



# Representation of the People Act 1985

## 1985 CHAPTER 50

### *Extension of franchise to British citizens overseas*

#### **1 Extension of parliamentary franchise**

- (1) Subject to section 1(3) of the principal Act, a person is entitled (notwithstanding anything in section 1(2) of that Act) to vote as an elector at a parliamentary election in any constituency if—
  - (a) he qualifies as an overseas elector in respect of that constituency on the qualifying date, and
  - (b) on that date and on the date of the poll he is not subject to any legal incapacity to vote and is a British " citizen.
- (2) For the purposes of this and the principal Act, a person qualifies as an overseas elector in respect of a constituency on the qualifying date if—
  - (a) on that date he is not resident in the United Kingdom, and
  - (b) he satisfies the following conditions.
- (3) Those conditions are that—
  - (a) he was included in a register of parliamentary electors in respect of an address at a place that is situated within the constituency concerned,
  - (b) on the date by reference to which the register was prepared, he was resident or treated for the purposes of registration as resident at that address,
  - (c) that date fell within the period of five years ending immediately before the qualifying date, and
  - (d) if he was included in any register of parliamentary electors prepared by reference to a date later than the date referred to in paragraph (b) above, he was not resident or treated for the purposes of registration as resident at an address in the United Kingdom on that later date.
- (4) The reference in subsection (1) above to a person being subject to a legal incapacity to vote on the qualifying date does not include a reference to his being below the age of 18 on that date.

## 2 Registration of British citizens overseas

(1) A person may not be registered in any register as mentioned in section 12(1) of the principal Act on the ground that he may be entitled by virtue of section 1 of this Act to vote at parliamentary elections for which the register is to be used except—

- (a) ' in pursuance of a declaration made by him under and in accordance with this section (an "overseas elector's declaration "), and
- (b) in the register for the constituency or part of the constituency within which is situated the place in the United Kingdom specified in the declaration in accordance with subsection (4) below as having been the address in respect of which he was registered;

and may not be so registered on that ground unless the registration officer concerned is satisfied that, on the qualifying date, he qualifies as an overseas elector in respect of the constituency for which that register is prepared.

(2) An overseas elector's declaration must 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 and must be made within the twelve months ending with that date.

(3) An overseas elector's declaration must state—

- (a) the date of the declaration,
- (b) that the declarant is a British citizen,
- (c) that the declarant will not be resident in the United Kingdom on the qualifying date,
- (d) when he ceased to be so resident or, in the case of a person relying on registration in pursuance of a service declaration, when he ceased to have a service qualification or, if later, ceased to be so resident, and
- (e) that the declarant does not intend to reside permanently outside the United Kingdom,

and must contain such other information and satisfy such other requirements (which may include requirements for declarations to be attested and for the charging of fees in respect of their attestation) as may be prescribed.

(4) An overseas elector's declaration must specify the address in respect of which he was registered and may not specify more than one such address; and if the declarant makes more than one such declaration bearing the same date and specifying different addresses in the United Kingdom as the address in respect of which he was registered the declarations shall be void.

(5) An overseas elector's declaration may be cancelled at any time by the declarant and such a declaration bearing a later date shall, without any express cancellation, cancel an overseas elector's declaration bearing an earlier date which was made with reference to the same qualifying date.

(6) For the purposes of section 1 of this Act and Part I of the principal Act, where a person is registered in a register of parliamentary electors for any constituency or part of a constituency in pursuance of an overseas elector's declaration, it shall be conclusively presumed—

- (a) that the address specified in the declaration in accordance with subsection (4) above is at a place that is situated within that constituency or, as the case may be, part, and
- (b) that he was not resident in the United Kingdom on the qualifying date;

and for the purposes of section 1 of this Act, section 49(1)(a) of the principal Act (register conclusive as to residence) does not apply in relation to a person's previous registration in a register of parliamentary electors unless he is registered in pursuance of an overseas elector's declaration by virtue of that previous registration.

### **3 Extension of franchise for European Assembly elections**

- (1) The reference in paragraph 2(1)(a) of Schedule 1 to the European Assembly Elections Act 1978 to persons registered in the register of parliamentary electors at an address within an Assembly constituency (only persons registered there entitled to vote at Assembly elections in the constituency) includes a reference to any person so registered in pursuance of an overseas elector's declaration where the address specified in the declaration in accordance with section 2(4) of this Act is at a place that is situated within the constituency.
- (2) A peer is entitled by virtue of this section to vote as elector at an Assembly election in any constituency if—
  - (a) he qualifies under this section in respect of that constituency on the qualifying date,
  - (b) on that date and on the day appointed for the election he is not subject to any legal incapacity to vote and is a British citizen, and
  - (c) he is registered in the constituency in the register under this section to be used at the election.
- (3) For the purposes of subsection (2) above, a peer qualifies under this section in respect of a constituency on the qualifying date if—
  - (a) on that date he is not resident in the United Kingdom, and
  - (b) he satisfies the following conditions.
- (4) Those conditions are that—
  - (a) he was included in a register of local government electors in respect of an address at a place that is situated within the constituency concerned,
  - (b) on the date by reference to which the register was prepared, he was resident or treated for the purposes of registration as resident at that address,
  - (c) that date fell within the period of five years ending immediately before the qualifying date, and
  - (d) if he was included in any register of local government electors prepared by reference to a date later than the date referred to in paragraph (b) above, he was not resident or treated for the purposes of registration as resident at an address in the United Kingdom on that later date.
- (5) Regulations under this section may provide for the registration, subject to prescribed exceptions and on satisfying prescribed conditions, of those peers who (apart from the requirement of registration) may be entitled by virtue of this section to vote as electors at Assembly elections.
- (6) Such regulations shall require each registration officer to prepare and publish, in respect of any year for which any peers are to be registered under this section, a register of the peers so registered, and any such register shall so far as practicable be combined with the registers of parliamentary electors and of local government electors, the names of peers registered under this section being marked to indicate that fact.

## (7) Such regulations—

- (a) may require a person seeking registration under this section to make a declaration for the purpose, being a declaration of the prescribed facts and containing the prescribed information, and may require such declarations to be attested and provide for the charging of fees in respect of their attestation, and
- (b) may apply with such modifications or exceptions as maybe prescribed any provision in respect of the registration of parliamentary or local government electors made by or under the principal Act or this Act and, in Northern Ireland, by or under the Electoral Law Act (Northern Ireland) 1962.

## (8) In this section—

" legal incapacity " has the same meaning—

- (a) in relation to Great Britain as it has in the principal Act for the purposes of local government elections, and
- (b) in relation to Northern Ireland as it has in the Electoral Law Act (Northern Ireland) 1962 for the purposes of local elections,

but the reference in subsection (2)(b) above to a person being subject to a legal incapacity to vote on the qualifying date does not include a reference to his being below the age of 18 on that date,

" local election " has the same meaning as in the Electoral Law Act (Northern Ireland) 1962, and

" qualifying date " means, in relation to an Assembly election in Great Britain, the date which would be the qualifying date if that election were a local government election and, in relation to an Assembly election in Northern Ireland, the date which would be the qualifying date if that election were a local election,

and references to the register of local government electors include a reference to the register of electors prepared in accordance with the Electoral Law Act (Northern Ireland) 1962.

- (9) For the purposes of this section, section 49(2)(a) of the principal Act (registers conclusive as to residence) does not apply in relation to a person's previous registration in a register of local government electors unless he is registered under this section by virtue of that previous registration.

#### **4 Extension of franchise: consequential amendments**

- (1) In section 9(2) of the principal Act (combined register to indicate those registered only as local government electors) after the words "only as " there shall be inserted the words " parliamentary electors or".
- (2) In section 10 of that Act (preparation of registers)—
  - (a) in paragraph (a) (inquiry as to persons entitled to be registered except in pursuance of service declaration) after the word " declaration " there shall be inserted the words " patient's declaration or overseas elector's declaration"; and
  - (b) in paragraph (b) (preparation of lists of those entitled to be registered together with their qualifying addresses) for the words " together with " there shall be substituted the words " and, subject to any prescribed exceptions".

- (3) In section 12(1) of that Act (right to be registered, subject to exceptions) in paragraph (a) after the word " qualification " there shall be inserted—  
“(aa) section 2(1) of the Representation of the People Act 1985”.
- (4) In section 49 of that Act (effect of registers) in subsection (5) in paragraph (a) and paragraph (i) after the word " Ireland " there shall be inserted the words " or, in the case of a person registered as a parliamentary elector in pursuance of an overseas elector's declaration, a British citizen".
- (5) In section 202 of that Act (interpretation) before the definition of " parliamentary election petition " there shall be inserted the following definition—  
“'overseas elector's declaration ' has the meaning given by section 2 of the Representation of the People Act 1985”.
- (6) In Schedule 1 to that Act in rule 28 (issue of poll cards) at the end of paragraph (1) there shall be inserted the words " and a card shall not be sent to any person registered, or to be registered, in pursuance of an overseas elector's declaration".
- (7) In Schedule 2 to that Act (regulations as to registration)—  
(a) at the end of paragraph 4 there shall be inserted—  
“(2) Provisions as to the manner in which overseas electors' declarations, and applications from persons making such declarations, are to be transmitted to the registration officer.”; and  
(b) after paragraph 5(1) there shall be inserted—  
“(1A) Provisions as to the evidence which shall or may be required, or be deemed sufficient or conclusive evidence, of a person satisfying any of the requirements for qualifying as an overseas elector in respect of any constituency.”.