person who may be entitled to vote as an elector at local government elections for which any register is to be used is entitled to be registered in that register, subject to—

- (a) section 7(3) above, as to a person who on the qualifying date is a voluntary mental patient, and subsections (3) and (4) below as to one who on the qualifying date has a service qualification ; and
- (b) any enactment imposing a disqualification for registration as a local government elector.

(3) A person who on the qualifying date has a service qualification is not entitled to be registered as mentioned in subsection (1) or subsection (2) above except in pursuance of an appropriate service declaration; and in this subsection and in subsection (4) below "appropriate service declaration" means—

- (a) in the case of a person who on the qualifying date is a member of the forces or the wife or husband of such a member, a service declaration made in accordance with section 15 below and in force on that date; and

Status: This is the original version (as it was originally enacted).

- (b) in any other case, a service declaration made in accordance with that section with reference to that date.
- (4) Subsection (3) above does not apply to a person who on the qualifying date is the wife or husband of a member of the forces if on that date—
- (a) that person has no other service qualification ;
 - (b) that person is resident in the United Kingdom ; and
 - (c) no appropriate service declaration is in force in respect of that person.
- (5) A person otherwise qualified is entitled to be registered in a register of parliamentary electors or a register of local government electors if he will attain voting age before the end of the twelve months following the day by which the register is required to be published; but, if he will not be of voting age on the first day of those twelve months—
- (a) his entry in the register shall give the date on which he will attain that age; and
 - (b) until the date given in the entry he shall not by virtue of the entry be treated as an elector for any purposes other than purposes of an election at which the day fixed for the poll is that or a later date.

13 Publication of registers

- (1) Registers of parliamentary and local government electors or, in Northern Ireland, of parliamentary electors, shall be—
- (a) prepared and published once a year, and
 - (b) published not later than 15th February,
- and registers published in any year shall be used for elections at which the date fixed for the poll falls within the period of twelve months beginning with 16th February in that year.
- (2) The Secretary of State has power to make regulations altering the interval in Northern Ireland between the qualifying date and the date of publication of the registers of parliamentary electors by changing either date, and any such regulations may make such consequential provisions (including the modification of any enactment contained in this or any other Act) as may appear to the Secretary of State to be necessary.
- (3) If any part of a register is not published within the time required by this section, then until the day following that on which it is published the corresponding part of the previous register shall continue in use.
- (4) Where any part of the register used at an election is a part continued in force by subsection (3) above, the Representation of the People Acts (including this Act) shall have effect in relation to the election and the area to which that part relates as if the qualifying date by reference to which that part was prepared were the qualifying date for the election.

Service qualifications and declarations for registration

14 Service qualification

- (1) A person has a service qualification for the purposes of this Act who—
- (a) is a member of the forces,
 - (b) (not being such a member) is employed in the service of the Crown in a post outside the United Kingdom of any prescribed class or description,

- (c) is employed by the British Council in a post outside the United Kingdom,
- (d) is the wife or husband of a member of the forces,
- (e) is the wife or husband of a person mentioned in paragraph (b) or paragraph (c) above and is residing outside the United Kingdom to be with her husband or, as the case may be, his wife,

and where a person leaves the United Kingdom to take up employment or residence as mentioned above or returns to the United Kingdom at the end of such employment or residence, the employment or residence shall be deemed to begin from the time of leaving or to continue until the time of returning, as the case may be.

- (2) For the purposes of section 1(2) above a person ceasing to have a service qualification shall be treated as if he were resident in Northern Ireland for the period during which he had a service qualification.

15 Service declaration

- (1) A service declaration shall be made only—
 - (a) by a person who has a service qualification, or
 - (b) subject to any prescribed conditions, by a person about to leave the United Kingdom in such circumstances as to acquire a service qualification,and a service declaration may be made by such a person notwithstanding the fact that by reason of his age he is not yet entitled to vote.
- (2) A service declaration made by a member of the forces or the wife or husband of such a member shall, if not cancelled, continue in force so long as the declarant has a service qualification, except in so far as regulations provide that the declaration shall cease to be in force on a change in the circumstances giving the service qualification.
- (3) A service declaration made by any other person shall be made with a view to registration in the register of electors—
 - (a) for a particular year; and
 - (b) with reference to the qualifying date for that register.
- (4) A service declaration made with reference to any qualifying date shall be made during the twelve months ending with that date, but shall not have effect if after it is made and before that date—
 - (a) the declarant ceases to have a service qualification; or
 - (b) the declarant cancels the declaration; or
 - (c) in so far as regulations so provide, there is a change in the circumstances giving the service qualification.
- (5) No service declaration shall be specially made by a person for the purpose of local government elections, and any service declaration made for the purpose of parliamentary elections shall have effect also for the purpose of local government elections ; but—
 - (a) a service declaration may be made for the purpose of local government elections only by a person who is as a peer subject to a legal incapacity to vote at parliamentary elections; and
 - (b) where so made, shall be marked to show that it is available for local government elections only, but shall in all other respects be the same as other service declarations.

Status: This is the original version (as it was originally enacted).

- (6) If a person—
- (a) makes a service declaration declaring to more than one address, or
 - (b) makes more than one service declaration bearing the same date and declaring to different addresses,
- the declaration or declarations shall be void.
- (7) A service declaration may at any time be cancelled by the declarant and (subject to subsection (6) above) a service declaration bearing a later date shall without any express cancellation cancel a declaration bearing an earlier date if, in the case of a service declaration made otherwise than by a member of the forces or the wife or husband of such a member, it is made with reference to the same qualifying date.

16 Contents of service declaration

A service declaration shall state—

- (a) the date of the declaration,
- (b) where the declarant is a member of the forces or the wife or husband of such a member, that on that date the declarant is, or but for the circumstances entitling him to make the declaration would have been, residing in the United Kingdom,
- (c) in the case of any other declarant, that on that date and, unless it is a qualifying date, on the qualifying date next following he is or will be, or but for those circumstances would have been, residing in the United Kingdom,
- (d) the address where the declarant is or, as the case may be, will be or would have been residing in the United Kingdom or, if he cannot give any such address, an address at which he has resided in the United Kingdom,
- (e) that on the date of the declaration the declarant is a Commonwealth citizen or a citizen of the Republic of Ireland,
- (f) whether the declarant had on the date of the declaration attained the age of 18 years, and, if he had not, the date of his birth, and
- (g) such particulars (if any) as may be prescribed of the declarant's identity and service qualifications,

and (except where the declarant is a member of the forces or the wife or husband of such a member) shall be attested in the prescribed manner.

17 Effect of service declaration

- (1) A member of the forces or the wife or husband of such a member whose service declaration is in force on the qualifying date shall be treated for the purposes of registration, and any other person whose service declaration is made with reference to the qualifying date for any register shall be so treated in relation to that register—
- (a) as resident on the qualifying date at the address specified in the declaration;
 - (b) in the case of registration in Northern Ireland, as resident in Northern Ireland during the whole of the period of three months ending on the qualifying date; and
 - (c) in any case, until the contrary is proved, as being a Commonwealth citizen or a citizen of the Republic of Ireland of the age appearing from the declaration and as not being subject to any legal incapacity except as so appearing.
- (2) Where a service declaration appearing to be properly made out and (where required) attested is transmitted to the registration officer in the proper manner, the declarant

shall, until the contrary is proved, be treated for the purposes of registration as having had from the date of the declaration or such later date, if any, as appears from it, and as continuing to have, a service qualification.

Place and manner of voting at parliamentary elections

18 Polling districts and places at parliamentary elections

- (1) Every constituency shall be divided into polling districts and subject to the provisions of this section there shall be a polling place designated for each polling district.
- (2) In England and Wales it is the duty of the council of each district or London borough to divide their area into polling districts for the purpose of parliamentary elections for so much of any constituency as is situated in their area, and to designate the polling places for those polling districts, and to keep the polling districts and polling places under review, in accordance with the following rules—
 - (a) the council shall exercise the powers conferred by this section with a view to giving all electors in so much of the constituency as falls within their area such reasonable facilities for voting as are practicable in the circumstances;
 - (b) in the case of a county constituency, each parish or community shall in the absence of special circumstances be a separate polling district or districts;
 - (c) the polling place for any polling district shall be an area in that district, except where special circumstances make it desirable to designate an area wholly or partly outside the polling district, and shall be small enough to indicate to electors in different parts of the polling district how they will be able to reach the polling station;
 - (d) a polling place need not be designated for any polling district, if the size and other circumstances of the district are such that the situation of the polling stations does not materially affect the convenience of the electors or any body of them.
- (3) In Scotland it is the returning officer's duty to make the division into polling districts and to designate the polling places, and to keep the polling districts and polling places under review in accordance with the following rules—
 - (a) the returning officer shall exercise the powers conferred by this section with a view to giving all electors in the constituency such reasonable facilities for voting as are practicable in the circumstances ;
 - (b) each electoral area established for the purpose of local government elections which is within the constituency, and that part within the constituency of any such area which is partly within the constituency and partly within another constituency, shall, in the absence of special circumstances, be a separate polling district or districts ;
 - (c) the polling place for any polling district shall be an area in that district, except where special circumstances make it desirable to designate an area wholly or partly outside the polling district, and shall be small enough to indicate to electors in different parts of the polling district how they will be able to reach the polling station;
 - (d) a polling place need not be designated for any polling district, if the size and other circumstances of the district are such that the situation of the polling stations does not materially affect the convenience of the electors or any body of them.

Status: This is the original version (as it was originally enacted).

- (4) In the case of a polling district for which no polling place is designated the polling district shall be taken to be the polling place for the purposes of this Act.
- (5) If any interested authority or not less than 30 electors in a constituency make a representation to the Secretary of State that the powers conferred by this section have not been exercised so as to meet the reasonable requirements of the electors in the constituency or any body of those electors, the Secretary of State shall consider the representation and may, if he thinks fit
- (a) direct the council (or in Scotland, the returning officer) by whom the powers are exercisable, to make any alterations which the Secretary of State thinks necessary in the circumstances, and
 - (b) if the council or returning officer fails to make those alterations within a month after the direction is given, himself make the alterations,
- and any alterations made by the Secretary of State under this subsection shall have effect as if they had been made by the council or returning officer.
- In this subsection the expression " interested authority ", in relation to any constituency, means—
- (i) as respects England, the council or where there is no such council the parish meeting of a parish which is wholly or partly situated within the constituency ;
 - (ii) as respects Wales, the council of a community which is so situated;
 - (iii) as respects Scotland, the council of any region, islands area or district within whose area the constituency is wholly or partly situated.
- (6) On the exercise of any power given by this section, the council or returning officer—
- (a) shall publish in the constituency a notice showing the boundaries of any polling districts or polling places constituted as a result of the exercise of the power; and
 - (b) unless the power was exercised by the Secretary of State, shall also send him a report giving the same information.
- (7) Subsections (2) to (6) above do not apply to Northern Ireland, and in Northern Ireland the polling districts and polling places are those for the time being established under the law relating to the election of members to serve in the Northern Ireland Assembly.
- (8) Regulations—
- (a) may provide for adapting the register in force for the time being to any alteration of polling districts, and
 - (b) may make special provisions for cases where any alteration of polling districts is made between the publication of any electors lists and the coming into force of the register prepared from those lists,
- but except in cases for which provision is made by regulations an alteration of polling districts shall not be effective until the coming into force of the first register prepared from electors lists published after the alteration is made.
- (9) An election shall not be questioned by reason of—
- (a) any non-compliance with the provisions of this section ; or
 - (b) any informality relative to polling districts or polling places.

19 Voting at parliamentary elections

- (1) A person voting as an elector at a parliamentary election shall do so in person at the polling station allotted to him under the parliamentary elections rules except in so far as this section makes exceptions for—
 - (a) those registered as service voters ;
 - (b) those unable or likely to be unable to go in person to the polling station for one of the following reasons—
 - (i) the general nature of the occupation, service or employment of the person in question ;
 - (ii) that person's service as a member of any of Her Majesty's reserve or auxiliary forces;
 - (iii) the particular circumstances of that person's employment on the date of the poll either as a constable or, for a purpose connected with the election, by the returning officer;
 - (iv) at a general election, the candidature in some other constituency of that person or that person's wife or husband;
 - (v) at a general election, the fact that that person is acting as returning officer for some other constituency ;
 - (vi) at a general election, the particular circumstances of that person's employment on the date of the poll by the returning officer for some other constituency for a purpose connected with the election in that constituency;
 - (c) those unable or likely to be unable, by reason either of blindness or any other physical incapacity or of religious observance, to go in person to the polling station or, if able to go, to vote unaided ;
 - (d) those unable or likely to be unable to go in person from their qualifying address to the polling station without making a journey by air or sea;
 - (e) those no longer residing at their qualifying address ;
 - (f) those registered by virtue of a patient's declaration under section 7 above ;
 - (g) those who have a service qualification depending on marriage to, and residence outside the United Kingdom to be with, a person having a service qualification; and
 - (h) those unable or likely to be unable to go in person to the polling station by reason of the general nature of the occupation, service or employment of, and their resulting absence from their qualifying address to be with, their husband or wife.
- (2) A person registered as a service voter may vote by proxy unless he is entitled in pursuance of an application made under subsection (4) below to vote by post.
- (3) A person not registered as a service voter if unable or likely to be unable to go in person to the polling station by reason either—
 - (a) of the general nature of his occupation, service or employment, or
 - (b) of his service as a member of any of Her Majesty's reserve or auxiliary forces,may vote by proxy if he applies to be treated as an absent voter and is likely to be at sea or out of the United Kingdom on the date of the poll.
- (4) A person mentioned in paragraphs (a) to (f) of subsection (1) above may vote by post if he applies to be treated as an absent voter and provides an address in the United Kingdom to which a ballot paper is to be sent for the purpose, but—

Status: This is the original version (as it was originally enacted).

- (a) a person shall not be entitled to vote by post if he is not registered as a service voter and there is in force an appointment of a proxy to vote for him; and
- (b) a person shall not be entitled to vote by post on the ground that he no longer resides at his qualifying address if at the time of his application he resides at an address in the same area; and
- (c) a person registered as a service voter shall not be entitled to vote by post on any ground other than his being so registered.

For the purposes of this subsection an address shall not be treated as in the same area as a qualifying address unless it would be so treated under section 22(3) below for the purposes of that section.

- (5) A person who is not registered as a service voter but who either—
 - (a) has made a service declaration in respect of a qualification depending on marriage as described in subsection (1) above, or
 - (b) is as a married person unable or likely to be unable to go to the poll by reason of absence in the circumstances there described,
 has the like right to vote by proxy and, in the case dealt with by paragraph (b) above, the like right to vote by post as a person unable or likely to be unable to go to the poll by reason of the general nature of his occupation, service or employment.
- (6) A person, whether registered as a service voter or not—
 - (a) may vote in person as an elector notwithstanding any appointment of a proxy to vote for him, if he applies for a ballot paper for the purpose before a ballot paper has been issued for him to vote by proxy; but (b) shall not be entitled to vote in person as an elector—
 - (i) where he may vote by proxy by virtue of an appointment for the time being in force and he does not so apply ; or
 - (ii) where he has applied to be treated as an absent voter and is entitled in pursuance of the application to vote by post.
- (7) A person not registered as a service voter may vote at any polling station in the constituency if he is entitled to vote in person but unable or likely to be unable to go to the polling station allotted to him by reason of the particular circumstances of his employment on the date of the poll either—
 - (a) as a constable ; or
 - (b) by the returning officer, for a purpose connected with the election.
- (8) Nothing in this section confers a right to vote on a person not having the right apart from this section.

20 Absent voters at parliamentary elections

- (1) An application to be treated as an absent voter at parliamentary elections shall be made to the registration officer and shall be allowed by him if he is satisfied that the applicant is, or will if registered be, entitled under section 19 above to vote as an absent voter.
- (2) The application shall be for a particular election only, unless it is based on—
 - (a) the general nature of the applicant's occupation, service or employment; or
 - (b) the applicant's physical incapacity ; or
 - (c) the necessity of a journey by sea or air to go from the applicant's qualifying address to his polling station; or

Status: This is the original version (as it was originally enacted).

- (d) the ground that the applicant no longer resides at his qualifying address.
- (3) An application based on one of the grounds mentioned in subsection (2) above shall be for an indefinite period but where such an application is allowed the applicant shall cease to be entitled to be treated as an absent voter in pursuance of it if—
- (a) he applies to the registration officer to be no longer so treated; or
 - (b) he ceases to be registered at the same qualifying address or becomes so registered as a service voter ; or
 - (c) the registration officer gives notice that he has reason to believe there has been a material change of circumstances, and the prescribed period elapses after the giving of the notice.
- (4) This section applies to an application based on the grounds related to the applicant's marriage referred to in paragraphs (g) and (h) of section 19(1) as it applies to an application based on the general nature of the applicant's occupation, service or employment.
- (5) The registration officer shall keep a record of absent voters and of the addresses provided by them as the addresses to which their ballot papers are to be sent.

21 Proxies at parliamentary elections

- (1) A person is not entitled to have more than one person at a time appointed as a proxy to vote for him at a parliamentary election.
- (2) A person is not capable of being appointed to vote or of voting as proxy at a parliamentary election unless—
- (a) he is not subject (age apart) to any legal incapacity to vote at a parliamentary election as an elector, and
 - (b) he is either a Commonwealth citizen or a citizen of the Republic of Ireland, and a person is not entitled to vote as proxy at the same election in any constituency on behalf of more than two electors of whom that person is not the husband, wife, parent, grandparent, brother, sister, child or grandchild.
- (3) A person otherwise qualified is capable of voting as proxy at a parliamentary election at which he is of voting age on the date of the poll, and of being appointed proxy for that purpose before he is of voting age.
- (4) Subject to the foregoing provisions of this section a person is capable of being appointed proxy to vote at a parliamentary election and may vote in pursuance of the appointment.
- (5) The appointment shall be made by the registration officer by means of a proxy paper issued by him on the elector's application, and it is the registration officer's duty to issue a proxy paper in pursuance of any application duly made to him, if he is satisfied—
- (a) that the applicant is or will be registered for elections to which the application relates and entitled in respect of that registration to have a proxy appointed; and
 - (b) that the proxy is capable of being and willing to be appointed.
- (6) The appointment may be cancelled by the elector by giving notice to the registration officer and shall cease to be in force on the issue of a proxy paper appointing a different

Status: This is the original version (as it was originally enacted).

person to vote for him, whether in respect of the same registration or elsewhere, but, subject to that, shall remain in force—

- (a) in the case of an appointment for a person registered as a service voter, for all elections for which he remains registered as a service voter at the same qualifying address; and
 - (b) in the case of an appointment for a person not registered as a service voter, for all elections at which he is entitled to vote by proxy in pursuance of the same application to be treated as an absent voter.
- (7) Stamp duty is not chargeable on any instrument appointing a proxy under this section.
- (8) The registration officer shall keep a record of electors for whom proxies have been appointed and of the names and addresses of the persons appointed.

22 Voting as proxy at parliamentary elections

- (1) A person voting as proxy for an elector at a parliamentary election shall do so in person at the elector's polling station, except in so far as this section entitles the proxy to vote by post.
- (2) A proxy may exercise the right to vote as such at a parliamentary election by post if—
- (a) he applies so to do and provides an address in the United Kingdom to which a ballot paper is to be sent for the purpose ; and
 - (b) either—
 - (i) he is entitled to vote by post as an absent voter at the election ; or
 - (ii) that address is not in the same area as the elector's qualifying address.
- (3) For the purposes of this section, an address shall not be treated as in the same area as a qualifying address unless—
- (a) both addresses are in the same electoral division of Greater London, or
 - (b) both addresses are in the same electoral division of a county in England and, if either address is in a parish, both are in the same parish, or
 - (c) both addresses are in the same electoral division of a county in Wales and in the same community, or
 - (d) both addresses are in the same electoral division in Scotland, or
 - (e) both addresses are in the same ward in Northern Ireland.
- (4) A proxy is not entitled to exercise the right to vote as such in person at any election for which his application to exercise that right by post is allowed.
- (5) Any such application shall be made to the registration officer and shall be allowed by him in any case where he is satisfied—
- (a) that the elector is or will be registered as such for elections to which the application relates; and
 - (b) that there is in force an appointment of the applicant as his proxy to vote in respect of that registration ; and
 - (c) that the conditions entitling the applicant to vote by post are fulfilled.
- (6) Where any such application is based on the applicant's right to vote by post as an elector, then—
- (a) if that right extends only to a particular election, the application shall also extend only to that election;

Status: This is the original version (as it was originally enacted).

- (b) in any other case, the application shall be for an indefinite period but, where it is allowed, the applicant shall cease to be entitled to vote by post in pursuance of that right if—
 - (i) he ceases to have the right to vote by post as an elector, or has that right only by virtue of a new application; or
 - (ii) he ceases to be proxy for the elector, or is so only by virtue of a new appointment.
- (7) Where any such application is based on the situation of the address to which the ballot paper is to be sent, it shall be for an indefinite period but, if it is allowed, the applicant shall cease to be entitled to vote by post in pursuance of it if—
 - (a) he applies for a ballot paper not to be sent to that address; or
 - (b) he ceases to be proxy for the elector, or is so only by virtue of a new appointment
- (8) The registration officer shall keep a record of the persons whose applications to vote by post as proxy are for the time being allowed and of the addresses provided by them as the addresses to which their ballot papers are to be sent.

Conduct of parliamentary elections

23 Rules for parliamentary elections

- (1) The proceedings at a parliamentary election shall be conducted in accordance with the parliamentary elections rules in Schedule 1 to this Act.
- (2) It is the returning officer's general duty at a parliamentary election to do all such acts and things as may be necessary for effectually conducting the election in the manner provided by those parliamentary elections rules.
- (3) No parliamentary election shall be declared invalid by reason of any act or omission by the returning officer or any other person in breach of his official duty in connection with the election or otherwise of the 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.

24 Returning officers: England and Wales

- (1) In England and Wales, the returning officer for a parliamentary election is—
 - (a) in the case of a county constituency which is coterminous with or wholly contained in a county, the sheriff of the county ;
 - (b) in the case of a borough constituency which is coterminous with or wholly contained in a district, the chairman of the district council;
 - (c) in the case of any other constituency wholly outside Greater London, such sheriff or chairman of a district council as may be designated in an order by the Secretary of State made by statutory instrument;
 - (d) in the case of a constituency which is coterminous with or wholly contained in a London borough, the mayor of the borough;

Status: This is the original version (as it was originally enacted).

- (e) in the case of a constituency wholly or partly in Greater London which is situated partly in one London borough and partly in a district or any other London borough, the mayor of such London borough or the chairman of such district council as may be designated in an order by the Secretary of State made by statutory instrument.

The City, the Inner Temple and the Middle Temple shall be treated for the purposes of this section as if together they formed a London borough.

- (2) A 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.

25 Returning officers: Scotland

- (1) In Scotland, the returning officer for a parliamentary election is—
 - (a) in the case of a constituency wholly situated in one region or islands area, the person under section 41 below who is, or who may discharge the functions of, the returning officer at elections of councillors for the regional or islands council;
 - (b) in the case of a constituency situated in more than one region or islands area, such person mentioned above as the Secretary of State may by order direct.
- (2) The council of a region or of an islands area shall place at the disposal of the returning officer for a constituency wholly or partly situated in that region or islands area, for the purpose of assisting the returning officer in the discharge of any functions conferred on him in relation to a parliamentary election in that constituency, the services of officers employed by the council.
- (3) The council of a district shall, if so requested by the returning officer for a constituency wholly or partly situated in that district, place at the returning officer's disposal, for the purpose of assisting him as mentioned in subsection (2) above, the services of officers employed by the council.

26 Returning officer: Northern Ireland

In Northern Ireland, the Chief Electoral Officer for Northern Ireland is the returning officer for each constituency.

27 Returning officers generally

- (1) It is for the returning officer as such to execute the writ for a parliamentary election, and the office of returning officer is a distinct office from that by virtue of which he becomes returning officer.
- (2) Where a person takes any office by virtue of which he becomes returning officer, he (and not the outgoing holder of the office) shall complete the execution of any writ for a parliamentary election previously issued and not yet returned.
- (3) A person is not subject to any incapacity to vote at a parliamentary election by reason of being or acting as returning officer at that election.

28 Discharge of returning officer's functions in England and Wales

- (1) In England and Wales the duties of the returning officer for a parliamentary election (except those mentioned in subsection (2) below) shall be discharged, as acting returning officer—
 - (a) in the case of a constituency for which the chairman of a district council or the mayor of a London borough is returning officer by virtue of section 24(1) above, by the registration officer appointed by that council;
 - (b) in the case of any other constituency, by such registration officer as may be designated in an order made by the Secretary of State.
- (2) The duties excepted from subsection (1) above are—
 - (a) any duty imposed on a returning officer under rule 3 of the parliamentary elections rules; and
 - (b) any duty so imposed under rule 50 of those rules which the person (if any) who for the time being holds the office of returning officer reserves to himself and undertakes to perform in person.
- (3) The returning officer shall give to the acting returning officer written notice of any duties which he reserves to himself under paragraph (b) of subsection (2) above, and that paragraph shall, in the case of any election, apply to the duties (if any) of which the notice is so given not later than the day following that on which the writ is received, and to no others.
- (4) In the discharge of the duties imposed by subsection (1) an acting returning officer has all the powers, obligations, rights and liabilities of the returning officer under this Act, and this Act has effect accordingly.
- (5) An acting returning officer has power to appoint deputies to discharge all or any of those duties, but the appointment requires the Secretary of State's approval where the deputy's powers extend—
 - (a) to matters other than the receipt of nomination papers and connected matters ;
or
 - (b) to the taking or deciding of objections to nomination papers.
- (6) Section 25 of the Sheriffs Act 1887 (death of sheriff) does not authorise the under-sheriff to discharge the duties of returning officer, and upon a sheriff's death the acting returning officer shall discharge all the sheriff's duties as returning officer until another sheriff is appointed and has made the declaration of office.

29 Payments by and to returning officer

- (1) No consideration shall be given by or to a returning officer for the making out, receipt, delivery or return of the writ for a parliamentary election or, subject to the following provisions of this section, otherwise in connection with its execution.
- (2) Nothing in subsection (1) above shall be taken as applying to any inclusive salary payable to a returning officer in respect of the office by virtue of which he becomes returning officer.
- (3) The Treasury shall by statutory instrument prescribe a scale of maximum charges in respect of services rendered and expenses incurred by a returning officer for the purposes of or in connection with parliamentary elections, and may revise the scale as and when they think fit.

Status: This is the original version (as it was originally enacted).

- (4) A returning officer shall be entitled to his reasonable charges, not exceeding the sums specified in that scale, in respect of services and expenses of the several kinds so specified which have been properly rendered or incurred by him for the purposes of or in connection with a parliamentary election.
- (5) The amount of any such charges shall be charged on and paid out of the Consolidated Fund on an account being submitted to the Treasury, but the Treasury may if they think fit, before payment, apply for the account to be taxed under the provisions of section 30 below.
- (6) 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 section as part of a returning officer's charges at a parliamentary election, then on an account being submitted to the Treasury a sum equal to the increase shall be charged on and paid out of the Consolidated Fund to the authority.
- (7) On the returning officer's request for an advance on account of his charges, the Treasury may, on such terms as they think fit, make such an advance.
- (8) The Treasury may make regulations as to the time when and the manner and form in which accounts are to be rendered to them for the purposes of the payment of a returning officer's charges.

30 Taxation of returning officer's account

- (1) An application for a returning officer's account to be taxed shall be made—
 - (a) where the account relates to an election in a constituency in England or Wales or in Northern Ireland, to the county court,
 - (b) where the account relates to an election in a constituency in Scotland, to the Auditor of the Court of Session,and in this section 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 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) Any reference in this section to the county court shall be taken, in relation to Northern Ireland, as a reference to the county court having jurisdiction at the place for the delivery of nomination papers at the election in question.

Place and manner of voting at local government elections

31 Polling districts and stations at local government elections

- (1) For elections of-county councillors (other than councillors of the Greater London Council), the county council may divide an electoral division into polling districts,

Status: This is the original version (as it was originally enacted).

and may alter any polling district, and for elections of London borough or district councillors the London borough or district council may divide the London borough or district or any ward thereof into polling districts, and may alter any polling district.

- (2) In Scotland, for elections of regional or islands councillors the regional or islands council may divide an electoral division into polling districts and may alter any polling district, and for elections of district councillors the district council may divide a ward into polling districts and may alter any polling district; but in the absence of special circumstances those polling districts shall be those which were last designated for the purpose of parliamentary elections under section 18 above.
- (3) Any power to constitute polling districts for the purpose of local government elections shall be exercised so that electors from any parliamentary polling district wholly or partly within the electoral area can, in the absence of special circumstances, be allotted to a polling station within the parliamentary polling place for that district unless the parliamentary polling place is outside the electoral area.
- (4) Any polling district formed for the purpose of the election of councillors for any ward of a London borough shall, if the ward is wholly included in the electoral area for the election of a councillor of the Greater London Council, be a polling district for the election of a councillor of that Council for that electoral area.
- (5) If the polling districts in an electoral area for the election of a councillor of the Greater London Council or in part of such an area are not determined by subsection (4) above—
 - (a) the council of the London borough which includes that electoral area, or
 - (b) in the case of an electoral area which includes the City, the Inner Temple and the Middle Temple, the City of Westminster,may divide that area or, as the case may be, that part of that area, into polling districts, and may alter any polling district, and subsection (3) above applies to the power conferred by this subsection.

32 Voting at local government elections

- (1) All persons voting as electors at a local government election shall do so in person at the polling station allotted to them by the rules under section 36 or section 42 below except in so far as this section makes exceptions for—
 - (a) those registered as service voters;
 - (b) those unable or likely to be unable to go in person to the polling station for one of the following reasons—
 - (i) the general nature of the occupation, service or employment of the person in question;
 - (ii) that person's service as a member of Her Majesty's reserve or auxiliary forces ;
 - (iii) the particular circumstances of that person's employment on the date of the poll either as a constable or, for a purpose connected with the election, by the returning officer;
 - (iv) at an ordinary election, the fact that that person is acting as returning officer at an ordinary election of councillors for some other electoral area ;
 - (v) at an ordinary election, the particular circumstances of that person's employment on the date of the poll by the returning officer at an

Status: This is the original version (as it was originally enacted).

ordinary election of councillors for some other electoral area for a purpose connected with the election in that area;

- (c) those unable or likely to be unable, by reason either of blindness or any other physical incapacity or of religious observance, to go in person to the polling station or, if able to go, to vote unaided ;
 - (d) those unable or likely to be unable to go in person from their qualifying address to the polling station without making a journey by air or sea;
 - (e) those registered by virtue of a patient's declaration under section 7 above ;
 - (f) those who have a service qualification depending on marriage to, and residence outside the United Kingdom to be with, a person having a service qualification; and
 - (g) those unable or likely to be unable to go in person to the polling station by reason of the general nature of the occupation, service or employment of, and their resulting absence from their qualifying address to be with, their husband or wife.
- (2) A person registered as a service voter may at any local government election vote by proxy.
- (3) Where—
- (a) a person is registered at the same qualifying address both as a parliamentary and as a local government elector, and is not so registered as a service voter, and
 - (b) there is in force an appointment of a proxy to vote for him at parliamentary elections in respect of that registration, being an appointment based on the general nature of his occupation, service or employment,
- then, in respect of that registration, at local government elections at which postal voting is allowed he shall be treated as an absent voter and may vote by proxy.
- (4) Unless treated as an absent voter under subsection (3) above, any of the persons mentioned in paragraphs (b) to (e) of subsection (1) above who is not registered as a service voter may vote by post at any local government election at which postal voting is allowed, if he applies to be treated as an absent voter and provides an address in the United Kingdom to which a ballot paper is to be sent for the purpose.
- (5) A person who is not registered as a service voter but who either—
- (a) has made a service declaration in respect of a qualification depending on marriage as described in subsection (1), or
 - (b) is as a married person unable or likely to be unable to go to the poll by reason of absence in the circumstances there described,
- has the like right to vote by proxy and, in the case dealt with by paragraph (b) above, the like right to vote by post as a person unable or likely to be unable to go to the poll by reason of the general nature of his occupation, service or employment.
- (6) A person, whether registered as a service voter or not—
- (a) may vote in person as an elector notwithstanding any appointment of a proxy to vote for him, if he applies for a ballot paper for the purpose before a ballot paper has been issued for him to vote by proxy : but
 - (b) shall not be entitled to vote in person as an elector—
 - (i) where he may vote by proxy by virtue of an appointment for the time being in force and he does not so apply ; or

Status: This is the original version (as it was originally enacted).

- (ii) where he has applied to be treated as an absent voter and is entitled in pursuance of the application to vote by post.
- (7) A person not registered as a service voter, if he is entitled to vote in person, but unable or likely to be unable to go in person to the polling station allotted to him by reason of the particular circumstances of his employment on the date of the poll either as a constable or, for a purpose connected with the election by the returning officer, may vote at any polling station of the electoral area.
- (8) Postal voting shall be allowed at all local government elections, except, in England and Wales, elections of parish or community councillors.
- (9) Nothing in this section shall be taken as conferring a right to vote on a person not having the right apart from this section.

33 Absent voters at local government elections

- (1) An application to be treated as an absent voter at local government elections shall be made to the registration officer and shall be allowed by him if he is satisfied that the applicant is, or will if registered be, entitled under section 32 above to vote as an absent voter.
- (2) The application shall be for a particular election only, if it is based on—
- (a) the applicant's service as a member of any of Her Majesty's reserve or auxiliary forces ; or
 - (b) the fact that the applicant is acting as returning officer in some other electoral area ; or
 - (c) the particular circumstances of the applicant's employment on the date of the poll either as a constable or by a returning officer;
 - (d) religious observance ; or
 - (e) a patient's declaration under section 7 above.
- (3) An application not based on one of the grounds mentioned in subsection (2) above shall be for an indefinite period but, where such an application is allowed, the applicant shall cease to be entitled to be so treated as an absent voter in pursuance of it if—
- (a) he applies to the registration officer to be no longer so treated; or
 - (b) he ceases to be registered at the same qualifying address, or becomes so registered as a service voter ; or
 - (c) the registration officer gives notice that he has reason to believe that there has been a material change of circumstances, and the prescribed period elapses after the giving of notice.
- (4) The registration officer shall keep a record of absent voters and of the addresses provided by them as the addresses to which their ballot papers are to be sent.

34 Proxies at local government elections

- (1) Except in the case of a service voter who is as a peer subject to a legal incapacity to vote at parliamentary elections, no person shall be specially appointed proxy to vote at local government elections, but any appointment of a person to vote as proxy at parliamentary elections shall have effect also for the purpose of local government elections.

Status: This is the original version (as it was originally enacted).

- (2) Subject to subsection (3) below, in the case of a service voter who is as a peer subject to a legal incapacity to vote at parliamentary elections, any person shall be capable of being appointed proxy to vote at local government elections for him and may vote in pursuance of the appointment, but not more than one person at a time shall be appointed on behalf of any service voter.
- (3) A person—
- (a) is not capable of being appointed under subsection (2) above to vote, or of voting, as proxy at a local government election unless he is not subject (age apart) to any legal incapacity to vote at the election as an elector and is either a Commonwealth citizen or a citizen of the Republic of Ireland ;
 - (b) otherwise qualified is capable of voting as proxy at a local government election at which he is of voting age on the date of the poll, and of being appointed proxy for that purpose before he is of voting age.
- (4) A person voting as proxy at a local government election may do so by post if—
- (a) he applies to vote as proxy by post and provides an address in the United Kingdom to which a ballot paper is to be sent for the purpose, and
 - (b) he is entitled to vote by post as an absent voter at the election,
- but a person voting as proxy at a local government election, unless entitled to do so by post, shall do so in person at the elector's polling station.
- (5) The registration officer shall keep a record of electors for whom proxies have been appointed and of the names and addresses of the persons appointed.
- (6) Subsections (5) to (7) of section 21 and subsections (4), (5), (6) and (8) of section 22 above apply for the purposes of local government elections as they apply for the purposes of parliamentary elections.

Conduct of local government elections in England and Wales

35 Returning officers: local elections in England and Wales

- (1) In England and Wales every county council shall appoint an officer of the council to be the returning officer for elections of councillors of the county and every district council shall appoint an officer of the council to be the returning officer for the elections of councillors of the district and an officer of the council to be the returning officer for elections of councillors of parishes or communities within the district.
- (2) The returning officer at an election of a councillor of the Greater London Council shall be the proper officer of the borough which constitutes or includes the electoral area for which the election is held or, in the case of the electoral area which includes the City, the Inner Temple and the Middle Temple, the proper officer of the City of Westminster.
- (3) The returning officer at an election of London borough councillors shall be the proper officer of the borough.
- (4) The returning officer at any election mentioned in subsections (1) to (3) above may by writing under his hand appoint one or more persons to discharge all or any of his functions.
- (5) A local government election in England and Wales 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.

36 Local elections in England and Wales

- (1) Elections of councillors for local government areas in England and Wales shall be conducted in accordance with rules made by the Secretary of State.
- (2) Rules made under this section shall apply the parliamentary elections rules in Schedule 1 to this Act, subject to such adaptations, alterations and exceptions as seem appropriate to the Secretary of State.
- (3) When the following ordinary elections fall to be held in the same year—
 - (a) the ordinary election of district councillors for any district ward, and
 - (b) the ordinary election of parish or community councillors for any parish or community, or any parish or community ward, which is coterminous with or situated in that district ward,the polls at those elections shall be taken together and one-half of the cost of taking the combined polls shall be treated as attributable to the holding of each election.
- (4) All expenditure properly incurred by a returning officer in relation to the holding of an election of a councillor for a principal area (that is, a county, Greater London, a district or a London borough) shall, in so far as it does not, in cases where there is a scale fixed for the purposes of this section by the council for that area, exceed that scale, be paid by that council.
- (5) All expenditure properly incurred by a returning officer in relation to the holding of an election of a parish or community councillor shall, in so far as it does not, in cases where there is a scale fixed for the purposes of this section by the council of the district in which the parish or the community is situated, exceed that scale, be paid by the district council, but any expenditure so incurred shall be chargeable only on the parish or community for which the election is held.
- (6) Before a poll is taken at an election of a councillor for any local government area in England and Wales the council of that area or, in the case of an election of a parish or community councillor, the council who appointed the returning officer shall, at the request of the returning officer or of any person acting as returning officer, advance to him such reasonable sum in respect of his expenses at the election as he may require.
- (7) Rules made under this section shall be—
 - (a) made by statutory instrument;
 - (b) subject to annulment in pursuance of a resolution of either House of Parliament.

37 Ordinary day of local elections in England and Wales

In every year the ordinary day of election of councillors is the same for all local government areas in England and Wales and is—

- (a) the first Thursday in May ;
- (b) such other day as may be fixed by the Secretary of State by order made not later than 1st February in the year preceding the first year in which the order is to take effect.

The power to make an order under this section is exercisable by statutory instrument.

38 Nominations and candidate's death in local election in England and Wales

- (1) At local government elections in England and Wales—
- (a) the nomination paper shall give for each person subscribing it his electoral number (that is, his number as an elector for the electoral area); and
 - (b) a telegram (or any similar means of communication) consenting to a nomination shall be admissible instead of the candidate's written consent.
- (2) If at a contested local government election in England and Wales proof is given to the returning officer's satisfaction before the result of the election is declared that one of the persons named or to be named as a candidate in the ballot papers has died, then the returning officer—
- (a) shall countermand the poll, or
 - (b) if polling has begun, shall direct that the poll be abandoned,
- and the provisions of section 39(5) below shall apply.

39 Local elections void etc. in England and Wales

- (1) If in England and Wales at an election of a councillor for a local government area—
- (a) the poll is countermanded or abandoned for any reason, or
 - (b) no person is or remains, or an insufficient number of persons are or remain, validly nominated to fill the vacancy or vacancies in respect of which the election is held,
- the returning officer (or, in the case of an election of a councillor of the Greater London Council, the proper officer of the Council) shall order an election to fill any vacancy which remains unfilled to be held on a day appointed by him.
- That day shall be within the period of 42 days (computed according to section 40 below) beginning with the day fixed as the day of election for the first-mentioned election.
- (2) If for any other reason an election to an office under the Local Government Act 1972, other than that of chairman of a parish or community council or parish meeting or parish or community councillor, is not held on the appointed day or within the appointed time, or fails either wholly or in part or becomes void, the High Court may order an election to be held on a day appointed by the court.
- (3) The High Court may order that the costs incurred by any person in connection with proceedings under subsection (2) above shall be paid by the local authority concerned.
- (4) In a case not falling within subsection (1) above—
- (a) if any difficulty arises with respect to an election of parish or community councillors or of an individual parish or community councillor, or to the first meeting of a parish or community council after an ordinary election of parish or community councillors, or
 - (b) if a parish or community council is not properly constituted because an election is not held or is defective or for any other reason,
- the district council—
- (i) may by order make any appointment or do anything which appears to them necessary or expedient for the proper holding of such an election or meeting and properly constituting the council, and

Status: This is the original version (as it was originally enacted).

- (ii) may, if it appears to them necessary, direct the holding of an election or meeting and fix the date for it.
- (5) Where an election is ordered to be held under this section—
- (a) rules under section 36 above relating to the notice to be given of an election and the manner in which an election is to be conducted apply in relation to the election so ordered to be held as they applied or would have applied in relation to the election which has not been duly held or has failed or become void;
 - (b) no fresh nomination is necessary in the case of a candidate who remains validly nominated for that election.
- (6) An order made—
- (a) under this section may include such modifications of the provisions of—
 - (i) this Part of this Act (and the rules under section 36), and
 - (ii) the Local Government Act 1972,as appear to the High Court, or, as the case may be, the district council, necessary or expedient for carrying the order into effect;
 - (b) by a district council under subsection (4) above with respect to an election of parish or community councillors may modify the provisions of—
 - (i) this Act (and the rules with respect to such elections under section 36); and
 - (ii) any other enactment relating to such elections.
- (7) In the case of a common parish council under which are grouped, by virtue of section 11(5) of the Local Government Act 1972 (grouping of parishes), parishes situated in different districts, references in subsections (4) and (6) above to the district council shall be construed as references to the council of the district in which there is the greater number of local government electors for the parishes in the group.
- (8) Two copies of every order made by a district council under this section shall be sent to the Secretary of State.
- (9) If a municipal election in a London borough is not held on the appointed day or within the appointed time or becomes void, the municipal corporation shall not thereby be dissolved or be disabled from acting.

40 Timing as to local elections in England and Wales

- (1) When the day on which anything is required to be done by section 37 or section 39 above is a Sunday, day of the Christmas break, of the Easter break or of a bank holiday break or a day appointed for public thanksgiving or mourning, the requirement shall be deemed to relate to the first day thereafter which is not one of the days specified above.

In this subsection—

"bank holiday break" means any bank holiday not included in the Christmas break or the Easter break and the period beginning with the last week day before that bank holiday and ending with the next week day which is not a bank holiday ;

" Christmas break " means the period beginning with the last day before Christmas Day and ending with the first week day after Christmas Day which is not a bank holiday;

Status: This is the original version (as it was originally enacted).

"Easter break" means the period beginning with the Thursday before and ending with the Tuesday after Easter day.

- (2) Where under subsection (1) above the day of election is postponed, the day to which it is postponed shall be treated for the purposes of this Act and the Local Government Act 1972 as the day of election.
- (3) In computing any period of time for the purpose of any rules under section 36 above or for the purposes of section 39 any day specified in subsection (1) shall be disregarded; but where between the giving of a notice of election and the completion of the poll a day is declared to be a bank holiday or day of public thanksgiving or mourning, the foregoing provision, so far as it relates to any such rules, shall not operate to invalidate any act which would have been valid apart from that provision.

This subsection, so far as it relates to any such rules, has effect subject to the provisions of those rules.

Conduct of local government elections in Scotland

41 Returning officers: local elections in Scotland

- (1) Every local authority in Scotland shall appoint an officer of the authority to be the returning officer for each election of councillors for the authority, and if the person so appointed dies, resigns or is for any other reason unable to act, the authority may appoint another person to be returning officer at that election.
- (2) A returning officer in Scotland appointed under this Act may by writing under his hand appoint one or more persons to discharge all or any of his functions.
- (3) A local government election in Scotland 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.

42 Local elections in Scotland

- (1) Elections of councillors for local government areas in Scotland shall be conducted in accordance with rules made by the Secretary of State.
- (2) Rules made under this section shall apply the parliamentary elections rules in Schedule 1 to this Act subject to such adaptations, alterations and exceptions as seem appropriate to the Secretary of State.
- (3) Without prejudice to the generality of subsection (2) above, rules made under this section shall prescribe that the nomination paper of a candidate for election as a councillor for a local government area in Scotland shall contain a statement declaring that the candidate—
 - (a) consents to be nominated as a candidate;
 - (b) if elected, will accept office as a councillor and will faithfully perform the duties of the office;
 - (c) has attained the age of 21 years and is a Commonwealth citizen or citizen of the Republic of Ireland and not subject to any legal incapacity, and

Status: This is the original version (as it was originally enacted).

- (d) is not subject to any of the disqualifications for office set out in section 31 of the Local Government (Scotland) Act 1973 (disqualifications for office as local authority member).
- (4) The statement mentioned in subsection (3) above shall also contain particulars of the candidate's qualification for office under paragraphs (a) to (d) of section 29(1) of that Act of 1973 (qualifications for office as local authority member), in such form as may be prescribed by rules made under this section.
- (5) All expenditure properly incurred by a returning officer in relation to the holding of an election of a councillor to a local authority shall be paid by the council of that authority, but only (in cases where there is a scale fixed for the purposes of this section by that council) in so far as it does not exceed that scale.
- (6) Before a poll is taken at an election for a councillor for a local government area in Scotland, the council for that area shall, at the request of the returning officer or of any person acting as returning officer, advance to him such reasonable sum in respect of his expenses at the election as he may require.
- (7) Rules made under this section shall be—
 - (a) made by statutory instrument;
 - (b) subject to annulment in pursuance of a resolution of either House of Parliament.

43 Day of ordinary local elections in Scotland, and other timing provisions

- (1) In every year in which ordinary elections of councillors for local government areas in Scotland are held, the day of election is the first Thursday in May.
- (2) Where—
 - (a) the day or the last day on which anything is required or permitted to be done by any rules under section 42 above, or
 - (b) the day on which anything is required to be done under subsection (1) above, or section 44(2) or section 45(1) below,is a Sunday, Christmas Day, New Year's Day, Good Friday, bank holiday, or a public holiday, or a day appointed for public thanksgiving or mourning, the requirement or permission shall be deemed to relate to the first day thereafter which is not one of the days before mentioned, but, save as aforesaid or as otherwise expressly provided in this Act or by the Local Government (Scotland) Act 1973, in reckoning a number of days for the purposes of this Act, the days before specified shall not be excluded.
- (3) Where an election is postponed under subsection (2) above, the day on which the election is held shall be treated as the day of election for all purposes of this Act or that Act of 1973 relating to that election.
- (4) Where a day is declared to be a bank holiday or day of public thanksgiving or mourning, nothing in subsection (3) above affects the validity of any act done in relation to an election before or on the date of the declaration.

44 Candidate's death in local election in Scotland

- (1) If at a contested election of a councillor for a local authority in Scotland proof is given to the returning officer's satisfaction before the result of the election is declared that

Status: This is the original version (as it was originally enacted).

one of the persons named or to be named as a candidate in the ballot papers has died, then the returning officer—

- (a) shall countermand the poll, or
 - (b) if polling has begun, shall direct that the poll be abandoned.
- (2) The returning officer for the election which by reason of such countermanding or abandonment has not been duly held or has failed—
- (a) shall order an election to be held as soon as practicable after that, on a date to be fixed by him; and
 - (b) shall remain the returning officer for that election.
- (3) At any such election, no fresh nomination is necessary in the case of a candidate who remained validly nominated for the election in respect of which the poll was countermanded or abandoned.

45 Non-election of local authority etc. in Scotland

- (1) If in Scotland-Co) for any reason a local authority or members of a local authority are not elected in accordance with the provisions of this Act and the Local Government (Scotland) Act 1973, and the case is not otherwise provided for, or
- (b) there is for any reason no legally constituted local authority for any area, or
 - (c) the number of members of a local authority then in office is less than the quorum ascertained in accordance with the provisions of Schedule 7 to that Act of 1973 (meetings and proceedings of local authorities),
- the Secretary of State may direct the holding of an election for filling such vacancies as exist, and the election shall be held as soon as practicable after that, on a date to be fixed by him.
- (2) The Secretary of State may in that direction—
- (a) make such provision as appears to him expedient for authorising any person to act in place of a local authority pending the election of members of the authority by an election under subsection (1) above; and
 - (b) make such incidental, consequential, transitional or supplemental provision as appears to him to be necessary or proper.

Supplemented provisions as to local government elections

46 Further provision as to local election voting

- (1) At a local government election for any electoral area no person shall as an elector and no person shall as proxy for any one elector—
- (a) give more than one vote for any one candidate; or
 - (b) give more votes in all than the total number of councillors to be elected for the electoral area.
- (2) No person is subject to any incapacity to vote at a local government election by reason of his being or acting as returning officer at that election.

47 Loan of equipment for local elections

- (1) Any ballot boxes, fittings and compartments provided for parliamentary elections out of moneys provided by Parliament, may, on request, be lent to the returning officer at a local government election on such terms and conditions as the Treasury may determine.
- (2) Any ballot boxes, fittings and compartments provided by or belonging to—
 - (a) a local authority within the meaning of the Local Government Act 1972, or
 - (b) a local authority within the meaning of the Local Government (Scotland) Act 1973,as the case may be, shall, on request, and if not required for immediate use by that authority, be lent to the returning officer at an election held under those Acts on such terms and conditions as may be agreed.

48 Validity of local elections, and legal costs

- (1) No local government election shall be declared invalid by reason of any act or omission of the returning officer or any other person in breach of his official duty in connection with the election or otherwise of rules under section 36 or section 42 above 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.
- (2) A local government election, unless questioned by an election petition within the period fixed by law for those proceedings, shall be deemed to have been to all intents a good and valid election.
- (3) The council which is required to pay the expenses properly incurred by a returning officer in relation to any local government election may treat those expenses as including all costs properly incurred by the returning officer in connection with or in contemplation of any legal proceedings arising out of the election (including any criminal proceedings against the returning officer), whether or not the proceedings are in fact instituted.
- (4) In Scotland the election of a member of a local authority shall not be affected by reason only of any nullity or irregularity in the election of any other member of the authority.

Supplemental provisions as to parliamentary and local government elections

49 Effect of registers

- (1) The register of parliamentary electors shall for the purposes of this Part of this Act be conclusive on the following questions—
 - (a) whether or not a person registered in it was on the qualifying date resident at the address shown;
 - (b) whether or not that address is in any constituency or any particular part of a constituency ;
 - (c) whether or not a person registered as an elector in a constituency in Northern Ireland was during the whole of the period of three months ending on the qualifying date resident in Northern Ireland ;

Status: This is the original version (as it was originally enacted).

- (d) whether or not a person registered in it is registered as a service voter.
- (2) The register of local government electors shall for the purposes of this Part be conclusive on the following questions—
- (a) whether or not a person registered in it was on the qualifying date resident at the address shown;
 - (b) whether or not that address is in any local government area or any particular part of a local government area ;
 - (c) whether or not a person registered in it is registered as a service voter.
- (3) The relevant special lists prepared under this Act for a parliamentary or local government election shall, for the purposes of this Part, be conclusive on the following questions—
- (a) whether or not a person's right to vote at the election is exercisable by post;
 - (b) whether or not there is in force an appointment of a proxy to vote for any person and (if so) who is appointed.
- (4) Any entry in the register of parliamentary or local government 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.
- (5) A person registered as a parliamentary or local government elector, or entered in the list of proxies, shall not be excluded from voting on the ground—
- (a) that he is not a Commonwealth citizen or citizen of the Republic of Ireland, or
 - (b) that he is not of voting age, or
 - (c) that he is otherwise subject to any legal incapacity to vote,
- or that on the qualifying date or the date of his appointment, as the case may be—
- (i) he was not a Commonwealth citizen or citizen of the Republic of Ireland, or
 - (ii) he was otherwise subject to any legal incapacity to vote,
- but this provision shall not prevent the rejection of the vote on a scrutiny or affect his liability to any penalty for voting.

50 Effect of misdescription

No misnomer or inaccurate description of any person or place named—

- (a) in the register of parliamentary electors, or
- (b) in the register of local government electors, or
- (c) in any list, record, proxy paper, nomination paper, ballot paper, notice or other document required for the purposes of this Part of this Act, and the parliamentary elections rules,

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.

51 Corrupt and illegal practices lists

- (1) The registration officer shall in each year make out a corrupt and illegal practices list containing—

- (a) the names and descriptions of the persons who, though otherwise qualified to be registered in the register of parliamentary electors for each constituency or part of a constituency for which he acts, are not so qualified by reason of having been convicted or reported guilty of a corrupt or illegal practice ; and
 - (b) a statement of the offence of which each person has been found guilty.
- (2) The proper officer of the authority of each local government area shall in each year make out a corrupt and illegal practices list containing—
- (a) the names and descriptions of the persons, who, though otherwise qualified to be registered in the register of local government electors for the area for which he acts, are not so qualified by reason of having been convicted or reported guilty of a corrupt or illegal practice; and
 - (b) a statement of the offence of which each person has been found guilty.

52 Discharge of registration duties

- (1) A registration officer shall comply with any general or special directions which may be given by the Secretary of State with respect to the arrangements to be made by the registration officer for carrying out his registration duties.
- (2) 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 Secretary of State or, in Scotland, by the council which appointed the registration officer, and the provisions of this Act 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.
- (3) 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 the proper officer of the council by whom the registration officer was appointed.
- (4) In England and Wales, a district council or a London borough council may assign officers to assist the proper officer of the council in acting on the requisition of a registration officer or otherwise carrying out any of his duties in relation to the registration of electors and the conduct of parliamentary elections upon such terms as may be agreed between the council and the person carrying out the duties.
- (5) In Scotland, the council of a region or islands area may assign officers to assist the registration officer in carrying out any of his duties in relation to the registration of electors upon such terms as may be agreed between the council and the person carrying out the duties.

53 Power to make regulations as to registration etc.

- (1) Provision may be made by regulations—
- (a) with respect to the form of the register of electors and of the electors lists or any special lists or records required by this Act in connection with the register or with any election;
 - (b) with respect to the procedure to be followed in the preparation of the register, the electors lists and any such special lists or records as mentioned above, and with respect to the time, place and manner of their publication; and
 - (c) generally with respect to any matters incidental to the provisions of this Act so far as those provisions relate to the registration of electors or to voting by post or proxy.

Status: This is the original version (as it was originally enacted).

- (2) Those incidental matters include the time and manner of preparation and publication and form of, and the making and determination of claims or objections with respect to, the corrupt and illegal practices lists.
- (3) Without prejudice to the generality of subsections (1) and (2) above, regulations made with respect to the matters mentioned in those subsections may contain any such provisions as are mentioned in Schedule 2 to this Act.

54 Payment of expenses of registration

- (1) Any expenses properly incurred by a registration officer in the performance of his registration duties (in this Act referred to as "registration expenses") shall (except in Northern Ireland) be paid by the local authority by whom the registration officer was appointed.
- (2) The registration expenses of the Chief Electoral Officer for Northern Ireland shall be paid out of moneys provided by Parliament
- (3) Any fees or other sums received by the registration officer in respect of his registration duties, other than sums paid to him in respect of his registration expenses—
 - (a) shall be accounted for by him and paid to the local authority by whom he was appointed ;
 - (b) in the case of the Chief Electoral Officer for Northern Ireland, shall be accounted for by him to the Secretary of State and paid into the Consolidated Fund.
- (4) On the request of a registration officer for an advance on account of registration expenses—
 - (a) 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 ; or
 - (b) in the case of the Chief Electoral Officer for Northern Ireland, the Secretary of State may, if he thinks fit, make such an advance to him of such an amount and subject to such conditions as the Secretary of State may approve.
- (5) 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 section shall be placed to the credit of that rate.

55 Ascertainment of amount of registration expenses

- (1) The registration expenses payable to a registration officer—
 - (a) include all proper and reasonable charges for his own personal remuneration for performing his registration duties and for the remuneration and expenses of any staff provided by a local authority to enable him to perform them; but
 - (b) do not include any sum on account of the use of premises, furniture or equipment provided by a local authority in excess of the amount by which that authority's expenditure has been actually and directly increased by the use of those premises or of that furniture or equipment in connection with registration.
- (2) The Secretary of State may frame a scale of registration expenses applicable to all or any class or classes of those expenses, and may alter the scale as and when he thinks

Status: This is the original version (as it was originally enacted).

fit, and any expenses incurred by a registration officer of a class to which the scale is applicable—

- (a) shall be taken to be properly incurred if they do not exceed the maximum amount determined by or in accordance with the scale ; and
 - (b) shall be taken not to have been properly incurred so far as they do exceed that amount, unless the sanction (whether previous or not) of the Secretary of State and of the local authority is specially given for the excess.
- (3) Nothing in paragraph (a) of subsection (2) above shall be construed as entitling a registration officer to receive payments in excess of the expenses actually incurred by him, except his proper and reasonable charges for his own personal remuneration.
- (4) If any question arises whether any expenses incurred by a registration officer of a class to which no scale framed under this section is applicable have been properly incurred or not, that question shall be referred to the Secretary of State, and his decision on the question shall be final.
- (5) This section does not apply to Northern Ireland.

56 Registration appeals: England and Wales

- (1) An appeal lies to the county court—
- (a) from any decision under this Act of the registration officer on any claim for registration or objection to a person's registration made to and considered by him,
 - (b) from any decision under this Act of the registration officer disallowing a person's application to be treated as an absent voter or to vote by post as proxy, in any case where the application is not made for a particular election only,
 - (c) from any decision under this Act of the registration officer to place or not to place against any name in the register a mark indicating that the person registered is, or is not, registered as a service voter.
 - (d) from any decision under this Act of the registration officer to make or not to make an alteration in a register as published,
- but an appeal does not lie 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.
- (2) No appeal lies from the decision of the Court of Appeal on appeal from a decision of the county court under this section.
- (3) An appeal to the county court or Court of Appeal by virtue of this section 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.
- (4) 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 section, and the registration officer shall make such alterations in the electors lists or register as may be required to give effect to the decision.
- (5) The registration officer shall undertake such duties in connection with appeals brought by virtue of this section as may be prescribed 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 subsection.

- (6) This section applies in relation to decisions on claims and objections with respect to any corrupt and illegal practices list as it applies in relation to the decisions mentioned in subsection (1) above but as if a reference to that list were included in the reference to the electors list and with any other prescribed modifications.

57 Registration appeals: Scotland

- (1) Section 56 above applies to Scotland subject to the following modifications—
- (a) subsection (2) shall be omitted;
 - (b) an appeal lies on any point of law from any decision of the sheriff under this section to the court of three judges constituted under subsection (2) below ; 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 paragraph (b) of subsection (1) above 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 the 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 this Act; and acts of sederunt under this section 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.

58 Registration appeals: Northern Ireland

- Section 56 above, except subsections (2) and (4), applies to Northern Ireland, and—
- (a) any decision of a county court upon a point of law under section 56(1) shall be appealable in the same way and subject to the same provisions as a corresponding decision under the law relating to the registration of electors for elections of members to sit in the Northern Ireland Assembly and the reference in subsection (3) of that section to the Court of Appeal shall be construed accordingly ; and
 - (b) any power to make rules of court with respect to appeals under that law applies to appeals under this section.

59 Supplemental provisions as to members of forces and service voters

- (1) In this Part of this Act, the expression " member of the forces "—
- (a) means a person serving on full pay as a member of any of the naval, military or air forces of the Crown raised in the United Kingdom ; but
 - (b) does not include a person serving only as a member of a reserve or auxiliary force except in so far as regulations provide that it shall include persons so serving during a period of emergency.
- (2) Where a person—

Status: This is the original version (as it was originally enacted).

- (a) is not a member of the forces as defined by subsection (1) above, but
- (b) is, in the performance of his duty as a member of any of Her Majesty's reserve or auxiliary forces, absent on the qualifying date from an address at which he has been residing,

any question arising under section 5(2) above whether his residence at that address has been interrupted on that date by his absence in the performance of that duty shall be determined as if the performance of it did not prevent his resuming actual residence at any time after that date.

- (3) Arrangements shall be made by the appropriate government department for securing that (so far as circumstances permit) every person having a service qualification by virtue of paragraph (a) or (b) of section 14(1) above shall—
 - (a) have an effective opportunity of exercising from time to time as occasion may require the rights conferred on him by this Act in relation to the making and cancellation of service declarations and of appointments of a proxy, and in relation to voting by post; and
 - (b) receive such instructions as to the effect of this Act and any regulations made under it, and such other assistance, as may be reasonably sufficient in connection with the exercise by him and any wife of his or, as the case may be, by her and any husband of hers, of any rights conferred on them as mentioned above.

In this subsection " the appropriate government department" means, in relation to members of the forces, the Ministry of Defence, and in relation to any other person means the government department under which he is employed in the employment giving the service qualification.

- (4) In relation to persons having a service qualification by virtue of paragraph (c) of section 14(1), the British Council shall be under a corresponding obligation to that imposed by subsection (3) above on the appropriate government department.

Offences

60 Personation

- (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 parliamentary or local government 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 section, 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.

61 Other voting offences

(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 be treated as an absent voter or to vote by post as proxy, at a parliamentary or local government election, knowing that he is subject to a legal incapacity to vote ; or
- (b) he applies for the appointment of a proxy to vote for him at parliamentary or local government elections, knowing that he or the person to be appointed is subject to a legal incapacity to vote ; or
- (c) he votes, whether in person or by post, or applies to vote by post, as proxy for some other person at a parliamentary or local government election, knowing that that person is subject to a legal incapacity to vote.

For the purposes of this subsection 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) 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 constituency at any parliamentary election, or more than once in the same electoral area at any local government election; or
 - (ii) in more than one constituency at a general election, or in more than one electoral area at an ordinary election of councillors for a local government area which is not a single electoral area; or
 - (iii) in any constituency at a general election, or in any electoral area at such an ordinary election as mentioned above, when there is in force an appointment of a person to vote as his proxy at the election in some other constituency or electoral area; or
- (b) he votes as elector in person at a parliamentary or local government election at which he is entitled to vote by post; or
- (c) he votes as elector in person at a parliamentary or local government 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) not being a service voter, he applies for a person to be appointed as his proxy to vote for him at parliamentary elections without applying for the cancellation of a previous appointment of a third person then in force or without withdrawing a pending application for such an appointment.

(3) 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 constituency at any parliamentary election, or more than once in the same electoral area at any local government election; or
 - (ii) in more than one constituency at a general election, or in more than one electoral area at an ordinary election of councillors for a local government area which is not a single electoral area; or

- (b) he votes in person as proxy for an elector at a parliamentary or local government 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 registered as a service voter at a parliamentary or local government election knowing that the elector is entitled to vote by post at the election; or
 - (d) he votes in person as proxy for an elector at a parliamentary or local government election knowing that the elector has already voted in person at the election.
- (4) A person shall also be guilty of an offence if he votes at a parliamentary election in any constituency as proxy for more than two persons of whom he is not the husband, wife, parent, grandparent, brother, sister, child or grandchild.
- (5) 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 subsections of this section.
- (6) For the purposes of this section 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 subsection (4) above, 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.
- (7) An offence under this section shall be an illegal practice, but—
- (a) 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 section 173 below ; and
 - (b) a candidate shall not be liable, nor shall his election be avoided, for an illegal practice under this section of any agent of his other than an offence under subsection (5) above.

62 Offences as to declarations

- (1) A person who—
- (a) makes a patient's declaration or a service declaration—
 - (i) when he is not authorised so to do by section 7(4) or section 15(1) above, as the case may be, or
 - (ii) except as permitted by this Act, when he knows that he is subject to a legal incapacity to vote, or
 - (iii) when he knows that it contains a statement which is false, or
 - (b) attests a patient's declaration or a service declaration, as the case may be, when he knows—
 - (i) that he is not authorised to do so, or
 - (ii) that it contains a false statement as to any particulars required by paragraph (d) of section 7(4), or by regulations under section 15, as the case may be,
- shall be liable—

Status: This is the original version (as it was originally enacted).

except in Northern Ireland, on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 4 on the standard scale or to both;

in Northern Ireland, on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding £50 or to both, or on conviction on indictment to imprisonment for a term not exceeding 6 months or to a fine not exceeding £100 or to both.

- (2) Where the declaration is available only for local government elections the reference in subsection (1) above to a legal incapacity to vote refers to a legal incapacity to vote at local government elections.

63 Breach of official duty in parliamentary elections

- (1) If a person to whom this section applies, or who is for the time being under a duty to discharge as deputy or otherwise any of the functions of such a person, is, without reasonable cause, guilty of any act or omission in breach of his official duty, then, subject to subsection (4) below, he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale, or, in Northern Ireland, a fine not exceeding £100.

- (2) No person to whom this section applies shall be liable for breach of his official duty to any penalty at common law or under any enactment other than—

- (a) section 65 below,
- (b) section 66 below, or
- (c) section 99(1) below,

nor shall any action for damages lie in respect of the breach by such a person of his official duty.

- (3) Those to whom this section applies are—

- (a) the Clerk of the Crown (or, in Northern Ireland, the Clerk of the Crown for Northern Ireland),
- (b) any sheriff clerk, registration officer, returning officer, presiding officer, or clerk or assistant employed by such an officer, in connection with his official duties, and
- (c) any postmaster,

and the expression " official duty " shall for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by the law relating to parliamentary elections or the registration of parliamentary electors.

- (4) Nothing in this section imposes liability to summary prosecution on a returning officer for a parliamentary election in Scotland or on a person under a duty to discharge the functions of such a returning officer.

64 Breach of official duty in local elections

- (1) If a person to whom this section applies, or who is for the time being under a duty to discharge as deputy or otherwise any of the functions of such a person, 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 3 on the standard scale.

Status: This is the original version (as it was originally enacted).

- (2) No person to whom this section applies shall be liable for breach of his official duty to any penalty at common law, nor shall any action for damages lie in respect of the breach by such a person of his official duty.
- (3) Those to whom this section applies are—
- (a) any registration officer or person whose duty it is to prepare a corrupt and illegal practices list under section 51(2) above or clerk or assistant employed by him in connection with his official duties,
 - (b) any person whose duty it is to act as returning officer at or to take part in the conduct of a local government election or to be responsible after a local government election for the used ballot papers and other documents (including returns and declarations as to expenses),
- and the expression " official duty " shall for the purposes of this section be construed accordingly but shall not include duties imposed otherwise than by the law relating to local government elections or the registration of local government electors.

65 Tampering with nomination papers, ballot papers etc.

- (1) A person shall be guilty of an offence, if, at a parliamentary or local government election, he—
- (a) fraudulently defaces or fraudulently destroys any nomination paper; or
 - (b) fraudulently defaces or fraudulently destroys any ballot paper, or the official mark on any ballot paper, or any declaration of identity or official envelope used in connection with voting by post; or
 - (c) without due authority supplies any ballot paper to any person; or
 - (d) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorised by law to put in ; or
 - (e) fraudulently takes out of the polling station any ballot paper; or
 - (f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election ; or
 - (g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts.
- (2) In Scotland, a person shall be guilty of an offence if—
- (a) at a parliamentary or local government 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) at a local government election, he signs any nomination paper as candidate or in any other capacity certifies the truth of any statement contained in it, knowing such statement to be false; or
 - (c) he fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts.
- (3) A person guilty of an offence under this section at a parliamentary election shall be liable—
- (a) if he is a returning officer, a presiding officer or clerk in attendance at a polling station, or a clerk in attendance at the proceedings in connection with the issue or receipt of postal ballot papers, to imprisonment for a term not exceeding 2 years;

Status: This is the original version (as it was originally enacted).

- (b) if he is any other person, to imprisonment for a term not exceeding 6 months.
- (4) If, at a local government election in England and Wales, a person is guilty of any offence specified in paragraph (a) of subsection (1) above, or of any attempt to commit such offence, he shall be liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 2 on the standard scale or to both.
- (5) A person guilty of an offence under this section at a local government election (other than an offence punishable under subsection (4) above) shall—
 - (a) if he is a returning officer, a presiding officer or clerk appointed to assist in taking the poll or counting the votes or a clerk appointed to assist at the proceedings in connection with the issue or receipt of postal ballot papers, be liable, on conviction on indictment, to imprisonment for a term not exceeding 2 years;
 - (b) if he is any other person, be liable—
 - (i) on summary conviction to a fine not exceeding the statutory maximum or to imprisonment for a term not exceeding 6 months or to both;
 - (ii) on conviction on indictment to a fine or to imprisonment for a term not exceeding 6 months or to both.

66 Requirement of secrecy

- (1) The following persons—
 - (a) every returning officer and every presiding officer or clerk attending at a polling station,
 - (b) every candidate or election agent or polling agent 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 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 counting of the votes as to the candidate for whom any vote is given on any particular ballot paper.
- (3) 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 candidate for whom 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 candidate for whom 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;

Status: This is the original version (as it was originally enacted).

- (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 name of the candidate for whom he has or has not voted.
- (4) 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 candidate for whom any vote is given in any particular ballot paper or communicate any information with respect thereto obtained at those proceedings.
- (5) No person having undertaken to assist a blind voter to vote shall communicate at any time to any person any information as to the candidate for whom 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.
- (6) If a person acts in contravention of this section he shall be liable on summary conviction to imprisonment for a term not exceeding 6 months.