



# Electoral Administration Act 2006

## 2006 CHAPTER 22

### PART 6

#### CONDUCT OF ELECTIONS ETC.

##### *Election timetables*

#### 20 Omission of references to Maundy Thursday

Part 4 of Schedule 1 contains amendments which omit the words “Maundy Thursday” from certain enactments specifying the days which are to be disregarded for the purposes of election timetables and the computation of periods relating to elections.

##### **Commencement Information**

- II** S. 20 wholly in force at 1.7.2008; s. 20 not in force at Royal Assent see s. 77; s. 20 in force for E.W.S. at 1.1.2007 by S.I. 2006/3412, art. 3, Sch. 1 para. 14(g) (subject to Sch. 2); s. 20 in force for N.I. at 1.7.2008 by S.I. 2008/1316, arts. 2(2), 4(d)

##### *Nomination*

#### 21 Use of candidates' common names

(1) Schedule 1 to the 1983 Act (parliamentary elections rules) is amended as follows.

(2) In rule 6 (nomination of candidates), after paragraph (2) insert—

“(2A) If a candidate commonly uses—

- (a) a surname which is different from any other surname he has, or
- (b) a forename which is different from any other forename he has,

the nomination paper may state the commonly used surname or forename in addition to the other name.”

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Electoral Administration Act 2006, Part 6. (See end of Document for details)*

(3) In rule 14 (publication of statement of persons nominated), after paragraph (2) insert—

“(2A) If a person's nomination paper gives a commonly used surname or forename in addition to another name, the statement shall show the person's commonly used surname or forename (as the case may be) instead of any other name.

(2B) Paragraph (2A) above does not apply if the returning officer thinks—

- (a) that the use of the person's commonly used name may be likely to mislead or confuse electors, or
- (b) that the commonly used name is obscene or offensive.

(2C) If paragraph (2B) above applies, the returning officer must give notice in writing to the candidate of his reasons for refusing to allow the use of a commonly used name.”

(4) In the Appendix of forms, in the Form of nomination paper, for the first table following the words “candidate at the said election” substitute—

<i>“Candidate's surname</i>	<i>Other names in full</i>	<i>Commonly used surname (if any)</i>	<i>Commonly used forenames (if any)</i>	<i>Description (if any)</i>	<i>Home address in full</i>
SULLIVAN	Arthur Seymour	GILBERT	W. S.	Independent	52, Bunthorne Walk, Basingstoke”

(5) In the Appendix of forms, in the Note following the Form of nomination paper, after paragraph 2 insert—

“2A Where a candidate commonly uses a name which is different from any other name he has, the commonly used name may also appear on the nomination paper, but if it does so, the commonly used name (instead of any other name) will appear on the ballot paper.

2B But the ballot paper will show the other name if the returning officer thinks—

- (a) that the use of the commonly used name may be likely to mislead or confuse electors, or
- (b) that the commonly used name is obscene or offensive.”

#### **Commencement Information**

**I2** S. 21 wholly in force at 1.7.2008; s. 21 not in force at Royal Assent see s. 77; s. 21 in force for E.W.S. at 1.1.2007 by S.I. 2006/3412, art. 3, Sch. 1 para. 14(h) (subject to Sch. 2); s. 21 in force for N.I. at 1.7.2008 by S.I. 2008/1316, arts. 2(2), 4(e)

## **22 Candidate not to stand in more than one constituency**

In Schedule 1 to the 1983 Act (parliamentary elections rules), in rule 8(3) (candidate's consent to nomination), after paragraph (b) insert—

*Status: Point in time view as at 31/12/2020.*

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“(c) shall state that he is not a candidate at an election for any other constituency the poll for which is to be held on the same day as that for the election to which the consent relates.”.

#### Commencement Information

**I3** S. 22 wholly in force at 1.7.2008; s. 22 not in force at Royal Assent see s. 77; s. 22 in force for E.W.S. at 1.1.2007 by S.I. 2006/3412, art. 3, Sch. 1 para. 14(i) (subject to Sch. 2); s. 22 in force for N.I. at 1.7.2008 by S.I. 2008/1316, arts. 2(2), 4(f)

### 23 Offences as to false statements in nomination papers

(1) Section 65A of the 1983 Act (false statements in nomination papers) is amended as follows.

(2) In subsection (1), after paragraph (b) insert “or

(c) a certificate authorising for the purposes of rule 6A of the parliamentary elections rules the use by a candidate of a description if he knows that the candidate is standing at an election in another constituency in which the poll is to be held on the same day as the poll at the election to which the certificate relates.”

(3) After subsection (1) insert—

“(1A) A person is guilty of a corrupt practice if, in the case of any relevant election, he makes in any document in which he gives his consent to his nomination as a candidate—

- (a) a statement of his date of birth,
- (b) a statement as to his qualification for being elected at that election, or
- (c) a statement that he is not a candidate at an election for any other constituency the poll for which is to be held on the same day as the poll at the election to which the consent relates,

which he knows to be false in any particular.

(1B) For the purposes of subsection (1A), a statement as to a candidate's qualification is a statement—

- (a) that he is qualified for being elected,
- (b) that he will be qualified for being elected, or
- (c) that to the best of his knowledge and belief he is not disqualified for being elected.”

(4) In subsection (2)(b) at the beginning insert “ except for the purposes of subsections (1)(c) and (1A)(c), ”.

#### Commencement Information

**I4** S. 23 wholly in force at 1.7.2008; s. 23 not in force at Royal Assent see s. 77; s. 23(1)(3) in force for certain purposes at 11.9.2006 by S.I. 2006/1972, art. 3, Sch. 1 para. 3 (subject to Sch. 2); s. 23 in force for E.W.S. in so far as not already in force at 1.1.2007 by S.I. 2006/3412, art. 3, Sch. 1, para. 14(j) (subject to Sch. 2); s. 23 in force for N.I. at 1.7.2008 by S.I. 2008/1316, arts. 2(2), 4(g)

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*Status: Point in time view as at 31/12/2020.*

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### *Death of candidate*

## **24 Death of candidate**

In Schedule 1 to the 1983 Act (parliamentary elections rules) for rule 60 (countermand or abandonment of poll on death of candidate) and the cross-heading preceding it substitute—

### **60 “Independent candidate**

- (1) This rule applies if at a contested election 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 in the ballot papers as an independent candidate has died.
- (2) Subject to this rule and rules 61 and 62, these rules apply to the election as if the candidate had not died.
- (3) The following provisions of these rules do not apply in relation to the deceased candidate—
  - (a) rule 32(1)(c) and (d) (admission to polling station);
  - (b) rule 44(2)(b) to (d) (attendance at count);
  - (c) rule 53(4) (forfeiture of deposit).
- (4) If only two persons are shown as standing nominated in the statement of persons nominated the returning officer must—
  - (a) if polling has not begun, countermand the notice of poll;
  - (b) if polling has begun, direct that the poll is abandoned;
  - (c) subject to rule 65, treat the election as an uncontested election.
- (5) For the purposes of this rule a person is named or to be named on the ballot papers as an independent candidate if the description (if any) on his nomination paper is not authorised as mentioned in rule 6A(1) or (1B).

### **61 Deceased independent candidate wins**

- (1) This rule applies if at an election mentioned in rule 60(1) the majority of votes is given to the deceased candidate.
- (2) Rule 50(1) (declaration of result) does not apply but the returning officer must—
  - (a) declare that the majority of votes has been given to the deceased candidate,
  - (b) declare that no member is returned, and
  - (c) give public notice of the total number of votes given for each candidate together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers.
- (3) Rule 53 (return or forfeiture of candidate's deposit) does not apply in relation to the remaining candidates.
- (4) The returning officer must not return the writ and the proceedings with reference to the election must be commenced afresh subject to the following provisions of this rule.

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- (5) The writ for the election must be taken to have been received on the first working day after the end of the period of seven days starting on the day of the election mentioned in rule 60(1).
- (6) No fresh nomination is necessary in the case of a person shown in the statement of persons nominated as standing nominated, and no other nomination may be made.
- (7) The last day on which a notice of withdrawal of candidature by a person who stands nominated by virtue of paragraph (6) may be delivered is the seventh working day after the day on which the writ is taken to be received.
- (8) Rule 9 (deposit) does not apply.
- (9) The poll must be held on a day in the period which starts 15 working days after the day on which the writ is taken to have been received and ends 19 working days after that day.
- (10) For the purposes of this rule a working day is a day which is not a day specified in rule 2(1)(a) to (c).

## 62 **Deceased independent candidate with equality of votes**

In an election mentioned in rule 60(1), if—

- (a) rule 49 applies (equality of votes), and
- (b) any of the candidates to whom that rule applies is a deceased candidate, the deceased candidate must be ignored.

## 63 **Party candidate**

- (1) This rule applies if—
  - (a) at a contested election 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 paper has died, and
  - (b) that person is standing in the name of a registered political party.
- (2) The returning officer must—
  - (a) countermand notice of the poll, or
  - (b) if polling has begun, direct that the poll be abandoned.
- (3) The proceedings with reference to the election must be commenced afresh subject to the following provisions of this rule.
- (4) The writ for the election must be taken to have been received on the first working day after the end of the period of seven days starting on the day the proof is given to the returning officer.
- (5) No fresh nomination is necessary in the case of a person shown in the statement of persons nominated as standing nominated.
- (6) No other nomination may be made except for a person standing in the name of the same registered political party in whose name the deceased candidate was standing.

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- (7) The last day on which a nomination mentioned in paragraph (6) may be delivered is the seventh working day after the day on which the writ is taken to be received.
- (8) The last day on which a notice of withdrawal of candidature by a person who stands nominated by virtue of paragraph (5) or in pursuance of paragraph (6) may be delivered is the seventh working day after the day on which the writ is taken to be received.
- (9) The poll must be held on a day in the period which starts 15 working days after the day on which the writ is taken to have been received and ends 19 working days after that day.
- (10) For the purposes of this rule—
  - (a) a person stands in the name of a registered political party if his nomination paper contains a description which is authorised as mentioned in rule 6A(1) or (1B);
  - (b) a registered political party is a party which is registered under Part 2 of the Political Parties, Elections and Referendums Act 2000;
  - (c) a working day is a day which is not a day specified in rule 2(1)(a) to (c).

#### **64 Speaker of the House of Commons seeking re-election**

- (1) This rule applies if at a contested election—
  - (a) one of the candidates is the Speaker of the House of Commons seeking re-election, and
  - (b) proof is given to the returning officer's satisfaction before the result of the election is declared that that candidate has died.
- (2) The returning officer must—
  - (a) countermand notice of the poll, or
  - (b) if polling has begun, direct that the poll be abandoned.
- (3) The proceedings with reference to the election must be commenced afresh subject to the following provisions of this rule.
- (4) The writ for the election must be taken to have been received on the first working day after the end of the period of seven days starting on the day the proof is given to the returning officer.
- (5) The last day on which—
  - (a) nominations, or
  - (b) notice of withdrawal of candidature,
 may be delivered is the seventh working day after the day on which the writ is taken to be received.
- (6) The poll must be held on a day in the period which starts 15 working days after the day on which the writ is taken to have been received and ends 19 working days after that day.
- (7) For the purposes of this rule a working day is a day which is not a day specified in rule 2(1)(a) to (c).

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## 65 Abandoned poll

- (1) This rule applies to—
  - (a) a poll which is abandoned in pursuance of rule 60(4)(b) as if it were a poll at a contested election;
  - (b) a poll which is abandoned in pursuance of rule 63(2)(b) or 64(2)(b).
- (2) The presiding officer at a polling station must take the like steps (so far as not already taken) for the delivery to the returning officer of ballot boxes and of ballot papers and other documents as he is required to take on the close of the poll.
- (3) The returning officer must dispose of ballot papers and other documents in his possession as is he required to do on the completion of the counting of the votes.
- (4) It is not necessary for a ballot paper account to be prepared or verified.
- (5) No step or further step is to be taken for the counting of the ballot papers or of the votes.
- (6) The returning officer must seal up all the ballot papers (whether the votes on them have been counted or not) and it is not necessary to seal up counted and rejected ballot papers in separate packets.
- (7) The provisions of these rules as to the inspection, production, retention and destruction of ballot papers and other documents relating to a poll at an election apply subject to paragraphs (8) and (9).
- (8) Ballot papers on which the votes were neither counted nor rejected must be treated as counted ballot papers.
- (9) No order is to be made for—
  - (a) the production or inspection of any ballot papers, or
  - (b) the opening of a sealed packet of the completed corresponding number lists or of certificates as to employment on the day of the poll,unless the order is made by a court with reference to a prosecution.”

### Commencement Information

**I5** S. 24 wholly in force at 1.7.2008; s. 24 not in force at Royal Assent see s. 77; s. 24 in force for E.W.S. at 1.1.2007 by S.I. 2006/3412, art. 3, Sch. 1 para. 14(k) (subject to Sch. 2); s. 24 in force for N.I. at 1.7.2008 by S.I. 2008/1316, arts. 2(2), 4(h)

## *Election expenses*

### 25 Amount of expenses which may be incurred by third party

- (1) Section 75 of the 1983 Act (prohibition of expenses not authorised by election agent) is amended as follows.
- (2) In subsection (1)—
  - (a) after “be incurred” insert “ after he becomes a candidate at that election ”;

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- (b) omit from “but paragraph (c) or (d) of” to the end.
- (3) After subsection (1) insert—
- “(1ZZA) Paragraph (c) or (d) of subsection (1) above does not restrict the publication of any matter relating to the election in—
- (a) a newspaper or other periodical,
  - (b) a broadcast made by the British Broadcasting Corporation or by Sianel Pedwar Cymru, or
  - (c) a programme included in any service licensed under Part 1 or 3 of the Broadcasting Act 1990 or Part 1 or 2 of the Broadcasting Act 1996.
- (1ZZB) Subsection (1) above does not apply to any expenses incurred by any person—
- (a) which do not exceed in the aggregate the permitted sum (and are not incurred by that person as part of a concerted plan of action), or
  - (b) in travelling or in living away from home or similar personal expenses.”

(4) In subsection (1ZA) for “subsection (1)(ii)” in each place where it occurs substitute “subsection (1ZZB)(a) ”.

(5) After subsection (7) insert—

“(8) For the purposes of subsection (1), expenditure incurred before the date when a person becomes a candidate at the election is to be treated as having been incurred after that date if it is incurred in connection with any thing which is used or takes place after that date.”

(6) The amendments made by this section (except subsections (2)(a) and (5)) must be taken to have had effect from 16 February 2001 (the date of coming into force of section 131 of the 2000 Act).

(7) This section does not apply to local government elections in Scotland (within the meaning of the 1983 Act).

#### Commencement Information

- I6** S. 25 wholly in force at 11.9.2006, see s. 77(2)-(4) and S.I. 2006/1972, art. 3, Sch. 1 para. 4 (subject to transitional provisions in Sch. 2)

## 26 Return as to election expenses

- (1) In section 81 of the 1983 Act (returns as to election expenses), omit subsection (3) and insert—
- “(3A) The return shall also contain as respects that candidate—
- (a) a statement relating to such other expenses in connection with which provision is made by this Part as the Electoral Commission provide in regulations;
  - (b) a statement relating to such claims (whether paid, unpaid or disputed) in connection with such election expenses or such other expenses mentioned in paragraph (a) as the Electoral Commission so provide;
  - (c) a statement relating to such other matters as is prescribed.”



*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Electoral Administration Act 2006, Part 6. (See end of Document for details)*

- (2) This section does not apply to local government elections in Scotland (within the meaning of the 1983 Act).

#### Commencement Information

- I7** S. 26 wholly in force at 1.7.2008; s. 26 not in force at Royal Assent see s. 77; s. 26 in force for E.W.S. at 1.1.2007 by S.I. 2006/3412, art. 3, Sch. 1, para. 14(l) (subject to Sch. 2); s. 26 in force at 1.7.2008 by S.I. 2008/1316, arts. 2(2), 4(i)

## 27 Meaning of election expenses for purposes of the 1983 Act

- (1) The 1983 Act is amended as follows.
- (2) After section 90 (election expenses at elections where election agent not required) insert—

### “90ZA Meaning of “election expenses”

- (1) In this Part of this Act “election expenses” in relation to a candidate at an election means (subject to subsection (2) below and section 90C below) any expenses incurred at any time in respect of any matter specified in Part 1 of Schedule 4A which is used for the purposes of the candidate's election after the date when he becomes a candidate at the election.
- (2) No election expenses are to be regarded as incurred by virtue of subsection (1) above or section 90C below in respect of any matter specified in Part 2 of Schedule 4A.
- (3) In this section and in section 90C below, “for the purposes of the candidate's election” means with a view to, or otherwise in connection with, promoting or procuring the candidate's election at the election.
- (4) For the purposes of this Part of this Act, election expenses are incurred by or on behalf of a candidate at an election if they are incurred —
- by the candidate or his election agent, or
  - by any person authorised by the candidate or his election agent to incur expenses.
- (5) In this Part of this Act, any reference to election expenses incurred by or on behalf of a candidate at an election includes expenses—
- which are incurred as mentioned in subsection (1) above before the date when he becomes a candidate at the election, but
  - which by virtue of that subsection fall to be regarded as election expenses.
- (6) In this Part and in Part 3 of this Act, any reference (in whatever terms) to promoting or procuring a candidate's election at an election includes doing so by prejudicing the electoral prospects of another candidate at the election.
- (7) Schedule 4A has effect.
- (8) This section does not apply to a local government election in Scotland.”

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- (3) Omit sections 90A and 90B.
- (4) The repeal of sections 90A and 90B by subsection (3) does not extend to those sections as they apply to local government elections in Scotland (within the meaning of the 1983 Act).
- (5) After Schedule 4 (election expenses at certain local elections in England and Wales) insert—

“SCHEDULE 4A

Section 90ZA

ELECTION EXPENSES

**PART 1**

LIST OF MATTERS

- 1 Advertising of any nature (whatever the medium used). Expenses in respect of such advertising include agency fees, design costs and other costs in connection with preparing, producing, distributing or otherwise disseminating such advertising or anything incorporating such advertising and intended to be distributed for the purpose of disseminating it.
- 2 Unsolicited material addressed to electors (whether addressed to them by name or intended for delivery to households within any particular area). Expenses in respect of such material include design costs and other costs in connection with preparing, producing or distributing such material (including the cost of postage).
- 3 Transport (by any means) of persons to any place. Expenses in respect of the transport of such persons include the costs of hiring a means of transport for a particular period.
- 4 Public meetings (of any kind). Expenses in respect of such meetings include costs incurred in connection with the attendance of persons at such meetings, the hire of premises for the purposes of such meetings or the provision of goods, services or facilities at them.
- 5 The services of an election agent or any other person whose services are engaged in connection with the candidate's election.
- 6 Accommodation and administrative costs.

**PART 2**

GENERAL EXCLUSIONS

- 7 The payment of any deposit required by rule 9 of Schedule 1 to this Act.
- 8 The publication of any matter, other than an advertisement, relating to the election in—
  - (a) a newspaper or periodical;
  - (b) a broadcast made by the British Broadcasting Corporation or by Sianel Pedwar Cymru;

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- (c) a programme included in any service licensed under Part 1 or 3 of the Broadcasting Act 1990 or Part 1 or 2 of the Broadcasting Act 1996.
- 9 The provision of any facilities provided in pursuance of any right conferred on candidates at an election by this Act other than facilities in respect of which expenses fall to be defrayed by virtue of sections 95(4) and 96(4) above.
- 10 The provision by an individual of his own services which he provides voluntarily in his own time and free of charge.
- 11 (1) Accommodation which is the candidate's sole or main residence.  
(2) The provision by any other individual of accommodation which is his sole or main residence if the provision is made free of charge.
- 12 (1) Transport by a means of transport which was acquired by the candidate principally for his own personal use.  
(2) Transport provided free of charge by any other individual if the means of transport was acquired by him principally for his own personal use.
- 13 (1) Computing or printing equipment which was acquired by the candidate principally for his own personal use.  
(2) The provision by any other individual of computing or printing equipment which was acquired by the individual principally for his own personal use if the provision is made free of charge.

### PART 3

#### SUPPLEMENTAL

##### *Guidance by Commission*

- 14 (1) The Electoral Commission (“the Commission”) may prepare, and from time to time revise, a code of practice giving guidance as to the matters which do, or do not, fall within Part 1 or 2 of this Schedule.
- (2) Once the Commission have prepared a draft code under this paragraph, they must submit it to the Secretary of State for his approval.
- (3) The Secretary of State may approve a draft code either without modification or with such modifications as he may determine.
- (4) Once the Secretary of State has approved a draft code he shall lay a copy of the draft, whether—
- (a) in its original form, or
- (b) in a form which incorporates any modifications determined under sub-paragraph (3),
- before each House of Parliament.
- (5) If the draft incorporates any such modifications, the Secretary of State must at the same time lay before each House a statement of his reasons for making them.

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Electoral Administration Act 2006, Part 6. (See end of Document for details)*

- (6) If, within the 40-day period, either House resolves not to approve the draft, the Secretary of State must take no further steps in relation to the draft code.
- (7) If no such resolution is made within the 40-day period—
- (a) the Secretary of State must issue the code in the form of the draft laid before Parliament, and
  - (b) the code is to come into force on such date as the Secretary of State may by order appoint,
- and the Commission must arrange for it to be published in such manner as they think appropriate.
- (8) Sub-paragraph (6) does not prevent a new draft code from being laid before Parliament.
- (9) In this paragraph, “the 40-day period”, in relation to a draft code, means—
- (a) if the draft is laid before one House on a day later than the day on which it is laid before the other House, the period of 40 days beginning with the later of the two days, and
  - (b) in any other case, the period of 40 days beginning with the day on which the draft is laid before each House,
- no account being taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (10) In this paragraph references to a draft code include a revised draft code.

*Power to amend Parts 1 and 2*

- 15 (1) The Secretary of State may by order made by statutory instrument make such amendments of Part 1 or 2 of this Schedule as he considers appropriate.
- (2) An order under sub-paragraph (1) shall not be made unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament.
- (3) The Secretary of State may make such an order either—
- (a) where the order gives effect to a recommendation of the Electoral Commission; or
  - (b) after consultation with the Electoral Commission.”

**Commencement Information**

**18** S. 27 wholly in force at 11.9.2006, see s. 77(2)-(4) and S.I. 2006/1972, art. 3, Sch. 1 para. 5 (subject to transitional provisions in Sch. 2)

*Observation of elections etc.*

**28 Discretion to report on certain elections**

In section 5 of the 2000 Act (reports on elections and referendums), after subsection (2) insert—

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*Changes to legislation: There are currently no known outstanding effects for the Electoral Administration Act 2006, Part 6. (See end of Document for details)*

“(2A) After—

- (a) a parliamentary by-election,
- (b) an election held under section 9 of the Scotland Act 1998 (election for the Scottish Parliament in the case of a constituency vacancy), or
- (c) an election held under section 8 of the Government of Wales Act 1998 (election for the National Assembly for Wales in the case of a constituency vacancy),

the Commission may prepare and publish (in such manner as the Commission may determine) a report on the administration of the election.”

#### Commencement Information

- 19** S. 28 wholly in force at 1.7.2008; s. 28 not in force at Royal Assent see s. 77; s. 28 in force for E.W.S. at 1.1.2007 by S.I. 2006/3412, art. 3, Sch. 1 para. 14(m) (subject to Sch. 2); s. 28 in force for N.I. at 1.7.2008 by S.I. 2008/1316, arts. 2(2), 4(j)

## 29 Observation of proceedings and working practices

After section 6 of the 2000 Act (reviews of electoral and political matters), insert—

### “6A Attendance of representatives of Commission at elections etc.

- (1) A representative of the Commission may attend—
  - (a) proceedings relating to an election specified in subsection (5) which are the responsibility of the returning officer for the election;
  - (b) proceedings relating to a referendum to which Part 7 applies which are the responsibility of the relevant counting officer.
- (2) The right conferred on a representative of the Commission by this section is subject to any enactment which regulates attendance at the proceedings in question.
- (3) In this section, “representative of the Commission” means any of the following—
  - (a) a member of the Commission;
  - (b) a member of staff of the Commission;
  - (c) a person appointed by the Commission for the purposes of this section.
- (4) A reference to the relevant counting officer must be construed—
  - (a) if the area to which the proceedings relates is in Great Britain, in accordance with section 128(3);
  - (b) if the area to which the proceedings relates is Northern Ireland, as a reference to the Chief Electoral Officer for Northern Ireland.
- (5) The elections specified in this subsection are—
  - (a) an election mentioned in section 5(2);
  - (b) a parliamentary by-election;
  - (c) an election under section 9 of the Scotland Act 1998 (constituency vacancies);

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- (d) an election under section 8 of the Government of Wales Act 1998 (vacancies in constituency seats);
- (e) a local government election in England or Wales;
- (f) a local election in Northern Ireland.

### **6B Observation of working practices by representatives of Commission**

- (1) A representative of the Commission may observe the working practices of any of the following—
  - (a) an electoral registration officer;
  - (b) a returning officer;
  - (c) a relevant counting officer;
  - (d) any person acting under the direction of a person mentioned in paragraphs (a) to (c).
- (2) In this section—
  - (a) “relevant counting officer”, and
  - (b) “representative of the Commission”,
 must be construed in accordance with section 6A.
- (3) This section does not permit the observation of working practices which relate only to a local government election in Scotland.

### **6C Accredited observers: individuals**

- (1) A person who is aged 16 or over may apply to the Commission to be an accredited observer at any of the following proceedings relating to an election specified in subsection (5) of section 6A or a referendum to which Part 7 applies—
  - (a) proceedings at the issue or receipt of postal ballot papers;
  - (b) proceedings at the poll;
  - (c) proceedings at the counting of votes.
- (2) If the Commission grant the application, the accredited observer may attend the proceedings in question.
- (3) An application under subsection (1) must be made in the manner specified in the code of practice issued under section 6F.
- (4) The Commission may at any time revoke the grant of an application under subsection (1).
- (5) If the Commission—
  - (a) refuse an application under subsection (1), or
  - (b) revoke the grant of any such application,
 they must give their decision in writing and must at the same time give reasons in writing for the refusal or revocation.
- (6) The right conferred on an accredited observer by this section is subject to any enactment which regulates attendance at the proceedings in question.

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### **6D Accredited observers: organisations**

- (1) An organisation may apply to the Commission to be accredited for the purpose of nominating observers at any of the following proceedings relating to an election specified in subsection (5) of section 6A or a referendum to which Part 7 applies—
  - (a) proceedings at the issue or receipt of postal ballot papers;
  - (b) proceedings at the poll;
  - (c) proceedings at the counting of votes.
- (2) If the Commission grant the application the organisation may nominate members who may attend the proceedings in question.
- (3) The Commission, in granting an application under this section, may specify a limit on the number of observers nominated by the organisation who may attend, at the same time, specified proceedings by virtue of this section.
- (4) An application under subsection (1) must be made in the manner specified in the code of practice issued under section 6F.
- (5) The Commission may at any time revoke the grant of an application under subsection (1).
- (6) If the Commission—
  - (a) refuse an application under subsection (1), or
  - (b) revoke the grant of any such application,they must give their decision in writing and must at the same time give reasons in writing for the refusal or revocation.
- (7) The right conferred by this section is subject to any enactment which regulates attendance at the proceedings in question.

### **6E Attendance and conduct of observers**

- (1) A relevant officer may limit the number of persons who may be present at any proceedings at the same time in pursuance of section 6C or 6D.
- (2) If a person who is entitled to attend any proceedings by virtue of section 6C or 6D misconducts himself while attending the proceedings, the relevant officer may cancel the person's entitlement.
- (3) Subsection (2) does not affect any power a relevant officer has by virtue of any enactment or rule of law to remove a person from any place.
- (4) A relevant officer is—
  - (a) in the case of proceedings at a polling station, the presiding officer;
  - (b) in the case of any other proceedings at an election, the returning officer;
  - (c) in the case of any other proceedings at a referendum, the relevant counting officer (within the meaning of section 6A);
  - (d) such other person as a person mentioned in paragraph (a), (b) or (c) authorises for the purposes of the proceedings mentioned in that paragraph.

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### **6F Code of practice on attendance of observers at elections etc.**

- (1) The Commission must prepare a code of practice on the attendance of—
  - (a) representatives of the Commission,
  - (b) accredited observers, and
  - (c) nominated members of accredited organisations,at elections specified in subsection (5) of section 6A and referendums to which Part 7 applies.
- (2) The code must in particular—
  - (a) specify the manner in which applications under sections 6C(1) and 6D(1) are to be made to the Commission;
  - (b) specify the criteria to be taken into account by the Commission in determining such applications;
  - (c) give guidance to relevant officers (within the meaning of section 6E) as to the exercise of the power conferred by subsection (1) of that section;
  - (d) give guidance to such officers as to the exercise of the power mentioned in subsection (2) of that section as it relates to a person having the permission mentioned in subsection (1) of that section;
  - (e) give guidance to such officers as to the exercise of any power under any enactment to control the number of persons present at any proceedings relating to an election or referendum as it relates to a person having such permission;
  - (f) give guidance to representatives of the Commission, accredited observers and nominated members of accredited organisations on the exercise of the rights conferred by sections 6A, 6B, 6C and 6D.
- (3) The code may make different provision for different purposes.
- (4) Before preparing the code, the Commission must consult the Secretary of State.
- (5) The Commission must lay the code before each House of Parliament.
- (6) The Commission must publish the code (in such manner as the Commission may determine).
- (7) The following persons must have regard to the code in exercising any function conferred by section 6A, 6B, 6C, 6D or 6E—
  - (a) the Commission;
  - (b) representatives of the Commission;
  - (c) relevant officers (within the meaning of section 6E);
  - (d) relevant counting officers.
- (8) The Commission may at any time revise the code.
- (9) Subsections (4) to (7) apply in relation to a revision of the code as they apply in relation to the code.
- (10) In this section—
  - (a) “accredited observer” must be construed in accordance with section 6C;



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- (b) “accredited organisation” must be construed in accordance with section 6D, and “nominated member” must be construed accordingly;
- (c) “relevant counting officer” must be construed in accordance with section 6A;
- (d) “representative of the Commission” has the same meaning as in section 6A.”

#### Commencement Information

**I10** S. 29 wholly in force at 1.7.2008; s. 29 not in force at Royal Assent; s. 29 in force for E.W.S. at 31.1.2007 by S.I. 2006/3412 {art. 5}; s. 29 in force at 1.7.2008 by S.I. 2008/1316, arts. 2(2), 4(k)

### *Ballot papers*

## 30 Ballot paper design

(1) Schedule 1 to the 1983 Act (parliamentary elections rules) is amended as follows.

(2) In rule 19 (the ballot papers)—

- (a) in paragraph (2), omit sub-paragraph (d);
- (b) after paragraph (3) insert—

“(4) The Secretary of State may in regulations—

- (a) prescribe a different form of ballot paper from that in the Appendix;
- (b) amend or replace the directions as to printing the ballot paper in the Appendix;
- (c) in consequence of anything done for the purposes of paragraph (a) or (b), amend or replace the Form of directions for the guidance of the voters in voting in the Appendix.”

(3) In the Appendix of forms, in the Directions as to printing the ballot paper, after paragraph 2A insert—

“2B

Nothing in paragraph 2 prohibits the face of the ballot paper containing more than one column of numbers, candidates particulars and spaces where the vote is to be marked if the returning officer thinks it is appropriate for the ballot paper to be printed with more than one column, but in such a case each column must be separated by a double vertical rule.”

#### Commencement Information

**I11** S. 30 wholly in force at 1.7.2008; s. 30 not in force at Royal Assent see s. 77; s. 30 in force for E.W.S. at 1.1.2007 by S.I. 2006/3412, art. 3, Sch. 1 para. 14(n) (subject to Sch. 2); s. 30 in force at 1.7.2008 for N.I. by S.I. 2008/1316, arts. 2(2), 4(l)

## 31 Replacement of counterfoils

(1) Schedule 1 to the 1983 Act (parliamentary elections rules) is amended as follows.

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(2) After rule 19 insert—

**19A “Corresponding number list**

- (1) The returning officer must prepare a list containing the numbers and other unique identifying marks of all of the ballot papers to be issued by him in pursuance of rule 24(1) or provided by him in pursuance of rule 29(1).
  - (2) The list shall be in such form as the Secretary of State in regulations prescribes.”
- (3) In rule 29 (equipment of polling stations), in paragraph (3), after sub-paragraph (d) insert—
- “(e) a list consisting of that part of the list prepared under rule 19A which contains the numbers (but not the other unique identifying marks) corresponding to those on the ballot papers provided to the presiding officer of the polling station.”
- (4) In rule 43 (procedure on close of poll)—
- (a) in paragraph (1), after sub-paragraph (d) insert—
    - “(da) the lists prepared under rule 19A, including the parts which were completed in accordance with rule 37(1)(b) and (d) (together referred to in these rules as “the completed corresponding number lists”);”;
  - (b) in paragraph (1)(e) omit “the counterfoils of the used ballot papers and”;
  - (c) in paragraph (2) for “counterfoils of the used ballot papers and” substitute “completed corresponding number lists or ”.
- (5) In rule 54 (sealing up of ballot papers), for paragraph (2) substitute—
- “(2) The returning officer shall not open the sealed packets of—
    - (a) tendered ballot papers,
    - (b) the completed corresponding number lists,
    - (c) certificates as to employment on duty on the day of the poll, or
    - (d) marked copies of the register of electors (including any marked copy notices issued under section 13B(3B) or (3D) of this Act) and lists of proxies.”
- (6) In rule 55 (delivery of documents), in paragraph (1)—
- (a) after sub-paragraph (c) insert—
    - “(ca) the packets of the completed corresponding number lists,”;
  - (b) in sub-paragraph (d) omit “counterfoils and”.
- (7) In rule 56 (orders for production of documents)—
- (a) in paragraph (1)(b) for “counterfoils and” substitute “ the completed corresponding number lists or of ”9;
  - (b) in paragraph (2) for “counterfoils and” substitute “ the completed corresponding number lists or of ”;
  - (c) in paragraph (3) for “counterfoils and” substitute “ the completed corresponding number lists or of ”;
  - (d) for paragraph (7) substitute—

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- “(7) The production from proper custody of—
- (a) a ballot paper purporting to have been used at any election, and
  - (b) a completed corresponding number list with a number marked in writing beside the number of the ballot paper,
- shall be prima facie evidence that the elector whose vote was given by that ballot paper was the person whose entry in the register of electors (or on a notice issued under section 13B(3B) or (3D) of this Act) at the time of the election contained the same number as the number written as mentioned in sub-paragraph (b).”;
- (e) in paragraph (8) for “counterfoils and” substitute “ the completed corresponding number lists or of”.
- (8) In rule 57 (retention and public inspection of documents), for paragraph (2) substitute—
- “(2) The documents mentioned in paragraphs (1) and (1A) except—
- (a) ballot papers,
  - (b) the completed corresponding number lists,
  - (c) certificates as to employment on duty on the day of the poll,
- shall be open to public inspection.”
- (9) In the Appendix of forms—
- (a) in the Form of Front of Ballot Paper omit “Counterfoil No. The counterfoil is to have a number to correspond with that on the back of the ballot paper”;
  - (b) in the Form of Back of Ballot Paper omit “Note.— The number on the ballot paper is to correspond with that on the counterfoil”.

#### **Commencement Information**

**I12** S. 31 partly in force; s. 31 not in force at Royal Assent see s. 77; s. 31(1)-(3)(5)-(9) in force for E.W.S and s. 31(4) in force for E.W.S for certain purposes at 1.1.2007 by S.I. 2006/3412, art. 3, Sch. 1 para. 14(o)(p) (subject to Sch. 2); s. 31(2) in force for N.I. at 14.5.2008 and s. 31(1)(3)(4)(b)(c)(5)-(9) in force for N.I. at 1.7.2008 by S.I. 2008/1316, arts. 2(1){(2)}, 3(c), 4(m)(n)

## **32 Photographs on ballot papers: piloting**

- (1) This section applies if a local authority makes a proposal that an order be made under subsection (2) applying to particular local government elections held in its area.
- (2) The Secretary of State may by order (a pilot order) make provision for the purposes of enabling ballot papers issued at such local government elections as are specified in the order to contain photographs of the candidates.
- (3) A pilot order may include such provision modifying or disapplying any enactment as the Secretary of State thinks is necessary or expedient for the purposes of the order.
- (4) The Secretary of State must not make a pilot order unless he first consults the Electoral Commission.
- (5) A pilot order may make provision implementing the local authority's proposal—

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- (a) without modification, or
  - (b) with such modifications as the Secretary of State and the local authority agree between them.
- (6) If the Secretary of State makes a pilot order—
- (a) he must send a copy of it to the local authority and to the Electoral Commission, and
  - (b) the local authority must publish the order in their area in such manner as they think fit.
- (7) A pilot order may be amended or revoked by a further order.
- (8) The Secretary of State may reimburse a returning officer for any expenditure necessarily incurred by him in consequence of the making of a pilot order.
- (9) A local authority is—
- (a) in England, a county council, a district council, a London borough council or the Greater London Authority;
  - (b) in Wales, a county council or a county borough council.
- (10) In this section—
- (a) “local government election” must be construed in accordance with section 203(1) of the 1983 Act;
  - (b) a reference to the area of a local authority must be construed in accordance with the definition of “local government area” in that subsection.

#### **Commencement Information**

**I13** S. 32 wholly in force at 1.1.2007; s. 32 not in force at Royal Assent see s. 77; s. 32 in force at 1.1.2007 by S.I. 2006/3412, art. 3, Sch. 1, (subject to transitional provisions in Schedule 2)

### **33 Evaluation of pilots under section 32**

- (1) After any elections specified in a pilot order have taken place, the Electoral Commission must prepare a report on the operation of the order.
- (2) The report must contain, in particular—
- (a) a description of the way in which the provision made by the order differed from the provisions which would otherwise have applied to the election or elections;
  - (b) a copy of the order;
  - (c) an assessment of the success or otherwise of the order in assisting voters to make informed decisions at the election or elections in question;
  - (d) an assessment of the success or otherwise of the order in encouraging voting at the election or elections in question;
  - (e) an assessment of whether the procedures provided for in the order operated satisfactorily.
- (3) An assessment under subsection (2)(c) must include a statement of whether, in the opinion of the Commission, the inclusion of photographs on the ballot paper—

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- (a) assisted voters in marking their papers with a vote for a candidate (or with votes for candidates) for whom they had decided to vote on grounds other than the candidates' appearance;
  - (b) resulted in voters being influenced (or more influenced) by the appearance of candidates in deciding for whom to vote.
- (4) An assessment under subsection (2)(d) must include a statement of whether, in the opinion of the Commission, the turnout of voters was higher than it would have been if the order had not applied.
- (5) An assessment under subsection (2)(e) must include a statement of—
  - (a) whether the candidates and their agents found the procedures provided for in the order easy to use;
  - (b) whether the returning officer found those procedures easy to administer;
  - (c) whether those procedures had any effect on the incidence of malpractice (whether or not amounting to an offence) in connection with elections;
  - (d) the amount of any increase attributable to those procedures in the resources applied by the authority concerned to the election or elections.
- (6) In making an assessment under subsection (2)(c), (d) or (e), the Commission must also apply such other criteria as are specified in the order in relation to that assessment.
- (7) The local authority must give the Commission such assistance as the Commission may reasonably require in connection with the preparation of the report.
- (8) The assistance may include—
  - (a) making arrangements for ascertaining the views of electors about the operation of the provisions of the order;
  - (b) reporting to the Commission allegations of electoral offences or other malpractice.
- (9) The Commission must, before the end of the period of three months beginning with the date of the declaration of the result of the election or elections in question, send a copy of the report—
  - (a) to the Secretary of State, and
  - (b) to the local authority.
- (10) The local authority must publish the report in their area in such manner as they think fit.
- (11) In this section “pilot order” and “the local authority” must be construed in accordance with section 32.

#### **Commencement Information**

**114** S. 33 wholly in force at 1.1.2007; s. 33 not in force at Royal Assent see s. 77; s. 33 in force at 1.1.2007 by S.I. 2006/3412, art. 3, Sch. 1, (subject to transitional provisions in Schedule 2)

### **34 Revision of electoral provisions in the light of pilot schemes**

- (1) This section applies if the Secretary of State thinks, in the light of a report made under section 33 on the operation of a pilot order under section 32, that it would be desirable for provision similar to that made by the order to apply generally, and on a permanent basis, in relation to—

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- (a) parliamentary elections;
  - (b) local government elections in England and Wales;
  - (c) any description of election falling within paragraph (a) or (b).
- (2) The Secretary of State may by order make provision for the purposes of enabling ballot papers issued at such elections (mentioned in subsection (1)) as are specified in the order to contain photographs of the candidates.
- (3) The Secretary of State must not make an order under subsection (2) unless he first consults the Electoral Commission.
- (4) An order under subsection (2) may—
- (a) include such provision modifying or disapplying any enactment as the Secretary of State thinks is necessary or expedient for the purposes of the order;
  - (b) create or extend the application of an offence.
- (5) An order under subsection (2) must not create an offence punishable—
- (a) on conviction on indictment, with imprisonment for a term exceeding one year;
  - (b) on summary conviction, with imprisonment for a term exceeding 51 weeks or with a fine exceeding the statutory maximum.
- (6) The power to make an order under subsection (2) is exercisable by statutory instrument, but no such order may be made unless a draft of the instrument containing the order has been laid before and approved by a resolution of each House of Parliament.
- (7) The reference to local government elections must be construed in accordance with section 32.
- (8) If an order under subsection (2) is made before the date of commencement of section 281(5) of the Criminal Justice Act 2003, then in relation to any offence committed before that date the reference in subsection (5)(b) to 51 weeks must be taken to be a reference to six months.
- (9) In its application to Scotland and Northern Ireland, the reference in subsection (5)(b) to 51 weeks must be taken to be a reference to six months.

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**Commencement Information**

**I15** S. 34 wholly in force at 1.1.2007; s. 34 not in force at Royal Assent see s. 77; s. 34 in force at 1.1.2007 by S.I. 2006/3412, art. 3, Sch. 1, (subject to transitional provisions in Schedule 2)

*Voting in person*

**35 Certain voters entitled to vote in person**

- (1) Schedule 4 to the Representation of the People Act 2000 (c. 2) (absent voting in Great Britain) is amended as follows.
- (2) After paragraph 2(5) insert—

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“(5A) Nothing in the preceding provisions of this paragraph applies to a person to whom section 7 of the 1983 Act (mental patients who are not detained offenders) applies and who is liable, by virtue of any enactment, to be detained in the mental hospital in question, whether he is registered by virtue of that provision or not; and such a person may vote—

- (a) in person (where he is granted permission to be absent from the hospital and voting in person does not breach any condition attached to that permission), or
- (b) by post or by proxy (where he is entitled as an elector to vote by post or, as the case may be, by proxy at the election).”

(3) In paragraph 2(6), omit paragraph (a) and the “or” following it.

(4) This section does not apply to local government elections in Scotland (within the meaning of the 1983 Act).

#### **Commencement Information**

**I16** S. 35 wholly in force at 1.1.2007; s. 35 not in force at Royal Assent see s. 77; s. 35 in force at 1.1.2007 by S.I. 2006/3412, art. 3, Sch. 1, (subject to transitional provisions in Schedule 2)

### *Certain electoral documents*

## **36 Translations etc. of certain documents**

In the 1983 Act, in Part 5, before section 200 (public notices and declarations) insert—

### **“199B Translations etc of certain documents**

- (1) Subsections (2) and (3) below apply to any document which under or by virtue of this Act is required or authorised to be given to voters or displayed in any place for the purposes of a parliamentary or local government election.
- (2) The person who is required or authorised to give or display the document must, as he thinks appropriate, give or display or otherwise make available in such form as he thinks appropriate—
  - (a) the document in Braille;
  - (b) the document in languages other than English;
  - (c) graphical representations of the information contained in the document;
  - (d) other means of making the information contained in the document accessible to persons who might not otherwise have reasonable access to the information.
- (3) The person required or authorised to give or display the document must also, as he thinks appropriate, make available the information contained in the document in such audible form as he thinks appropriate.
- (4) Subsections (2) and (3) above do not apply to—
  - (a) the nomination paper;
  - (b) the ballot paper.

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- (5) The returning officer at a parliamentary election or a local government election may cause to be displayed at every polling station in the election an enlarged sample copy of the ballot paper.
- (6) The sample copy mentioned in subsection (5) above—
- (a) in the case of a parliamentary election or a local government election where only one candidate is to be elected, must have printed the words “VOTE FOR ONE CANDIDATE ONLY” both at the top and immediately below the list of candidates,
  - (b) in the case of a local government election where more than one candidate is to be elected, must have printed the words “VOTE FOR NO MORE THAN [*here insert the maximum number of candidates to be elected*] CANDIDATES” both at the top and immediately below the list of candidates, and
  - (c) in each case, below the second occurrence of those words, may include a translation of those words into such other languages as the returning officer thinks appropriate.
- (7) The returning officer at a parliamentary election or a local government election must provide at every polling station in the election an enlarged hand-held sample copy of the ballot paper for the assistance of voters who are partially sighted.
- (8) The sample copy mentioned in subsection (7) above must be clearly marked as a specimen provided only for the guidance of voters.
- (9) In the application of subsection (2)(b) to Northern Ireland any question as to whether a person is to give or display or otherwise make available a document in a language other than English is to be decided by the returning officer.
- (10) This section does not apply to a local government election in Scotland.”

#### Commencement Information

**I17** S. 36 wholly in force at 1.7.2008; s. 36 not in force at Royal Assent see s. 77; s. 36 in force for E.W.S. at 1.1.2007 by S.I. 2006/3412, art. 3, Sch. 1 para. 14(q) (subject to Sch. 2); s. 36 in force for N.I. at 1.7.2008 by S.I. 2008/1316, arts. 2(2), 4(o)

### 37 Documents relating to postal voting

In Schedule 1 to the 1983 Act, for rule 24 (postal ballot papers) substitute—

- “24
- (1) The returning officer shall, in accordance with regulations, issue to those entitled to vote by post—
- (a) a ballot paper;
  - (b) at an election held in England and Wales or Scotland, a postal voting statement in the prescribed form;
  - (c) at an election held in Northern Ireland, a declaration of identity in the prescribed form;
- together with such envelopes for their return as may be prescribed.



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- (2) The returning officer must also issue to those entitled to vote by post such information as he thinks appropriate about how to obtain—
  - (a) translations into languages other than English of any directions to or guidance for voters sent with the ballot paper;
  - (b) a translation into Braille of such directions or guidance;
  - (c) graphical representations of such directions or guidance;
  - (d) the directions or guidance in any other form (including any audible form).
- (3) The prescribed form shall include provision for the form to be signed and for stating the date of birth of the elector or proxy (as the case may be).
- (4) In the case of a ballot paper issued to a person resident in the United Kingdom, the returning officer must ensure that the return of the ballot paper and postal voting statement or declaration of identity is free of charge to the voter.
- (5) In any other case, regulations may provide that the returning officer must so ensure.”

#### **Commencement Information**

**I18** S. 37 wholly in force at 14.5.2008; s. 37 not in force at Royal Assent see s. 77; s. 37 in force for E.W.S. at 1.1.2007 by S.I. 2006/3412, art. 3, Sch. 1 para. 14(r) (subject to transitional provisions in Sch. 2); s. 37 in force for N.I. at 14.5.2008 by S.I. 2008/1316, arts. 2(1), 3(d)

#### *Circumstances in which votes may be tendered*

### **38 Tendered votes**

- (1) In Schedule 1 to the 1983 Act, in rule 40 (tendered ballot papers), after paragraph (1) insert—

“(1ZA) Paragraph (1ZC) applies if—

  - (a) a person applies for a ballot paper representing himself to be a particular elector named on the register,
  - (b) he is also named in the postal voters list, and
  - (c) he claims that he did not make an application to vote by post at the election.

(1ZB) Paragraph (1ZC) also applies if—

  - (a) a person applies for a ballot paper representing himself to be a particular person named as a proxy in the list of proxies,
  - (b) he is also named in the proxy postal voters list, and
  - (c) he claims that he did not make an application to vote by post as proxy.

(1ZC) The person shall, on satisfactorily answering the questions permitted by law to be asked at the poll, be entitled, subject to the following provisions of this rule, to mark a ballot paper (in these rules referred to as a “tendered ballot paper”) in the same manner as any other voter.”
- (2) After paragraph (1ZC) of that rule (inserted by subsection (1) above) insert—

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Electoral Administration Act 2006, Part 6. (See end of Document for details)*

“(1ZD) Paragraph (1ZE) applies if before the close of the poll but after the last time at which a person may apply for a replacement postal ballot paper, a person represents himself to be—

- (a) a particular elector named on the register and who is also named in the postal voters list, or
- (b) a particular person named as a proxy in the list of proxies and who is also named in the proxy postal voters list,

and claims that he has lost or has not received his postal ballot paper.

(1ZE) The person shall, on satisfactorily answering the questions permitted by law to be asked at the poll, be entitled, subject to the following provisions of this rule, to mark a ballot paper (in these rules referred to as a “tendered ballot paper”) in the same manner as any other voter.”

(3) In section 61 of that Act (certain voting offences), after subsection (6) insert—

“(6A) A person is not guilty of an offence under subsection (2)(b) or (3)(b) above only by reason of his having marked a tendered ballot paper in pursuance of rule 40(1ZC) or (1ZE) of the parliamentary elections rules.”

(4) In section 5 of the Representation of the People Act 1985 (c. 50) (absent voting in Northern Ireland) after subsection (5A) insert—

“(5B) Subsection (2) above does not prevent a person, at the polling station allotted to him, marking a tendered ballot paper in pursuance of rule 40(1ZC) or (1ZE) of the parliamentary elections rules.”

(5) In section 9 of that Act (voting as proxy in Northern Ireland) after subsection (11) insert—

“(11A) Subsection (2) above does not prevent a person, at the polling station allotted to him, marking a tendered ballot paper in pursuance of rule 40(1ZC) or (1ZE) of the parliamentary elections rules.”

(6) In Schedule 4 to the Representation of the People Act 2000 (c. 2) (absent voting in Great Britain)—

- (a) in paragraph 2 (manner of voting at parliamentary or local government elections) after sub-paragraph (6) insert—

“(6A) Sub-paragraph (2) above does not prevent a person, at the polling station allotted to him, marking a tendered ballot paper in pursuance of rule 40(1ZC) or (1ZE) of the parliamentary elections rules.”;

- (b) in paragraph 7 (voting as proxy) after sub-paragraph (9) insert—

“(10) Sub-paragraph (2) above does not prevent a person, at the polling station allotted to him, marking a tendered ballot paper in pursuance of rule 40(1ZC) or (1ZE) of the parliamentary elections rules.”

#### Commencement Information

**I19** S. 38 wholly in force at 1.7.2008; s. 38 not in force at Royal Assent see s. 77; s. 38(1)-(3)(6) in force for E.W.S at 1.1.2007 by S.I. 2006/3412, art. 3, Sch. 1 para. 14(s) (subject to Sch. 2); s. 38(1)-(3)(6) in force for N.I. and s. 38(4)(5) in force at 1.7.2008 by S.I. 2008/1316, arts. 2(2){(3)}, 4(p), 5(a)

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Electoral Administration Act 2006, Part 6. (See end of Document for details)*

### *Offences related to voting*

#### **39 Undue influence**

- (1) In section 115 of the 1983 Act (offence of undue influence), in subsection (2)(b)—
  - (a) after “prevents” insert “, or intends to impede or prevent,”;
  - (b) after “prevails upon” insert “, or intends so to compel, induce or prevail upon,”.
- (2) This section does not have effect in relation to a local government election in Scotland.

#### **Commencement Information**

**I20** S. 39 wholly in force at 11.9.2006, see s. 77(2)-(4) and S.I. 2006/1972, art. 3, Sch. 1 para. 6 (subject to transitional provisions in Sch. 2)

#### **40 Offences relating to applications for postal and proxy votes**

After section 62 of the 1983 Act (offences as to declarations) insert—

##### **“62A Offences relating to applications for postal and proxy votes**

- (1) A person commits an offence if he—
  - (a) engages in an act specified in subsection (2) at a parliamentary or local government election, and
  - (b) intends, by doing so, to deprive another of an opportunity to vote or to make for himself or another a gain of a vote to which he or the other is not otherwise entitled or a gain of money or property.
- (2) These are the acts—
  - (a) applying for a postal or proxy vote as some other person (whether that other person is living or dead or is a fictitious person);
  - (b) otherwise making a false statement in, or in connection with, an application for a postal or proxy vote;
  - (c) inducing the registration officer or returning officer to send a postal ballot paper or any communication relating to a postal or proxy vote to an address which has not been agreed to by the person entitled to the vote;
  - (d) causing a communication relating to a postal or proxy vote or containing a postal ballot paper not to be delivered to the intended recipient.
- (3) In subsection (1)(b), property includes any description of property.
- (4) In subsection (2) a reference to a postal vote or a postal ballot paper includes a reference to a proxy postal vote or a proxy postal ballot paper (as the case may be).
- (5) A person who commits an offence under subsection (1) or who aids, abets, counsels or procures the commission of such an offence is guilty of a corrupt practice.

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Electoral Administration Act 2006, Part 6. (See end of Document for details)*

- (6) This section does not apply to anything done at a local government election in Scotland.”

#### Commencement Information

**I21** S. 40 wholly in force at 11.9.2006, see s. 77(2)-(4) and S.I. 2006/1972, art. 3, Sch. 1 para. 7 (subject to transitional provisions in Sch. 2)

#### *Access to election documents*

### **41 Control of documents after parliamentary election**

- (1) Schedule 1 to the 1983 Act (parliamentary elections rules) is amended in accordance with subsections (2) to (7).
- (2) In the heading to rule 55 (delivery of documents after poll) for “Clerk of the Crown” substitute “registration officer”.<sup>47</sup>
- (3) In that rule—
- (a) in paragraph (1) for “Clerk of the Crown” substitute “relevant registration officer”;
  - (b) after paragraph (1) insert—
 

“(1A) In this rule and in rules 56 and 57 references to the relevant registration officer are to—

    - (a) the registration officer of the local authority in whose area the constituency is situated, or
    - (b) if the constituency comprises any part of the area of more than one local authority, the registration officer of the local authority in whose area the greater or greatest (as the case may be) number of electors is registered.”;
  - (c) omit paragraphs (2) to (4).
- (4) In rule 56 (orders for production of documents)—
- (a) in each of paragraphs (1), (6) and (8) for “Clerk of the Crown” substitute “relevant registration officer”;
  - (b) in paragraph (2) for “Clerk of the Crown's” substitute “relevant registration officer's”;
- (5) In rule 57 (retention and public inspection of documents)—
- (a) in paragraph (1) for “Clerk of the Crown” substitute “relevant registration officer”;
  - (b) for paragraph (3) substitute—
 

“(3) The relevant registration officer or the Chief Electoral Officer for Northern Ireland (as the case may be) must, on request, supply to any person copies of or extracts from such description of the documents open to public inspection as is prescribed by regulations.”;
  - (c) after paragraph (3) insert—

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*Changes to legislation: There are currently no known outstanding effects for the Electoral Administration Act 2006, Part 6. (See end of Document for details)*

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- “(4) Each of the following must, on request, be supplied with a copy of the marked copies of the register, the postal voters list, the list of proxies and the proxy postal voters list—
- (a) a registered party within the meaning of Part 2 of the Political Parties, Elections and Referendums Act 2000;
  - (b) a person who was a candidate at the election in relation to the constituency for which he was a candidate.
- (5) Regulations may impose conditions in relation to—
- (a) the inspection of any document in pursuance of paragraph (2);
  - (b) the supply of any document or part of a document in pursuance of paragraph (3);
  - (c) the supply of any document or part of a document in pursuance of paragraph (4).
- (6) Regulations may also make provision—
- (a) as to the form in which any such document or part is supplied;
  - (b) for the payment of a fee in respect of the supply of a document or part.
- (7) Conditions which may be imposed for the purposes of paragraph (5) (a) or (b) include conditions as to—
- (a) whether a person may take any copy of a document he is permitted to inspect;
  - (b) the manner in which any such copy is to be taken;
  - (c) the purposes for which information contained in any document or part of a document which is inspected or supplied in pursuance of paragraph (2) or (3) may be used.
- (8) Conditions which may be imposed for the purposes of paragraph (5) (b) or (c) include conditions as to the extent to which a person to whom a document or part of a document has been supplied may—
- (a) supply that document or part to any other person;
  - (b) disclose to any other person any information contained in the document or part;
  - (c) use any such information for a purpose other than that for which the document or part was supplied to him.
- (9) Regulations may also impose conditions corresponding to those mentioned in paragraph (8) in respect of persons who have obtained a document or part of a document mentioned in paragraph (4)—
- (a) which was supplied to another person in pursuance of paragraph (4), or
  - (b) otherwise than in accordance with regulations under this section.”
- (6) For rule 58 (documents in Scotland) substitute—

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*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Electoral Administration Act 2006, Part 6. (See end of Document for details)*

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- “58
- (1) In the application of rules 55 to 57 to elections in Scotland, the references to the relevant registration officer shall be taken to be references to the relevant sheriff clerk.
  - (2) For the purposes of rule 55 as it applies to elections in Scotland—
    - (a) the documents to be forwarded in accordance with that rule may be forwarded by being—
      - (i) delivered to the relevant sheriff clerk by the returning officer or his agent, or
      - (ii) sent to the relevant sheriff clerk by recorded delivery post,
    - (b) on forwarding the documents, the returning officer must deliver or send to the relevant sheriff clerk along with the documents a letter specifying the number and descriptions of the documents forwarded, and
    - (c) where the documents are forwarded by delivery under subparagraph (a)(i) above, the relevant sheriff clerk must, on receipt of the documents, provide the person delivering them with a signed receipt showing the date and time of receipt.
  - (3) In this rule, “relevant sheriff clerk” means—
    - (a) the sheriff clerk of the sheriff court district in which the constituency is situated, or
    - (b) if the constituency comprises any part of the area of more than one sheriff court district, the sheriff clerk of such one of those districts as the Secretary of State may by order appoint.”
  - (7) For rule 59 (documents in Northern Ireland) substitute—

- “59
- In the application of rules 55 to 57 to elections for a constituency in Northern Ireland, the references to the relevant registration officer shall be taken to be references to the Clerk of the Crown for Northern Ireland.”
- (8) In section 63 of that Act (breach of official duty), in subsection (3)(c) after “responsible after a” insert “parliamentary or”.
  - (9) After section 66A of that Act (prohibition on publication of exit polls) insert—

**“66B Failure to comply with conditions relating to supply etc. of certain documents**

- (1) A person is guilty of an offence—
  - (a) if he fails to comply with any conditions imposed in pursuance of regulations under rule 57 of the parliamentary elections rules, or
  - (b) if he is an appropriate supervisor of a person (P) who fails to comply with such a condition and he failed to take appropriate steps.
- (2) P is not guilty of an offence under subsection (1) if—
  - (a) he has an appropriate supervisor, and

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Electoral Administration Act 2006, Part 6. (See end of Document for details)*

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

#### **Commencement Information**

**I22** S. 41 wholly in force at 1.7.2008; s. 41 not in force at Royal Assent, see s. 77; s. 41(1)-(6)(8)(9) in force for E.W.S. at 1.1.2007 by S.I. 2006/3412, art. 3, Sch. 1 para. 14(t) (subject to Sch. 2); s. 41(1)-(6)(8)(9) in force for N.I. at 14.5.2008 and s. 41(7) in force at 1.7.2008 by S.I. 2008/1316, arts. 2(1){(3)}, 3(e), 5(b)

## **42 Access to other election documents**

- (1) The relevant officer must—
  - (a) make relevant election documents available for inspection by members of the public;
  - (b) supply, on request, copies of or extracts from such description of relevant election documents as is prescribed by regulations.
- (2) In the case of an election other than a parliamentary election, a local government election in Scotland or a local election in Northern Ireland, each of the following must, on request, be supplied with a copy of the marked copies of the register, the postal voters list, the list of proxies and the proxy postal voters list—
  - (a) a registered party;
  - (b) a person who was a candidate at the election in relation to the electoral area for which he was a candidate;
  - (c) in the case of an election at which a registered party submits a list of candidates, a person who was appointed as an agent for the candidates on the party's list.
- (3) The Secretary of State may by regulations impose conditions in relation to—
  - (a) the inspection of any document in pursuance of subsection (1)(a);
  - (b) the supply of any document or part of a document in pursuance of subsection (1)(b);
  - (c) the supply of any document or part of a document in pursuance of subsection (2).

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*Changes to legislation: There are currently no known outstanding effects for the Electoral Administration Act 2006, Part 6. (See end of Document for details)*

- (4) Regulations may also make provision—
- (a) as to the form in which any such document or part is supplied;
  - (b) for the payment of a fee in respect of the supply of a document or part.
- (5) Conditions which may be imposed for the purposes of subsection (3)(a) or (b) include conditions as to—
- (a) whether a person may take any copy of a document he is permitted to inspect;
  - (b) the manner in which any such copy is to be taken;
  - (c) the purposes for which information contained in any document or part of a document which is inspected or supplied in pursuance of subsection (1) may be used.
- (6) Conditions which may be imposed for the purposes of subsection (3)(b) or (c) include conditions as to the extent to which a person to whom a document or part of a document has been supplied may—
- (a) supply that document or part to any other person;
  - (b) disclose to any other person any information contained in the document or part;
  - (c) use any such information for a purpose other than that for which the document or part was supplied to him.
- (7) Regulations may also impose conditions corresponding to those mentioned in subsection (6) in respect of persons who have obtained a document or part of a document mentioned in subsection (2)—
- (a) which was supplied to another person in pursuance of subsection (2), or
  - (b) otherwise than in accordance with regulations under this section.
- (8) The power to make regulations under this section—
- (a) is exercisable by the Secretary of State by statutory instrument;
  - (b) includes power to make different provision for different purposes.
- (9) The Secretary of State must not make regulations under this section unless he first consults the Electoral Commission.
- (10) No regulations may be made under this section unless a draft of the statutory instrument containing the regulations has been laid before, and approved by resolution of, each House of Parliament.

**Modifications etc. (not altering text)**

- C1** S. 42 applied (E.) (28.7.2007) by [The Local Authorities \(Conduct of Referendums\) \(England\) Regulations 2007 \(S.I. 2007/2089\)](#), **regs. 8, 11, 13**, {Sch. 4 Table 5}
- C2** S. 42 applied (with modifications) (24.7.2008) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2008 \(S.I. 2008/1848\)](#), **regs. 1(2)(3), 8**, {Sch. 4 para. 1 Table 4}
- C3** S. 42 applied (with modifications) (E.W.) (9.2.2012) by [The Local Authorities \(Conduct of Referendums\)\(England\) Regulations 2012 \(S.I. 2012/323\)](#), **reg. 1, Sch. 4 para. 1** Table 5
- C4** S. 42 applied (with modifications) (E.W.S.) (18.2.2012) by [The Local Authorities \(Conduct of Referendums\) \(Council Tax Increases\) \(England\) Regulations 2012 \(S.I. 2012/444\)](#), **reg. 1, Sch. 4 para. 1** Table 5 (with **reg. 27**)
- C5** S. 42 applied (with modifications) (E.W.) (3.8.2012) by [The Neighbourhood Planning \(Referendums\) Regulations 2012 \(S.I. 2012/2031\)](#), **regs. 1, 8, 12, 13, Sch. 4 Pts. 1** Table 5



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*Changes to legislation: There are currently no known outstanding effects for the Electoral Administration Act 2006, Part 6. (See end of Document for details)*

- C6** S. 42 applied (with modifications) by SI 2012/2031 reg. 17 Sch. 8 Table 4 (as inserted (E.W.) (6.4.2013) by [The Neighbourhood Planning \(Referendums\) \(Amendment\) Regulations 2013 \(S.I. 2013/798\)](#), regs. 1, 7, [Sch. 3](#))

#### **Commencement Information**

- I23** S. 42 partly in force; s. 42 not in force at Royal Assent see s. 77; s. 42 in force for certain purposes for E.W. at 1.1.2007 by [S.I. 2006/3412](#), [art. 3](#), [Sch. 1 para. 15\(a\)](#) (subject to transitional provisions in [Sch. 2](#)); s. 42 in force for certain purposes for E.W. at 1.1.2008 by [S.I. 2007/3376](#), [art. 3](#); s. 42 in force for N.I. for certain purposes at 14.5.2008 by [S.I. 2008/1316](#), [arts. 2\(1\)](#), 3(f)(g)

### **43 Access to other election documents: contravention of regulations**

- (1) A person is guilty of an offence—
- if he fails to comply with any conditions imposed in pursuance of regulations under section 42, or
  - if he is an appropriate supervisor of a person (P) who fails to comply with such a condition and he failed to take appropriate steps.
- (2) P is not guilty of an offence under subsection (1) if—
- he has an appropriate supervisor, and
  - he has complied with all the requirements imposed on him by his appropriate supervisor.
- (3) A person who is not P or an appropriate supervisor is not guilty of an offence under subsection (1) if he takes all reasonable steps to ensure that he complies with the conditions.
- (4) In subsections (1)(b) and (2)—
- an appropriate supervisor is a person who is a director of a company or concerned in the management of an organisation in which P is employed or under whose direction or control P is;
  - appropriate steps are such steps as it was reasonable for the appropriate supervisor to take to secure the operation of procedures designed to prevent, so far as reasonably practicable, the occurrence of a failure to comply with the conditions.
- (5) A person guilty of an offence as mentioned in subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### **Modifications etc. (not altering text)**

- C7** S. 43 applied (with modifications) (E.) (28.7.2007) by [The Local Authorities \(Conduct of Referendums\) \(England\) Regulations 2007 \(S.I. 2007/2089\)](#), [regs. 8, 11, 13](#), {Sch. 4 Table 5}
- C8** S. 43 applied (with modifications) (24.7.2008) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2008 \(S.I. 2008/1848\)](#), [regs. 1\(2\)\(3\)](#), 8, {Sch. 4 para. 1 Table 4}
- C9** S. 43 applied (with modifications) (E.W.) (9.2.2012) by [The Local Authorities \(Conduct of Referendums\)\(England\) Regulations 2012 \(S.I. 2012/323\)](#), reg. 1, [Sch. 4 para. 1](#) Table 5
- C10** S. 43 applied (with modifications) (E.W.) (3.8.2012) by [The Neighbourhood Planning \(Referendums\) Regulations 2012 \(S.I. 2012/2031\)](#), regs. 1, 8, 12, 13, [Sch. 4 Pts. 1](#) Table 5
- C11** S. 43 applied (with modifications) by SI 2012/2031 reg. 17 Sch. 8 Table 4 (as inserted (E.W.) (6.4.2013) by [The Neighbourhood Planning \(Referendums\) \(Amendment\) Regulations 2013 \(S.I. 2013/798\)](#), regs. 1, 7, [Sch. 3](#))

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Electoral Administration Act 2006, Part 6. (See end of Document for details)*

#### Commencement Information

**I24** S. 43 partly in force; s. 43 not in force at Royal Assent see s. 77; s. 43 in force for certain purposes for E.W. at 1.1.2007 by [S.I. 2006/3412](#), [art. 3](#), [Sch. 1 para. 15\(a\)](#) (subject to [Sch. 2](#)); s. 43 in force for N.I. for certain purposes at 1.7.2008 by [S.I. 2008/1316](#), [arts. 2\(2\), 4\(q\)](#)

#### 44 Access to other election documents: supplementary

- (1) This section applies for the purposes of section 42.
- (2) The relevant officer is—
  - (a) in England and Wales, the relevant registration officer;
  - (b) in Scotland, the relevant sheriff clerk;
  - (c) in Northern Ireland, the Chief Electoral Officer for Northern Ireland.
- (3) The relevant registration officer is—
  - (a) the registration officer of the local authority in whose area the election is held, or
  - (b) if the election is held in respect of an electoral area which comprises any part of the area of more than one local authority, such registration officer as the Secretary of State by order appoints.
- (4) The relevant sheriff clerk is—
  - (a) the sheriff clerk of the sheriff court district in which the election is held, or
  - (b) if the election is held in respect of an electoral area which comprises any part of the area of more than one sheriff court district, the sheriff clerk of such of those districts as the Secretary of State by order appoints.
- (5) The relevant election documents are such documents relating to an election (other than a parliamentary election, a local government election in Scotland or a local election in Northern Ireland) as the relevant officer is required by or under any enactment to retain for any period except—
  - (a) ballot papers;
  - (b) completed corresponding number lists;
  - (c) certificates as to employment on the day of the election.
- (6) A party is a registered party if it is registered for the purposes of Part 2 of the 2000 Act (registration of political parties).
- (7) An electoral area is—
  - (a) in relation to a local government election, an electoral area within the meaning of section 203(1) of the 1983 Act;
  - (b) in relation to an election to the National Assembly for Wales, an Assembly constituency or an Assembly electoral region within the meaning of <sup>[<sup>F1</sup></sup>section 2 of the Government of Wales Act 2006 (Assembly constituencies and electoral regions)] ;
  - (c) in relation to an election to the Scottish Parliament, a constituency or a region within the meaning of Schedule 1 to the Scotland Act 1998 (c. 46) (constituencies, regions and regional members);
  - (d) in relation to an election to the Northern Ireland Assembly, a constituency for the purposes of section 33 of the Northern Ireland Act 1998 (c. 47) (constituencies and numbers of members);

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*Changes to legislation: There are currently no known outstanding effects for the Electoral Administration Act 2006, Part 6. (See end of Document for details)*

F2(e) .....

- (8) The marked register is the copy of the register of electors marked in accordance with provision corresponding to rule 37(1)(c) of the parliamentary elections rules.
- (9) A marked copy of the list of proxies is the copy of that list marked in accordance with provision corresponding to rule 37(1)(e) of the parliamentary elections rules.
- (10) A marked copy of the postal voters list or the proxy postal voters list is the copy of that list marked in accordance with provision corresponding to rule 31A(1) of the parliamentary elections rules.
- (11) A completed corresponding number list is a list prepared under provision corresponding to rule 19A of the parliamentary elections rules which is completed in accordance with provision corresponding to rule 37(1)(b) and (d) of those rules.
- (12) Expressions used in this section or section 42 or 43 and in the 1983 Act must (unless the context otherwise requires) be construed in accordance with that Act.

#### Textual Amendments

- F1** Words in s. 44(7)(b) substituted (coming into force in accordance with art. 1(2) of the amending S.I.) by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), art. 3, **Sch. 1 para. 122**
- F2** S. 44(7)(e) repealed (31.12.2020) by [The European Parliamentary Elections Etc. \(Repeal, Revocation, Amendment and Saving Provisions\) \(United Kingdom and Gibraltar\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1310\)](#), reg. 1, **Sch. 1 Pt. 1** (as amended by S.I. 2019/1389, regs. 1, 2(2))

#### Modifications etc. (not altering text)

- C12** S. 44 applied (with modifications) (E.) (28.7.2007) by [The Local Authorities \(Conduct of Referendums\) \(England\) Regulations 2007 \(S.I. 2007/2089\)](#), **regs. 8, 11, 13**, {Sch. 4 Table 5}
- C13** S. 44 applied (with modifications) (24.7.2008) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2008 \(S.I. 2008/1848\)](#), **regs. 1(2)(3), 8**, {Sch. 4 para. 1 Table 4}
- C14** S. 44 applied (with modifications) (E.W.) (9.2.2012) by [The Local Authorities \(Conduct of Referendums\)\(England\) Regulations 2012 \(S.I. 2012/323\)](#), reg. 1, **Sch. 4 para. 1** Table 5
- C15** S. 44 applied (with modifications) (E.W.S.) (18.2.2012) by [The Local Authorities \(Conduct of Referendums\) \(Council Tax Increases\) \(England\) Regulations 2012 \(S.I. 2012/444\)](#), reg. 1, **Sch. 4 para. 1** Table 5 (with reg. 27)
- C16** S. 44 applied (with modifications) (E.W.) (3.8.2012) by [The Neighbourhood Planning \(Referendums\) Regulations 2012 \(S.I. 2012/2031\)](#), regs. 1, 8, 12, 13, **Sch. 4 Pts. 1** Table 5
- C17** S. 44 applied (with modifications) by SI 2012/2031 reg. 17 Sch. 8 Table 4 (as inserted (E.W.) (6.4.2013) by [The Neighbourhood Planning \(Referendums\) \(Amendment\) Regulations 2013 \(S.I. 2013/798\)](#), regs. 1, 7, **Sch. 3**)

#### Commencement Information

- I25** S. 44 partly in force; s. 44 not in force at Royal Assent see s. 77; s. 44 in force for certain purposes for E.W. at 1.1.2007 by [S.I. 2006/3412](#), **art. 3**, **Sch. 1 para. 15(a)** (subject to [Sch. 2](#)); s. 44 in force for certain purposes for E.W. at 1.1.2008 by [S.I. 2007/3376](#), **art. 3**; s. 44 in force for N.I. for certain purposes at 1.7.2008 by [S.I. 2008/1316](#), **arts. 2(2), 4(q)**

## 45 Marked postal voters list

- (1) Schedule 1 to the 1983 Act (parliamentary elections rules) is amended as follows.

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Electoral Administration Act 2006, Part 6. (See end of Document for details)*

(2) After rule 31 (notification of requirement of secrecy) insert—

**31A “Return of postal ballot papers**

(1) Where—

(a) a postal vote has been returned in respect of a person who is entered on the postal voters list, or

(b) a proxy postal vote has been returned in respect of a proxy who is entered on the proxy postal voters list,

the returning officer must mark the list in the prescribed manner.

(2) For the purposes of paragraph (1) above, regulations may prescribe the circumstances in which a postal vote or a proxy postal vote (as the case may be) is or is not to be treated as having been returned.

(3) Rule 45(1B) and (2) below does not apply for the purpose of determining whether, for the purposes of this rule, a postal vote or a proxy postal vote is returned.”

(3) In rule 55 (delivery of documents after poll)—

(a) in paragraph (1)(e) for “of lists of proxies” substitute “ of the postal voters list, of lists of proxies and of the proxy postal voters list ”;

(b) after paragraph (1)(e) insert—

“(f) such other documents relating to elections as are prescribed,”.

**Commencement Information**

**I26** S. 45 wholly in force at 1.7.2008; s. 45 not in force at Royal Assent see s. 77; s. 45 in force for E.W.S. at 1.1.2007 by S.I. 2006/3412, art. 3, Sch. 1 para. 14(u) (subject to Sch. 2); s. 45 in force for N.I. at 1.7.2008 by S.I. 2008/1316, arts. 2(2), 4(r)

*Correction of procedural errors*

**46 Returning officers: correction of procedural errors**

(1) A returning officer for an election to which this section applies may take such steps as he thinks appropriate to remedy any act or omission on his part, or on the part of a relevant person, which—

(a) arises in connection with any function the returning officer or relevant person has in relation to the election, and

(b) is not in accordance with the rules or any other requirements applicable to the election.

(2) But a returning officer may not under subsection (1) re-count the votes given at an election after the result has been declared.

(3) This section applies to—

(a) a parliamentary election;

(b) a local government election in England and Wales (within the meaning of the 1983 Act).

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Electoral Administration Act 2006, Part 6. (See end of Document for details)*

- (4) These are the relevant persons—
- (a) an electoral registration officer;
  - (b) a presiding officer;
  - (c) a person providing goods or services to the returning officer;
  - (d) a deputy of any person mentioned in paragraph (a) to (c) or a person appointed to assist, or in the course of his employment assisting, such a person in connection with any function he has in relation to the election.
- (5) Subsections (1) to (4) must be construed as part of the Representation of the People Acts.
- (6) In section 63 of the 1983 Act (breach of official duty), after subsection (3) insert—
- “(4) Where—
- (a) a returning officer for an election to which section 46 of the Electoral Administration Act 2006 applies is guilty of an act or omission in breach of his official duty, but
  - (b) he remedies that act or omission in full by taking steps under subsection (1) of that section,
- he shall not be guilty of an offence under subsection (1) above.
- (5) Subsection (4) does not affect any conviction which takes place, or any penalty which is imposed, before the date on which the act or omission is remedied in full.”

#### **Modifications etc. (not altering text)**

- C18** S. 46 applied (with modifications) (E.) (28.7.2007) by [The Local Authorities \(Conduct of Referendums\) \(England\) Regulations 2007 \(S.I. 2007/2089\)](#), **regs. 8, 11, 13**, {Sch. 4 Table 5}
- C19** S. 46 applied (with modifications) (24.7.2008) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2008 \(S.I. 2008/1848\)](#), **regs. 1(2)(3), 8**, {Sch. 4 para. 1 Table 4}
- C20** S. 46 applied (with modifications) (E.W.) (9.2.2012) by [The Local Authorities \(Conduct of Referendums\)\(England\) Regulations 2012 \(S.I. 2012/323\)](#), **reg. 1, Sch. 4 para. 1** Table 5
- C21** S. 46 applied (with modifications) (E.W.S.) (18.2.2012) by [The Local Authorities \(Conduct of Referendums\) \(Council Tax Increases\) \(England\) Regulations 2012 \(S.I. 2012/444\)](#), **reg. 1, Sch. 4 para. 1** Table 5 (with **reg. 27**)
- C22** S. 46 applied (with modifications) (E.W.) (3.8.2012) by [The Neighbourhood Planning \(Referendums\) Regulations 2012 \(S.I. 2012/2031\)](#), **regs. 1, 8, 12, 13, Sch. 4 Pts. 1** Table 5
- C23** S. 46 applied (with modifications) by SI 2012/2031 reg. 17 Sch. 8 Table 4 (as inserted (E.W.) (6.4.2013) by [The Neighbourhood Planning \(Referendums\) \(Amendment\) Regulations 2013 \(S.I. 2013/798\)](#), **regs. 1, 7, Sch. 3**)

#### **Commencement Information**

- I27** S. 46 wholly in force at 1.7.2008; s. 46 not in force at Royal Assent see s. 77; s. 46 in force for E.W.S. at 1.1.2007 by [S.I. 2006/3412](#), **art. 3, Sch. 1 para. 14(v)** (subject to **Sch. 2**); s. 46 in force for N.I. at 1.7.2008 by [S.I. 2008/1316](#), **arts. 2(2), 4(s)**

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*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: There are currently no known outstanding effects for the Electoral Administration Act 2006, Part 6. (See end of Document for details)*

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### *Miscellaneous amendments*

#### **47 Miscellaneous amendments of the 1983 Act**

Part 5 of Schedule 1 (which contains miscellaneous amendments of the 1983 Act relating to the conduct of elections) has effect.

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#### **Commencement Information**

**I28** S. 47 partly in force; s. 47 not in force at Royal Assent; s. 47 in force for certain purposes at 11.9.2006 by S.I. 2006/1972, art. 3; s. 47 in force for E.W.S. for certain further purposes at 1.1.2007 by S.I. 2006/3412, art. 3, Sch. 1 para. 14(w) (subject to Sch. 2); s. 47 in force for N.I. for certain purposes and in force for certain further purposes at 1.7.2008 by S.I. 2008/1316, arts. 2(2){(3)}, 4(t), 5(c)

**Status:**

Point in time view as at 31/12/2020.

**Changes to legislation:**

There are currently no known outstanding effects for the Electoral Administration Act 2006, Part 6.