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STATUTORY INSTRUMENTS

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**2004 No 1267**

**REPRESENTATION OF THE  
PEOPLE, NORTHERN IRELAND**

The European Parliamentary Elections  
(Northern Ireland) Regulations 2004

*Made* - - - - - 29th April 2004  
*Coming into force* - - - 30th April 2004

Whereas a draft of these Regulations has been approved by a resolution of each House of Parliament;  
And whereas the Secretary of State has, in accordance with section 7(1) and (2)(a) of the Political Parties, Elections and Referendums Act 2000(1), consulted the Electoral Commission about these Regulations;

Now, therefore, the Secretary of State in exercise of the powers conferred on him by sections 5, 6 and 7 of the European Parliamentary Elections Act 2002(2) and, being a Minister designated for the purposes of section 2(2) of the European Communities Act 1972(3) in relation to measures relating to the right of citizens of the Union to vote at and stand as a candidate at European Parliamentary elections, in exercise of the powers conferred on him by the said section 2(2) hereby makes the following Regulations:

**PART 1**

*General*

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the European Parliamentary Elections (Northern Ireland) Regulations 2004.

(2) These Regulations shall come into force on the day after the day on which they are made.

(3) These Regulations shall extend to Northern Ireland only.

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(1) 2000 c. 41; section 7(2)(a) was amended by paragraph 8 of Schedule 3 to the European Parliamentary Elections Act 2002 (c. 24).  
(2) 2002 c. 24; the Act was amended by sections 15, 19, 20, 21 and 22 of the European Parliament (Representation) Act 2003 (c. 7).  
(3) 1972 c. 68.

## Interpretation

2. Unless the context otherwise requires, in these Regulations—

“1983 Act” means the Representation of the People Act 1983<sup>(4)</sup>;

“1985 Act” means the Representation of the People Act 1985<sup>(5)</sup>;

“2000 Act” means the Political Parties, Elections and Referendums Act 2000<sup>(6)</sup>;

“2001 Franchise Regulations” means the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001<sup>(7)</sup>;

“2002 Act” means the European Parliamentary Elections Act 2002<sup>(8)</sup>;

“2003 Act” means the European Parliament (Representation) Act 2003<sup>(9)</sup>;

“the absent voters list” means, in relation to any election, the list kept under regulation 9(6);

“Accession States” means any of the following states—

- (a) the Czech Republic,
- (b) the Republic of Estonia,
- (c) the Republic of Cyprus,
- (d) the Republic of Latvia,
- (e) the Republic of Lithuania,
- (f) the Republic of Hungary,
- (g) the Republic of Malta,
- (h) the Republic of Poland,
- (i) the Republic of Slovenia,
- (j) the Slovak Republic;

“the Act annexed to Council Decision 76/787” is the Act concerning the election of MEPs annexed to Council Decision 76/787/ECSC, EEC, Euratom of 20th September 1976;

“citizen of an Accession State” means a national of one of the Accession States and “relevant citizen of an Accession State” means such a citizen who is not a Commonwealth citizen or a citizen of the Republic of Ireland;

“citizen of the Union” shall be construed in accordance with Article 17.1 of the Treaty establishing the European Community<sup>(10)</sup>, and “relevant citizen of the Union” means such a citizen who is not a Commonwealth citizen or a citizen of the Republic of Ireland;

“dwelling” includes any part of a building where that part is occupied separately as a dwelling;

“election” means European Parliamentary election;

“election court” means in relation to a European Parliamentary election petition, the judges presiding at the trial;

“elector” in relation to an election, means any person whose name is for the time being on the register of electors, but does not include those shown in the register as below voting age on the day fixed for the poll;

“European Parliamentary elections rules” mean the rules in Schedule 1 to these Regulations;

<sup>(4)</sup> 1983 c. 2.

<sup>(5)</sup> 1985 c. 50.

<sup>(6)</sup> 2000 c. 41.

<sup>(7)</sup> S.I.2001/1184

<sup>(8)</sup> 2002 c. 24.

<sup>(9)</sup> 2003 c. 7.

<sup>(10)</sup> The reference to the Treaty is to it as renumbered in accordance with the Treaty of Amsterdam.

“European Parliamentary election petition” means a petition presented in pursuance of Part 4 of these Regulations;

“European Parliamentary overseas elector” means a person falling within section 8(4) of the 2002 Act;

“European Parliamentary overseas elector’s declaration” means a declaration made in pursuance of regulations made under section 3 of the 1985 Act<sup>(11)</sup>;

“legal incapacity” includes (in addition to any incapacity by virtue of any subsisting provision of the common law) any disqualification imposed by these Regulations or by any Act;

“legal process” means a claim form, application, notice, writ, summons or other process;

“the list of proxies” means, in relation to any election, the list kept under regulation 11(8);

“overseas elector” means a person falling within subsection (2) of section 8 of the 2002 Act by virtue of paragraph (b) of that subsection;

“overseas elector’s declaration” has the meaning given by section 2 of the 1985 Act;

“person” includes (without prejudice to the provisions of the Interpretation Act 1978)<sup>(12)</sup> an association corporate or unincorporate;

“register of electors” means any part of—

- (a) a register of parliamentary or, in the case of peers, local government electors,
- (b) a register under section 3 of the 1985 Act, and
- (c) a register under regulation 5 of the 2001 Franchise Regulations,

in force within the electoral region at the time of a European Parliamentary election in that region;

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

“service voter” means a person who has made a service declaration and is registered or entitled to be registered in pursuance of it;

“sub-agent” has the meaning given by regulation 35(1);

“Treaty of Athens” means the Treaty signed at Athens on 16th April 2003 concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union;

“universal postal service provider” means a universal service provider (within the meaning of the Postal Services Act 2000)<sup>(13)</sup>; and

“voter” means a person voting at an election and includes a person voting as proxy and, except in the European Parliamentary elections rules, a person voting by proxy, and “vote” (whether noun or verb) shall be construed accordingly, except that in those rules any reference to an elector voting or an elector’s vote shall include a reference to an elector voting by proxy or an elector’s vote given by proxy.

### **Conduct of poll and count in the electoral region**

3. The returning officer for the electoral region shall be responsible for—
  - (a) the conduct of the poll in the electoral region;
  - (b) the printing of the ballot papers;

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<sup>(11)</sup> Section 3 was substituted by paragraph 4 of Schedule 2 to the Representation of the People Act 2000 (c. 2).

<sup>(12)</sup> 1978 c. 30.

<sup>(13)</sup> 2000 c. 26.

- (c) the issue and receipt of postal ballot papers for electors in the electoral region and their proxies;
- (d) the verification of the ballot paper accounts; and
- (e) the counting of the votes given in the electoral region.

#### **Deputies and assistance**

4.—(1) The returning officer may, in writing, appoint deputies to discharge all or any of the functions imposed on him under these Regulations.

(2) The returning officer may appoint such clerks as may be necessary to assist him in his functions in relation to an election.

#### **Polling districts and places**

5.—(1) The electoral region shall be divided into polling districts and subject to the provisions of this regulation there shall be a polling place designated for each polling district.

(2) The polling districts and polling places designated under this regulation shall be the same as those used or designated for parliamentary elections, except where it appears to those responsible for designating parliamentary polling districts and places that special circumstances make it desirable for some other polling district or place to be designated.

(3) An election shall not be questioned by reason of—

- (a) any non-compliance with the provisions of this regulation; or
- (b) any informality relative to polling districts or polling places.

#### **Rules for European Parliamentary elections**

6.—(1) The proceedings at a European Parliamentary election shall be conducted in accordance with the European Parliamentary elections rules in Schedule 1 to these Regulations.

(2) It is the returning officer's general duty at a European Parliamentary election to do all such acts and things as may be necessary for effectually conducting the election in the manner provided by those rules.

(3) No European Parliamentary election shall be declared invalid by reason of any act or omission by the returning officer or any other person in breach of his official duty in connection with the election or otherwise of the European Parliamentary elections rules if it appears to the tribunal having cognizance of the question that—

- (a) the election was so conducted as to be substantially in accordance with the law as to elections; and
- (b) the act or omission did not affect its result.

#### **Manner of voting**

7.—(1) This regulation applies to determine the manner of voting of a person entitled to vote as an elector at a European Parliamentary election.

(2) He may vote in person at the polling station allotted to him under the European Parliamentary elections rules, unless he is entitled as an elector to an absent vote at the election.

(3) He may vote by post if he is entitled as an elector to vote by post at the election.

(4) If he is entitled to vote by proxy at the election, he may so vote unless, before a ballot paper has been issued for him to vote by proxy, he applies at the polling station allotted to him under the

European Parliamentary elections rules for a ballot paper for the purpose of voting in person, in which case he may vote in person there.

(5) If he is not entitled as an elector to an absent vote at the election but cannot reasonably be expected to go in person to the polling station allotted to him under the European Parliamentary elections rules by reason of the particular circumstances of his employment, either as a constable or by the returning officer, on the date of the poll for a purpose connected with the election, he may vote in person at any polling station in the European Parliamentary electoral region.

(6) Nothing in the preceding provisions of this regulation applies to—

(a) a person to whom section 7 of the 1983 Act<sup>(14)</sup> (mental patients who are not detained offenders) applies and who are liable, by virtue of any enactment, to be detained in the mental hospital in question, or

(b) a person to whom section 7A of that Act<sup>(15)</sup> (persons remanded in custody) applies,

whether he is registered by virtue of that provision or not; and such a person may only vote 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).

(7) For the purposes of these Regulations, a person entitled to vote as an elector at a European Parliamentary election is entitled as an elector to vote by post or entitled to vote by proxy at the election if he is shown in the absent voters list for the election as so entitled; and references to entitlement as an elector to an absent vote at a European Parliamentary election are references to entitlement as an elector to vote by post or entitlement to vote by proxy at the election.

### **Absent vote at elections for an indefinite period**

**8.—**(1) Where a person applies to the registration officer to vote by post, or to vote by proxy, at European Parliamentary elections for an indefinite period the registration officer shall grant the application (subject to paragraph (8)) if—

(a) he is satisfied that the applicant is eligible for an absent vote at European Parliamentary elections for an indefinite period,

(b) he is satisfied that the applicant is or will be registered in the register for such elections,

(c) the application states the applicant's date of birth and the registration officer is satisfied that the date stated corresponds with the date supplied as the date of the applicant's birth pursuant to section 10(4A)(b), 10A(1A)(b) or 13A(2A)(b) of the 1983 Act<sup>(16)</sup>,

(d) the application is signed and (unless section 10(4B), 10A(1B) or 13A(2B) of the 1983 Act<sup>(17)</sup> applies) the registration officer is satisfied that the signature on the application corresponds with the signature supplied as the applicant's signature pursuant to section 10(4A)(a), 10A(1A)(a) or 13A(2A)(a) of the 1983 Act,

(e) the application either states the applicant's national insurance number or states that he does not have one, and the registration officer is satisfied as mentioned in paragraph (2), and

(f) the application meets the requirements of Schedule 2 to these Regulations.

(2) For the purposes of paragraph (1)(e), the registration officer must be satisfied—

(a) if the application states a national insurance number, that the requirements of paragraph (3) are met, or

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<sup>(14)</sup> Section 7 was substituted by section 4 of the Representation of the People Act 2000 (c. 2).

<sup>(15)</sup> Section 7A was inserted by section 5 of the Representation of the People Act 2000.

<sup>(16)</sup> Sections 10A and 13A were inserted by Schedule 1 to the Representation of the People Act 2000; sections 10(4A), 10A(1A) and 13A(2A) were inserted by section 1 of the Electoral Fraud (Northern Ireland) Act 2002 (c. 2).

<sup>(17)</sup> Sections 10(4B), 10A(1B) and 13A(2B) were inserted by section 1 of the Electoral Fraud (Northern Ireland) Act 2002.

- (b) if the application states that the applicant does not have a national insurance number, that no such number was supplied as his national insurance number pursuant to section 10(4A)(c)(i), 10A(1A)(c)(i) or 13A(2A)(c)(i) of the 1983 Act.
- (3) The requirements of this paragraph are met if—
- (a) the number stated as mentioned in paragraph (2)(a) is the same as the one supplied as the applicant's national insurance number pursuant to section 10(4A)(c)(i), 10A(1A)(c)(i) or 13A(2A)(c)(i) of the 1983 Act, or
  - (b) no national insurance number was supplied under any of those provisions, but the registration officer is not aware of any reason to doubt the authenticity of the application.
- (4) For the purposes of this regulation, a person is eligible for an absent vote at European Parliamentary elections for an indefinite period—
- (a) if he is or will be registered as a service voter,
  - (b) if he cannot reasonably be expected—
    - (i) to go in person to the polling station allotted or likely to be allotted to him under the European Parliamentary elections rules, or
    - (ii) to vote unaided there,by reason of blindness or other physical incapacity,
  - (c) if he cannot reasonably be expected to go in person to that polling station by reason of the general nature of his occupation, service or employment or that of his spouse, or by reason of his attendance on a course provided by an educational institution or that of his spouse, or
  - (d) if he cannot go in person from his qualifying address to that polling station without making a journey by air or sea,
- and is also eligible for an absent vote at European Parliamentary elections for an indefinite period if he is or will be registered in pursuance of an overseas elector's declaration (including a European Parliamentary overseas elector's declaration).
- (5) The registration officer shall keep a record of those whose applications under this regulation have been granted showing—
- (a) in the case of those who may vote by post, the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent, and
  - (b) in the case of those who may vote by proxy, the names and addresses of those appointed as their proxies.
- (6) The registration officer shall remove a person from the record kept under paragraph (5)—
- (a) if he applies to the registration officer to be removed,
  - (b) in the case of any registered person, if he ceases to be registered or registered at the same qualifying address or ceases to be, or becomes, registered as a service voter or in pursuance of a declaration of local connection or an overseas elector's declaration, or
  - (c) if the registration officer gives notice that he has reason to believe there has been a material change of circumstances.
- (7) A person shown in the record kept under paragraph (5) as voting by post or, as the case may be, voting by proxy may subsequently alter his choice (subject to paragraph (8)) on an application to the registration officer that meets the requirements of Schedule 2 to these Regulations and the registration officer shall amend the record accordingly.
- (8) A person applying to vote by post must provide an address in the United Kingdom as the address to which his ballot paper is to be sent.

### **Absent vote at a particular election and absent voters list**

9.—(1) Where a person applies to the registration officer to vote by post, or to vote by proxy, at a particular European Parliamentary election, the registration officer shall grant the application (subject to paragraph (7)) if—

- (a) he is satisfied that the applicant's circumstances on the date of the poll will be or are likely to be such that he cannot reasonably be expected to vote in person at the polling station allotted or likely to be allotted to him under the European Parliamentary elections rules,
  - (b) he is satisfied that the applicant is or will be registered in the register of electors,
  - (c) the application states the applicant's date of birth and the registration officer is satisfied that the date stated corresponds with the date supplied as the date of the applicant's birth pursuant to section 10(4A)(b), 10A(1A)(b) or 13A(2A)(b) of the 1983 Act,
  - (d) the application is signed and (unless section 10(4B), 10A(1B) or 13A(2B) of the 1983 Act applies) the registration officer is satisfied that the signature on the application corresponds with the signature supplied as the applicant's signature pursuant to section 10(4A)(a), 10A(1A)(a) or 13A(2A)(a) of the 1983 Act,
  - (e) the application either states the applicant's national insurance number or states that he does not have one, and the registration officer is satisfied as mentioned in paragraph (2), and
  - (f) the application meets the requirements of Schedule 2 to these Regulations.
- (2) For the purposes of paragraph (1)(e), the registration officer must be satisfied—
- (a) if the application states a national insurance number, that the requirements of paragraph (3) are met, or
  - (b) if the application states that the applicant does not have a national insurance number, that no such number was supplied as his national insurance number pursuant to section 10(4A)(c)(i), 10A(1A)(c)(i) or 13A(2A)(c)(i) of the 1983 Act.
- (3) The requirements of this paragraph are met if—
- (a) the number stated as mentioned in paragraph (2)(a) is the same as the one supplied as the applicant's national insurance number pursuant to section 10(4A)(c)(i), 10A(1A)(c)(i) or 13A(2A)(c)(i) of the 1983 Act, or
  - (b) no national insurance number was supplied under any of those provisions, but the registration officer is not aware of any reason to doubt the authenticity of the application.
- (4) Paragraph (1) does not apply to a person who is included in the record kept under regulation 8, but such a person may, in respect of a particular European Parliamentary election, apply to the registration officer—
- (a) for his ballot paper to be sent to a different address in the United Kingdom, or
  - (b) to vote by proxy,
- if he is shown in the record so kept as voting by post at European Parliamentary elections.
- (5) The registration officer shall grant an application under paragraph (4) if it meets the requirements of Schedule 2 to these Regulations.
- (6) The registration officer shall, in respect of each European Parliamentary election, keep a special list ("the absent voters list") consisting of—
- (a) a list of—
    - (i) those whose applications under paragraph (1) to vote by post at the election have been granted, together with the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent, and

- (ii) those who are for the time being shown in the record kept under regulation 8 as voting by post at European Parliamentary elections (excluding those so shown whose applications under paragraph (4) to vote by proxy at the election have been granted) together with the addresses provided by them in their applications under that regulation or, as the case may be, paragraph (4) as the addresses to which their ballot papers are to be sent, and
  - (b) a list (“the list of proxies”) of those whose applications under this regulation to vote by proxy at the election have been granted or who are for the time being shown in the record kept under regulation 8 as voting by proxy at European Parliamentary elections, together with the names and addresses of those appointed as their proxies.
- (7) A person applying to vote by post must provide an address in the United Kingdom as the address to which his ballot paper is to be sent.

### **Proxies at elections**

**10.**—(1) Subject to the provisions of this regulation, any person is capable of being appointed proxy to vote for another (in this regulation and regulation 11 referred to as “the elector”) at any European Parliamentary election and may vote in pursuance of the appointment.

(2) The elector cannot have more than one person at a time appointed as proxy to vote for him at European Parliamentary elections.

(3) A person is not capable of being appointed to vote, or voting, as proxy at a European Parliamentary election—

- (a) if he is subject to any legal incapacity (age apart) to vote at that election as an elector, or
- (b) if he is neither a Commonwealth citizen nor a citizen of the Union.

(4) A person is not capable of voting as proxy at a European Parliamentary election unless on the date of the poll he has attained the age of eighteen.

(5) A person is not entitled to vote as proxy at the same European Parliamentary election on behalf of more than two electors of whom that person is not the husband, wife, parent, grandparent, brother, sister, child or grandchild.

(6) Where the elector applies to the registration officer for the appointment of a proxy to vote for him at European Parliamentary elections, for an indefinite period, the registration officer shall make the appointment if the application meets the requirements of Schedule 2 to these Regulations and he is satisfied that the elector is or will be—

- (a) registered in the register, and
- (b) shown in the record kept under regulation 8 as voting by proxy at such elections,

and that the proxy is capable of being and willing to be appointed to vote as proxy at such elections.

(7) Where the elector applies to the registration officer for the appointment of a proxy to vote for him at a particular European Parliamentary election, the registration officer shall make the appointment if the application meets the requirements of Schedule 2 to these Regulations and he is satisfied that the elector is or will be—

- (a) registered in the register of electors for that election, and
- (b) entitled to vote by proxy at that election by virtue of an application under regulation 9,

and that the proxy is capable of being and willing to be appointed.

(8) The appointment of a proxy under this regulation is to be made by means of a proxy paper issued by the registration officer.



(9) The appointment may be cancelled by the elector by giving notice to the registration officer, and shall also cease to be in force on the issue of a proxy paper appointing a different person to vote for him at any European Parliamentary election or elections.

(10) Subject to paragraph (9), the appointment shall remain in force—

- (a) in the case of an appointment for a particular election, for that election, and
- (b) in any other case, while the elector is shown as voting by proxy in the record kept under regulation 8 in pursuance of the same application under that regulation.

### **Voting as proxy**

**11.**—(1) A person entitled to vote as proxy at a European Parliamentary election may do so in person at the polling station allotted to the elector under the European Parliamentary elections rules unless he is entitled to vote by post as proxy for the elector at the election, in which case he may vote by post.

(2) Where a person is entitled to vote by post as proxy for the elector at any election, the elector may not apply for a ballot paper for the purpose of voting in person at the election.

(3) For the purposes of these Regulations, a person entitled to vote as proxy for another at a European Parliamentary election is entitled so to vote by post if he is included in the list kept under paragraph (8) in respect of the election.

(4) Where a person applies to the registration officer to vote by post as proxy at European Parliamentary elections, for an indefinite period, the registration officer shall (subject to paragraphs (9) and (11)) grant the application if—

- (a) the applicant is included in any record kept under regulation 8, or
- (b) the address provided by the applicant in his application as the address to which his ballot paper is to be sent is not in the same ward as the elector's qualifying address or, where the elector is registered in pursuance of an overseas elector's declaration, the address specified in the declaration in accordance with section 2(4) of the 1985 Act,

and the application meets the requirements of Schedule 2 to these Regulations.

(5) The registration officer shall keep a record of those whose applications under paragraph (4) have been granted showing the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent.

(6) Where a person applies to the registration officer to vote by post as proxy at a particular election and the application meets the requirements of Schedule 2 to these Regulations, the registration officer shall (subject to paragraphs (9) and (11)) grant the application if—

- (a) he is satisfied that the applicant's circumstances on the date of the poll will be or are likely to be such that he cannot reasonably be expected to vote in person at the polling station allotted or likely to be allotted to the elector under the European Parliamentary elections rules, or
- (b) the applicant is, or the registration officer is satisfied that he will be, included in the absent voters list for that election.

(7) Where, in the case of a particular election, a person included in the record kept under paragraph (5) applies to the registration officer for his ballot paper to be sent to a different address in the United Kingdom, the registration officer shall grant the application if it meets the requirements of Schedule 2 to these Regulations.

(8) The registration officer shall, in respect of each European Parliamentary election, keep a special list of—

- (a) those who are for the time being included in the record kept under paragraph (5) together with the addresses provided by them in their applications under that paragraph or, as the case may be, paragraph (7) as the addresses to which their ballot papers are to be sent, and
  - (b) those whose applications under paragraph (6) have been granted in respect of the election concerned, together with the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent.
- (9) The registration officer shall not grant any application under this regulation unless—
- (a) he is satisfied that the elector is or will be registered in the register of electors, and
  - (b) there is in force an appointment of the applicant as the elector’s proxy to vote for him at European Parliamentary elections or, as the case may be, the election concerned.
- (10) The registration officer shall remove a person from the record kept under paragraph (5)—
- (a) if he applies to the registration officer to be removed,
  - (b) where he was included in the record on the ground mentioned in paragraph (4)(a), if he ceases to be included in any record kept under regulation 8 or becomes so included in pursuance of a further application under that regulation,
  - (c) if the elector ceases to be registered as mentioned in paragraph (9)(a), or
  - (d) if the appointment of the person concerned as the elector’s proxy ceases to be in force (whether or not he is re-appointed).
- (11) A person applying to vote by post as proxy must provide an address in the United Kingdom as the address to which his ballot paper is to be sent.

#### **Offences as to declarations**

**12.** A person who—

- (a) in any declaration or form used for any of the purposes of regulations 7 to 11, makes a statement which he knows to be false, or
- (b) attests an application under regulation 8 or 9 when he knows that he is not authorised to do so or that it contains a statement which is false,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### **Absent voting**

**13.** Schedule 2 (which makes provision with respect to absent voting) shall have effect.

#### **Modification of the Regulations for 2004 elections**

**14.** The provisions of these Regulations shall apply for the purposes of—

- (a) the registration of relevant citizens of the Accession States as European Parliamentary electors before 1st May 2004,
- (b) making arrangements for persons so registered to exercise the right to vote if they become relevant citizens of the Union on 1st May 2004, and
- (c) the alteration or removal of entries on the register in relation to relevant citizens of the Accession States after that date,

subject to the modifications made in Schedule 3.

### **Returning officers**

15. A person is not subject to any incapacity to vote at a European Parliamentary election by reason of being or acting as returning officer at that election.

### **Payments by and to returning officers**

16.—(1) The returning officer shall be entitled to recover his charges in respect of services properly rendered, or expenses properly incurred, for or in connection with a European Parliamentary election if—

- (a) the services or expenses are of a kind specified in an order made by the Secretary of State; and
- (b) the charges are reasonable.

(2) In any order made under paragraph (1) the Secretary of State may specify a maximum recoverable amount for services or expenses of any specified description and, subject to paragraph (3), the returning officer may not recover more than that amount in respect of any such services or expenses.

(3) The Secretary of State may, in a particular case, authorise the payment of more than the specified maximum amount for any specified services or expenses if satisfied—

- (a) that it was reasonable for the returning officer to render the services or incur the expenses; and
- (b) that the charges in question are reasonable.

(4) Any order under paragraph (1) which specifies a maximum amount for services or expenses of a particular description may—

- (a) provide for that amount to increase at prescribed dates, or after prescribed periods, by reference to such formula or other method of determination as may be specified in the order; and
- (b) make such transitional provision in connection with any such increase as the Secretary of State considers appropriate.

(5) The power to make orders under paragraph (1) shall be exercised by statutory instrument and section 1 of the Statutory Instruments Act 1946(18) shall apply accordingly; and any such order may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the Secretary of State thinks fit.

(6) The amount of any charges recoverable in accordance with this regulation shall be paid by the Secretary of State on an account being submitted to him, but he may if he thinks fit before payment, apply for the account to be taxed under the provisions of regulation 17.

(7) On the returning officer's request for an advance on account of his charges, the Secretary of State may, on such terms as he thinks fit, make such an advance.

(8) Regulations made by the Secretary of State may make provision as to the time when and the manner and form in which accounts are to be rendered to the Secretary of State for the purposes of the payment of the returning officer's charges.

(9) Any exercise by the Secretary of State of his functions under paragraphs (1) and (2) shall require the consent of the Treasury.

**Taxation of returning officer's account**

17.—(1) An application for the returning officer's account to be taxed shall be made to the county court having jurisdiction at the place for delivery of nomination papers for the election.

(2) On any such application the court has jurisdiction to tax the account in such manner and at such time and place as the court thinks fit, and finally to determine the amount payable to the returning officer.

(3) On any such application the returning officer may apply to the court to examine any claim made by any person against him in respect of matters charged in the account; and the court, after notice given to the claimant and after giving him an opportunity to be heard and to tender any evidence, may allow or disallow or reduce the claim objected to with or without costs; and the determination of the court shall be final for all purposes and as against all persons.

**Effect of registers**

18.—(1) Any entry in the register of electors, if it gives a date as that on which the person named will attain voting age, shall for any purpose of this Part relating to him as elector be conclusive that until the date given in the entry he is not of voting age nor entitled to be treated as an elector except for the purposes of an election at which the day fixed for the poll is that or a later date.

(2) A person whose registration as an elector or entry in the list of proxies entitles him to vote shall not be excluded from voting on any of the following grounds: but this shall not prevent the rejection of the vote on a scrutiny, or affect his liability to any penalty for voting.

The grounds are—

- (a) that he is not of voting age;
  - (b) that he is not, or, on the relevant date or the date of his appointment (as the case may be), was not—
    - (i) a Commonwealth citizen;
    - (ii) a citizen of the Republic of Ireland;
    - (iii) in the case of a person registered as a European Parliamentary elector in pursuance of an overseas elector's declaration, a British citizen;
    - (iv) in the case of a person registered as an elector or entered in the list of proxies by virtue of being a relevant citizen of the Union, a relevant citizen of the Union;
  - (c) that he is, or, on the relevant date or the date of his appointment (as the case may be), was, otherwise subject to any other legal incapacity to vote.
- (3) In paragraph (2) "the relevant date" means—
- (a) in relation to a person registered in the register in question as published in accordance with section 13(1) of the 1983 Act<sup>(19)</sup>, the 15th October immediately preceding the date of publication of the register;
  - (b) in relation to any other person registered in the register in question, the relevant date for the purposes of section 4 of the 1983 Act<sup>(20)</sup>.

**Effect of misdescription**

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

- (a) in the register of electors, or

<sup>(19)</sup> Section 13 was substituted by Schedule 1 to the Representation of the People Act 2000.

<sup>(20)</sup> Section 4 was substituted by section 1(2) of the Representation of the People Act 2000.

- (b) in any list, record, proxy paper, nomination paper, ballot paper, notice or other document required for the purposes of this Part of these Regulations,

affects the full operation of the document with respect to that person or place in any case where the description of the person or place is such as to be commonly understood.

### **Discharge of registration duties**

**20.** Sections 14(5) and 14A(2) and (3) of the Electoral Law Act (Northern Ireland) 1962<sup>(21)</sup> shall have effect in relation to the Chief Electoral Officer for Northern Ireland in his capacity as registration officer.

### **Payment of expenses of registration**

**21.**—(1) Any expenses properly incurred by the Chief Electoral Officer for Northern Ireland in his capacity as registration officer in the performance of his functions under these Regulations (in these Regulations referred to as “registration expenses”) shall be paid out of money provided by Parliament.

(2) Any fees paid to the registration officer under these Regulations shall be accounted for by him to the Secretary of State and paid into the Consolidated Fund.

(3) On the request of a registration officer for an advance on account of registration expenses the Secretary of State may, if he thinks fit, make such an advance to him of such an amount and subject to such conditions as he may approve.

### **Registration appeals**

**22.**—(1) Subject to paragraph (2), an appeal lies to the county court, from any decision under these Regulations of the registration officer disallowing a person’s application to vote by proxy or by post as elector or to vote by post as proxy, in any case where the application is not made for a particular election only.

(2) No appeal lies where the person desiring to appeal has not availed himself of a prescribed right to be heard by or make representations to the registration officer on the matter which is the subject of the appeal, or has not given the prescribed notice of appeal within the prescribed time.

(3) An appeal to the county court by virtue of this regulation which is pending when notice of an election is given shall not prejudice the operation as respects the election of the decision appealed against, and anything done in pursuance of the decision shall be as good as if no such appeal had been brought and shall not be affected by the decision on the appeal.

(4) The registration officer shall, in accordance with sections 13A and 13B of the 1983 Act<sup>(22)</sup>, make such alterations in the register as may be required to give effect to the decision.

(5) Where, as a result of the decision on an appeal, an alteration in the register made in pursuance of paragraph (4) takes effect under section 13(5), 13A(2) or 13B(3) of the 1983 Act on or before the last day on which nomination papers at an election may be delivered to the returning officer, paragraph (3) does not apply to that appeal as respects that election.

(6) The registration officer shall undertake such duties in connection with appeals brought by virtue of this regulation as are set out in paragraph 10 of Schedule 2 and shall on any such appeal be deemed to be a party to the proceedings, and the registration expenses payable to a registration officer shall include any expenses properly incurred by him by virtue of this paragraph.

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(21) 1962 c. 14 (N.I.); section 14 was substituted and section 14A was inserted by the Electoral Law (Northern Ireland) Order 1972 (S.I. 1972/1264 (N.I. 13)).

(22) Section 13B was inserted by Schedule 1 to the Representation of the People Act 2000.

## Personation

**23.**—(1) A person shall be guilty of a corrupt practice if he commits, or aids, abets, counsels or procures the commission of, the offence of personation.

(2) A person shall be deemed to be guilty of personation at a European Parliamentary election if he—

- (a) votes in person or by post as some other person, whether as an elector or as proxy, and whether that other person is living or dead or is a fictitious person; or
- (b) votes in person or by post as proxy—
  - (i) for a person whom he knows or has reasonable grounds for supposing to be dead or to be a fictitious person; or
  - (ii) when he knows or has reasonable grounds for supposing that his appointment as proxy is no longer in force.

(3) For the purposes of this regulation, a person who has applied for a ballot paper for the purpose of voting in person or who has marked, whether validly or not, and returned a ballot paper issued for the purpose of voting by post, shall be deemed to have voted.

## Offences relating to specified documents

**24.**—(1) A person commits an offence if, on the day of or the day next preceding the poll for a European Parliamentary election, he has possession of a document to which this regulation applies, with the intention of committing or of enabling another person to commit the offence of personation at the election.

(2) This regulation applies to—

- (a) a document which is not, but purports to be, a specified document within the meaning of rule 37 of the European Parliamentary elections rules, and
- (b) a specified document within the meaning of that rule which either falsely bears the name of the person in possession or does not bear that name.

(3) If a constable has reasonable grounds for suspecting that a person has possession of a document in contravention of paragraph (1), the constable may—

- (a) search that person, and detain him for the purpose of searching him;
- (b) search any vehicle in which the constable suspects that the document may be found, and for that purpose require the person in control of the vehicle to stop it;
- (c) seize and retain, for the purpose of proceedings for an offence under paragraph (1), any document found in the course of the search if there are reasonable grounds for suspecting that it is a document to which this regulation applies.

(4) If a resident magistrate is satisfied by complaint on oath that there are reasonable grounds for suspecting that a person has possession on any premises of a document in contravention of paragraph (1), he may grant a warrant authorising any constable

- (a) to enter, if need be by force, the premises named in the warrant,
- (b) to search the premises and any person found there, and
- (c) to seize and retain, for the purpose of proceedings for an offence under paragraph (1), any document found in the course of the search if there are reasonable grounds for suspecting that it is a document to which this regulation applies.

(5) A person commits an offence if he—

- (a) intentionally obstructs a constable in the exercise of his powers under this regulation, or

- (b) conceals from a constable acting in the exercise of those powers any document to which this regulation applies.
- (6) A constable may arrest without warrant a person who has committed, or whom the constable has reasonable grounds for suspecting to have committed, an offence under paragraph (1) or (5) if—
  - (a) he has reasonable grounds for believing that that person will abscond unless arrested,
  - (b) the name and address of that person are unknown to, and cannot be ascertained by, him, or
  - (c) he is not satisfied that a name and address furnished by that person as his name and address are true.
- (7) A person is guilty of a corrupt practice if he commits, or aids, abets, counsels or procures the commission, of an offence under paragraph (1).
- (8) A person guilty of an offence under paragraph (5) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months or to both.
- (9) A prosecution shall not be instituted in respect of an offence under paragraph (1) except by or with the consent of the Director of Public Prosecutions for Northern Ireland.
- (10) In this regulation—
  - “premises” includes any place and, in particular, includes any moveable structure, and
  - “vehicle” means a vehicle intended or adapted for use on land (however propelled, and including a caravan or other vehicle intended or adapted to be drawn).

### **Other voting offences**

- 25.—(1) A person shall be guilty of an offence if—
- (a) he votes in person or by post, whether as an elector or as proxy, or applies to vote by proxy or by post as elector at a European Parliamentary election knowing that he is subject to a legal incapacity to vote at the election; or
  - (b) he applies for the appointment of a proxy to vote for him at any European Parliamentary election knowing that he is or the person to be appointed is subject to a legal incapacity to vote at the election; or
  - (c) he votes, whether in person or by post, as proxy for some other person at a European Parliamentary election, knowing that that person is subject to a legal incapacity to vote.

For the purposes of this paragraph references to a person being subject to a legal incapacity to vote do not, in relation to things done before polling day at the election or first election at or for which they are done, include his being below voting age if he will be of voting age on that day.

(2) References in paragraph (1) to legal incapacity to vote at a European Parliamentary election include incapacity to vote at the kind of election from which the entitlement to vote at a European Parliamentary election derives.

- (3) A person shall be guilty of an offence if—
- (a) he votes as elector otherwise than by proxy either—
    - (i) more than once at any European Parliamentary election; or
    - (ii) in more than one electoral region at a European Parliamentary election, or
    - (iii) at a European Parliamentary election when there is in force an appointment of a person to vote as his proxy at the election in respect of an address other than the address by virtue of which he votes as elector; or
  - (b) he votes as elector in person at a European Parliamentary election at which he is entitled to vote by post; or

- (c) he votes as elector in person at a European Parliamentary election, knowing that a person appointed to vote as his proxy at the election either has already voted in person at the election or is entitled to vote by post at the election; or
  - (d) he applies for a person to be appointed as his proxy to vote for him at European Parliamentary elections without applying for the cancellation of a previous appointment of a third person then in force or without withdrawing a pending application for such an appointment.
- (4) A person shall be guilty of an offence if—
- (a) he votes as proxy for the same elector either—
    - (i) more than once at any European Parliamentary election; or
    - (ii) in more than one electoral region at a European Parliamentary election; or
  - (b) he votes in person as proxy for an elector at a European Parliamentary election at which he is entitled to vote by post as proxy for that elector; or
  - (c) he votes in person as proxy for an elector at a European Parliamentary election knowing that the elector has already voted in person at the election.
- (5) A person shall also be guilty of an offence if he votes at a European Parliamentary election as proxy for more than two persons of whom he is not the husband, wife, parent, grandparent, brother, sister, child or grandchild.
- (6) A person shall also be guilty of an offence if he knowingly induces or procures some other person to do an act which is, or but for that other person's want of knowledge would be, an offence by that other person under the foregoing paragraphs of this regulation.
- (7) For the purposes of this regulation a person who has applied for a ballot paper for the purpose of voting in person, or who has marked, whether validly or not, and returned a ballot paper issued for the purpose of voting by post, shall be deemed to have voted, but for the purpose of determining whether an application for a ballot paper constitutes an offence under paragraph (5), a previous application made in circumstances which entitle the applicant only to mark a tendered ballot paper shall, if he does not exercise that right, be disregarded.
- (8) Where a person is alleged to have committed an offence under paragraph (3)(a)(i) or (4)(a)(i) by voting on a second or subsequent occasion at a European Parliamentary election, he shall not be deemed by virtue of paragraph (7) to have voted by applying on a previous occasion for a ballot paper for the purpose of voting in person unless he then marked a tendered ballot paper under rule 40 (4) of the European Parliamentary election rules.
- (9) An offence under this regulation shall be an illegal practice, but the court before whom a person is convicted of any such offence may, if they think it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of regulation 97.

### **Breach of official duty**

**26.—**(1) If a person to whom this regulation applies is, without reasonable cause, guilty of any act or omission in breach of his official duty, he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) No person to whom this regulation applies shall be liable for breach of his official duty to any penalty at common law and no action for damages shall lie in respect of the breach by such a person of his official duty.

- (3) The persons to whom this regulation applies are—
- (a) any registration officer, returning officer or presiding officer,
  - (b) any official designated by a universal postal service provider, and



- (c) any deputy of a person mentioned in any of sub-paragraphs (a) and (b) or any person appointed to assist or in the course of his employment assisting a person so mentioned in connection with his official duties;

and “official duty” shall for the purposes of this regulation be construed accordingly, but shall not include duties imposed otherwise than by the law relating to European Parliamentary elections or the registration of parliamentary or local government electors.

### **Tampering with nomination papers, ballot papers, etc**

**27.**—(1) A person shall be guilty of an offence if, at a European Parliamentary election, he—

- (a) fraudulently defaces or fraudulently destroys any nomination paper; or
- (b) fraudulently defaces or fraudulently destroys any ballot paper, or the official mark on any ballot paper, or any declaration of identity or official envelope used in connection with voting by post; or
- (c) without due authority supplies any ballot paper to any person; or
- (d) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorised by law to put in; or
- (e) fraudulently takes out of the polling station any ballot paper; or
- (f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election; or
- (g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts.

(2) If the returning officer, a presiding officer or a clerk appointed to assist in taking the poll, counting the votes or assisting at the proceedings in connection with the issue or receipt of postal ballot papers is guilty of an offence under this section, he shall be liable—

- (a) on conviction on indictment to a fine, or to imprisonment for a term not exceeding 2 years, or to both;
- (b) on summary conviction, to a fine not exceeding the statutory maximum, or to imprisonment for a term not exceeding 6 months, or to both.

(3) If any other person is guilty of an offence under this regulation, he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale, or to imprisonment for a term not exceeding 6 months, or to both.

### **False statement in nomination papers**

**28.** A person is guilty of a corrupt practice if, in the case of a European Parliamentary election, he causes or permits to be included in a document delivered or otherwise furnished to the returning officer for use in connection with the election—

- (a) a statement of the name or home address of a candidate at the election which he knows to be false in any particular; or
- (b) anything which purports to be the signature of an elector who proposes, seconds or assents to, the nomination of such a candidate but which he knows—
  - (i) was not written by the elector by whom it purports to have been written, or
  - (ii) if written by that elector, was not written by him for the purpose of signifying that he was proposing, seconding, or (as the case may be) assenting to, that candidate’s nomination.

**Offences in connection with candidature**

**29.** A person who makes a statement which he knows to be false in the declaration required by rule 8(1) of the European Parliamentary elections rules is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

**Requirement of secrecy**

**30.**—(1) The following persons—

- (a) the returning officer and every presiding officer or clerk attending at a polling station,
- (b) every candidate or election agent or polling agent so attending,
- (c) every representative of the Electoral Commission so attending,

shall maintain and aid in maintaining the secrecy of voting and shall not, except for some purpose authorised by law, communicate to any person before the poll is closed any information as to—

- (i) the name of any elector or proxy for an elector who has or has not applied for a ballot paper or voted at a polling station;
- (ii) the number on the register of electors of any elector who, or whose proxy, has or has not applied for a ballot paper or voted at a polling station; or
- (iii) the official mark.

(2) Every person attending at the verification of the ballot paper accounts or the counting of the votes shall maintain and aid in maintaining the secrecy of voting and shall not—

- (a) ascertain or attempt to ascertain at the counting of the votes the number on the back of any ballot paper;
- (b) communicate any information obtained at the verification of the ballot paper accounts or the counting of the votes as to the way in which any vote is given on any particular ballot paper.

(3) No person attending at the verification of the ballot paper accounts shall express to any person an opinion based on information obtained at that verification as to the likely result of the election.

(4) No person shall—

- (a) interfere with or attempt to interfere with a voter when recording his vote;
- (b) otherwise obtain or attempt to obtain in a polling station information as to the way in which a voter in that station is about to vote or has voted;
- (c) communicate at any time to any person any information obtained in a polling station as to the way in which a voter in that station is about to vote or has voted, or as to the number on the back of the ballot paper given to a voter at that station;
- (d) directly or indirectly induce a voter to display his ballot paper after he has marked it so as to make known to any person the way in which he has voted.

(5) Every person attending the proceedings in connection with the issue or the receipt of ballot papers for persons voting by post shall maintain and aid in maintaining the secrecy of the voting and shall not—

- (a) except for some purpose authorised by law, communicate, before the poll is closed, to any person any information obtained at those proceedings as to the official mark; or
- (b) except for some purpose authorised by law, communicate to any person at any time any information obtained at those proceedings as to the number on the back of the ballot paper sent to any person; or
- (c) except for some purpose authorised by law, attempt to ascertain at the proceedings in connection with the receipt of ballot papers the number on the back of any ballot paper; or

(d) attempt to ascertain at the proceedings in connection with the receipt of the ballot papers the way in which any vote is given in any particular ballot paper or communicate any information with respect thereto obtained at those proceedings.

(6) No person having undertaken to assist a voter with disabilities to vote shall communicate at any time to any person any information as to the way in which that voter intends to vote or has voted, or as to the number on the back of the ballot paper given for the use of that voter.

(7) If a person acts in contravention of this regulation he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months.

### **Prohibition on publication of exit polls**

**31.**—(1) No person shall in the case of a European Parliamentary election publish before the close of the poll—

(a) any statement relating to the way in which voters have voted at the election where that statement is (or might reasonably be taken to be) based on information given by voters after they have voted, or

(b) any forecast as to the result of the election which is (or might reasonably be taken to be) based on information so given.

(2) If a person acts in contravention of paragraph (1), he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding six months.

(3) In this regulation—

“forecast” includes estimate;

“publish” means make available to the public at large, or any section of the public, in whatever form and by whatever means;

and any reference to the result of an election is a reference to the result of the election either as a whole or so far as any particular candidate at the election is concerned.

## **PART 2**

### *The Election Campaign*

#### **Interpretation of Part 2**

**32.**—(1) In this Part of these Regulations, unless the context otherwise requires—

“appropriate officer” means the returning officer;

“candidate” shall be construed in accordance with paragraph (2);

“committee room” does not include any house or room occupied by a candidate as a dwelling, by reason only of the candidate transacting business there with his agents in relation to the election, and no room or building shall be deemed to be a committee room by reason only of the candidate or any agent of the candidate addressing in it electors, committee members or others;

“date of the allowance of an authorised excuse” has the meaning given by regulation 50(8);

“declaration as to election expenses” means a declaration made under regulation 48;

“disputed claim” has the meaning given by regulation 45 as extended by regulation 46;

“election expenses”, in relation to a European Parliamentary election, shall be construed in accordance with regulations 55 to 57;

“money” and “pecuniary reward” shall (except in regulations 38, 71 and 72 and Schedule 4) be deemed to include—

- (a) any office, place or employment, and
- (b) any valuable security or other equivalent of money, and
- (c) any valuable consideration,

and expressions referring to money shall be construed accordingly;

“payment” includes any pecuniary or other reward;

“personal expenses” as used with respect to the expenditure of a candidate in relation to any European Parliamentary election includes the reasonable travelling expenses of the candidate, and the reasonable expenses of his living at hotels or elsewhere for the purposes of and in relation to the election;

“return as to election expenses” means a return (including the bills and receipts to be delivered with it) to be made under regulation 47(1).

(2) A person becomes a candidate at an election—

- (a) on the last day for publication of the notice of the election if on or before that day he is declared by himself or by others to be a candidate at the election; and
- (b) otherwise, on the day on which he is so declared by himself or by others or on which he is nominated as a candidate at the election (whichever is the earlier).

### **Computation of time for purposes of Part 2**

**33.**—(1) Where the day or last day on which anything is required or permitted to be done by or in pursuance of this Part of these Regulations is any of the days mentioned in paragraph (2)—

- (a) the requirement or permission shall be deemed to relate to the first day thereafter which is not one of those days; and
- (b) in computing any period of not more than 7 days for the purposes of this Part any of the days so mentioned shall be disregarded.

(2) The days referred to in paragraph (1) are Saturday, Sunday, Christmas Eve, Christmas Day, Maundy Thursday, Good Friday, a bank holiday or a day appointed for public thanksgiving or mourning.

(3) In this regulation “bank holiday”, in relation to any European Parliamentary election, means a day which is a bank holiday in Northern Ireland.

### **Appointment of election agent**

**34.**—(1) Not later than the latest time for the delivery of notices of withdrawals for an election, a person shall be named by or on behalf of each candidate as the candidate’s election agent, and the name and address of the candidate’s election agent shall be declared in writing by the candidate or some other person on his behalf to the appropriate officer not later than that time.

(2) A candidate may name himself as election agent, and upon doing so shall, so far as circumstances admit, be subject to the provisions of these Regulations both as a candidate and as an election agent, and, except where the context otherwise requires, any reference in these Regulations to an election agent shall be construed to refer to the candidate acting in his capacity of election agent.

(3) One election agent only shall be appointed for each candidate, but the appointment, whether the election agent appointed be the candidate himself or not, may be revoked.

(4) If (whether before, during or after the election) the appointment (or deemed appointment) of an election agent is revoked or an election agent dies, another election agent shall be appointed forthwith and his name and address declared in writing to the appropriate officer.

(5) The declaration as a candidate's election agent of a person other than the candidate shall be of no effect under this regulation unless it is made and signed by that person or is accompanied by a written declaration of acceptance signed by him.

(6) Upon the name and address of an election agent being declared to the appropriate officer, the appropriate officer shall forthwith give public notice of that name and address.

(7) In this Part of these Regulations the expression "appropriate officer" means the returning officer at a European Parliamentary election.

### **Appointment of sub-agent**

**35.**—(1) An election agent for a candidate may appoint to act in any part of the electoral region one, but not more than one, deputy election agent (in these Regulations referred to as a sub-agent).

(2) As regards matters in a part of the electoral region for which there is a sub-agent the election agent may act by the sub-agent and—

- (a) anything done for the purposes of these Regulations by or to the sub-agent in his part of the electoral region shall be deemed to be done by or to the election agent; and
- (b) any act or default of a sub-agent which, if he were the election agent, would be an illegal practice or other offence against these Regulations shall be an illegal practice and offence against these Regulations committed by the sub-agent, and the sub-agent shall be liable to punishment accordingly.

(3) Not later than the second day before the day of the poll the election agent shall declare in writing the name and address of every sub-agent to the appropriate officer, and the appropriate officer shall forthwith give public notice of the name and address of every sub-agent so declared.

(4) The appointment of a sub-agent—

- (a) shall not be vacated by the election agent who appointed him ceasing to be election agent, but
- (b) may be revoked by whoever is for the time being the candidate's election agent,

and in the event of the revocation of the appointment or of the death of a sub-agent another sub-agent may be appointed, and his name and address shall be forthwith declared in writing to the appropriate officer, who shall forthwith give public notice of the name and address so declared.

(5) The declaration to be made to the appropriate officer, and the notice to be given by him, under paragraph (3) or paragraph (4) shall specify the part of the electoral region within which any sub-agent is appointed to act.

(6) In paragraphs (2) to (4) references to an election agent are to an election agent of a candidate.

### **Office of election agent and sub-agent**

**36.**—(1) Every election agent and every sub-agent shall have an office to which all claims, notices, writs, summonses and legal process and other documents may be sent, and the address of the office shall be—

- (a) declared to the appropriate officer at the same time as the appointment of the agent is declared to him; and
- (b) stated in the public notice of the name of the agent.

(2) The office of the election agent or sub-agent shall be within the United Kingdom.

(3) Any claim, notice, writ, summons or legal process or other document delivered at the office of the election agent or sub-agent and addressed to him, shall be deemed to have been served on him and every election agent or sub-agent may in respect of any matter connected with the election in which he is acting be sued in any court having jurisdiction at the place where his office is situated.

(4) In this regulation, references to an election agent and sub-agent are to an election agent or sub-agent of a candidate.

#### **Effect of default in election agent's appointment**

**37.**—(1) If no person's name and address is given as required by regulation 34 as the election agent of a candidate who remains validly nominated at the latest time for delivery of notices of withdrawals, the candidate shall be deemed at that time to have named himself as election agent and to have revoked any appointment of another person as his election agent.

(a) (2) (a) the person whose name and address have been so given as those of the candidate's election agent (not being the candidate himself) dies, and

(b) a new appointment is not made on the day of the death or on the following day, the candidate shall be deemed to have appointed himself as from the time of death.

(3) If the appointment of a candidate's election agent is revoked without a new appointment being made, the candidate himself shall be deemed to have been appointed (or re-appointed) election agent.

(4) The deemed appointment of a candidate as his own election agent may be revoked as if it were an actual appointment.

(5) Where a candidate is by virtue of this regulation to be treated as his own election agent, he shall be deemed to have his office at his address as given in the statement as to persons nominated.

(6) The appropriate officer on being satisfied that a candidate is by virtue of this regulation to be treated as his own election agent, shall forthwith proceed to publish the like notice as if the name and address of the candidate and the address of his office had been duly given to him under regulations 34 and 36.

#### **Control of donations to candidates**

**38.**—(1) In the case of any candidate at a European Parliamentary election, any money or other property provided (whether as a gift or loan)—

(a) by any person other than the candidate or his election agent, and

(b) for the purpose of meeting election expenses incurred by or on behalf of the candidate, must be provided to the candidate or his election agent.

(2) Paragraph (1) does not apply to any money or other property so provided for the purpose of meeting any such expenses which may be lawfully paid by a person other than the candidate, his election agent or any sub-agent (in the case of an election where sub-agents may be appointed).

(3) A person who provides any money or other property in contravention of paragraph (1) shall be guilty of an illegal practice.

(4) Schedule 4 shall have effect for the purpose of controlling donations to candidates.

(5) In this regulation and that Schedule "property" includes any description of property, and references to the provision of property accordingly include the supply of goods.

#### **Payment of expenses through election agent**

**39.**—(1) Subject to paragraph (5), no payment (of whatever nature) shall be made by—

(a) a candidate at an election, or

(b) any other person,

in respect of election expenses incurred by or on behalf of a candidate unless it is made by or through the candidate's election agent.

(2) Every payment made by an election agent in respect of any election expenses shall, except where less than £20, be vouched for by a bill stating the particulars or by a receipt.

(3) The references in the foregoing provisions of this regulation to an election agent shall be taken as references to the election agent acting by himself or a sub-agent or a person authorised in writing by the election agent or sub-agent.

(4) All money provided by any person other than the candidate for any election expenses, whether as gift, loan, advance or deposit, shall be paid to the candidate or his election agent or sub-agent and not otherwise.

(5) This regulation does not apply to—

- (a) any expenses which are, in accordance with regulations 40(1) or (2), 44(6) or 45(2), paid by the candidate;
- (b) any expenses which are paid in accordance with regulation 40(4) by a person authorised as mentioned in that provision;
- (c) any expenses included in a declaration made by the election agent under regulation 41; or
- (d) any expenses which are to be regarded as incurred by or on behalf of the candidate by virtue of regulation 55(5)(b).

(6) A person who makes any payment (of whatever nature) in contravention of paragraph (1), or pays in contravention of paragraph (4) any money so provided as mentioned above, shall be guilty of an illegal practice.

### **Candidate's personal expenses, and petty expenses**

**40.—**(1) The candidate at a European Parliamentary election may pay any personal expenses incurred by him on account of or in connection with or incidental to the election, but the amount which a candidate at a European Parliamentary election may pay shall not exceed £900, and where this applies any further personal expenses so incurred by him shall be paid by his election agent.

(2) The candidate at a European Parliamentary election may also pay any election expenses (other than expenses falling within paragraph (1)) which were incurred by him or on his behalf and in respect of which payment falls to be made before the date on which he appoints (or is deemed to have appointed) an election agent.

(3) The candidate shall send to his election agent within the time limited by these Regulations for sending in claims a written statement of the amount of expenses paid as mentioned in paragraph (1) or (2) by the candidate.

(4) Any person may, if so authorised in writing by an election agent or sub-agent, pay any election expenses to a total amount not exceeding that named in the authority, but any excess above that amount so named shall be paid by the agent who authorised that person.

(5) A statement of the particulars of payments made by any person so authorised shall be sent to the agent who authorised them within the time limited by these Regulations for sending in claims, and shall be vouched for by a bill containing that person's receipt and, where that agent is the sub-agent, he shall forward the statement, together with his authority, to the election agent.

(6) Regulations 44 and 45 do not apply to expenses which, in accordance with any provision of this regulation, are paid otherwise than by the candidate's election agent.

**Expenses incurred otherwise than for election purposes**

**41.**—(1) Neither regulation 39 nor regulations 44 and 45 shall apply to election expenses—

- (a) which are incurred by or on behalf of a candidate otherwise than for the purposes of the candidate's election, but
- (b) which by virtue of regulation 55(1) fall to be regarded as election expenses by reason of the property, services or facilities in respect of which they were incurred being used for the purposes of the candidate's election.

(2) The candidate's election agent shall make a declaration of the amount (determined in accordance with regulation 56) of any election expenses falling within paragraph (1).

(3) In this regulation "for the purposes of the candidate's election" has the same meaning as in regulations 55 to 57.

**Prohibition of expenses not authorised by election agent**

**42.**—(1) No expenses shall, with a view to promoting or procuring the election of a candidate at an election, be incurred by any person other than the candidate, his election agent and persons authorised in writing by the election agent on account—

- (a) of holding public meetings or organising any public display; or
- (b) of issuing advertisements, circulars or publications; or
- (c) of otherwise presenting to the electors that candidate or his views or the extent or nature of his backing or disparaging a candidate,

but sub-paragraphs (a) to (c) of this paragraph shall not—

- (i) restrict the publication of any matter relating to the election in a newspaper or other periodical or in a broadcast made by the British Broadcasting Corporation or in a programme included in any service licensed under Part I or III of the Broadcasting Act 1990<sup>(23)</sup> or Part I or II of the Broadcasting Act 1996<sup>(24)</sup>; or
- (ii) apply to any expenses incurred by any person 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 to expenses incurred by any person in travelling or in living away from home or similar personal expenses.

(2) For the purposes of paragraph (1)(ii), "the permitted sum" means £5,000; and expenses shall be regarded as incurred by a person "as part of a concerted plan of action" if they are incurred by that person in pursuance of any plan or other arrangement whereby that person and one or more other persons are to incur, with a view to promoting or procuring the election of the same candidate, expenses which (disregarding sub-paragraph (ii) of paragraph (1)) fall within paragraph (1).

(3) Where a person incurs any expenses required by this regulation to be authorised by the election agent—

- (a) that person shall, within 21 days after the day on which the result of the election is declared, deliver to the agent who authorised the expenses a return of the amount of them, and
- (b) the return shall be accompanied by a declaration made by that person (or in the case of an association or body of persons, by a director, general manager, secretary or other similar officer of the association or body) verifying the return and giving particulars of the matters for which the expenses were incurred,

but this paragraph does not apply to any person engaged or employed for payment or promise of payment by the candidate or his election agent.

<sup>(23)</sup> 1990 c. 42.

<sup>(24)</sup> 1996 c. 55.



(4) The authority of the agent who authorised the incurring of the expenses shall be annexed to and deemed to form part of the return.

(5) If a person—

(a) incurs, or aids, abets, counsels or procures any other person to incur, any expenses in contravention of this regulation, or

(b) knowingly makes the declaration required by paragraph (3) falsely,

he shall be guilty of a corrupt practice; and if a person fails to deliver any declaration or return as required by this regulation he shall be guilty of an illegal practice, but the court before whom a person is convicted under this paragraph may, if they think it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of regulation 97.

(6) Where any act or omission of an association or body of persons, corporate or unincorporate, is an offence declared to be a corrupt or illegal practice by this regulation, any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he proves—

(a) that the act or omission took place without his consent or connivance; and

(b) that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

(7) References in this regulation to an election agent include a sub-agent.

#### **Limitation of election expenses for candidates**

**43.**—(1) Sums paid out and election expenses incurred by or on behalf of a candidate at an election must not in the aggregate exceed the maximum amount specified in paragraph (4).

(2) The references in paragraph (1) to sums paid out and expenses incurred on behalf of a candidate include sums being paid and expenses being incurred by the election agent or by a person acting on the written authority of an election agent or sub-agent.

(3) Where any election expenses are incurred in excess of the maximum amount specified in paragraph (4), any candidate or election agent who—

(a) incurred, or authorised the incurring of, the election expenses, and

(b) knew or ought reasonably to have known that the expenses would be incurred in excess of that maximum amount,

shall be guilty of an illegal practice.

(4) That maximum amount is £45,000 multiplied by the number of MEPs to be returned for the electoral region at that election.

(5) The maximum amount mentioned above for a candidate at a European Parliamentary election is not required to cover the candidate's personal expenses.

#### **Time for sending in and paying claims**

**44.**—(1) Every claim against a candidate or his election agent in respect of election expenses which is not sent in to the agent who incurred the expense not later than 21 days after the day on which the result of the election is declared shall be barred and not paid.

(2) All election expenses shall be paid not later than 28 days after that day.

(3) Where the agent who incurred the expense is not the election agent, he shall send to that agent, forthwith on payment of the expense, the bill and a record of the fact that he has paid it and, on receiving a receipt for that payment, shall send that receipt to that agent.

(4) An election agent or the agent who incurred the expense who pays a claim in contravention of paragraph (1) or makes a payment in contravention of paragraph (2) shall be guilty of an illegal practice.

(5) The claimant or the agent or candidate who incurred the expense may apply to the High Court or to a county court for leave to pay a claim for any election expenses, although sent in after that period of 21 days or although sent in to the candidate and not to the agent who incurred the expense, and the court on cause shown to their satisfaction may by order grant the leave.

(6) Any sum specified in the order of leave may be paid by the agent or candidate who incurred the expense and when paid in pursuance of the leave shall not be deemed to be in contravention of paragraph (2); and paragraph (3) shall apply to any such payment.

(7) References in this regulation to the agent who incurred the expense are references to the election agent or sub-agent or an agent who did so on the written authority of such an agent.

### **Disputed claims**

**45.**—(1) If the agent who incurred the expense disputes any claim sent in to him within the period of 21 days mentioned in regulation 44 or refuses or fails to pay the claim within the period of 28 days so mentioned, the claim shall be deemed to be a disputed claim.

(2) The claimant may, if he thinks fit, bring an action for a disputed claim in any competent court, and any sum paid by the agent or candidate who incurred the expense in pursuance of the judgment or order of the court shall not be deemed to be in contravention of regulation 39(1) or of regulation 44(2).

(3) Paragraphs (5) to (7) of regulation 44 apply in relation to a disputed claim as they apply in relation to a claim for election expenses sent in after that period of 21 days.

### **Election agent's claim**

**46.** So far as circumstances admit, these Regulations apply to an election agent's claim for his remuneration and to its payment in like manner as if he were any other creditor, and if any difference arises about the amount of the claim, the claim shall be a disputed claim within the meaning of these Regulations and be dealt with accordingly.

### **Return as to election expenses**

**47.**—(1) Within 50 days after the day on which the result of the election is declared, the election agent of every candidate at the election shall deliver or cause to be delivered to the appropriate officer a true return containing as respects that candidate—

- (a) a statement of all election expenses incurred by or on behalf of the candidate; and
- (b) a statement of all payments made by the election agent together with all bills or receipts relating to the payments.

(2) A return under this regulation must—

- (a) specify the poll by virtue of which the return is required;
- (b) specify the name of the candidate to whom the return relates and of the candidate's election agent; and
- (c) deal under a separate heading with any expenses in respect of which a return is required by virtue of regulation 40(2).

- (3) The return shall also contain as respects that candidate—
- (a) a statement of all payments made—
    - (i) by the candidate in accordance with regulation 40(1) or (2), or
    - (ii) by any other person in accordance with regulation 40(4),together with all bills or receipts relating to any such payments made in accordance with regulation 40(2) or (4);
  - (b) a statement of all disputed claims of which the election agent is aware;
  - (c) a statement of all the unpaid claims, if any, of which the election agent is aware, in respect of which application has been or is about to be made to the High Court or county court;
  - (d) any declarations of value falling to be made by the candidate's election agent by virtue of regulation 41(2) or 57(2);
  - (e) a declaration of the amount of expenses which are to be regarded as election expenses incurred by or on behalf of the candidate by virtue of regulation 55(5)(b);
  - (f) a statement of donations made to the candidate or his election agent which complies with the requirements of paragraphs 11 and 12 of Schedule 4; and
  - (g) a statement of the amount, if any, of money provided by the candidate from his own resources for the purpose of meeting election expenses incurred by him or on his behalf.

(4) Where after the date at which the return as to election expenses is delivered, leave is given by the court under regulation 44(5) for any claim to be paid, the agent or candidate who incurred the expenses shall, within seven days after its payment, deliver or cause to be delivered to the appropriate officer a return of the sums paid in pursuance of the leave, accompanied by a copy of the order of the court giving the leave, and in default he shall be deemed to have failed to comply with the requirements of this regulation without such authorised excuse as is mentioned in regulation 50.

(5) Regulation 44(7) applies for the interpretation of paragraph (4) as it applies for the interpretation of regulation 44.

### **Declarations as to election expenses**

**48.**—(1) The return delivered under regulation 47(1) shall be accompanied by a declaration made by the election agent in the appropriate form.

(2) At the same time that the election agent delivers or causes to be delivered that return, or within seven days afterwards, the candidate shall deliver or cause to be delivered to the appropriate officer a declaration made by him in the appropriate form.

(3) For the purposes of paragraphs (1) and (2), “the appropriate form” is the form in Schedule 5.

(4) Where the candidate is out of the United Kingdom when the return is so delivered—

(a) the declaration required by paragraph (2) may be made by him within 14 days after his return to the United Kingdom, and

(b) in that case, the declaration shall be forthwith delivered to the appropriate officer,

but the delay authorised by this provision in making the declaration shall not exonerate the election agent from complying with the provisions of these Regulations relating to the return and declaration as to election expenses.

(5) Where the candidate is his own election agent, the declaration by an election agent as to election expenses need not be made and the declaration by the candidate as to election expenses shall be modified as specified in the form in Schedule 5.

(6) If a candidate or election agent knowingly makes the declaration required by this regulation falsely, he shall be guilty of a corrupt practice.

**Penalty for failure as respects return or declarations**

49. Subject to the provisions of regulation 50, if a candidate or election agent fails to comply with the requirements of regulation 47 or regulation 48 he shall be guilty of an illegal practice.

**Authorised excuses for failures as to return and declarations**

50.—(1) A candidate or his election agent may apply for relief under this regulation to—

- (a) the High Court;
- (b) an election court; or
- (c) a county court.

(2) Where a person makes an application under this regulation he shall notify the Director of Public Prosecutions for Northern Ireland of the application and the Director or his assistant or any barrister, advocate or solicitor duly appointed as the Director's representative may attend the hearing of the application and make representations at the hearing in respect of it.

(3) Relief under this regulation may be granted—

- (a) to a candidate, in respect of any failure to deliver the return and declarations as to election expenses, or any part of them, or in respect of any error or false statement in them; or
- (b) to an election agent, in respect of the failure to deliver the return and declarations which he was required to deliver, or any part of them, or in respect of any error or false statement in them.

(4) The application for relief may be made on the ground that the failure, error or false statement arose—

- (a) by reason of the applicant's illness; or
- (b) where the applicant is the candidate, by reason of the absence, death, illness or misconduct of his election agent or sub-agent or of any clerk or officer of such agent; or
- (c) where the applicant is the election agent, by reason of the death or illness of any prior election agent of the candidate, or of the absence, death, illness or misconduct of any sub-agent, clerk or officer of any election agent of the candidate; or
- (d) by reason of inadvertence or any reasonable cause of a like nature,

and not by reason of any want of good faith on the applicant's part.

(5) The court may—

- (a) after such notice of the application in the electoral region as it considers fit, and
- (b) on production of such evidence of the grounds stated in the application and of the good faith of the application, and otherwise, as it considers fit,

make such order for allowing an authorised excuse for the failure, error or false statement as it considers just.

(6) An order under paragraph (5) may make the allowance conditional on the making of the return and declaration in a modified form or within an extended time, and upon the compliance with such other terms as to the court seem best calculated for carrying into effect the objects of this Part of these Regulations.

(7) An order under paragraph (5) shall relieve the applicant for the order from any liability or consequences under these Regulations in respect of the matter excused by the order.

(8) The date of the order, or if conditions and terms are to be complied with, the date at which the applicant fully complies with them, is referred to in these Regulations as the date of the allowance of the excuse.

### **Court's power to require information from election agent or sub-agent**

51.—(1) Where on an application under regulation 50 it appears to the court that any person who is or has been an election agent or sub-agent has refused or failed to make such return, or to supply such particulars as will, enable the candidate and his election agent to comply with the provisions of these Regulations as to the return or declarations as to election expenses, the court, before making an order under that regulation, shall order that person to attend before the court.

(2) The court shall on the attendance of that person, unless he shows cause to the contrary, order him—

(a) to make the return and declaration, or

(b) to deliver a statement of the particulars required to be contained in the return,

as the court considers just, within such time, to such person and in such manner as it may direct, or may order him to be examined with respect to the particulars.

(3) If a person fails to comply with any order of the court under this section, the court may order him to pay a fine not exceeding the amount of the maximum fine to which he would be liable if at the time the order is made he were convicted of a summary offence on conviction of which he was liable to a fine of level 5 on the standard scale.

(4) References in this regulation to the election agent or sub-agent include a person authorised in writing by the election agent or any sub-agent to incur election expenses.

### **Duty of appropriate officer to forward returns and declarations to Electoral Commission**

52. Where the appropriate officer receives any return or declaration under regulations 42, 47 or 48 in respect of a European Parliamentary election he shall as soon as reasonably practicable after receiving the return or declaration deliver a copy of it to the Electoral Commission and, if so requested by the Electoral Commission, he shall also deliver to them a copy of any accompanying documents.

### **Publication of time and place for inspection of returns and declarations**

53. At a European Parliamentary election—

(a) the returning officer shall, within 10 days after the end of the time allowed for delivering to him returns as to election expenses, publish in at least one newspaper circulating in the electoral region a notice of the time and place at which the returns and declarations (including the accompanying documents) can be inspected; but

(b) if any return or declaration has not been received by the returning officer before the notice is despatched for publication, the notice shall so state, and a like notice about that return or declaration, if afterwards received, shall within 10 days after the receipt be published in like manner.

### **Inspection of returns and declarations**

54.—(1) Where the appropriate officer receives any return or declaration under regulation 47 (1) or 48 he shall—

(a) as soon as reasonably practicable after receiving the return or declaration make a copy of it, and any accompanying documents, available for public inspection at his office, or some other convenient place chosen by him, for a period of 12 months beginning with the date when the return is received by him;

(b) if requested to do so by any person, and on payment of the prescribed fee, supply that person with a copy of the return or declaration and any accompanying documents.

(2) If any such return contains a statement of donations in accordance with regulation 47(3)(f), the appropriate officer shall secure that the copy of the statement made available for public inspection under paragraph (1)(a) or (as the case may be) supplied under paragraph (1)(b) does not include, in the case of any donation by an individual, the donor's address.

(3) After the expiry of those 12 months the appropriate officer may cause those returns and declarations (including the accompanying documents) to be destroyed.

### **Meaning of "election expenses"**

**55.**—(1) In this Part of these Regulations "election expenses", in relation to a candidate at an election, means (subject to paragraphs (2) and (3) and regulations 56 and 57) any expenses incurred in respect of—

- (a) the acquisition or use of any property, or
- (b) the provision by any person of any goods, services or facilities,

which is or are used for the purposes of the candidate's election after the date when he becomes a candidate at the election.

(2) Paragraph (1) applies whether the expenses are incurred before or after that date.

(3) No election expenses shall be regarded as incurred, by virtue of paragraph (1) or (2) or regulations 56 and 57, in respect of—

- (a) the payment of any deposit required by rule 9 of the European Parliamentary elections rules;
- (b) the publication of any matter, other than an advertisement, relating to the election in—
  - (i) a newspaper or periodical,
  - (ii) a broadcast made by the British Broadcasting Corporation, or
  - (iii) a programme included in any service licensed under Part I or III of the Broadcasting Act 1990 or Part I or II of the Broadcasting Act 1996;
- (c) the provision of any facilities provided in pursuance of any right conferred on candidates at an election by these Regulations;
- (d) the provision by any individual of his own services which he provides voluntarily in his own time and free of charge.

(4) In this regulation and in regulations 56 and 57 "for the purposes of the candidate's election" means with a view to, or otherwise in connection with, promoting or procuring the election of a candidate at the election.

(5) For the purposes of this Part of these Regulations—

- (a) election expenses are incurred by or on behalf of a candidate at an election if they are incurred—
  - (i) by the candidate or his election agent, or
  - (ii) by any person authorised by the candidate or his election agent to incur the expenses;
 and
- (b) any reference to election expenses incurred by or on behalf of a candidate at an election includes expenses which are incurred as mentioned in sub-paragraph (a)(i) or (ii) before the date when he becomes a candidate at the election but which by virtue of paragraph (1) and (2) fall to be regarded as election expenses.

(6) In this Part, and in Part 4 of these Regulations, any reference (in whatever terms) to promoting or procuring the election of a candidate's election at an election includes doing so by prejudicing the electoral prospects of another candidate at the election.

### **Incurring of election expenses for purposes of regulation 55**

**56.—**(1) The election expenses which are to be regarded as incurred for the purposes of regulation 55(1) shall (subject to paragraph (2) and regulation 57) be the actual expenses incurred in respect of the acquisition or use of the property, or (as the case may be) the provision of the goods, services or facilities mentioned in regulation 55.

(2) Where the property, goods, services or facilities mentioned in paragraph (1) is or are not used exclusively for the purposes of the candidate's election, the election expenses to be regarded as incurred for the purposes of regulation 55(1) shall be such proportion of the expenses incurred in respect of their acquisition, use or provision (as the case may be) as is reasonably attributable to the use of the property or (as the case may be) the goods, services or facilities for the purposes of the candidate's election.

### **Property, goods, services etc provided free of charge or at a discount**

**57.—**(1) This regulation applies where, in the case of a candidate at an election—

(a) either—

(i) property or goods is or are transferred to the candidate or his election agent free of charge or at a discount of more than 10 per cent of the market value of the property or goods, or

(ii) property, goods, services or facilities is or are provided for the use or benefit of the candidate free of charge or at a discount of more than 10 per cent of the commercial rate for the use of the property or for the provision of the goods, services or facilities, and

(b) the property, goods, services or facilities is or are made use of by or on behalf of the candidate in circumstances such that, if any expenses were to be (or are) actually incurred by or on behalf of the candidate in respect of that use, they would be (or are) election expenses incurred by or on behalf of the candidate.

(2) Where this regulation applies—

(a) an amount of election expenses determined in accordance with this regulation ("the appropriate amount") shall be treated, for the purposes of this Part of these Regulations, as incurred by the candidate, and

(b) the candidate's election agent shall make a declaration of that amount, unless that amount is not more than £50.

This paragraph has effect subject to regulation 55(3).

(3) Where paragraph (1)(a)(i) applies, the appropriate amount is such proportion of either—

(a) the market value of the property or goods (where the property or goods is or are transferred free of charge), or

(b) the difference between the market value of the property or goods and the amount of expenses actually incurred by or on behalf of the candidate in respect of the property or goods (where the property or goods is or are transferred at a discount),

as is reasonably attributable to the use made of the property or goods as mentioned in paragraph (1) (b).

(4) Where paragraph (1)(a)(ii) applies, the appropriate amount is such proportion of either—

(a) the commercial rate for the use of the property or the provision of the goods, services or facilities (where the property, goods, services or facilities is or are provided free of charge), or

- (b) the difference between that commercial rate and the amount of expenses actually incurred by or on behalf of the candidate in respect of the use of the property or the provision of the services or facilities (where the property, goods, services or facilities is or are provided at a discount),

as is reasonably attributable to the use made of the property, goods, services or facilities as mentioned in paragraph (1)(b).

(5) Where the services of an employee are made available by his employer for the use or benefit of a candidate, then for the purposes of this regulation the commercial rate for the provision of those services shall be the amount of the remuneration and allowances payable to the employee by his employer in respect of the period for which his services are so made available (but shall not include any amount in respect of any contributions or other payments for which the employer is liable in respect of the employee).

(6) In this regulation “market value”, in relation to any property or goods, means the price which might reasonably be expected to be paid for the property or goods on a sale in the open market; and paragraph 2(6)(a) of Schedule 4 shall apply with any necessary modifications for the purpose of determining, for the purposes of paragraph (1), whether property or goods is or are transferred to a candidate or his election agent.

#### **Candidate’s right to send election address post free**

**58.—(1)** A candidate at a European Parliamentary election is, subject to such reasonable terms and conditions as the universal service provider concerned may specify, entitled to send free of any charge for postage which would otherwise be made by a universal service provider either—

- (a) one unaddressed postal communication, containing matter relating to the election only and not exceeding 60 grammes in weight, to each place in the electoral region which, in accordance with those terms and conditions, constitutes a delivery point for the purposes of this paragraph; or
- (b) one such postal communication addressed to each elector.

(2) A candidate is also, subject as mentioned above, entitled to send free of any such charge for postage as mentioned above to each person entered in the list of proxies for the election one such communication as mentioned above for each appointment in respect of which that person is so entered.

(3) A person shall not be deemed to be a candidate for the purposes of this regulation unless he is shown as standing nominated in the statement of persons nominated, but until the publication of that statement any person who declares himself to be a candidate shall be entitled to exercise the right of free postage conferred by this regulation if he gives such security as may be required by the universal service provider concerned for the payment of postage should he not be shown as standing nominated as mentioned above.

(4) For the purposes of this regulation “elector” means a person—

- (a) who is registered in the register of electors to be used at the election in the electoral region on the last day for publication of notice of the election; and
- (b) includes a person who is registered in such a register as below voting age if (but only if) it appears from the register that he will be of voting age on the day fixed for the poll.

(5) In this regulation “universal service provider” has the same meaning as in the Postal Services Act 2000.



### **Broadcasting from outside United Kingdom**

**59.**—(1) No person shall, with intent to influence persons to give or refrain from giving their votes at a European Parliamentary election, include, or aid, abet, counsel or procure the inclusion of, any matter relating to the election in any programmes service (within the meaning of the Broadcasting Act 1990) provided from a place outside the United Kingdom otherwise than in pursuance of arrangements made with—

- (a) the British Broadcasting Corporation; or
- (b) the holder of any licence granted by the Office of Communications,

for the reception and re-transmission of that matter by that body or the holder of that licence.

(2) An offence under this regulation shall be an illegal practice, but the court before whom a person is convicted of an offence under this regulation may, if they think it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of regulation 97.

(3) Where any act or omission of an association or body of persons, corporate or unincorporate, is an illegal practice under this regulation, any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or was purporting to act in any such capacity, shall be deemed to be guilty of the illegal practice, unless he proves—

- (a) that the act or omission took place without his consent or connivance; and
- (b) that he exercised all such diligence to prevent the commission of the illegal practice as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

### **Broadcasting of local items during election period**

**60.**—(1) Each broadcasting authority shall adopt a code of practice with respect to the participation of candidates at a European Parliamentary election in items about the electoral region which are included in relevant services during the election period.

(2) The code for the time being adopted by a broadcasting authority under this section shall be either—

- (a) a code drawn up by that authority, whether on their own or jointly with one or more other broadcasting authorities, or
- (b) a code drawn up by one or more other such authorities;

and a broadcasting authority shall from time to time consider whether the code for the time being so adopted by them should be replaced by a further code falling within paragraph (a) or (b).

(3) Before drawing up a code under this section a broadcasting authority shall have regard to any views expressed by the Electoral Commission for the purposes of this regulation; and any such code may make different provision for different cases.

(4) The Office of Communications shall do all that they can to secure that the code for the time being adopted by them under this regulation is observed in the provision of relevant services; and the British Broadcasting Corporation shall observe in the provision of relevant services the code so adopted by them.

(5) For the purposes of paragraph (1) “the election period”, in relation to an election, means the period beginning with the last date for publication of notice of the election and ending with the close of the poll.

(6) In this regulation—

“broadcasting authority” means the British Broadcasting Corporation or the Office of Communications;

“candidate”, in relation to an election, means a candidate standing nominated at the election;

“relevant services”—

- (a) in relation to the British Broadcasting Corporation, means services broadcast by that body; and
- (b) in relation to the Office of Communications, means services licensed under Part I or III of the Broadcasting Act 1990 or Part I or II of the Broadcasting Act 1996.

### **Imitation poll cards**

**61.** No person shall for the purpose of promoting or procuring the election of any candidate at a European Parliamentary election issue any poll card or document so closely resembling an official poll card as to be calculated to deceive, and paragraphs (2) and (3) of regulation 59 apply as if an offence under this regulation were an offence under that regulation.

### **Disturbances at election meetings**

**62.**—(1) A person who at a lawful public meeting to which this regulation applies acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together shall be guilty of an illegal practice.

(2) This regulation applies to a political meeting held in the electoral region in connection with a European Parliamentary election between the last date on which notice of election may be published in accordance with the European Parliamentary elections rules and the date of the poll.

### **Officials not to act for candidates**

**63.**—(1) If—

- (a) the returning officer at a European Parliamentary election, or
- (b) any officer or clerk appointed under the European Parliamentary elections rules, or
- (c) any partner or clerk of any such person,

acts as an agent of a candidate in the conduct or management of the election, he shall be guilty of an offence, but nothing in this paragraph prevents a candidate from acting as his own election agent.

(2) A person guilty of an offence under this regulation shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### **Illegal canvassing by police officers**

**64.**—(1) No member of the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve shall by word, message, writing or in any other manner, endeavour to persuade any person to give, or dissuade any person from giving, his vote, whether as an elector or as proxy at any European Parliamentary election.

(2) A person acting in contravention of paragraph (1) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale, but nothing in that paragraph shall subject a member of a police force to any penalty for anything done in the discharge of his duty as a member of the force.

### **False statements as to candidates**

**65.**—(1) A person who, or any director of any body or association corporate which—

- (a) before or during an election,
- (b) for the purpose of affecting the return of any candidate at the election,

makes or publishes any false statement of fact in relation to the personal character or conduct of that candidate shall be guilty of an illegal practice, unless he can show that he had reasonable grounds for believing, and did believe, the statement to be true.

(2) A person making or publishing any false statement of fact as mentioned above may be restrained by interim or perpetual injunction by the High Court or the county court from any repetition of that false statement or of a false statement of a similar character in relation to the candidate and, for the purpose of granting an interim injunction, prima facie proof of the falsity of the statement shall be sufficient.

### **Corrupt withdrawal from candidature**

**66.** Any person who corruptly induces or procures any other person to withdraw from being a candidate at an election, in consideration of any payment or promise of payment, and any person withdrawing in pursuance of the inducement or procurement, shall be guilty of an illegal payment.

### **Payments for exhibition of election notices**

**67.—**(1) No payment or contract for payment shall for the purpose of promoting or procuring the election of a candidate at an election be made to an elector or his proxy on account of the exhibition of, or the use of any house, land, building or premises for the exhibition of, any address, bill or notice, unless—

- (a) it is the ordinary business of the elector or proxy as an advertising agent to exhibit for payment bills and advertisements; and
- (b) the payment or contract is made in the ordinary course of that business.

(2) If any payment or contract for payment is knowingly made in contravention of this regulation either before, during or after an election—

- (a) the person making the payment or contract, and
- (b) if he knew it to be in contravention of these Regulations, any person receiving the payment or being a party to the contract,

shall be guilty of an illegal practice.

### **Details to appear on election publications**

**68.—**(1) Subject to paragraph (4), a person shall not—

- (a) print or publish, or cause to be printed or published, any bill, placard or poster having reference to an election or any printed document distributed for the purpose of promoting or procuring the election of a candidate, or
- (b) post or cause to be posted any such bill, placard or poster as mentioned above, or
- (c) distribute or cause to be distributed any printed document for that purpose,

unless the bill, placard, poster or document bears upon its face the name and address of the printer and publisher.

(2) For the purposes of paragraph (1), any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printing and the expression “printer” shall be construed accordingly.

(3) A candidate or election agent acting in contravention of this regulation shall be guilty of an illegal practice, and any other person so acting shall on summary conviction be liable to a fine not exceeding level 5 on the standard scale.

(4) Where any act or omission would satisfy the requirements of paragraphs (5) to (10), that act or omission shall be deemed to be lawful despite paragraphs (1) to (3).

- (5) The provisions of this paragraph and paragraphs (6) to (15) apply to any material which—
- (a) is, or is contained in, such a document as is mentioned in paragraph (8), (9) or (10); and
  - (b) can reasonably be regarded as intended to promote or procure the election of a candidate at an election (whether or not it can be so regarded as intended to achieve any other purpose as well).

(6) No material to which paragraph (5) applies shall be published unless the requirements of paragraph (8), (9) or (10) are complied with.

(7) For the purposes of paragraphs (8) to (10) the following details are “the relevant details” in the case of any material falling within paragraph (5), namely—

- (a) the name and address of the printer of the document;
- (b) the name and address of the promoter of the material; and
- (c) the name and address of any person on behalf of whom the material is being published (and who is not the promoter).

(8) Where the material is a document consisting (or consisting principally) of a single side of printed matter, the relevant details must appear on the face of the document.

(9) Where the material is a printed document other than one to which paragraph (8) applies, the relevant details must appear either on the first or the last page of the document.

- (10) Where the material is an advertisement contained in a newspaper or periodical—
- (a) the name and address of the printer of the newspaper or periodical must appear either on its first or last page; and
  - (b) the relevant details specified in paragraph (7)(b) and (c) must be included in the advertisement.

(11) Where any material falling within paragraph (5) is published in contravention of paragraph (6), and paragraph (3) does not apply then (subject to paragraphs (12) and (13))—

- (a) the promoter of the material,
- (b) any other person by whom the material is so published, and
- (c) the printer of the document,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

- (12) It shall be a defence for a person charged with an offence under paragraph (11) to prove—
- (a) that the contravention of paragraph (6) arose from circumstances beyond his control; and
  - (b) that he took all reasonable steps, and exercised all due diligence, to ensure that that contravention would not arise.

(13) Where a candidate or his election agent would (apart from this paragraph) be guilty of an offence under paragraph (11), he shall instead be guilty of an illegal practice.

- (14) In paragraphs (5) to (15)—

“print” means print by whatever means, and “printer” shall be construed accordingly;  
 “the promoter”, in relation to any material to which this regulation applies, means the person causing the material to be published;

“publish” means make available to the public at large, or any section of the public, in whatever form and by whatever means.

(15) For the purpose of determining whether any material is material such as is mentioned in paragraph (5), it is immaterial that it does not expressly mention the name of any candidate.

### **Prohibition of paid canvassers**

**69.** If a person is, either before, during or after a European Parliamentary election, engaged or employed for payment or promise of payment as a canvasser for the purpose of promoting or procuring the election of a candidate—

- (a) the person so engaging or employing him, and
- (b) the person so engaged or employed,

shall be guilty of illegal employment.

### **Providing money for illegal purposes**

**70.** Where a person knowingly provides money—

- (a) for any payment which is contrary to the provisions of these Regulations, or
- (b) for any expenses incurred in excess of the maximum amount allowed by these Regulations, or
- (c) for replacing any money expended in any such payment or expenses,

except where the payment or the incurring of the expenses may have been previously allowed in pursuance of regulation 98 to be an exception, that person shall be guilty of an illegal payment.

### **Bribery**

**71.—(1)** A person shall be guilty of a corrupt practice if he is guilty of bribery.

(2) A person shall be guilty of bribery if he, directly or indirectly, by himself or by any other person on his behalf—

- (a) gives any money or procures any office to or for any voter or to or for any other person on behalf of any voter or to or for any other person in order to induce any voter to vote or refrain from voting, or
- (b) corruptly does any such act as mentioned above on account of any voter having voted or refrained from voting, or
- (c) makes any such gift or procurement as mentioned above to or for any person in order to induce that person to procure, or endeavour to procure, the return of any person at a European Parliamentary election or the vote of any voter,

or if upon or in consequence of any such gift or procurement as mentioned above he procures or engages, promises or endeavours to procure the return of any person at a European Parliamentary election or the vote of any voter.

For the purposes of this paragraph—

- (i) references to giving money include references to giving, lending, agreeing to give or lend, offering, promising, or promising to procure or endeavour to procure any money or valuable consideration; and
- (ii) references to procuring any office include references to giving, procuring, agreeing to give or procure, offering, promising, or promising to procure or to endeavour to procure any office, place or employment.

(3) A person shall be guilty of bribery if he advances or pays or causes to be paid any money to or for the use of any other person with the intent that that money or any part of it shall be expended in bribery at any European Parliamentary election or knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election.

(4) The foregoing provisions of this regulation shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses incurred in good faith at or concerning a European Parliamentary election.

(5) A voter shall be guilty of bribery if before or during a European Parliamentary election he directly or indirectly by himself or by any other person on his behalf receives, agrees, or contracts for any money, gift, loan or valuable consideration, office, place or employment for himself or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting.

(6) A person shall be guilty of bribery if after a European Parliamentary election he directly or indirectly by himself or by any other person on his behalf receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting.

(7) In this regulation the expression “voter” includes any person who has or claims to have a right to vote.

### **Treating**

**72.**—(1) A person shall be guilty of a corrupt practice if he is guilty of treating.

(2) A person shall be guilty of treating if he corruptly, by himself or by any other person, either before, during or after a European Parliamentary election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing, any meat, drink, entertainment or provision to or for any person—

- (a) for the purpose of corruptly influencing that person or any other person to vote or refrain from voting; or
- (b) on account of that person or any other person having voted or refrained from voting, or being about to vote or refrain from voting.

(3) Every elector or his proxy who corruptly accepts or takes any such meat, drink, entertainment or provision shall also be guilty of treating.

### **Undue influence**

**73.**—(1) A person shall be guilty of a corrupt practice if he is guilty of undue influence.

(2) A person shall be guilty of undue influence—

- (a) if he, directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of any force, violence or restraint, or inflicts or threatens to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm or loss upon or against any person in order to induce or compel that person to vote or refrain from voting, or on account of that person having voted or refrained from voting; or
- (b) if, by abduction, duress or any fraudulent device or contrivance, he impedes or prevents the free exercise of the franchise of an elector or proxy for an elector, or so compels, induces or prevails upon an elector or proxy for an elector either to vote or to refrain from voting.

### **Rights of creditors**

**74.** The provisions of this Part of these Regulations prohibiting—

- (a) payments and contracts for payments,
- (b) the payment or incurring of election expenses in excess of the maximum amount allowed by these Regulations; or
- (c) the incurring of expenses not authorised by the election agent,

do not affect the right of any creditor, who, when the contract was made or the expense was incurred, was ignorant of that contract or expense being in contravention of these Regulations.

### **Savings as to European Parliamentary elections**

75. Nothing in this Part makes it illegal for an employer to permit European Parliamentary electors or their proxies to absent themselves from his employment for a reasonable time for the purpose of voting at the poll at a European Parliamentary election without having any deduction from their salaries or wages on account of their absence, if the permission—

- (a) is (so far as practicable without injury to the employer's business) given equally to all persons alike who are at the time in his employment, and
- (b) is not given with a view to inducing any person to record his vote for any particular candidate at the election, and
- (c) is not refused to any person for the purpose of preventing him from recording his vote for any particular candidate at the election,

but this regulation shall not be construed as making illegal any act which would not be illegal apart from this regulation.

## **PART 3**

### *Vacancies*

#### **By-elections**

76.—(1) Subject to paragraph (3) below, where the Secretary of State has—

- (a) received information of a vacancy in the seat of an MEP from the European Parliament under Article 12(2) of the Act annexed to Council Decision 76/787, or
- (b) informed the European Parliament under that Article that a vacancy exists,

a by-election shall be held to fill the vacancy.

(2) The period within which the poll at that by-election must take place is six months from the occurrence of the event specified in paragraph (1)(a) or (b) above, as the case may be.

(3) Paragraph (1) above shall not apply where the event specified in sub-paragraph (a) or (b) of that paragraph occurred less than six months before the Thursday of the period of the next general election of MEPs.

(4) That period is the one during which the next general election would take place in accordance with Article 10(2) of the Act annexed to Council Decision 76/787.

## PART 4

### *Legal Proceedings*

#### **Interpretation of Part 4**

77. In this Part of these Regulations, unless the context otherwise requires—
- “appropriate officer” means the returning officer;
  - “candidate” has the same meaning as in Part 2 of these Regulations;
  - “costs” includes charges and expenses;
  - “date of the allowance of an authorised excuse” has the meaning assigned to it by regulation 50(8);
  - “declaration as to election expenses” means a declaration made under regulation 48;
  - “judicial office” includes the office of justice of the peace;
  - “Licensing Order” means the Licensing (Northern Ireland) Order 1996(25) and any enactment amending that Order;
  - “money” and “pecuniary reward” shall be deemed to include—
    - (a) any office, place or employment, and
    - (b) any valuable security or other equivalent of money, and
    - (c) any valuable consideration,and expressions referring to money shall be construed accordingly;
  - “payment” includes any pecuniary or other reward;
  - “prescribed” means prescribed by rules of court under section 55 of the Judicature (Northern Ireland) Act 1978(26);
  - “return as to election expenses” means a return made under regulation 47.

#### **Computation of time for purposes of Part 4**

78. Regulation 33 applies in computing any period of time for the purposes of this Part of these Regulations as for the purposes of Part 2 of these Regulations.

#### **Method of questioning European Parliamentary elections**

79.—(1) No European Parliamentary election and no declaration of the result by the returning officer under rule 60 of the European Parliamentary elections rules shall be questioned except by a petition complaining of an undue election or undue declaration (“a European Parliamentary election petition”) presented in accordance with this Part of these Regulations.

(2) A petition complaining that no declaration of the result has been given by the returning officer shall be deemed to be a European Parliamentary election petition and the High Court—

- (a) may make such order on the petition as they think expedient for compelling a declaration to be made; or
- (b) may allow the petition to be heard by an election court as provided with respect to ordinary European Parliamentary election petitions.

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(25) S.I. 1996/3158 (N.I. 22).

(26) 1978 c. 23.



(3) No European Parliamentary election petition may be brought on the grounds of the commission of corrupt or illegal practices, except those in regulations 23 and 25.

(4) No European Parliamentary election petition may be brought where an application may be made under section 11 of the 2002 Act.

### **Presentation and service of European Parliamentary election petitions**

**80.**—(1) A European Parliamentary election petition may be presented by one or more of the following persons—

- (a) a person who voted as an elector at the election or who had a right so to vote; or
- (b) a person claiming to have had a right to be elected or returned at the election; or
- (c) a person alleging himself to have been a candidate at the election.

(2) If the petition complains of the conduct of the returning officer, the officer in question shall be deemed to be the respondent, together with any MEP returned at the election.

(3) The petition shall be in the prescribed form, state the prescribed matters and be signed by the petitioner, or all the petitioners if more than one, and shall be presented to the High Court.

(4) The petition shall be presented by delivering it to the prescribed officer or otherwise dealing with it in the prescribed manner; and the prescribed officer shall send a copy of it to the returning officer, who shall forthwith publish it in the electoral region.

(5) The petition shall be served in such manner as may be prescribed.

### **Time for presentation or amendment of European Parliamentary election petition**

**81.**—(1) Subject to the provisions of this regulation, a European Parliamentary election petition shall be presented within 21 days after the day on which the relevant result was declared in accordance with rule 60 of the European Parliamentary elections rules.

(2) If the petition questions the election or return upon an allegation of corrupt practices and specifically alleges a payment of money or other reward to have been made by the MEP or on his account or with his privity since the time of that declaration of the result of the election in pursuance or in furtherance of the alleged corrupt practice, it may be presented within 28 days after the date of the payment.

(3) A petition questioning the election or return upon an allegation of an illegal practice may, so far as respects that illegal practice, be presented—

- (a) within 21 days after the day specified in paragraph (4); or
- (b) if specifically alleging a payment of money or some other act to have been made or done since the day so specified by the MEP to whose election the petition relates or an agent of his, or with the privity of that member or his election agent, in pursuance or in furtherance of that alleged illegal practice, within 28 days after the date of the payment or other act.

(4) The day referred to in paragraph (3) is the tenth day after the end of the time allowed for delivering to the returning officer returns as to election expenses at the election or, if later—

- (a) that on which the returning officer receives the return and declarations as to election expenses by that MEP and his election agent; or
- (b) where the return and declarations are received on different days, the last of those days; or
- (c) where there is an authorised excuse for failing to make the return and declarations, the date of the allowance of the excuse, or if there was a failure as regards two or more of them, and the excuse was allowed at different times, the date of the allowance of the last excuse.

(5) An election petition presented within the time limited by paragraph (1) or (2) may, for the purpose of questioning the election or return upon an allegation of an illegal practice, be amended with the leave of the High Court within the time within which a petition questioning the election upon the allegation of that illegal practice could be presented under paragraph (3).

(6) Paragraphs (3), (4) and (5) apply—

- (a) notwithstanding that the act constituting the alleged illegal practice amounted to a corrupt practice; and
- (b) to a corrupt practice under regulation 42, as if it were an illegal practice.

### **Constitution of election court and place of trial**

**82.**—(1) A European Parliamentary election petition shall be tried by two judges on the rota for the trial of parliamentary election petitions, and the judges for the time being on that rota shall, unless they otherwise agree, try the European Parliamentary election petitions standing for trial according to their seniority, and the judges presiding at the trial of a European Parliamentary election petition are hereinafter referred to as the election court.

(2) The election court has, subject to the provisions of these Regulations, the same powers, jurisdiction and authority as a judge of the High Court and shall be a court of record.

### **Judges' expenses**

**83.** In relation to the trial of a European Parliamentary election petition, the travelling and other expenses of the judges and all expenses properly incurred in providing them with necessary accommodation and with a proper court shall be defrayed by the Treasury out of moneys provided by Parliament.

### **Security for costs**

**84.**—(1) At the time of presenting a European Parliamentary election petition or within three days afterwards the petitioner shall give security for all costs which may become payable by him to any witness summoned on his behalf or to any respondent.

The security shall be such amount not exceeding £5,000 as the High Court or a judge of the High Court directs on an application made by the petitioner; and shall be given in the prescribed manner by recognisance entered into by any number of sureties not exceeding four or by a deposit of money, or partly in one way and partly in the other.

(2) Within the prescribed time after giving the security the petitioner shall serve on the respondent in the prescribed manner—

- (a) a notice of the presentation of the petition and of the amount and nature of the security, and
- (b) a copy of the petition.

(3) Within a further prescribed time, the respondent may object in writing to any recognisance on the ground that any surety is insufficient or is dead or cannot be found or ascertained for want of a sufficient description in the recognisance, or that a person named in the recognisance has not duly acknowledged the recognisance.

(4) An objection to a recognisance shall be decided in the prescribed manner.

(5) If the objection is allowed, the petitioner may within a further prescribed time, remove it by a deposit in the prescribed manner of such sum of money as will, in the opinion of the court or officer having cognisance of the matter, make the security sufficient.

(6) If no security is given as required by this regulation or any objection is allowed and not removed as mentioned above, no further proceedings shall be had on the petition.

### **Petition at issue**

- 85.**—(1) The petition shall be at issue as from the relevant time, as defined by paragraph (2).
- (2) In this regulation “the relevant time” means—
- (a) where the petitioner gives the security for costs required by regulation 84 by a deposit of money equal to the amount of the security so required, the time when the security is so given; and
  - (b) in any other case, the time when—
    - (i) the time prescribed for the making of objections under regulation 84(3) expires, or
    - (ii) if such an objection is made, that objection is disallowed or removed,whichever happens later.

### **List of petitions**

- 86.**—(1) The prescribed officer shall—
- (a) as soon as may be, make out a list of all election petitions at issue presented to the court of which he is officer, placing them in the order in which they were presented, and
  - (b) keep at his office a copy of the list, open to inspection in the prescribed manner.
- (2) The petitions shall, so far as convenient, be tried in the order in which they stand in the list.
- (3) Two or more candidates may be made respondents to the same petition, and their cases may be tried at the same time, but for the purposes of this Part of these Regulations the petition shall be deemed to be a separate petition against each respondent.
- (4) Where more petitions than one are presented relating to the same election, all those petitions shall be bracketed together in the election list and shall be dealt with as one petition, standing, unless the High Court otherwise direct, in the election list in the place where the last of them would have stood if it had been the only petition presented.

### **Trial of election issue**

- 87.**—(1) A European Parliamentary election petition shall be tried in open court, without a jury, and notice of the time and place of trial shall be given in the prescribed manner, not less than 14 days before the day of trial.
- (2) The election court may in its discretion adjourn the trial from time to time, but the trial shall, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day on every lawful day until its conclusion.
- (3) The trial of a European Parliamentary election petition shall be proceeded with notwithstanding that one (or more) of the respondents is no longer an MEP.
- (4) On the trial of a petition complaining of an undue election and claiming the seat or office for some person, the respondent may give evidence to prove that that person was not duly elected, in the same manner as if he had presented a petition against the election of that person.
- (5) If the petition relates to an election conducted under the European Parliamentary elections rules and it appears that there is an equality of votes between any candidates at the election, and that the addition of a vote would entitle any of those candidates to be declared elected then—
- (a) any decision under the provisions as to equality of votes in the European Parliamentary elections rules, as the case may be, shall in so far as it determines the question between those candidates, be effective also for the purposes of the petition; and

- (b) in so far as that question is not determined by such a decision, the court shall decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote.

### **Witnesses**

**88.**—(1) Witnesses shall be summoned and sworn in the same manner as nearly as circumstances admit as in an action tried in the High Court.

(2) On the trial a member of the election court may, by order signed by him, require any person who appears to him to have been concerned in the election to attend as a witness, and any person refusing to obey the order shall be guilty of contempt of court.

(3) The election court may examine any person so required to attend or who is in court although he is not called and examined by any party to the petition.

(4) A witness may, after his examination by the court, be cross-examined by or on behalf of the petitioner and respondent, or either of them.

### **Duty to answer relevant questions**

**89.**—(1) A person called as a witness respecting an election before any election court shall not be excused from answering any question relating to any offence at or connected with the election—

- (a) on the ground that the answer to it may incriminate or tend to incriminate that person or that person's husband or wife; or
- (b) on the ground of privilege.

(2) An answer by a person to a question put by or before any election court shall not, except in the case of any criminal proceeding for perjury in respect of the evidence, be in any proceeding, civil or criminal, admissible in evidence against that person or that person's husband or wife.

### **Expenses of witnesses**

**90.**—(1) The reasonable expenses incurred by any person in appearing to give evidence at the trial of a European Parliamentary election petition, according to the scale allowed to witnesses on the trial of civil actions, may be allowed to him by a certificate of the election court or of the prescribed officer.

(2) If the witness was called and examined by virtue of regulation 88(2), the expenses referred to in paragraph (1) shall be deemed part of the expenses of providing a court, but otherwise they shall be deemed costs of the petition.

### **Conclusion of trial of European Parliamentary election petition**

**91.**—(1) At the conclusion of the trial of a European Parliamentary election petition, the election court shall determine whether—

- (a) the member or members whose election is complained of were duly elected,
- (b) some other person or persons should have been declared to be elected, or
- (c) the election of all members for the electoral region was void,

and the determination so certified shall be final to all intents as to the matters at issue on the petition.

(2) The election court shall forthwith certify in writing the determination to the Secretary of State.

(3) If the judges constituting the election court—

- (a) differ as to whether the MEP whose election or return is complained of was duly elected or returned, they shall certify that difference and the MEP shall be deemed to be duly elected or returned;
- (b) determine that the MEP was not duly elected or returned but differ as to the rest of the determination, they shall certify that difference and the election shall be deemed to be void.

### **Special case for determination of the High Court**

**92.**—(1) If, on the application of any party to a petition made in the prescribed manner to the High Court, it appears to the High Court that the case raised by the petition can be conveniently stated as a special case, the High Court may direct it to be stated accordingly and the special case shall be heard before the High Court.

(2) In the case of a European Parliamentary election petition, the High Court shall certify to the Secretary of State its decision on the special case.

(3) If it appears to the election court on the trial of a European Parliamentary election petition that any question of law as to the admissibility of evidence or otherwise requires further consideration by the High Court, the election court may postpone the granting of a certificate until the question has been determined by the High Court, and for this purpose may reserve the question by stating a case for the decision of the High Court.

### **Withdrawal of petition**

**93.**—(1) A petitioner shall not withdraw a European Parliamentary election petition without the leave of the election court or High Court on special application, made in the prescribed manner and at the prescribed time and place.

(2) The application shall not be made until the prescribed notice of the intention to make it has been given in the electoral region.

(3) Where there are more petitioners than one, the application shall not be made except with the consent of all the petitioners.

(4) If a petition is withdrawn the petitioner shall be liable to pay the costs of the respondent.

### **Costs of petition**

**94.**—(1) All costs of and incidental to the presentation of a European Parliamentary election petition and the proceedings consequent on it, except such as are by these Regulations otherwise provided for, shall be defrayed by the parties to the petition in such manner and in such proportions as the election court or High Court may determine.

(2) In particular—

- (a) any costs which in the opinion of the election court or High Court have been caused by vexatious conduct, unfounded allegations or unfounded objections on the part either of the petitioner or of the respondent, and
- (b) any needless expense incurred or caused on the part of the petitioner or respondent,

may be ordered to be defrayed by the parties by whom it has been incurred or caused whether or not they are on the whole successful.

### **Neglect or refusal to pay costs**

**95.**—(1) Paragraph (2) applies if, in the case of a European Parliamentary election petition, a petitioner neglects or refuses for six months after demand to pay to any person summoned as a witness on his behalf or to the respondent any sum certified to be due to that person or the respondent

for his costs, and the neglect or refusal is, within one year after the demand, proved to the satisfaction of the High Court.

(2) Where paragraph (1) applies, every person who under these Regulations entered into a recognisance relating to that petition shall be held to be in default of the recognisance, and—

- (a) the prescribed officer shall thereupon certify the recognisance to be forfeited, and
- (b) it shall be dealt with as if forfeited by the Crown Court.

### **Appeals and jurisdiction**

**96.**—(1) Subject to the provisions of these Regulations, the principles, practice and rules on which election courts act in dealing with parliamentary election petitions shall be observed, so far as may be, by the High Court and election court in the case of European Parliamentary election petitions.

(2) The High Court has, subject to the provisions of these Regulations, the same powers, jurisdiction and authority with respect to a European Parliamentary election petition and the proceedings on it as if the petition were an ordinary action within its jurisdiction.

(3) The duties to be performed in relation to European Parliamentary elections by the prescribed officer under this Part shall be performed by such officer of the Supreme Court of Judicature of Northern Ireland as the Lord Chief Justice of Northern Ireland may determine.

### **Persons convicted of corrupt or illegal practices**

**97.**—(1) Subject to the provisions of paragraph (2) and regulation 102, a candidate or other person convicted of a corrupt or illegal practice—

- (a) shall during the relevant period specified in paragraph (3) be incapable of—
  - (i) being registered as an elector or voting at any parliamentary or European Parliamentary election in the United Kingdom or at any local government election in Great Britain,
  - (ii) being elected to the House of Commons or the European Parliament, or
  - (iii) holding any elective office; and
- (b) if already elected to a seat in the House of Commons or the European Parliament, or holding any such office, shall vacate the seat or office as from the date of the conviction.

(2) The incapacity imposed by paragraph (1)(a)(i) applies only to a candidate or other person convicted of a corrupt practice under regulation 23 or of an illegal practice under regulation 25.

(3) For the purposes of paragraph (1) the relevant period is the period beginning with the date of the conviction and ending—

- (a) in the case of a person convicted of a corrupt practice, five years after that date, or
- (b) in the case of a person convicted of an illegal practice, three years after that date,

except that if (at any time within that period of five or three years) a court determines on an appeal by that person against the conviction that it should not be upheld, the relevant period shall end at that time instead.

(4) Where paragraph (1)(b) applies to any person, he shall (subject to paragraph (5)) vacate the seat or office in question at the appropriate time for the purposes of this regulation, namely—

- (a) the end of the period which is the period prescribed within which notice of appeal may be given, or an application for leave to appeal may be made, by him in respect of the conviction, or
- (b) if (at any time within that period) that period is extended—
  - (i) the end of the period as so extended, or

(ii) the end of the period of three months beginning with the date of the conviction, whichever is the earlier.

(5) If (before the appropriate time mentioned in paragraph (4)) notice of appeal is given, or an application for leave to appeal is made, by such a person in respect of the conviction, he shall vacate the seat or office in question at the end of the period of three months beginning with the date of the conviction unless—

- (a) such an appeal is dismissed or abandoned at any earlier time (in which case he shall vacate the seat or office at that time), or
- (b) at any time within that period of three months the court determines on such an appeal that the conviction should not be upheld (in which case the seat or office shall not be vacated by him).

(6) Where such a person vacates a seat or office in accordance with paragraph (4) or (5), no subsequent determination of a court that his conviction should not be upheld shall entitle him to resume the seat or office.

(7) If a person convicted of a corrupt or illegal practice has already been elected to a seat in the House of Commons or the European Parliament or to any elective office, he shall (in addition to being subject to the incapacities mentioned in paragraph (1)(a)) be suspended from performing any of his functions as a Member of Parliament or a Member of the European Parliament, or (as the case may be) any of the functions of that office, during the period of suspension specified in paragraph (8).

(8) For the purposes of paragraph (7) the period of suspension is the period beginning with the date of the conviction and ending with—

- (a) the date on which the seat or office is vacated in accordance with paragraph (4) or (5), or
- (b) where paragraph (5)(b) applies, the date on which the court determines that the conviction should not be upheld.

(9) Any incapacities or other requirement applying to a person by virtue of paragraph (1) or (7) applies in addition to any punishment imposed under regulation 99 or 100; but each of those regulations has effect subject to regulation 102.

### **Application for relief**

**98.**—(1) An application for relief under this regulation may be made to the High Court or an election court or else, if in respect of a payment made in contravention of regulation 44(1) or (2), to a county court.

(2) Where a person makes an application under this regulation he shall notify the Director of Public Prosecutions for Northern Ireland of the application and the Director or his assistant or representative may attend the hearing of the application and make representations at the hearing in respect of it.

(3) If it is shown to the court by such evidence as to the court seems sufficient—

- (a) that any act or omission of any person would apart from this regulation by reason of being in contravention of these Regulations be an illegal practice, payment, employment or hiring,
- (b) that the act or omission arose from inadvertence or from accidental miscalculation or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith, and
- (c) that such notice of the application has been given in the electoral region as to the court seems fit,

and under the circumstances it seems to the court to be just that either that or any other person should not be subject to any of the consequences under these Regulations of the act or omission, the court may make an order allowing the act or omission to be an exception from the provisions of these Regulations making it an illegal practice, payment, employment or hiring and upon the making of the order no person shall be subject to any of the consequences under these Regulations of that act or omission.

### **Prosecutions for corrupt practices**

**99.**—(1) A person who is guilty of a corrupt practice shall be liable—

- (a) on conviction on indictment—
  - (i) in the case of a corrupt practice under regulation 23 or 24, to imprisonment for a term not exceeding two years, or to a fine, or to both,
  - (ii) in any other case, to imprisonment for a term not exceeding one year, or to a fine, or to both;
- (b) on summary conviction, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding the statutory maximum, or to both.

(2) If it appears to the court by which any person holding a licence or certificate under the Licensing Order is convicted of the offence of bribery or treating that the offence was committed on his licensed premises—

- (a) the court shall direct the conviction to be entered in the proper register of licences, and
- (b) the entry shall be taken into consideration by the licensing authority in determining whether they will or will not grant a renewal of the licence or certificate, and may be a ground, if the authority think fit, for refusing its renewal.

### **Prosecutions for illegal practices**

**100.** A person who is guilty of an illegal practice shall be liable—

- (a) in the case of an illegal practice under regulation 43(1), on conviction on indictment, to a fine;
- (b) in the case of any illegal practice (including the one mentioned in paragraph (a)), on summary conviction, to a fine not exceeding level 5 on the standard scale;

and on a prosecution for an illegal practice it shall be sufficient to allege that the person charged was guilty of an illegal practice.

### **Conviction of illegal practice on charge of corrupt practice**

**101.** A person charged with a corrupt practice may, if the circumstances warrant such finding, be found guilty of an illegal practice (which offence shall for that purpose be an indictable offence), and a person charged with an illegal practice may be found guilty of that offence notwithstanding that the act constituting the offence amounted to a corrupt practice.

### **Mitigation and remission etc**

**102.**—(1) Where—

- (a) any person is subject to any incapacity by virtue of the report of an election court, and
- (b) he or some other person in respect of whose acts the incapacity was imposed is on a prosecution acquitted of any of the matters in respect of which the incapacity was imposed,



the court may order that the incapacity shall thenceforth cease so far as it is imposed in respect of those matters.

(2) Where any person who is subject to any incapacity as mentioned above is on a prosecution convicted of any such matters as are mentioned above, no further incapacity shall be taken to be imposed by reason of the conviction, and the court shall have the like power (if any) to mitigate or remit for the future the incapacity so far as it is imposed by regulation 97 in respect of the matters of which he is convicted, as if the incapacity had been imposed by reason of the conviction.

(3) A court exercising any of the powers conferred by paragraphs (1) and (2) shall make an order declaring how far, if at all, the incapacities imposed by virtue of the relevant report remain unaffected by the exercise of that power, and that order shall be conclusive for all purposes.

(4) Where a person convicted of a corrupt or illegal practice is subsequently reported to have been guilty of that practice by an election court, no further incapacity shall be imposed on him under regulation 97 by reason of the report.

(5) Where any person is subject to any incapacity by virtue of a conviction or of the report of an election court, and any witness who gave evidence against that person upon the proceeding for the conviction or report is convicted of perjury in respect of that evidence, the incapacitated person may apply to the High Court, and the court, if satisfied that the conviction or report so far as respects that person was based upon perjury, may order that the incapacity shall thenceforth cease.

### **Illegal payments**

**103.**—(1) A person guilty of an offence of illegal payment or employment shall, on summary conviction, be liable to a fine not exceeding level 5 on the standard scale; and on a prosecution for such an offence it shall be sufficient to allege that the person charged was guilty of an illegal payment or employment as the case may be.

(2) A candidate or election agent who is personally guilty of an offence of illegal payment or employment shall be guilty of an illegal practice.

(3) Any person charged with an offence of illegal payment or employment may be found guilty of that offence, notwithstanding that the act constituting the offence amounted to a corrupt or illegal practice.

### **Time limit for prosecution**

**104.**—(1) A proceeding against a person in respect of any offence under any provision contained in these Regulations shall be commenced within one year after the offence was committed, and the time so limited by this regulation shall, in the case of any proceedings under the Magistrates' Courts (Northern Ireland) Order 1981(27) for any such offence be substituted for any limitation of time contained in that Order.

(2) For the purposes of this regulation, the making of a complaint shall be deemed to be the commencement of a proceeding.

### **Prosecution of offences committed outside the United Kingdom**

**105.** Proceedings in respect of an offence under these Regulations alleged to have been committed outside the United Kingdom by a Commonwealth citizen or citizen of the Union may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the United Kingdom.

**Offences by associations**

106. Where—

- (a) any corrupt or illegal practice or any illegal payment, employment or hiring, or
- (b) any offence under regulation 68,

is committed by any association or body of persons, corporate or unincorporate, the members of the association or body who have taken part in the commission of the offence shall be liable to any fine or punishment imposed for that offence by these Regulations.

**Evidence by certificate of holding of elections**

107. On any prosecution for a corrupt or illegal practice or for any illegal payment, employment or hiring, the certificate of the returning officer at a European Parliamentary election—

- (a) that the election mentioned in the certificate was duly held, and
- (b) that the person named in the certificate was a candidate at the election,

shall be sufficient evidence of the facts stated in it.

**Evidence by certificate of electoral registration**

108. The certificate of the registration officer that any person is or is not, or was or was not at any particular time, duly registered in one of the officer's registers in respect of any address shall be sufficient evidence of the facts stated in it; and a document purporting to be such a certificate shall be received in evidence and presumed to be such a certificate unless the contrary is proved.

**Director of Public Prosecutions**

109.—(1) Where information is given to the Director of Public Prosecutions for Northern Ireland that any offence under these Regulations has been committed, it is his duty to make such inquiries and institute such prosecutions as the circumstances of the case appear to him to require.

(2) The Director by himself or by his assistant or by his representative appointed under paragraph (3) may and, if the election court so requests him, shall attend the trial of every European Parliamentary election petition.

(3) The Director may nominate a barrister or solicitor to be his representative for the purposes of this Part of these Regulations.

(4) The Director in performing any duty under these Regulations shall act in accordance with the directions (if any) given to him by the Attorney General for Northern Ireland; and any assistant or representative of the Director in performing any duty under this Part shall act in accordance with those directions (if any) and with the directions given to him by the Director.

(5) There shall be allowed to the Director and his assistant or representative for the purposes of this Part (other than his general duties under paragraph (1)) such allowances for expenses as the Treasury may approve.

(6) The costs incurred in defraying the expenses of the Director incurred for those purposes (including the remuneration of his representative) shall, in the first instance, be paid by the Treasury, and shall be deemed to be expenses of the election court; but if for any reasonable cause it seems just to the court so to do, the court shall order all or part of those costs to be repaid to the Treasury by the parties to the petition, or such of them as the court may direct.

## **Costs**

**110.**—(1) The rules of the Supreme Court of Judicature of Northern Ireland with respect to costs to be allowed in actions, causes and matters in the High Court shall in principle and so far as practicable apply to the costs of petition and other proceedings under Part 2 or this Part of these Regulations, and the taxing officer shall not allow any costs higher than would be allowed in any action, cause or matter in the High Court on a common fund basis.

(2) Where any costs or other sums are, under the order of an election court or otherwise under this Part, to be paid by any person, those costs or sums shall be due from that person to the person or persons to whom they are to be paid and, if payable to the Treasury, shall be a debt due to Her Majesty and in either case may be recovered accordingly.

## **Service of notices**

**111.**—(1) Any notice, legal process or other document required to be served on any person with reference to any proceeding respecting an election for the purpose of causing him to appear before the High Court, the county court, or any election court, or otherwise or of giving him an opportunity of making a statement, or showing cause, or being heard by himself before any court for any purpose of this Part of these Regulations may be served—

- (a) by delivering it to that person, or by leaving it at, or sending it by post by a registered letter or by the recorded delivery service, to his last known place of abode in the electoral region; or
- (b) if the proceeding is before any court in such other manner as the court may direct.

(2) In proving service by post under this regulation it shall be sufficient to prove that the letter was prepaid, properly addressed, and registered or recorded with the postal operator (within the meaning of the Postal Services Act 2000) concerned.

# **PART 5**

## *Miscellaneous*

### **Public notices and declarations**

**112.**—(1) A public notice required by or under these Regulations to be given by the returning officer for a European Parliamentary election shall be given by posting the notice in some conspicuous place or places in the electoral region and may also be given in such other manner as he thinks desirable for publicising it.

(2) Any person before whom a declaration is authorised to be made under these Regulations may take the declaration.

### **Remuneration for free postal services provided under the Regulations**

**113.**—(1) This regulation applies where any postal services are provided without charge by a universal service provider in pursuance of these Regulations.

(2) The universal service provider shall be entitled to be remunerated for having provided the services at the rate fixed in relation to them by virtue of a scheme under section 89 of the Postal Services Act 2000.

(3) A sum which a universal service provider is entitled to receive by virtue of this regulation shall be charged on, and issued out of, the Consolidated Fund.

(4) In this regulation “postal services” and “universal service provider” have the same meanings as in the Postal Services Act 2000.

#### **Rateability of premises**

**114.**—(1) The use of any premises for the holding of public meetings in furtherance of any person’s candidature at any European Parliamentary election shall not render any person liable to be rated or to pay any rate for the premises.

(2) The use of a room in an unoccupied house by the returning officer for the purpose of taking the poll or conducting the count does not render a person liable to be rated or to pay any rate for the house.

#### **Combination of polls**

**115.** Where the poll at a European Parliamentary election is to be taken together with the poll at a parliamentary or local election under section 15(1) or (2) of the 1985 Act, the European Parliamentary elections rules in Schedule 1, and the provisions with respect to absent voting in Schedule 2, shall have effect subject to the modifications in Schedule 6.

#### **Revocation**

**116.** The instruments listed in column 1 of Schedule 7 (which have the references listed in column 2) are hereby revoked to the extent indicated in column 3 of that Schedule.

Northern Ireland Office  
29th April 2004

*Paul Murphy*  
One of Her Majesty’s Principal Secretaries of  
State

## SCHEDULE 1

Regulation 6

## EUROPEAN PARLIAMENTARY ELECTIONS RULES

## PART I

## Provisions as to time

**Timetable**

1. The proceedings of the election shall be conducted in accordance with the following Table.

## Timetable

<i>Proceeding</i>	<i>Time</i>
Publication of notice of election.	Not later than the 25th day before the date of the poll.
Delivery of nomination papers.	Between the hours of 10 a.m. and 4 p.m. on any day after the date of the publication of the notice of election but not later than the 19th day before the date of the poll.
Delivery of notices of withdrawals of candidature.	Within the time for the delivery of nomination papers at the election.
The making of objections to nomination papers.	During the hours allowed for delivery of nomination papers on the last day for their delivery and the hour following; but <ol style="list-style-type: none"> <li>(a) no objection may be made in the afternoon of that last day except to a nomination paper delivered within 24 hours of the last time for its delivery, and in the case of a nomination paper so delivered no objection may be so made to the sufficiency or nature of the particulars of a candidate unless made at or immediately after the time of the delivery of the nomination paper; and</li> <li>(b) the foregoing provisions do not apply to objections made in pursuance of rule 15(2).</li> </ol>
Publication of statement of candidates nominated.	At the close of the time for making objections to nomination papers or as soon afterwards as any objections are disposed of.
Polling.	Between the hours of 7 a.m. and 10 p.m. on the day of the poll.

**Computation of time**

- 2.—(1) In computing any period of time for the purposes of the Timetable—
- (a) Saturday or Sunday,

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- (b) a Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a bank holiday, or
- (c) a day appointed for public thanksgiving or mourning,

shall be disregarded, and any such day shall not be treated as a day for the purpose of any proceedings up to the completion of the poll nor shall the returning officer be obliged to proceed with the counting of the votes on such a day.

(2) In this rule “bank holiday” means—

- (a) in relation to a general election, a day which is a bank holiday under the Banking and Financial Dealings Act 1971(28) in any part of the United Kingdom,
- (b) in relation to a by-election, a day which is a bank holiday under that Act in Northern Ireland,

but at a general election sub-paragraph (b) and not sub-paragraph (a) of this paragraph applies in relation to any proceedings extending, by reason of riot or open violence, beyond the time laid down by the Timetable.

## PART II

### *Stages common to contested and uncontested elections*

#### **Notice of election**

3.—(1) The returning officer shall publish notice of the election, stating—

- (a) the place and times at which nomination papers are to be delivered, and
- (b) the date of the poll in the event of a contest.

(2) The notice of election shall state the date by which (except in such circumstances as are provided for in paragraph 8 of Schedule 2)—

- (a) applications to vote by post or by proxy, and
- (b) other applications and notices about postal or proxy voting,

must reach the registration officer in order that they may be effective for the election.

#### **Nomination of candidates**

4.—(1) Each candidate shall be nominated by a separate nomination paper, which is signed and delivered by the candidate himself or a person authorised in writing by him.

(2) The nomination paper shall state the candidate's—

- (a) full names,
- (b) home address in full, and
- (c) if desired, description,

and the surname shall be placed first in the list of his names.

(3) The description, if any, must consist of either—

- (a) a description (of not more than 6 words in length) which is authorised as mentioned in rule 5; or
- (b) the word “Independent”.

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(28) 1971 c. 80.

(4) Where a nomination paper is delivered in respect of the same person after an earlier paper in respect of that person has been delivered, that later paper shall be deemed to supersede the earlier one.

(5) A nomination paper may consist of a single sheet or of two or more sheets securely fastened together.

#### **Nomination papers: name of registered political party**

5.—(1) A nomination paper may not include a description of a candidate which is likely to lead voters to associate the candidate with a registered political party unless the party is a qualifying party in relation to the electoral region and the description is authorised by a certificate—

- (a) issued by or on behalf of the registered nominating officer of the party, and
- (b) received by the returning officer at some time during the period for delivery of nomination papers set out in the table in rule 1.

(2) A person shall be guilty of a corrupt practice if he fraudulently purports to be authorised to issue a certificate under paragraph (1) on behalf of a registered political party's nominating officer.

(3) For the purposes of the application of this rule in relation to an election—

- (a) “registered political party” means a party which was registered under Part II of the 2000 Act at the time by which the notice of the election is required to be published by virtue of rule 1 (“the relevant time”); and
- (b) a registered political party is a qualifying party if the party was at the relevant time registered in the Northern Ireland register maintained under that Part of that Act.

#### **Subscription of nomination paper**

6.—(1) The nomination paper shall be subscribed by two electors as proposer and seconder, and by twenty-eight other electors as assenting to the nomination.

(2) Where a nomination paper bears the signatures of more than the required number of persons as proposing, seconding or assenting to the nomination of a candidate, the signature or signatures (up to the required number) appearing first on the paper in each category shall be taken into account to the exclusion of any others in that category.

(3) The nomination paper shall give the electoral number of each person subscribing it.

(4) The returning officer—

- (a) shall supply any elector with a form of nomination paper at the place and during the time for delivery of nomination papers, and
- (b) shall at any elector's request prepare a nomination paper for signature,

but it is not necessary for a nomination to be on a form supplied by the returning officer.

(5) A person shall not subscribe more nomination papers at the same election than there are vacancies to be filled and, if he does, his signature shall be inoperative on any paper other than the papers first delivered up to the number of vacancies, but he shall not be prevented from subscribing a nomination paper by reason only of his having subscribed that of a candidate who has died or withdrawn before delivery of the first mentioned paper.

(6) In this rule “elector” has the same meaning as in regulation 58(4).

#### **Consent to nomination**

7.—(1) A person shall not be validly nominated as a candidate unless his consent to nomination—

- (a) is given in writing on or within one month before the day fixed as the last day for the delivery of nomination papers,

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(b) is attested by one witness, and  
(c) is delivered at the place and within the time for the delivery of nomination papers,  
subject to paragraph (2).

(2) If the returning officer is satisfied that owing to the absence of a person from the United Kingdom it has not been reasonably practicable for his consent in writing to be given as mentioned above, a telegram (or any similar means of communication) consenting to his nomination and purporting to have been sent by him shall be deemed for the purposes of this rule to be consent in writing given by him on the day on which it purports to have been sent, and attestation of his consent shall not be required.

(3) A candidate's consent given under this rule—

(a) shall state the day, month and year of his birth; and

(b) shall state—

(i) that he is aware of the provisions of section 10 of the European Parliamentary Elections Act 2002 ; and

(ii) that to the best of his knowledge and belief he is not disqualified for membership of the office of MEP.

#### **Candidature by relevant citizen of the Union**

8.—(1) Where the candidate is a relevant citizen of the Union, he shall not be validly nominated as a candidate, unless a declaration under paragraph (2) and a certificate under paragraph (3) are delivered at the place and within the time for the delivery of nomination papers.

(2) The declaration referred to in paragraph (1) must be made by or on behalf of the candidate and state, in addition to his name:

(a) his nationality;

(b) his home address in the United Kingdom in full;

(c) that he is not standing as a candidate for election to the European Parliament in any other Member State at elections held in the same period; and

(d) where his name has been entered in a register of electors in a locality or constituency in the Member State of which he is a national, the name of the locality or constituency where, so far as he knows, his name was last entered.

(3) The certificate referred to in paragraph (1) must be made by the competent administrative authorities in the Member State of which the candidate is a national stating either that he has not been deprived of his right to stand as a candidate in that State or that no such disqualification is known to those authorities.

(4) As soon as practicable after publication of the statement of candidates nominated, the returning officer shall send to the Secretary of State a copy of the declaration made under paragraph (2) by any candidate who stands nominated as a candidate.

(5) In this rule “locality or constituency” and “competent administrative authorities” have the same meaning as they have in the directive of the Council of the European Communities No.93/109/EC.

#### **Deposit**

9.—(1) A person shall not be validly nominated as a candidate unless the sum of £5,000 is deposited by him or on his behalf with the returning officer at the place and during the time for delivery of nomination papers.



- (2) The deposit may be made either—
- (a) by the deposit of any legal tender, or
  - (b) by means of a banker's draft, or
  - (c) with the returning officer's consent, in any other manner,

but the returning officer may refuse to accept a deposit sought to be made by means of a banker's draft if he does not know that the drawer carries on business as a banker in the United Kingdom.

(4) Where the deposit is made on behalf of the candidate, the person making the deposit shall at the time he makes it give his name and address to the returning officer (unless they have previously been given to him under regulation 34 or 35 of these Regulations).

### **Place for delivery of nomination papers**

**10.** The returning officer shall fix the place in the electoral region at which nomination papers are to be delivered to him, and shall attend there during the time for their delivery and for the making of objections to them.

### **Right to attend nomination**

**11.—**(1) Except for the purpose of delivering a nomination paper or of assisting the returning officer, no person is entitled to attend the proceedings during the time for delivery of nomination papers or for making objections to them unless he is—

- (a) a person standing nominated as a candidate,
  - (b) the election agent of a candidate, or
  - (c) a person authorised in writing to deliver a nomination paper.
- (2) The right to attend conferred by this rule includes the right—
- (a) to inspect, and
  - (b) to object to the validity of,

any nomination paper.

### **Decisions as to validity of nomination papers**

**12.—**(1) Where a nomination paper and the candidate's consent to it (and, where required, a declaration and certificate under rule 8(2) and (3)) are delivered and a deposit is made in accordance with these rules, the candidate shall be deemed to stand nominated unless and until—

- (a) the returning officer decides that the nomination paper is invalid; or
- (b) proof is given to the returning officer's satisfaction of the candidate's death; or
- (c) the candidate withdraws.

(2) The returning officer is entitled to hold a nomination paper of a candidate invalid only on one of the following grounds—

- (a) that the particulars of the candidate are not as required by law;
- (b) that the candidate is disqualified by the Representation of the People Act 1981<sup>(29)</sup> (which applies in respect of the office of MEP by virtue of section 10(1)(a) of the 2002 Act).

(3) The returning officer shall give his decision on any objection to a nomination paper as soon as practicable after it is made.

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(29) 1981 c. 34

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

(4) Where the returning officer decides that a nomination paper is invalid, he shall endorse and sign on the paper the fact and the reasons for his decision.

(5) The returning officer's decision that a nomination paper is valid shall be final and shall not be questioned in any proceeding whatsoever.

(6) Subject to paragraph (5) nothing in this rule prevents the validity of a nomination being questioned on a European Parliamentary election petition.

### **Withdrawal of candidates**

**13.** A candidate may withdraw his candidature by notice of withdrawal—

- (a) signed by him and attested by one witness, and
- (b) delivered to the returning officer at the place for delivery of nomination papers.

### **Publication of statement of candidates nominated**

**14.**—(1) The returning officer shall prepare and publish a statement (“the statement of candidates nominated”) showing—

- (a) the persons who have been and stand nominated as candidates; and
- (b) any other persons who have been nominated together with the reason why they no longer stand nominated.

(2) The statement shall show the names, addresses and descriptions of the persons nominated as candidates as given in their nomination papers.

(3) The statement shall show the persons standing nominated as candidates and the names of those candidates shall be arranged alphabetically in order of their surnames, and, if there are two or more of them with the same surname, of their other names.

(4) The returning officer shall send to the Electoral Commission a copy of the statement.

### **Disqualification by Representation of the People Act 1981**

**15.**—(1) If it appears to the returning officer that any of the persons nominated as a candidate might be disqualified by the Representation of the People Act 1981 (which applies in respect of the office of MEP by virtue of section 10(1)(a) of the 2002 Act) he shall, as soon as practicable after the expiry of the time allowed for the delivery of nomination papers, prepare and publish a draft of the statement required under rule 14.

(2) The draft shall be headed “Draft statement of candidates nominated” and shall omit the names of the persons subscribing the papers but shall contain a notice stating that any person who wishes to object to the nomination of any candidate on the ground that he is disqualified for nomination under the Representation of the People Act 1981 may do so between the hours of 10 in the morning and 4 in the afternoon on the day and at the place specified in the notice; and the day so specified shall be the day next after the last day for the delivery of nomination papers.

### **Adjournment of nomination proceedings in case of riot**

**16.**—(1) Where the proceedings for or in connection with nomination are on any day interrupted or obstructed by riot or open violence—

- (a) the proceedings shall be abandoned for that day, and
- (b) if that day is the last day for the delivery of nomination papers, the proceedings shall be continued on the next day as if that were the last day of such delivery,

and that day shall be treated for the purposes of these rules as being the last day for such delivery (subject to any further application of this rule in the event of interruption or obstruction on that day).

- (2) Where proceedings are abandoned by virtue of this rule nothing—
  - (a) may be done after they are continued if the time for doing it had passed at the time of the abandonment;
  - (b) done before the abandonment shall be invalidated by reason of the abandonment.

### **Method of election**

**17.**—(1) If the statement of candidates nominated shows more persons standing nominated than there are seats to be filled, a poll shall be taken in accordance with Part III of these rules.

(2) If the statement of candidates nominated shows a number of persons standing nominated which is the same as, or less than, the number of seats to be filled, those persons shall be declared to be elected in accordance with Part IV of these rules.

## **PART III**

### *Contested Elections*

#### **Poll to be taken by ballot**

**18.** The votes at the poll shall be given by ballot, and the votes given to each candidate shall be counted and the result of the poll determined in accordance with rules 48 to 59.

#### **The ballot papers**

**19.**—(1) The ballot of every voter shall consist of a ballot paper, and the persons shown in the statement of candidates nominated as standing nominated, and no others, shall be entitled to have their names inserted in the ballot paper.

(2) Every ballot paper shall be in the form in the Appendix, and shall be printed in accordance with the directions in that Appendix, and—

- (a) shall contain the names of the persons shown in the statement of candidates nominated;
- (b) shall be capable of being folded up;
- (c) shall have a number printed on the back;
- (d) shall have attached a counterfoil with the same number printed on it.

(3) The order of the names of the candidates in the ballot paper shall be the same as in the statement of candidates nominated.

#### **The official mark**

**20.**—(1) Every ballot paper shall be marked with an official mark, which shall perforate the ballot paper.

(2) The official mark shall be kept secret, and an interval of not less than seven years shall intervene between the use of the same official mark at elections for the same European Parliamentary electoral region.

(3) The official mark used for ballot papers issued for the purpose of voting by post shall not be used at the same election for ballot papers issued for the purpose of voting in person.

### **Prohibition of disclosure of vote**

**21.** No person who has voted at the election shall, in any legal proceeding to question the election or return, be required to state the way in which he voted.

### **Use of schools and public rooms**

**22.—**(1) The returning officer may use, free of charge, for the purpose of taking the poll or counting the votes—

- (a) a room in a school to which this rule applies;
- (b) a room the expense of maintaining which is payable out of any rate.

This rule applies to a school in receipt of a grant out of moneys appropriated by Measure of the Northern Ireland Assembly.

(2) The returning officer shall make good any damage done to, and defray any expense incurred by the persons having control over, any such room as mentioned above by reason of its being used for the purpose of taking the poll, counting the votes or verifying the ballot paper accounts, as the case may be.

### **Notice of poll**

**23.—**(1) The returning officer shall in the statement of persons nominated include a notice of the poll, stating the day on which and hours during which the poll will be taken.

- (2) The returning officer shall also give public notice of—
- (a) the situation of each polling station;
  - (b) the description of voters entitled to vote there;

and he shall as soon as practicable after giving such notice give a copy of it to each of the election agents.

### **Postal ballot papers**

**24.—**(1) The returning officer shall, in accordance with Schedule 2, issue to those entitled to vote by post a ballot paper and a declaration of identity in the form set out in that Schedule, together with such envelopes for their return (whether free of charge or otherwise) as are specified in that Schedule.

(2) The form mentioned in paragraph (1) shall include provision for the form to be signed and, in the case of an elector, for stating his date of birth.

### **Provision of polling stations**

**25.—**(1) The returning officer shall provide a sufficient number of polling stations and, subject to the following provisions of this rule, shall allot the electors to the polling stations in such manner as he thinks most convenient.

- (2) One or more polling stations may be provided in the same room.
- (3) The polling station allotted to electors from any polling district shall be in the polling place for that district.
- (4) The returning officer shall provide each polling station with such number of compartments as may be necessary in which the voters can mark their votes screened from observation.

### **Appointment of presiding officers and clerks**

**26.—**(1) The returning officer shall appoint and pay a presiding officer to attend at each polling station and such clerks as may be necessary for the purposes of the election, but he shall not appoint any person who has been employed by or on behalf of a candidate in or about the election.

(2) The returning officer may, if he thinks fit, preside at a polling station and the provisions of these rules relating to a presiding officer shall apply to the returning officer so presiding with the necessary modifications as to things to be done by the returning officer to the presiding officer or by the presiding officer to the returning officer.

(3) A presiding officer may do, by the clerks appointed to assist him, any act (including the asking of questions) which he is required or authorised by these rules to do at a polling station except order the arrest, exclusion or removal of any person from the polling station or refuse to deliver a ballot paper under paragraph (4) of rule 37 (including that paragraph as applied by rule 38, 39 or 40).

### **Appointment of verifying officers and clerks**

**27.—**(1) The returning officer shall appoint and pay verifying officers to attend at such places as he deems necessary for the purposes of the verification of the ballot paper accounts and such clerks as may be necessary for the purposes of the verification, but he shall not appoint a person who has been employed by or on behalf of a candidate in or about the election.

(2) The returning officer may, if he thinks fit, act as a verifying officer and the provisions of these rules relating to a returning officer shall apply to a returning officer so acting, with the necessary modifications as to things to be done by the returning officer to the verifying officer or by the verifying officer to the returning officer.

(3) A verifying officer may do, by the clerks appointed to assist him, any act which he is required or authorised by these rules to do.

### **Issue of official poll cards**

**28.—**(1) The returning officer shall as soon as practicable send to electors and their proxies an official poll card, but a card need not be sent to any person—

- (a) as an elector if he is placed on the absent voters list for the election; or
- (b) as a proxy if he is entitled to vote by post as proxy at the election,

and a card shall not be sent to any person registered, or to be registered, in pursuance of an overseas elector's declaration.

(2) An elector's official poll card shall be sent or delivered to his qualifying address, and a proxy's to his address as shown in the list of proxies.

(3) The official poll card shall be in the form in the appendix and shall set out—

- (a) the name of the electoral region;
- (b) the elector's name, qualifying address and number on the register;
- (c) the date and hours of the poll and the situation of the elector's polling station.

(4) In this rule, "elector" has the same meaning as in regulation 58(4) of these Regulations; and, pending publication of the register, the elector's number in the register includes his number (if any) in the electors list for that register.

### **Equipment of polling stations**

**29.—**(1) The returning officer shall provide each presiding officer with such number of ballot boxes and ballot papers as in the returning officer's opinion may be necessary.

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(2) Every ballot box shall be so constructed that the ballot papers can be put in it, but cannot be withdrawn from it, without the box being unlocked or, where the box has no lock, the seal being broken.

(3) The returning officer shall provide each polling station with—

- (a) materials to enable voters to mark the ballot papers;
- (b) instruments for stamping on them the official mark;
- (c) copies of the register of electors or such part of it as contains the names of the electors allotted to the station;
- (d) the parts of any special lists prepared for the election corresponding to the register of electors or the part of it provided under sub-paragraph (c).

(4) The returning officer shall also provide each polling station with—

- (a) at least one large version of the ballot paper which shall be displayed inside the polling station for the assistance of voters who are partially-sighted; and
- (b) a device of such description as is set out in paragraph (9) for enabling voters who are blind or partially-sighted to vote without any need for assistance from the presiding officer or any companion (within the meaning of rule 39(1)).

(5) A notice in the form in the Appendix, giving directions for the guidance of the voters in voting, shall be printed in conspicuous characters and exhibited inside and outside every polling station.

(6) The returning officer may also provide such notices in braille or in languages other than English that are an accurate translation of the notice referred to in paragraph (5) as he considers appropriate, which may be exhibited inside and outside every polling station.

(7) In every compartment of every polling station there shall be exhibited the notice “Remember—use 1,2,3 etc. at this election—this is an election by proportional representation. Number the candidates in order of your preference, putting ‘1’ against the candidate of your first preference and so on. You should not put the same preference against more than one candidate. You may show your preference for as many or as few candidates as you so wish.”.

(8) Where proof has been given to the returning officer’s satisfaction of the death of a candidate, he shall provide each presiding officer with a sufficient number of notices to this effect for display in every compartment of every polling station.

(9) The device referred to in paragraph (4)(b) must—

- (a) allow a ballot paper to be inserted into and removed from or attached to and detached from the device, easily and without damage to the paper;
- (b) keep the ballot paper firmly in place during use;
- (c) provide suitable means for the voter to identify—
  - (i) the spaces on the ballot paper on which he may mark his vote; and
  - (ii) the candidate to whom each such space refers.

### **Appointment of polling and counting agents**

**30.**—(1) The election agent or sub-agent of a candidate or any person authorised in writing by such an agent or that candidate may, before the commencement of the poll, appoint—

- (a) polling agents to attend at polling stations for the purpose of detecting personation; and
- (b) counting agents to attend at the verification of the ballot paper accounts and the counting of the votes.

(2) One (but no more than one) counting agent of each candidate may be authorised by the terms of his appointment to require a re-count at the count.

(3) The returning officer or, as the case may be, verifying officer may limit the number of counting agents, so however that—

- (a) the number shall be the same in the case of each candidate; and
- (b) the number allowed to a candidate shall not (except in special circumstances) be less than the number obtained by dividing the number of clerks employed on the verification of the ballot paper accounts or the counting of the votes by the number obtained by adding the number of candidates.

(4) Notice in writing of the appointment, stating the names and addresses of the persons appointed, shall be given by the person by whom the appointment was made to the returning officer and shall be so given not later than the second day (computed like any period of time in the Timetable) before the day of the poll.

(5) If an agent dies, or becomes incapable of acting, the person by whom the appointment was made may appoint another agent in his place, and shall forthwith give to the returning officer notice in writing of the name and address of the agent appointed.

(6) In the following provisions of these rules references to polling and counting agents shall be taken as references to agents—

- (a) whose appointments have been duly made and notified; and
- (b) where the number of agents is restricted, who are within the permitted number.

(7) Any notice required to be given to a counting agent by the returning officer may be delivered at or sent by post to the address stated in the notice of appointment.

(8) A candidate may himself do any act or thing which any polling or counting agent of his, if appointed, would have been authorised to do, or may assist any such agent in doing any such act or thing.

(9) The election agent or sub-agent of a candidate may do or assist in doing anything which a polling or counting agent of that candidate is authorised to do; and anything required or authorised by these rules to be done in the presence of the polling or counting agents may be done in the presence of the election agent or sub-agent of a candidate instead of that candidate's polling agent or counting agents.

(10) Where by these rules any act or thing is required or authorised to be done in the presence of the polling or counting agents, the non-attendance of any agents or agent at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

### **Notification of requirement of secrecy**

**31.**—(1) The returning officer shall make such arrangements as he thinks fit to ensure that—

- (a) every person attending at a polling station (otherwise than for the purpose of voting or assisting a blind voter to vote or as a constable on duty there) has been given a copy in writing of the provisions of paragraphs (1), (4) and (7) of regulation 30 of these Regulations; and
- (b) every person attending at the verification of the ballot paper accounts or the counting of the votes (other than any constable on duty at the counting) has been given a copy in writing of the provisions of paragraphs (2), (3) and (7) of that regulation.

### **Admission to polling station**

**32.**—(1) The presiding officer shall regulate the number of voters to be admitted to the polling station at the same time, and shall exclude all other persons except—

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- (a) the candidates and the election agents of any candidate;
- (b) the polling agents appointed to attend at the polling station;
- (c) the clerks appointed to attend at the polling station;
- (d) the constables on duty;
- (e) the companions of voters with disabilities; and
- (f) Electoral Commissioners, members of staff of the Electoral Commission and persons appointed by the Electoral Commission for the purpose of attending at polling stations on behalf of the Commission.

(2) Not more than one polling agent shall be admitted at the same time to a polling station on behalf of any candidate.

(3) A constable or person employed by a returning officer shall not be admitted to vote in person elsewhere than at his own polling station under the relevant provision of these Regulations, except on production and surrender of a certificate as to his employment, which shall be in the form in the Appendix and signed by an officer of police of or above the rank of inspector or by the returning officer, as the case may be.

(4) Any certificate surrendered under this rule shall forthwith be cancelled.

#### **Keeping of order in station**

**33.**—(1) It is the presiding officer’s duty to keep order at his polling station.

(2) If a person misconducts himself in a polling station, or fails to obey the presiding officer’s lawful orders, he may immediately, by the presiding officer’s order, be removed from the polling station—

- (a) by a constable in or near that station, or
- (b) by any other person authorised in writing by the returning officer to remove him,

and the person so removed shall not, without the presiding officer’s permission, again enter the polling station during the day.

(3) Any person so removed may, if charged with the commission in the polling station of an offence, be dealt with as a person taken into custody by a constable for an offence without a warrant.

(4) The powers conferred by this rule shall not be exercised so as to prevent a voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

#### **Sealing of ballot boxes**

**34.** Immediately before the commencement of the poll, the presiding officer shall show the ballot box empty to such persons, if any, as are present in the polling station, so that they may see that it is empty, and shall then lock it up, if it has a lock, and place his seal on it in such a manner as to prevent its being opened without breaking the seal, and shall place it in his view for the receipt of ballot papers, and keep it so locked, if it has a lock, and sealed.

#### **Questions to be put to voters**

**35.**—(1) The presiding officer may, and if required by a candidate or the election or polling agent of a candidate shall, put to any person applying for a ballot paper at the time of his application, but not afterwards, the following questions, or either of them—

- (a) in the case of a person applying as an elector—
  - (i) “Are you the person registered in the register of electors for this election as follows?” (read the whole entry from the register.),



- (ii) “Have you already voted, here or elsewhere, at this by-election (general election of MEPs), otherwise than as proxy for some other person?”;
- (b) in the case of a person applying as proxy—
  - (i) “Are you the person whose name appears as AB in the list of proxies for this election as entitled to vote as proxy on behalf of CD?”;
  - (ii) “Have you already voted here or elsewhere at this by-election (general election of MEPs) as proxy on behalf of CD?”.
- (2) In the case of a person applying as an elector, the presiding officer may put the following additional question—

“What is your date of birth?”.
- (3) In the case of a person applying as proxy, the presiding officer may, and if required as mentioned in paragraph (1) shall, put the following additional question—

“Are you the husband (wife), parent, grandparent, brother (sister), child or grandchild of CD?”

and if that question is not answered in the affirmative the following question—

“Have you at this election already voted in this electoral region on behalf of two persons of whom you are not the husband (wife), parent, grandparent, brother (sister), child or grandchild?”.
- (4) A ballot paper shall not be delivered to any person required to answer the above questions or any of them unless he has answered the questions or question satisfactorily.
- (5) No inquiry shall be permitted as to the right of any person to vote, except as authorised by this rule.

### **Challenge of voter**

**36.**—(1) If at the time a person applies for a ballot paper for the purpose of voting in person, or after he has applied for a ballot paper for that purpose and before he has left the polling station, a candidate or the election or polling agent of a candidate—

- (a) declares to the presiding officer that he has reasonable cause to believe that the applicant has committed an offence of personation, and
- (b) undertakes to substantiate the charge in a court of law,

the presiding officer may order a constable to arrest the applicant, and the order of the presiding officer shall be sufficient authority for the constable so to do.

(2) A person against whom a declaration is made under this rule shall not by reason of it be prevented from voting.

(3) A person arrested under the provisions of this rule shall be dealt with as a person taken into custody by a constable for an offence without a warrant.

### **Voting procedure**

**37.**—(1) Subject to paragraphs (2) to (7) below, a ballot paper shall be delivered to a voter who applies for one, and immediately before delivery—

- (a) the ballot paper shall be stamped with the official mark;
- (b) the number and name of the elector as stated in the copy of the register of electors shall be called out;
- (c) the number of the elector shall be marked on the counter-foil;

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- (d) a mark shall be placed in the register of electors against the number of the elector to denote that a ballot paper has been received but without showing the particular ballot paper which has been received; and
  - (e) in the case of a person applying for a ballot paper as proxy, a mark shall also be placed against his name in the list of proxies.
- (2) A ballot paper shall not be delivered to a voter unless he has produced a specified document to the presiding officer or a clerk.
- (3) Where a voter produces a specified document, the presiding officer or clerk to whom it is produced shall deliver a ballot paper to the voter unless the officer or clerk decides that—
- (a) the document; or
  - (b) the apparent age of the voter as compared with his age according to the date supplied as the date of his birth pursuant to section 10(4A)(b), 10A(1A)(b) or 13A(2A)(b) of the 1983 Act, raises a reasonable doubt as to whether the voter is the elector or proxy he represents himself to be.
- (4) Where in such a case it is a presiding officer who so decides, he shall refuse to deliver a ballot paper to the voter.
- (5) Where in such a case it is a clerk who so decides, he shall refer the matter and produce the document to the presiding officer, who shall proceed as if it had been to him that the voter had presented himself and produced the document in the first place.
- (6) For the purposes of this rule, a specified document is one which for the time being falls within the following list:
- (a) a current licence to drive a motor vehicle if the licence bears the photograph of the person to whom it is issued;
  - (b) a current passport issued by a Member State of the European Union;
  - (c) a current electoral identity card issued under section 13C of the 1983 Act<sup>(30)</sup>;
  - (d) a current translink senior smartpass, issued under the Northern Ireland concessionary fares scheme.
- In sub-paragraph (a) a licence to drive a motor vehicle is a licence granted under Part III of the Road Traffic Act 1988<sup>(31)</sup>, or under Part II of the Road Traffic (Northern Ireland) Order 1981<sup>(32)</sup> or any corresponding enactment for the time being in force.
- (7) References in this rule to producing a document are to producing it for inspection.
- (8) The voter, on receiving the ballot paper, shall forthwith proceed into one of the compartments in the polling station and there shall—
- (a) secretly record his vote by placing on the ballot paper “1” opposite the name of the candidate of his first choice and, if he wishes, by placing “2” opposite the name of his second choice, “3” opposite the name of the candidate of his third choice and so on in the order of his preference;
  - (b) fold the paper so that his vote is concealed;
  - (c) show to the presiding officer the back of the paper so as to disclose the official mark; and
  - (d) put the folded paper into the ballot box in the presence of the presiding officer.
- (9) The voter shall vote without undue delay, and shall leave the polling station as soon as he has put his ballot paper into the ballot box.

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<sup>(30)</sup> Section 13C was inserted by section 4 of the Electoral Fraud (Northern Ireland) Act 2002.

<sup>(31)</sup> 1988 c. 52.

<sup>(32)</sup> S.I. 1981/154 (N.I. 1).

### **Votes marked by presiding officer**

**38.**—(1) Subject to paragraph (2) below, the presiding officer, on the application of a voter—

- (a) who is incapacitated by blindness or other physical cause from voting in manner directed by these rules, or
- (b) who declares orally that he is unable to read,

shall, in the presence of the polling agents, cause the voter's ballot paper to be marked in manner directed by the voter, and the ballot paper to be placed in the ballot box.

(2) Paragraphs (2) to (7) of rule 37 shall apply in the case of a voter who applies under paragraph (1) above as they apply in the case of a voter who applies under rule 37(1), but reading references to delivering a ballot paper to a voter as references to causing a voter's ballot paper to be marked.

(3) The name and number on the register of electors of every voter whose ballot paper is marked in pursuance of this rule, and the reason why it is so marked, shall be entered on a list (in these rules called "the list of ballot papers marked by the presiding officer").

In the case of a person voting as proxy for an elector, the number to be entered together with the voter's name shall be the elector's number.

### **Voting by persons with disabilities**

**39.**—(1) If a voter makes an application to the presiding officer to be allowed, on the ground of—

- (a) blindness or other physical incapacity, or
- (b) inability to read,

to vote with the assistance of another person by whom he is accompanied (in these rules referred to as "the companion"), the presiding officer shall require the voter to declare, orally or in writing, whether he is so incapacitated by his blindness or other incapacity, or by his inability to read, as to be unable to vote without assistance.

(2) Subject to paragraph (3) below, if the presiding officer—

- (a) is satisfied that the voter is so incapacitated, and
- (b) is also satisfied by a written declaration made by the companion (in these rules referred to as "the declaration made by the companion of a voter with disabilities") that the companion—
  - (i) is a qualified person within the meaning of this rule, and
  - (ii) has not previously assisted more than one voter with disabilities to vote at the election,

the presiding officer shall grant the application, and then anything which is by these rules required to be done to or by that voter in connection with the giving of his vote may be done to, or with the assistance of, the companion.

(3) Paragraphs (2) to (7) of rule 37 shall apply in the case of a voter who applies under paragraph (1) above as they apply in the case of a voter who applies under rule 37(1), but reading references to delivering a ballot paper to a voter as references to granting a voter's application.

(4) For the purposes of these rules, a person is a voter with disabilities if he has made such a declaration as is mentioned in paragraph (1), and a person shall be qualified to assist a voter with disabilities to vote if that person—

- (a) is a person who is entitled to vote as an elector at the election; or
- (b) is the father, mother, brother, sister, husband, wife, son or daughter of the voter and has attained the age of 18 years.

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(5) The name and number in the register of electors of every voter whose vote is given in accordance with this rule and the name and address of the companion shall be entered on a list (in these rules referred to as “the list of voters with disabilities assisted by companions”).

In the case of a person voting as proxy for an elector, the number to be entered together with the voter’s name shall be the elector’s number.

- (6) The declaration made by the companion—
  - (a) shall be in the form in the Appendix; and
  - (b) shall be made before the presiding officer at the time when the voter applies to vote with the assistance of a companion and shall forthwith be given to the presiding officer who shall attest and retain it.
- (7) No fee or other payment shall be charged in respect of the declaration.

### **Tendered ballot papers**

- 40.**—(1) If a person, representing himself to be—
- (a) a particular elector named on the register and not named in the absent voters list, or
  - (b) a particular person named in the list of proxies as proxy for an elector and not entitled to vote by post as proxy,

applies for a ballot paper after another person has voted in person either as the elector or his proxy, the applicant 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) Paragraphs (2) to (7) of rule 37 shall apply in the case of a person who seeks to mark a tendered ballot paper under paragraph (1) above as they apply in the case of a voter who applies for a ballot paper under rule 37(1).

- (3) Paragraph (4) below applies where
  - (a) under paragraph (3) of rule 35 a ballot paper is not delivered to a person following his unsatisfactory answer to the question in paragraph (2) of that rule; or
  - (b) a presiding officer refuses to deliver a ballot paper to a person under paragraph (4) of rule 37 (including that paragraph as applied by rule 38 or 39 or this rule).

(4) The person shall, on satisfactorily answering the questions permitted by law to be asked at the poll, nevertheless 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.

- (5) A tendered ballot paper shall—
  - (a) be of a colour differing from the other ballot papers;
  - (b) instead of being put into the ballot box, be given to the presiding officer and endorsed by him with the name of the voter and his number in the register of electors, and set aside in a separate packet.

(6) The name of the voter and his number on the register of electors shall be entered on a list (in these rules referred to as the “tendered votes list”).

(7) In the case of a person voting as proxy for an elector, the number to be endorsed or entered together with the voter’s name shall be the number of that elector.

(8) A person who marks a tendered ballot paper under paragraph (4) above shall sign the paper, unless it was marked after an application was refused under rule 38 or 39.

(9) A paper which is required to be signed under paragraph (8) above and is not so signed shall be void.

### **Refusal to deliver ballot paper**

41.—(1) This rule applies where a presiding officer refuses to deliver a ballot paper under paragraph (4) of rule 37 (including that paragraph as applied by rule 38, 39 or 40).

(2) The refusal shall be subject to review on an election petition but, subject to that, shall be final and shall not be questioned in any proceedings whatsoever.

### **Spoilt ballot papers**

42. A voter who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper may, on delivering it to the presiding officer and proving to his satisfaction the fact of the inadvertence, obtain another ballot paper in the place of the ballot paper so delivered (in these rules referred to as “a spoilt ballot paper”), and the spoilt ballot paper shall be immediately cancelled.

### **Adjournment of poll in case of riot**

43.—(1) Where the proceedings at any polling station are interrupted or obstructed by riot or open violence, the presiding officer shall adjourn the proceedings till the following day and shall forthwith give notice to the local returning officer.

(2) Where the poll is adjourned at any polling station—

- (a) the hours of polling on the day to which it is adjourned shall be the same as for the original day; and
- (b) references in these Regulations to the close of the poll shall be construed accordingly.

### **Procedure on close of poll**

44.—(1) As soon as practicable after the close of the poll, the presiding officer shall, in the presence of the polling agents, make up into separate packets, sealed with his own seal and the seals of such polling agents as desire to affix their seals—

- (a) each ballot box in use at the station, sealed so as to prevent the introduction of additional ballot papers and unopened, but with the key attached,
- (b) the unused and spoilt ballot papers placed together,
- (c) the tendered ballot papers,
- (d) the marked copies of the register of electors and of the list of proxies,
- (e) the counterfoils of the used ballot papers and the certificates as to employment on duty on the day of the poll,
- (f) the tendered votes list, the list of voters with disabilities assisted by companions, the list of votes marked by the presiding officer, a statement of the number of voters whose votes are so marked by the presiding officer under the heads “physical incapacity” and “unable to read”, and the declarations made by the companions of voters with disabilities,

and shall deliver the packets or cause them to be delivered to the verifying officer to be taken charge of by him; but if the packets are not delivered by the presiding officer personally to the verifying officer, the arrangements for their delivery shall require the verifying officer’s approval.

(2) The marked copies of the register of electors and of the list of proxies shall be in one packet but shall not be in the same packet as the counterfoils of the used ballot papers and the certificates as to employment on duty on the day of the poll.

(3) The packets shall be accompanied by a statement (in these rules referred to as “the ballot paper account”) made by the presiding officer showing the number of ballot papers entrusted to him,

and accounting for them under the heads of ballot papers issued and not otherwise accounted for, unused, spoiled and tendered ballot papers.

#### **Attendance at verification of ballot paper accounts**

**45.**—(1) The verifying officer shall make arrangements for the verification of the ballot paper accounts in the presence of the counting agents as soon as practicable after the close of the poll, and shall give to the counting agents notice in writing of the time and place at which he will begin such verification.

(2) No person other than—

- (a) the returning officer, the verifying officer and his clerks,
- (b) the candidates and their spouses,
- (c) the election agents,
- (d) the counting agents, and
- (e) representatives of the Electoral Commission,

may attend the verification of the ballot paper accounts, unless permitted by the verifying officer to attend; and that officer shall not permit a person to attend unless he is satisfied that the efficient verification of the ballot paper accounts will not be impeded.

(3) The verifying officer shall give the counting agents all such reasonable facilities for observing the proceedings, and all such information with respect to them, as he can give them consistent with the orderly conduct of the proceedings and the discharge of his duties in connection with them.

#### **Procedure at verification of ballot paper accounts**

**46.**—(1) The verifying officer shall in the presence of the counting agents—

- (a) open each ballot box and count and record the number of ballot papers in it and verify each ballot paper account; and
- (b) count such of the postal ballot papers as have been duly returned and record the number counted.

(2) A postal ballot paper shall not be deemed to be duly returned unless—

- (a) it is returned in the proper envelope so as to reach the returning officer before the close of the poll and is accompanied by the declaration of identity duly signed and authenticated; and
- (b) in the case of an elector, that declaration of identity states the date of birth of the elector and the returning officer is satisfied that the date stated corresponds with the date supplied as the date of the elector's birth pursuant to section 10(4A)(b), 10A(1A)(b) or 13A(2A)(b) of the 1983 Act.

(3) In the case of an elector, unless section 10(4B), 10A(1B) or 13A(2B) of the 1983 Act applies, the declaration of identity referred to in paragraph (3) shall be taken not to be duly signed unless the returning officer is satisfied that the signature on the declaration corresponds with the signature supplied as the elector's signature pursuant to section 10(4A)(a), 10A(1A)(a) or 13A(2A)(a) of the 1983 Act.

(4) The verifying officer shall not count any tendered ballot paper.

(5) The verifying officer, while counting and recording the number of ballot papers, shall keep the ballot papers with their faces downwards.

(6) The verifying officer shall verify each ballot paper account by comparing it with the number of ballot papers recorded by him, the unused and spoiled ballot papers in his possession and the tendered

votes list (opening and resealing the packets containing the unused and spoiled ballot papers and the tendered votes list) and shall draw up a statement as to the result of the verification, which any counting agent may copy.

(7) The verifying officer shall, subject to the directions of the returning officer, determine the hours during which the procedure under this rule is proceeded with.

(8) The verifying officer shall take proper precautions for the security of the ballot papers and documents.

(9) On completion of the procedure under this rule, the verifying officer shall, subject to the directions of the returning officer, make up into packets the ballot papers counted by him, seal them up in containers endorsing on each a description of the area to which the ballot papers relate, and, subject to paragraph (10) below, deliver or cause to be delivered the containers to the returning officer together with a list of them and of the contents of each container and a statement of his verification of the ballot paper accounts.

### **Attendance at counting of votes**

**47.**—(1) The returning officer shall make arrangements for counting the votes in the presence of the counting agents—

(a) in the case of a general election of MEPs, in sufficient time to comply with rule 51(2) before the material time,

(b) in the case of a by-election, as soon as practicable after the close of the poll,

and shall give to the counting agents notice in writing of the time and place at which he will begin to count the votes.

For the purposes of this paragraph “material time” means in relation to a general election of MEPs the close of polling in the Member State whose electors are the last to vote in the election.

(2) No person other than—

(a) the returning officer and his clerks,

(b) the candidates and their spouses,

(c) the election agents,

(d) the counting agents,

(e) representatives of the Electoral Commission,

may be present at the counting of the votes, unless permitted by the returning officer to attend.

(3) A person not entitled to attend at the counting of the votes shall not be permitted to do so by the returning officer unless he—

(a) is satisfied that the efficient counting of the votes will not be impeded; and

(b) has either consulted the election agents or thought it impracticable to do so.

(4) The returning officer shall give the counting agents all such reasonable facilities for overseeing the proceedings, and all such information with respect to them, as he can give them consistently with the orderly conduct of the proceedings and the discharge of his duties in connection with them.

### **Interpretation of rules 49 to 59**

**48.** In rules 49 to 59 below—

“continuing candidate” means any candidate not deemed to be elected and not excluded;

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“count” means all the operations involved in the counting of the first preferences recorded for candidates, the transfer of the surpluses of elected candidates, and the transfer of the votes of excluded candidates;

“deemed to be elected” means deemed to be elected for the purposes of the counting of votes but without prejudice to the declaration of the result of the poll;

“mark” means a figure, a word written in the English language or a mark such as “X”;

“non-transferable vote” means a ballot paper—

- (a) on which no second or subsequent preference is recorded for a continuing candidate, or
- (b) which is excluded by the returning officer under rule 55(4) below;

“preference” as used in the following contexts has the meaning assigned below—

- (a) “first preference” means the figure “1” or any mark or word which clearly indicates a first (or only) preference;
- (b) “next available preference” means a preference which is the second or, as the case may be, subsequent preference recorded in consecutive order for a continuing candidate (any candidate who is deemed to be elected or is excluded thereby being ignored), and
- (c) in this context, a “second preference” is shown by the figure “2” or any mark or word which clearly indicates a second preference, a third preference by the figure “3” or any mark or word which clearly indicates a third preference, and so on;

“quota” means the number calculated in accordance with rule 52 below;

“surplus” means the number of votes by which the total number of votes for any candidate (whether first preference or transferred votes, or a combination of both) exceeds the quota; but, references in these rules to the transfer of the surplus means the transfer (at a transfer value) of all transferable papers from the candidate who has the surplus;

“stage of the count” means—

- (a) the determination of the first preference vote for each candidate; or
- (b) the transfer of a surplus of a candidate deemed to be elected; or
- (c) the exclusion of one or more candidates at any given time;

“transferable paper” means a ballot paper on which, following a first preference, a second or subsequent preference is recorded in consecutive numerical order for a continuing candidate;

“transferred vote” means a vote derived from a ballot paper on which a second or subsequent preference is recorded for the candidate to whom that paper has been transferred;

“transfer value” means the value of a transferred vote calculated in accordance with paragraph (4) or (7) of rule 53 below.

### **Preliminary proceedings and conduct of the count**

**49.**—(1) Where the verifying officer has made the ballot papers into packets in accordance with rule 46(9) above, the returning officer shall open all such packets and mix together all the ballot papers received.

(2) The returning officer, while counting and recording the number of ballot papers and counting the votes, shall keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers printed on the back of the papers.

(3) The returning officer shall so far as practicable proceed continuously with counting the votes, allowing only time for refreshment, except that he may, in so far as he and the agents agree, exclude the hours between 7 in the evening and 9 on the following morning.



For the purposes of this exception the agreement of a candidate or his election agent shall be as effective as the agreement of his counting agents.

- (4) During the time so excluded the returning officer shall—
- (a) place the ballot papers and other documents relating to the election under his own seal and the seals of such of the counting agents as desire to affix their seals; and
  - (b) otherwise take proper precautions for the security of the papers and documents.

### **Rejected ballot papers**

- 50.**—(1) Any ballot paper—
- (a) which does not bear the official mark; or
  - (b) on which the figure “1” standing alone is not placed so as to indicate a first preference for any candidate; or
  - (c) on which the figure “1” standing alone indicating a first preference is set opposite the name of more than one candidate; or
  - (d) on which anything (other than the printed number on the back) is written or marked by which the voter can be identified; or
  - (e) which is unmarked or void for uncertainty,

shall be void and not counted, but the ballot paper shall not be void by reason only of carrying the words “one”, “two”, “three”, (and so on) or any other mark instead of a figure if, in the opinion of the returning officer, the word or mark clearly indicates a preference or preferences.

(2) The returning officer shall endorse “Rejected” on any ballot paper which under this rule is not to be counted and if an election agent objects to his decision shall add to the endorsement the words “rejection objected to”.

(3) The returning officer shall prepare a statement showing the number of ballot papers rejected by him under each of sub-paragraphs (a), (b), (c), (d) and (e) of paragraph (1) above and shall, on request, allow any candidate or agent to copy that statement.

(4) The decision of the returning officer on any question arising in respect of a ballot paper shall be final but shall be subject to review on an election petition.

### **First stage**

**51.**—(1) The returning officer shall sort the ballot papers into parcels according to the candidates for whom first preference votes are given.

(2) The returning officer shall then count the number of first preference votes given on ballot papers for each candidate and shall record those numbers.

(3) The returning officer shall also ascertain and record the number of valid ballot papers.

### **The quota**

**52.**—(1) The returning officer shall divide the number of valid ballot papers by a number exceeding by one the number of members to be elected.

(2) The result, increased by one, of the division under paragraph (1) above (any fraction being disregarded) shall be the number of votes sufficient to secure the election of a candidate (in these rules referred to as “the quota”).

(3) At any stage of the count a candidate whose total votes equals or exceeds the quota shall be deemed to be elected, except that at any election where there is only one vacancy a candidate shall

not be deemed to be elected until the procedure set out in paragraphs (1) to (3) of rule 55 below has been complied with.

### **Transfer of votes**

**53.**—(1) Where the number of first preference votes for any candidate exceeds the quota, the returning officer shall sort all the ballot papers on which first preference votes are given for that candidate into sub-parcels so that they are grouped—

- (a) according to the next available preference given on those papers for any continuing candidate, or
- (b) where no such preference is given, as the sub-parcel of non-transferable votes.

(2) The returning officer shall count the number of ballot papers in each parcel referred to in paragraph (1) above.

(3) The returning officer shall, in accordance with this rule and rule 54 below, transfer each sub-parcel of ballot papers referred to in paragraph (1)(a) above to the candidate for whom the next available preference is given on those papers.

(4) The vote on each ballot paper transferred under paragraph (3) above shall be at a value (“the transfer value”) which—

- (a) reduces the value of each vote transferred so that the total value of all such votes does not exceed the surplus; and
- (b) is calculated by dividing the surplus of the candidate from whom the votes are being transferred by the total number of the ballot papers on which those votes are given, the calculation being made to two decimal places (ignoring the remainder if any).

(5) Where at the end of any stage of the count involving the transfer of ballot papers, the number of votes for any candidate exceeds the quota, the returning officer shall sort the ballot papers in the sub-parcel of transferred votes which was last received by that candidate into separate sub-parcels so that they are grouped—

- (a) according to the next available preference given on those papers for any continuing candidate, or
- (b) where no such preference is given, as the sub-parcel of non-transferable votes.

(6) The returning officer shall, in accordance with this rule and rule 54 below, transfer each sub-parcel of ballot papers referred to in paragraph (5)(a) above to the candidate for whom the next available preference is given on those papers.

(7) The vote on each ballot paper transferred under paragraph (6) shall be at—

- (a) a transfer value calculated as set out in paragraph (4)(b) above, or
- (b) at the value at which that vote was received by the candidate from whom it is now being transferred, whichever is the less.

(8) Each transfer of a surplus constitutes a stage in the count.

(9) Subject to paragraph (10) below, the returning officer shall proceed to transfer transferable papers until no candidate who is deemed to be elected has a surplus or all the vacancies have been filled.

(10) Transferable papers shall not be liable to be transferred where any surplus or surpluses which, at a particular stage of the count, have not already been transferred, are—

- (a) less than the difference between the total vote then credited to the continuing candidate with the lowest recorded vote and the vote of the candidate with the next lowest recorded vote, or

- (b) less than the difference between the total votes of the two or more continuing candidates, credited at that stage of the count with the lowest recorded total numbers of votes and the candidate next above such candidates.
- (11) This rule shall not apply at an election where there is only one vacancy.

### **Supplementary provisions on transfer**

**54.**—(1) If, at any stage of the count, two or more candidates have surpluses, the transferable papers of the candidate with the highest surplus shall be transferred first, and if—

- (a) the surpluses determined in respect of two or more candidates are equal, the transferable papers of the candidate who had the highest recorded vote at the earliest preceding stage at which they had unequal votes, shall be transferred first, and
  - (b) the votes credited to two or more candidates were equal at all stages of the count, the returning officer shall decide between those candidates by lot and the transferable papers of the candidate on whom the lot falls shall be transferred first.
- (2) The returning officer shall, on each transfer of transferable papers under rule 53 above—
- (a) record the total value of the votes transferred to each candidate;
  - (b) add that value to the previous total of votes recorded for each candidate and record the new total;
  - (c) record as non-transferable votes the difference between the surplus and the total transfer value of the transferred votes and add that difference to the previously recorded total of non-transferable votes, and
  - (d) compare—
    - (i) the total number of votes then recorded for all of the candidates, together with the total number of non-transferable votes, with
    - (ii) the recorded total of valid first preference votes.

(3) All ballot papers transferred under rule 53 above or 55 below shall be clearly marked, either individually or as a sub-parcel, so as to indicate the transfer value recorded at that time to each vote on that paper or, as the case may be, all the papers in that sub-parcel.

(4) Where a ballot paper is so marked that it is unclear to the returning officer at any stage of the count under rule 51 or 53 above for which candidate the next preference is recorded, the returning officer shall treat any vote on that ballot paper as a non-transferable vote; and votes on a ballot paper shall be so treated where, for example, the names of two or more candidates (whether continuing candidates or not) are so marked that, in the opinion of the returning officer, the same order of preference is indicated or the numerical sequence is broken.

### **Exclusion of candidates**

**55.**—(1) If—

- (a) all transferable papers which under the provisions of rule 53 above (including that rule as applied by paragraph (11) below) and this rule are required to be transferred, have been transferred, and
- (b) subject to rule 56 below, one or more vacancies remain to be filled,

the returning officer shall exclude from the election at that stage the candidate with the then lowest vote (or, where paragraph (12) below applies, the candidates with the then lowest votes).

(2) The returning officer shall sort all the ballot papers on which first preference votes are given for the candidate or candidates excluded under paragraph (1) above into two sub-parcels so that they are grouped as—

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- (a) ballot papers on which a next available preference is given, and
  - (b) ballot papers on which no such preference is given (thereby including ballot papers on which preferences are given only for candidates who are deemed to be elected or are excluded).
- (3) The returning officer shall, in accordance with this rule and rule 54 above, transfer each sub-paragraph of ballot papers referred to in paragraph (2)(a) above to the candidate for whom the next available preference is given on those papers.
- (4) The exclusion of a candidate, or of two or more candidates together, constitutes a further stage of the count.
- (5) If, subject to rule 56 below, one or more vacancies still remain to be filled, the returning officer shall then sort the transferable papers, if any, which had been transferred to any candidate excluded under paragraph (1) above into sub-paragraphs according to their transfer value.
- (6) The returning officer shall transfer those papers in the sub-paragraph of transferable papers with the highest transfer value to the continuing candidates in accordance with the next available preferences given on those papers (thereby passing over candidates who are deemed to be elected or are excluded).
- (7) The vote on each transferable paper transferred under paragraph (6) above shall be at the value at which that vote was received by the candidate excluded under paragraph (1) above.
- (8) Any papers on which no next available preferences have been expressed shall be set aside as non-transferable votes.
- (9) After the returning officer has completed the transfer of the ballot papers in the sub-paragraph of ballot papers with the highest transfer value he shall proceed to transfer in the same way the sub-paragraph of ballot papers with the next highest value and so on until he has dealt with each sub-paragraph of a candidate excluded under paragraph (1) above.
- (10) The returning officer shall after each stage of the count completed under this rule—
- (a) record—
    - (i) the total value of votes, or
    - (ii) the total transfer value of votes, transferred to each candidate;
  - (b) add that total to the previous total of votes recorded for each candidate and record the new total;
  - (c) record the value of non-transferable votes and add that value to the previous non-transferable votes total; and
  - (d) compare—
    - (i) the total number of votes then recorded for each candidate together with the total number of non-transferable votes, with
    - (ii) the recorded total of valid first preference votes.
- (11) If after a transfer of votes under any provision of this rule, a candidate has a surplus, that surplus shall be dealt with in accordance with paragraphs (5) to (10) of rule 53 and rule 54.
- (12) Where the total of the votes of the two or more lowest candidates, together with any surpluses not transferred, is less than the number of votes credited to the next lowest candidate, the returning officer shall in one operation exclude such two or more candidates.
- (13) If, when a candidate has to be excluded under this rule, two or more candidates each have the same number of votes and are lowest—

- (a) regard shall be had to the total number of votes credited to those candidates at the earliest stage of the count at which they had an unequal number of votes and the candidate with the lowest number of votes at that stage shall be excluded; and
- (b) where the number of votes credited to those candidates was equal at all stages, the returning officer shall decide between the candidates by lot and the candidate on whom the lot falls shall be excluded.

### **Filling of last vacancies**

**56.**—(1) Where the number of continuing candidates is equal to the number of vacancies remaining unfilled the continuing candidates shall thereupon be deemed to be elected.

(2) Where only one vacancy remains unfilled and the votes of any one continuing candidate are equal to or greater than the total of votes credited to other continuing candidates together with any surplus not transferred, the candidate shall thereupon be deemed to be elected.

(3) Where the last vacancies can be filled under this rule, no further transfer of votes shall be made.

### **Re-count**

**57.**—(1) The returning officer on completion of each stage of the count shall, before proceeding with the next stage, inform all the candidates and their election agents then present of his intention, subject to a request for a re-count, to proceed to the next stage.

(2) The returning officer shall comply with a request from a candidate or his election agent for a re-count of the last completed stage made before the returning officer proceeds to the next stage, but nothing in this rule shall require the returning officer to re-count the same parcel or sub-parcel more than once.

(3) The returning officer may, if he thinks fit, re-count ballot papers either once or more often.

(4) Where as a result of a re-count an error is discovered, the returning officer shall, where necessary, amend any results previously announced by him.

### **Order of election of candidates**

**58.**—(1) The order in which candidates whose votes equal or exceed the quota are deemed to be elected shall be the order in which their respective surpluses were transferred, or would have been transferred but for rule 53(10) above.

(2) A candidate credited with a number of votes equal to, and not greater than, the quota shall, for the purposes of this rule, be regarded as having had the smallest surplus at the stage of the count at which he obtained the quota.

(3) Where the surpluses of two or more candidates are equal and are not required to be transferred, regard shall be had to the total number of votes credited to such candidates at the earliest stage of the count at which they had an unequal number of votes and the surplus of the candidate who had the greatest number of votes at that stage shall be deemed to be the largest.

(4) Where the number of votes credited to two or more candidates were equal at all stages of the count, the returning officer shall decide between them by lot and the candidate on whom the lot falls shall be deemed to have been elected first.

### **Decisions of returning officer**

**59.** The decision of the returning officer, whether expressed or implied, on any question which arises in relation to the exclusion of any candidate under rule 55 or to any ballot paper or transfer of votes shall be final, but may be reviewed on an election petition.

## **PART IV**

### *Final Proceedings*

### **Declaration of result**

**60.**—(1) In a contested election, when the result of the poll has been ascertained, the returning officer shall forthwith—

- (a) declare to be elected the candidates who are deemed to be elected under rules 49 to 59 above ;
- (b) notify their names to the Secretary of State;
- (c) give public notice of—
  - (i) the names of those candidates;
  - (ii) the number of first preference votes for each candidate whether elected or not;
  - (iii) any transfer of votes;
  - (iv) the total number of votes for each candidate at each stage of the count at which such transfer took place; and
  - (v) the order in which the successful candidates were elected.

(2) In the case of an uncontested election, the statement of candidates nominated, in addition to showing the person or persons standing nominated, shall also declare that person or persons to be elected; and the returning officer shall forthwith notify his or their names to the Secretary of State.

### **Return or forfeiture of candidate's deposit**

**61.**—(1) The deposit made under rule 9 of these rules shall either be returned to the person making it or his personal representatives or be forfeited to Her Majesty.

(2) Except in the cases mentioned below in this rule, the deposit shall be returned not later than the next day after that on which the result of the election is declared.

(3) For the purposes of paragraph (2)—

- (a) a day shall be disregarded if it would be disregarded under rule 2 in computing any period of time for the purposes of the timetable for an election of the kind in question; and
- (b) the deposit shall be treated as being returned on a day if a cheque for the amount of the deposit is posted on that day.

(4) Where—

- (a) a candidate is not shown as standing nominated in the statement of candidates nominated,  
or
- (b) the candidate has died,

the deposit shall be returned as soon as practicable after the publication of that statement or the time when the returning officer is satisfied of the candidate's death, as the case may be.

(5) Subject to paragraph (4) the deposit shall be forfeited if a poll is taken and, if the number of votes credited to the candidate at any stage of the counting of the votes does not exceed one quarter of the quota.

## PART V

### *Disposal of Documents*

#### **Sealing up of ballot papers**

**62.**—(1) On the completion of the counting at a contested election the returning officer shall seal up in separate packets the counted and rejected ballot papers.

(2) The returning officer shall not open the sealed packets of tendered ballot papers or of counterfoils and certificates as to employment on duty on the day of the poll.

#### **Retention of documents by the returning officer**

**63.** The returning officer shall then retain the following documents—

- (a) the packets of ballot papers in his possession,
- (b) the ballot paper accounts and the statements of rejected ballot papers and of the result of the verification of the ballot paper accounts,
- (c) the tendered votes lists, the lists of voters with disabilities assisted by companions, the lists of votes marked by the presiding officer and the related statements, and the declarations made by the companions of voters with disabilities,
- (d) the packets of counterfoils and certificates as to employment on duty on the day of the poll,
- (e) the packets containing marked copies of registers and of lists of proxies,

endorsing on each packet a description of its contents.

#### **Orders for production of documents**

**64.**—(1) An order—

- (a) for the inspection or production of any rejected ballot papers in the custody of the returning officer, or
- (b) for the opening of a sealed packet of counterfoils and certificates as to employment on duty on the day of the poll or the inspection of any counted ballot papers in his custody,

may be made, if satisfied by evidence on oath that the order is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of an European Parliamentary election petition, by the High Court or a county court.

(2) An order for the opening of a sealed packet of counterfoils and certificates or for the inspection of any counted ballot papers in the returning officer's custody may be made by an election court.

(3) An order under this rule may be made subject to such conditions as to—

- (a) persons,
- (b) time,
- (c) place and mode of inspection,
- (d) production or opening,

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as the court making the order may think expedient; but in making and carrying into effect an order for the opening of a packet of counterfoils and certificates or for the inspection of counted ballot papers, care shall be taken that the way in which the vote of any particular elector has been given shall not be disclosed until it has been proved—

- (i) that his vote was given; and
- (ii) that the vote has been declared by a competent court to be invalid.
- (4) An appeal lies to the High Court from any order of a county court under this rule.
- (5) Any power given under this rule—
  - (a) to the High Court may be exercised by any judge of the court otherwise than in open court; and
  - (b) to a county court, may be exercised in such manner as may be provided by rules of court.
- (6) Where an order is made for the production by the returning officer of any document in his possession relating to any specified election—
  - (a) the production by him or his agent of the document ordered in such manner as may be directed by that order shall be conclusive evidence that the document relates to the specified election; and
  - (b) any endorsement on any packet of ballot papers so produced shall be prima facie evidence that the ballot papers are what they are stated to be by the endorsement.
- (7) The production from proper custody of a ballot paper purporting to have been used at any election, and of a counterfoil marked with the same printed number and having a number marked on it in writing, shall be prima facie evidence that the elector whose vote was given by that ballot paper was the person who at the time of the election had affixed to his name in the register of electors the same number as the number written on the counterfoil.
- (8) Save as by this rule provided, no person shall be allowed to inspect any rejected or counted ballot papers in the possession of the returning officer or to open any sealed packets of counterfoils and certificates.

#### **Retention and public inspection of documents**

**65.**—(1) The returning officer shall retain for a year all documents to which rule 63 applies, and then, unless otherwise directed by order of the High Court, shall cause them to be destroyed.

(2) Those documents, except ballot papers, counterfoils and certificates as to employment on duty on the day of the poll, shall be open to public inspection at such time and subject to such conditions as may be prescribed by the returning officer.

(3) The returning officer shall, on request, supply copies of or extracts from the documents open to public inspection on payment of such fees and subject to such conditions as may be sanctioned by the Secretary of State.

## **PART VI**

### **Death of a Candidate**

#### **Countermand or abandonment of poll on death of candidate**

**66.**—(1) 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 as candidate in the ballot papers has died, then the returning officer shall countermand notice of the poll or, if polling has begun, direct that the poll be abandoned, and all proceedings with reference to the election shall



be commenced afresh in all respects as if the day appointed by order under section 4 of the 2002 Act was the first Thursday after the expiry of 45 days after the day on which proof was given to the returning officer of the death except that no fresh nomination shall be necessary in the case of a person shown in the statement of persons nominated as standing nominated; and the period of 45 days shall be calculated in accordance with rule 2.

(2) Where the poll is abandoned by reason of a candidate's death the proceedings at or consequent on that poll shall be interrupted, and the presiding officer at any polling station shall 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 poll in due course to the verifying officer, and the returning officer shall dispose of ballot papers and other documents in his possession as he is required to do on the completion in due course of the counting of the votes, but—






- (a) it shall not be necessary for any ballot paper accounts to be prepared or verified; and
- (b) the returning officer, without taking any step or further step for the counting of the ballot papers or of the votes shall seal up all the ballot papers, whether the votes on them have been counted or not, and it shall not be necessary to seal up counted and rejected ballot papers in separate packets.

(3) 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 to any such documents relating to a poll abandoned by reason of a candidate's death, with the following modifications—

- (a) ballot papers on which the votes were neither counted nor rejected shall be treated as counted ballot papers; and
- (b) no order shall be made for the production or inspection of any ballot papers or for the opening of a sealed packet of counterfoils or certificates as to employment on duty on the day of the poll unless the order is made by a court with reference to a prosecution.

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APPENDIX OF FORMS  
Form of front of ballot paper

Counter-foil No.	Mark order of preference in space below	
<p><i>The counterfoil is to have a number to correspond with that on the back of the ballot paper</i></p>		 <p><b>BLACK</b> (Joseph Black of 5 Down Street, Bangor, Co. Down. Democratic Unionist Party)</p>
		<p><b>BROWN</b> (RUPERT BROWN of 9 Mourne View, Donaghadee, Co. Down. Independent)</p>
		 <p><b>BROWN</b> (VERONICA BROWN of 8 Magilligan Drive, Portaferry, Co. Down. SDLP (Social Democratic and Labour Party))</p>
		 <p><b>GOLD</b> (John Gold of 29 Gilford Place, Millisle, Co. Down. Sinn Féin)</p>
		<p><b>HAZEL</b> (Horace Hazel of Glen Cottage, Banbridge, Co. Down. Independent)</p>
		 <p><b>LIME</b> (Harry Lime of 7 Gortin Mansions, Dromara, Co. Down. Ulster Unionist Party)</p>
		<p><b>PLUM</b> (Peter Plum of 3 Strangford Road, Killinchy, Co. Down. Independent)</p>
		 <p><b>ROSE</b> (Ruth Rose of 41 Devenish Drive, Ballynahinch, Co. Down. United Kingdom Unionist Party)</p>
		<p><b>SILVER</b> (Anthony Silver of 3 Mourne View, Bangor, Co. Down. Independent)</p>
		<p><b>WRIGHT</b> (Frank Wright of 11 Moira Terrace, Newry, Co. Down. Independent)</p>

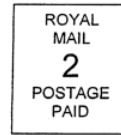
**Directions as to printing the ballot paper**

1. Nothing is to be printed on the ballot paper except in accordance with these directions.
2. The following arrangements shall be observed in the printing of the front of the ballot paper—

- (a) apart from the instructions “Mark order of preference in space below” in the top left-hand corner no other word or words shall be printed on the ballot paper except the particulars of the candidates and words forming part of the emblems;
  - (b) no rules shall be printed on the face except the horizontal lines separating the headings from the particulars of the candidates and the particulars of the candidates from one another and the vertical rule separating those particulars and emblems from the spaces on the left hand side of the paper where the order of preference is to be marked;
  - (c) the whole space between the top and bottom of the paper shall be equally divided between the candidates by the rules separating their particulars.
  - (a) (a) The front of the ballot paper shall contain the names, addresses and descriptions, if any, of the candidates standing nominated. The names shall be arranged alphabetically in the order of surnames, or if there are two or more candidates bearing the same surname, in alphabetical order of their other names, or if the names are the same, in the alphabetical order of their home addresses or descriptions;
  - (b) the surname of each candidate shall be printed by itself in large capitals, and his full name, address and description (as given on the statement of persons nominated) shall be printed underneath in ordinary type;
  - (c) where the surnames of two or more candidates are the same there shall be printed in small capitals the other names of such candidates and if those are the same so much of the descriptions or home addresses of such candidates as will enable the electors to distinguish between them;
  - (d) the list of candidates shall be arranged either in one continuous column or in two or more columns in such manner (without departing from the alphabetical order) as, in the opinion of the returning officer, is best for marking and counting;
  - (e) the ballot papers shall be numbered consecutively on the back and the front of the counterfoil attached to each ballot paper shall bear the same number. The numbers on ballot papers shall be printed in the smallest type compatible with legibility and shall be printed on or about the centre of the paper.
4. Where an emblem is to be printed against a candidate’s particulars—
- (a) it shall be printed between the candidate’s particulars and the vertical rule separating the candidate’s particulars from the spaces where the vote is to be marked, and
  - (b) its size as printed shall not exceed two centimetres square.

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**EUROPEAN PARLIAMENTARY ELECTION  
NORTHERN IRELAND ELECTORAL REGION  
OFFICIAL POLL CARD**



Parliamentary Constituency of:  
  
Polling Day:  
  
Your polling station will be:  
  
  
Polling hours: 7a.m. to 10p.m.

**Number on Register**  
  
**Name**  
  
**Address**

**\* IMPORTANT – PLEASE READ NOTES ON BACK OF THIS CARD \***

This card is for information only. You can vote without it, but it will save time if you take it to the polling station and show it to the clerk there.

**THE LAW PREVENTS YOU BEING GIVEN A BALLOT PAPER UNLESS YOU PRODUCE ONE OF THE FOLLOWING PHOTOGRAPHIC IDENTIFICATION DOCUMENTS:-**

- A **current** passport issued by the United Kingdom or any other Member state of the European Community;
- A **current** Northern Ireland or Great Britain full driving licence, or a Northern Ireland provisional licence, all of which must bear the photograph of the holder;
- A **current** Senior SmartPass issued under the Northern Ireland Concessionary Fares Scheme;
- A **current** Electoral Identity Card.

When you go to the polling station, tell the clerk your name and address, as shown on the front of the card. The presiding officer will give you a ballot paper: see that he stamps the official mark on it before he gives it to you.

Go to one of the compartments. Number the candidates in order of your preference, putting "1" against the candidate of your 1<sup>st</sup> preference, "2" against your 2<sup>nd</sup> preference and so on. You should not put the same preference against more than one candidate. You may show your preference for as many or as few candidates as you wish. Put no other mark on the ballot paper or your vote may not be counted.

**ISSUED BY THE RETURNING OFFICER**

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**EUROPEAN PARLIAMENTARY ELECTION  
NORTHERN IRELAND ELECTORAL REGION**

ROYAL  
MAIL  
**2**  
POSTAGE  
PAID

**PROXY'S OFFICIAL POLL CARD**

**POLLING HOURS: 7A.M. TO 10P.M.**

**PARLIAMENTARY CONSTITUENCY:**

**POLLING DAY:**

**TO BE DELIVERED TO:**

**INSTRUCTIONS:** To vote as proxy you must go to the above polling station. Tell the clerk that you wish to vote as proxy; give the name and qualifying address of the elector. The presiding officer will give you the elector's ballot paper. The method of voting as proxy is the same as for casting your own vote. It is an offence to vote as proxy for some other person if you know that that person is subject to a legal incapacity to vote, e.g. if that person has been convicted and is detained in a penal institution in pursuance of his/her sentence. It is also an offence to vote at this election for more than two persons of whom you are not the husband, wife, parent, grandparent, brother, sister, child or grandchild. The person who appointed you as proxy may himself/herself vote in person at this election if he/she is able, and wishes, to do so and if he/she votes before you.

**IMPORTANT: YOU MUST IDENTIFY YOURSELF BY ONE OF THE PHOTOGRAPHIC DOCUMENTS SET OUT ON THE BACK OF THIS CARD**

**THE LAW PREVENTS YOU BEING GIVEN A BALLOT PAPER UNLESS YOU PRODUCE ONE OF THE FOLLOWING PHOTOGRAPHIC DOCUMENTS:-**

- (a) a current** Passport issued by the United Kingdom or any other Member State of the European Community;
- (b) a current** Northern Ireland or Great Britain full driving licence or a Northern Ireland provisional licence, all of which must bear the photograph of the holder;
- (c) a current** Senior SmartPass issued under the Northern Ireland Concessionary Fares Scheme;
- (d) a current** Electoral Identity Card.

Issued by the Returning Officer

**EUROPEAN PARLIAMENTARY ELECTION**

**ELECTORAL REGION OF NORTHERN IRELAND**

# **GUIDANCE FOR VOTERS**

1. When you are given a ballot paper make sure it is stamped with the official mark.
2. Go to one of the compartments. Number the candidates in order of preference, putting "1" against the candidate of your 1<sup>st</sup> preference, "2" against your 2<sup>nd</sup> preference and so on. You should not put the same preference against more than one candidate. You may show your preference for as many or as few candidates as you wish. Put no other mark on the ballot paper, or your vote may not be counted.
3. Fold the ballot paper in two. Show the official mark to the Presiding Officer, but do not let anyone see your vote. Put the ballot paper in the ballot box and leave the Polling Station.
4. If by mistake you spoil a ballot paper, show it to the Presiding Officer and ask for another one.

**EUROPEAN PARLIAMENTARY ELECTION**  
**ELECTORAL REGION OF NORTHERN IRELAND**  
**10 JUNE 2004**

**CERTIFICATE OF EMPLOYMENT**

CONSTITUENCY \_\_\_\_\_

I certify that (name) \_\_\_\_\_  
who is numbered \_\_\_\_\_  
in the register of electors for the constituency named above, cannot reasonably be expected to go in person to the polling station allotted to him or her at the Election on \_\_\_\_\_ by reason of the particular circumstances of his or her employment on that date, for a purpose connected with the election,

\*(a) as a constable,  
\*(b) by me.

Signature \_\_\_\_\_  
\*Deputy Returning Officer/Police Officer (Chief Inspector or above)

Date \_\_\_\_\_

\* Delete whichever is inapplicable

**Note:- The person named above is entitled to vote at any polling station in the Northern Ireland Electoral Region on production and surrender of this certificate to the Presiding Officer.**

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**Declaration to be made by the Companion of a Voter with Disabilities**

**European Parliamentary Election in the Electoral Region of Northern Ireland**

Parliamentary Constituency of \_\_\_\_\_

I, \_\_\_\_\_

of \_\_\_\_\_

have been requested to assist \_\_\_\_\_

(in the case of a voter with disabilities voting as proxy add

voting as proxy for \_\_\_\_\_)

whose number in the register is \_\_\_\_\_

to record his vote at the election now being held in this constituency, hereby declare that

(Please tick appropriate box)

I am entitled to vote as an elector at the said election

\*State the relationship of the companion to the voter

I am the \* \_\_\_\_\_

of the said voter and have attained the age of eighteen years and that I have not previously assisted any voter with disabilities

except \_\_\_\_\_

of \_\_\_\_\_

to vote at the said election.

Signed \_\_\_\_\_

\_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

I, the undersigned, being the Presiding Officer for Polling Station \_\_\_\_\_

at \_\_\_\_\_ Polling Place

for the \_\_\_\_\_ Constituency

hereby certify that the above declaration, having been first read to the above-named declarant, was signed by the declarant in my presence.

Signed \_\_\_\_\_

Presiding Officer at the said Polling Station.

\_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

at \_\_\_\_\_ minutes past \_\_\_\_\_ o'clock (a.m.)(p.m.)

**NOTES**

1. IF THE PERSON MAKING THE ABOVE DECLARATION KNOWINGLY AND WILFULLY MAKES THEREIN A STATEMENT FALSE IN A MATERIAL PARTICULAR, HE WILL BE GUILTY OF AN OFFENCE.

2. A VOTER WITH DISABILITIES IS A VOTER WHO HAS MADE A DECLARATION UNDER THE PARLIAMENTARY ELECTION RULES THAT HE IS SO INCAPACITATED BY HIS BLINDNESS OR OTHER INCAPACITY, OR BY HIS INABILITY TO READ, AS TO BE UNABLE TO VOTE WITHOUT ASSISTANCE.



## SCHEDULE 2

Regulation 13

### ABSENT VOTERS

#### PART I

##### *Applications*

#### **Interpretation of Part I**

1. In this Part of this Schedule—

“allotted polling station” has the meaning set out in paragraph 4(7) ; and

“related” has the meaning set out in paragraph 5(5).

#### **General requirements for applications for an absent vote**

2.—(1) An application under regulation 8, 9, 10 or 11 must comply with the requirements of this paragraph and such further requirements in this Schedule as are relevant to the application.

(2) The application must state, in addition to the matters required by regulation 8(1)(c) to (e) or regulation 9(1)(c) to (e) in the case of an application under regulation 8(1) or 9(1)—

(a) the full name of the applicant;

(b) the address in respect of which the applicant is or will be registered in the register except in the case of an application under regulation 11;

(c) in the case of such an application, the proxy’s address, together with the name of the elector for whom he will act as proxy and the elector’s address for the purposes of sub-paragraph (b) above; and

(d) in the case of an application under regulation 8(1), 9(1) or 11(4) or (7), the grounds on which the elector claims to be entitled to an absent vote.

(3) The application shall be made in writing and be signed and dated by the applicant.

(4) Where an application is made to vote by proxy, it shall include an application for the appointment of a proxy which meets the requirements of paragraph 3.

#### **Additional requirements for applications for the appointment of a proxy**

3. An application for the appointment of a proxy under regulation 10(6) or (7) shall state the full name and address of the person whom the applicant wishes to appoint as his proxy, together with his family relationship, if any, with the applicant, and—

(a) if it is signed only by the applicant, shall contain a statement by him that he has consulted the person so named and that that person is capable of being and willing to be appointed to vote as his proxy, or

(b) if it is also signed by the person to be appointed, shall contain a statement by that person that he is capable of being and willing to be appointed to vote as the applicant’s proxy.

#### **Additional requirements for applications on grounds of physical incapacity or blindness**

4.—(1) An application under regulation 8(4)(b) shall specify the physical incapacity by reason of which it is made.

(2) Subject to sub-paragraph (3) below, such an application shall be attested and signed by—

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- (a) a registered medical practitioner;
  - (b) a registered nurse within the meaning of section 7(7) of the Nurses, Midwives and Health Visitors Act 1997<sup>(33)</sup>;
  - (c) a Christian Science practitioner;
  - (d) the person registered under the Registered Homes (Northern Ireland) Order 1992<sup>(34)</sup> as carrying on a residential care home within the meaning of article 3 of that Order or a nursing home within the meaning of article 16 of that Order, where the applicant states that he is resident in such a home;
  - (e) the person in charge of residential accommodation provided under article 15 of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(35)</sup>, where the applicant states that he is resident in such accommodation; or
  - (f) the warden of premises forming one of a group of premises provided for persons of pensionable age or physically disabled persons for which there is a resident warden, where the applicant states that he resides in such premises.
- (3) A person who qualifies by virtue of paragraph (a), (b) or (c) of sub-paragraph (2) above, may not attest an application for this purpose unless he is treating the applicant for the physical incapacity specified in the application or the applicant is receiving care from him in respect of that incapacity.
- (4) The person attesting the application shall state—
- (a) his name and address and the qualification by virtue of which he attests the application, and, where the person who attests the application is a person referred to in sub-paragraph (3) above, that he is treating the applicant for the physical incapacity specified in the application or the applicant is receiving care from him in respect of that incapacity;
  - (b) that, to the best of his knowledge and belief, the applicant is suffering from the physical incapacity specified in the application and that he cannot reasonably be expected to go in person to his allotted polling station or to vote unaided there by reason of that incapacity; and
  - (c) that, to the best of his knowledge and belief, the physical incapacity specified in the application is likely to continue either indefinitely or for a period specified by the person attesting the application.
- (5) Sub-paragraphs (2) to (4) above shall not apply where—
- (a) the application is based on the applicant's blindness and the applicant is registered as a blind person by a Health and Social Services Board which is specified in the application; or
  - (b) the application states that the applicant is in receipt of the higher rate of the mobility component of a disability living allowance (payable under section 73 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>(36)</sup>) because of the physical incapacity specified in the application.
- (6) The fact that an applicant is registered with a Health and Social Services Board as a blind person shall be deemed sufficient evidence that he is eligible for an absent vote on the grounds set out in regulation 8(4)(b).
- (7) In this paragraph and in paragraphs 5 and 6 below, "his allotted polling station", in relation to an elector means the polling station allotted or likely to be allotted to him under the European Parliamentary elections rules.

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<sup>(33)</sup> 1997 c. 24.

<sup>(34)</sup> S.I. 1992/3204 (N.I. 20).

<sup>(35)</sup> S.I. 1972/1265 (N.I. 14).

<sup>(36)</sup> 1992 c. 7.

**Additional requirements for applications based on occupation, service, employment or attendance on a course**

- 5.—(1) An application under regulation 8(4)(c) shall state—
- (a) whether the occupation, service or employment in respect of which it is made is that of the applicant or his spouse or, as the case may be, it is the applicant or his spouse who is attending the course provided by an educational institution in respect of which the application is made;
  - (b) the nature of the occupation, service or employment or course provided by an educational institution giving rise to the application;
  - (c) where the person in respect of whose occupation, service or employment it is made (in this paragraph referred to as “the employed person”) is self employed, that fact; and in any other case the name of that person’s employer;
  - (d) the reason, relevant to the general nature of the employment, service or occupation in question or the course provided by an educational institution, why the applicant cannot reasonably be expected to go in person to his allotted polling station.
- (2) Such an application shall be attested and signed—
- (a) where the person is self-employed, by a person who—
    - (i) is aged 18 years or over;
    - (ii) knows the self-employed person; and
    - (iii) is not related to him;
  - (b) by the employer of the employed person or by another employee to whom this function is delegated by the employer; and
  - (c) in the case of a course provided by an educational institution, by the director or tutor of that course or by the principal or head of that institution or an employee to whom this function is delegated by the head or principal.
- (3) The person attesting an application made under sub-paragraph (2) above shall—
- (a) where the applicant is the employed person or the person attending the course, certify that the statements required by paragraphs (a) to (d) of sub-paragraph (1) above to be included in the application are true; or
  - (b) where the applicant is the spouse of the employed person or the person attending the course, certify that the statements included in the application in accordance with the requirements of paragraphs (a) to (c) of sub-paragraph (1) above are true.
- (4) The person attesting an application under sub-paragraph (2) above shall also state—
- (a) his name and address, that he is aged 18 years or over, that he knows the employed person, self-employed person or person attending a course provided by an educational institution but is not related to him; and
  - (b) if he is attesting as or on behalf of the employer of the employed person, that he is the employer or the position he holds in the employment of that employer; or
  - (c) if he is attesting an application made on the grounds of attendance at a course provided by an educational institution, the post he holds at that institution.
- (5) For the purposes of this paragraph and paragraph 6 below, one person is related to another if he is the husband, wife, parent, grandparent, brother, sister, child or grandchild of the other.

**Additional requirements for applications in respect of a particular election**

6.—(1) An application under regulation 9(1) shall set out why the applicant's circumstances on the date of the poll for the election in respect of which it is made will be or are likely to be such that he cannot reasonably be expected to vote in person at his allotted polling station.

(2) Except in respect of an application to which sub-paragraph (4), (6) or (8) below applies, such an application shall be signed and attested by a person who—

- (a) is aged 18 years or over,
- (b) resides in the United Kingdom,
- (c) knows the applicant but is not related to him, and
- (d) has not attested under this paragraph any other application in respect of the election for which the application he attests is made.

(3) The person attesting an application under subparagraph (2) above shall state—

- (a) his full name and address,
- (b) that he is aged 18 years or over,
- (c) that he resides in the United Kingdom,
- (d) that he knows the applicant but is not related to him, and
- (e) that he has not attested under subparagraph (2) above any other application in respect of the election for which the application he attests is made;

and shall certify that, to the best of his knowledge and belief, the statement included in the application in accordance with sub-paragraph (1) above is true.

(4) This paragraph applies in respect of an application under regulation 9(1) in which the grounds set out in accordance with sub-paragraph (1) above are that the applicant will be or is likely to be physically ill on the date of the poll, and which—

- (a) specifies that illness, and
- (b) is attested and signed by one of the persons specified in paragraphs (a), (b) and (c) of paragraph 4(2) above.

(5) The person attesting an application under sub-paragraph (4) above shall state—

- (a) his name and address;
- (b) the qualification by virtue of which he is authorised to attest it;
- (c) that he has seen the applicant in connection with the circumstances set out in the application in accordance with sub-paragraph (1) above, and
- (d) that to the best of his knowledge and belief—
  - (i) the applicant is suffering from the physical illness specified in the application;
  - (ii) that he will be or is likely to be so suffering on the date of the poll, and
  - (iii) that he cannot reasonably be expected to vote in person at his allotted polling station because of that illness.

(6) This paragraph applies in respect of an application under regulation 9(1)—

- (a) which is received by the registration officer after 5 p.m. on the fourteenth day (calculated in accordance with paragraph 8(5) below) before the date of the poll at the election in question (“the standard closing date for applications”) but before 5 p.m. on the sixth day (so calculated) before the date of that poll;
- (b) in which the circumstances set out in accordance with sub-paragraph (1) above relate to the applicant's health;

- (c) which includes a statement to the effect that, before the standard closing date for applications, the applicant could not have reasonably foreseen that those circumstances would, or would be likely to, exist on the date of the poll, and
  - (d) which is attested and signed by one of the persons specified in paragraphs (a), (b) and (c) of paragraph 4(2) above.
- (7) The person attesting an application under sub-paragraph (6) above shall state—
- (a) his name and address;
  - (b) the qualification by virtue of which he is authorised to attest it;
  - (c) that he has seen the applicant in connection with the circumstances set out in the application in accordance with sub-paragraph (1) above, and
  - (d) that, to the best of his knowledge and belief, the statement which the applicant made in accordance with sub-paragraph (6)(c) above is correct.
- (8) This paragraph applies in respect of an application under regulation 9(1)—
- (a) which is received by the registration officer during the period specified in sub-paragraph (6)(a) above;
  - (b) in which the circumstances set out in accordance with sub-paragraph (1) above relate to the applicant's employment either as a constable or by the returning officer on the date of the poll of the election for which the application is made for a purpose connected with that election or any other parliamentary or European Parliamentary election the poll for which is held on the same day;
  - (c) which states the employment in question, and
  - (d) in the case of a constable, which is signed by a member of the Police Service of Northern Ireland of or above the rank of chief inspector.

#### **Additional requirements for applications by proxies to vote by post at a particular election**

7. An application under regulation 11(6) shall set out why the applicant's circumstances on the date of the poll for the election in respect of which it is made will be or are likely to be such that he cannot reasonably be expected to vote in person at the polling station allotted or likely to be allotted to the elector under the elections rules.

#### **Closing date for applications**

8.—(1) An application under regulation 8(1) or (7), 10(7) or 11(4) shall be disregarded for the purposes of a particular election if it is received by the registration officer after 5 p.m. on the fourteenth day before the day of the poll at that election.

(2) Subject to sub-paragraph (3) below, an application under regulation 9(1) or (2), 10(7) or 11(6) or (7) shall be refused if it is received by the registration officer after 5 p.m. on the fourteenth day before the day of the poll at the election for which is made.

(3) Sub-paragraph (2) above shall not apply to an application which satisfies the requirements of either sub-paragraphs (6) and (7) or sub-paragraph (8) of paragraph 6 above; and such an application shall be refused if it is received by the registration officer after 5 p.m. on the sixth day before the day of the poll at the election for which it is made.

- (4) An application under—
- (a) regulation 8(6)(a) by an elector to be removed from the record kept under regulation 8(5),  
or
  - (b) regulation 11(10)(a) by a proxy to be removed from the record kept under regulation 11(5),

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and a notice under regulation 10(9) by an elector cancelling a proxy's appointment shall be disregarded for the purposes of a particular election if it is received by the registration officer after 5 p.m. on the fourteenth day before the date of the poll at that election.

(5) In computing a period of days for the purposes of this regulation, Saturday, Sunday, Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a bank holiday shall be disregarded.

(6) In sub-paragraph (5) above "bank holiday" means—

- (a) in relation to a general election, a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom, and
- (b) in relation to a by-election, a day which is a bank holiday under that Act in Northern Ireland;

except that where, at a European Parliamentary general election, any proceedings are commenced afresh by reason of a candidate's death, paragraph (b), not (a), shall apply.

### **Grant or refusal of applications**

9.—(1) Where the registration officer grants an application under regulation 8, 9, 10 or 11, he shall, where practicable, notify the applicant of his decision.

(2) Where the registration officer grants an application for the appointment of a proxy, he shall confirm in writing to the elector that the proxy has been appointed, his name and address, and the duration of the appointment.

(3) The proxy paper to be issued by the registration officer on the appointment of a proxy shall be in Form E in the Appendix.

(4) Where the registration officer refuses an application under regulation 8, 9, 10 or 11, he shall notify the applicant of his decision and, in the case of an application under regulation 8(1) or 11(4), of the reasons for it; and he shall date such a notification.

(5) Where under paragraph 8(1) or (4) above the registration officer disregards an application for the purposes of a particular election, he shall, where practicable, notify the applicant of this.

### **Notice of appeal**

10.—(1) A person desiring to appeal under regulation 22(1) against the decision of a registration officer must give notice of the appeal to the registration officer within 14 days of the receipt of the notice given under paragraph 9(4) above specifying the grounds of appeal.

(2) The registration officer shall forward any such notice to the appropriate county court together in each case with a statement of the material facts which in his opinion have been established in the case, of his decision upon the whole case and on any point which may be specified as a ground of appeal.

(3) Where it appears to the registration officer that any notices of appeal given to him are based on similar grounds, he shall inform the county court of this to enable the court (if it thinks fit) to consolidate the appeals or select a case as a test case.

### **Cancellation of proxy appointment**

11. Where the appointment of a proxy is cancelled by notice given to the registration officer under regulation 10(9) or ceases to be in force under that provision or is no longer in force under regulation 10(10)(b), the registration officer shall—

- (a) notify the person whose appointment as proxy has been cancelled, expired, ceases to be or is no longer in force, unless the registration officer has previously been notified by that person that he no longer wishes to act as proxy, and

(b) remove his name from the record kept under regulation 8(5)(b).

### **Inquiries by registration officer**

**12.**—(1) The registration officer may, at such times as he thinks fit, make inquiries of a person who is shown in the record kept under regulation 8(5) by virtue of an application under that regulation on the grounds set out in sub-paragraph (b) or (c) of regulation 8(4).

(2) In the case of a person who is shown in the record kept under regulation 8(5) by virtue of an application under that regulation on the grounds set out in regulation 8(4)(c), the registration officer shall make the inquiries referred to in sub-paragraph (1) above not later than three years after the granting of the application or the last such inquiries, as the case may be.

(3) The registration officer may treat the failure by a person of whom inquiries have been made to respond to such inquiries within one month of the date on which they were made as sufficient evidence of a material change in circumstances.

### **Records and lists kept under regulations 8, 9 and 11**

**13.**—(1) The registration officer shall, on request, supply free of charge a copy of the list kept under regulations 9(6) and 11(8) to each candidate at a European Parliamentary election or his election agent.

(2) The registration officer shall make available for inspection at his office a copy of the records kept under regulations 8(5) and 11(5).

(3) As soon as practicable after the sixth day before the day of the poll (calculated in accordance with paragraph 8(5) above) the registration officer shall publish the lists kept under regulations 9(6) and 11(8) by making a copy of them available for inspection at his office.

### **Marked register for polling stations**

**14.** To indicate that an elector or his proxy is entitled to vote by post and is for that reason not entitled to vote in person, the letter “A” shall be placed against the name of that elector in any copy of the register, or part of it, provided for a polling station.

## **PART II**

### *Issue and receipt of postal ballot papers*

#### **Interpretation of Part II**

**15.** For the purposes of this Part of this Schedule, unless the context otherwise requires—

“agent” includes the election agent and a person appointed to attend in the election agent’s place;

“ballot paper envelope” and “covering envelope” mean the envelopes referred to in paragraph 23 below;

“list of postal proxies” means the list kept under regulation 11(8);

“postal ballot paper” means a ballot paper issued to a postal voter;

“postal voter” means an elector or proxy who is entitled to vote by post;

“postal voters’ ballot box” means the ballot box referred to in paragraph 28(1)(a) below;

“receptacle for ballot paper envelopes”, and other references to specified receptacles, means the receptacles referred to in paragraph 28(5) below;

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“spoilt postal ballot paper” means a ballot paper referred to in paragraph 26(1) below;  
 “universal postal service provider” has the meaning given in the Postal Services Act 2000<sup>(37)</sup> to a “universal service provider”; and  
 “valid declaration of identity” means one falling within paragraph 32(1) below.

### *Issue of postal ballot papers*

#### **Form of declaration of identity**

16. The form of the declaration of identity for the purposes of rule 24 of the European Parliamentary elections rules shall be in Form G in the Appendix.

#### **Persons entitled to be present at proceedings on issue and receipt of postal ballot papers**

17. No person may be present at the proceedings on the issue or receipt of postal ballot papers at a European Parliamentary election other than—

- (a) the returning officer,
- (b) a candidate,
- (c) an election agent or any person appointed by a candidate to attend in his election agent’s place,
- (d) any agents appointed under paragraph 18 below, and
- (e) representatives of the Electoral Commission.

#### **Agents of candidates who may attend proceedings on issue or receipt of postal ballot papers**

18.—(1) Each candidate may appoint one or more agents to attend the proceedings on the issue or receipt of the postal ballot papers up to the number he may be authorised by the returning officer to appoint so, however, that the number authorised shall be the same in the case of each candidate.

(2) Notice in writing of the appointment stating the names and addresses of the persons appointed shall be given by the candidate to the returning officer before the time fixed for the issue of the postal ballot papers or the opening of the postal voters’ ballot box, as the case may be.

(3) If an agent dies or becomes incapable of acting, the candidate may appoint another agent in his place and shall forthwith give to the returning officer notice in writing of the name and address of the agent appointed.

(4) Agents may be appointed and notice of appointment given to the returning officer by the candidate’s election agent instead of by the candidate.

(5) In this Part of this Schedule references to agents shall be taken as references to agents whose appointments have been duly made and notified and, in the case of agents appointed under subparagraph (1) above, who are within the number authorised by the returning officer.

(6) A candidate may himself do any act or thing which any agent of his, if appointed, would have been authorised to do, or may assist his agent in doing any such act or thing.

(7) Where in this Part of this Schedule any act or thing is required or authorised to be done in the presence of the candidates or their agents, the non-attendance of any such persons or person at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

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(37) 2000 c. 26.



### **Notification of requirement of secrecy**

**19.** The returning officer shall make such arrangements as he thinks fit to ensure that every person attending the proceedings in connection with the issue or receipt of postal ballot papers has been given a copy in writing of the provisions of regulation 30(5) and (7).

### **Notice of issue of postal ballot papers**

**20.—(1)** The returning officer shall give each candidate not less than 48 hours' notice in writing of the time and place at which he will issue postal ballot papers and of the number of agents he may appoint under paragraph 18 above to attend that issue.

(2) Where any subsequent issue of postal ballot papers is made, the returning officer shall notify each candidate as soon as practicable of the time and place at which he will make such subsequent issue and of the number of agents the candidate may appoint under paragraph 18 above to attend such issue.

### **Procedure on issue of postal ballot paper**

**21.—(1)** Each postal ballot paper issued shall be stamped with the official mark.

(2) The number of the elector as stated in the register shall be marked on the counterfoil attached to the ballot paper.

(3) A mark shall be placed in the absent voters list or the list of postal proxies against the number of the elector to denote that a ballot paper has been issued to the elector or his proxy, but without showing the particular ballot paper issued.

(4) The number of a postal ballot paper shall be marked on the declaration of identity sent with that paper.

(5) The address to which the postal ballot paper, declaration of identity and the envelopes referred to in paragraph 23 below are to be sent is—

- (a) in the case of an elector, the address shown in the absent voter's list;
- (b) in the case of a proxy, the address shown in the list of postal proxies.

### **Refusal to issue postal ballot paper**

**22.** Where the returning officer is satisfied that two or more entries in the absent voters list, or the list of postal proxies or in each of those lists relate to the same elector, he shall not issue more than one ballot paper in respect of that elector.

### **Envelopes**

**23.—(1)** Sub-paragraphs (2) and (3) below specify the envelopes which are to be issued to a postal voter in addition to the ballot paper and declaration of identity (which are issued under rule 24 of the European Parliamentary elections rules).

(2) There shall be issued an envelope for the return of the postal ballot paper and the declaration of identity (referred to as a "covering envelope") which shall be marked with the letter "B".

(3) There shall also be issued a smaller envelope (referred to as a "ballot paper envelope") which shall be marked with—

- (a) the letter "A";
- (b) the words "ballot paper envelope"; and
- (c) the number of the ballot paper.

### **Sealing up of counterfoils and security of special lists**

**24.**—(1) As soon as practicable after the issue of each batch of postal ballot papers, the returning officer shall make up into a packet the counterfoils of those ballot papers which have been issued and shall seal such a packet.

(2) As soon as practicable after the last batch of postal ballot papers have been issued, the returning officer shall make up into a packet the marked copy of the absent voters list and the list of postal proxies and shall seal such a packet.

(3) Until the time referred to in sub-paragraph (2) above, the returning officer shall take proper precautions for the security of the lists referred to in that paragraph.

### **Delivery of postal ballot papers**

**25.**—(1) For the purposes of delivering postal ballot papers, the returning officer may use—

- (a) a universal postal service provider;
- (b) a commercial delivery firm, or
- (c) clerks appointed under rule 26(1) of the European Parliamentary elections rules.

(2) Where the services of a universal postal service provider or commercial delivery firm are to be used, envelopes addressed to postal voters shall be counted and delivered by the returning officer with such form of receipt to be endorsed by that provider or firm as may be arranged.

(3) Postage shall be prepaid on envelopes addressed to the postal voters and on the covering envelopes (except where sub-paragraph (1)(c) above applies).

### **Spoilt postal ballot papers**

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

(2) On receipt of the documents referred to in sub-paragraph (1) above, the returning officer shall issue another postal ballot paper except where those documents are received after 5 p.m. on the day before the day of the poll.

(3) Paragraphs 21 (except sub-paragraph (3)), 23, 24 and, subject to sub-paragraph (6) below, 25 above shall apply to the issue of a replacement postal ballot paper under sub-paragraph (3) above.

(4) The spoilt postal ballot paper and the declaration of identity shall be immediately cancelled.

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

(6) Where a postal voter applies in person, the returning officer may hand a replacement postal ballot paper to him instead of delivering it in accordance with paragraph 25 above.

(7) The returning officer shall enter in a list kept for the purpose (“the list of spoilt ballot papers”)

—

- (a) the name and address of the elector as stated in the register;
- (b) the number of the postal ballot paper issued under this regulation; and
- (c) where the postal voter whose ballot paper is spoilt is a proxy, his name and address.

### *Receipt of postal ballot papers*

#### **Notice of opening of postal ballot paper envelopes**

27.—(1) The returning officer shall give to each candidate not less than 48 hours' notice in writing of each occasion on which a postal voters' ballot box and the envelopes contained in it is to be opened.

(2) Such a notice shall specify—

- (a) the time and place at which such an opening is to take place, and
- (b) the number of agents a candidate may appoint under paragraph 18(1) above to attend each opening.

#### **Postal ballot boxes and receptacles**

28.—(1) The returning officer shall provide a separate ballot box for the reception of—

- (a) the covering envelopes when returned by the postal voters (“postal voters' ballot box”), and
- (b) postal ballot papers (“postal ballot box”).

(2) Each such ballot box shall be marked “postal voters' ballot box” or “postal ballot box”, as the case may be.

(3) The postal ballot box shall be shown to the agents present on the occasion of opening the first postal voters' ballot box as being empty.

(4) The returning officer shall then lock the ballot box and apply his seal in such manner as to prevent its being opened without breaking the seal; any of the agents present who wish to add their seals may then do likewise.

(5) The returning officer shall provide the following receptacles—

- (a) the receptacle for rejected votes;
- (b) the receptacle for declarations of identity; and
- (c) the receptacle for ballot paper envelopes.

(6) The returning officer shall take proper precautions for the safe custody of every ballot box and receptacle referred to in this regulation.

#### **Receipt of covering envelope**

29. The returning officer shall, immediately on receipt (whether by hand or by post) of a covering envelope before the close of the poll, place it unopened in a postal voters' ballot box.

#### **Opening of postal voters' ballot box**

30.—(1) Each postal voters' ballot box shall be opened by the returning officer in the presence of the agents.

(2) So long as the returning officer ensures that there is at least one sealed postal voters' ballot box for the reception of covering envelopes up to the time of the close of the poll, the other postal voters' ballot boxes may previously be opened by him.

#### **Opening of covering envelopes**

31.—(1) When a postal voters' ballot box is opened, the returning officer shall count and record the number of covering envelopes, and shall then open each covering envelope separately.

(2) The procedure in paragraph 33 below applies where a covering envelope contains both—

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- (a) a declaration of identity; and
  - (b) a ballot paper envelope, or if there is no ballot paper envelope, a ballot paper.
- (3) Where the covering envelope does not contain the declaration of identity separately, the returning officer shall open the ballot paper envelope to ascertain whether the declaration of identity is inside.
- (4) Where a covering envelope does not contain both—
- (a) a declaration of identity (whether separately or not), and
  - (b) a ballot paper envelope or, if there is no ballot paper envelope, a ballot paper,
- the returning officer shall mark the covering envelope “rejected”, attach its contents (if any) and place it in the receptacle for rejected votes.

### **Procedure in relation to declarations of identity on receipt of covering envelope**

**32.**—(1) A declaration of identity is a valid declaration of identity for the purposes of this Part of this Schedule if—

- (a) it is duly signed by the voter and authenticated by a witness who has signed the declaration and given his name and address, and
  - (b) in the case of an elector, the requirements of rule 46(2)(b) and (3) of the European Parliamentary elections rules are satisfied.
- (2) The returning officer must satisfy himself that the declaration of identity is a valid declaration of identity.
- (3) Where the returning officer is not so satisfied, he shall mark the declaration “rejected”, attach to it the ballot paper envelope, or if there is no such envelope, the ballot paper and, subject to sub-paragraph (4) below, place it in the receptacle for rejected votes.
- (4) Before placing the declaration in the receptacle for rejected votes, the returning officer shall show it to the agents and, if any of them object to his decision, he shall add the words “rejection objected to”.
- (5) The returning officer shall then examine the number on the declaration of identity against the number on the ballot paper envelope and, where they are the same, he shall place the declaration and the ballot paper envelope respectively in the receptacle for declarations of identity and the receptacle for ballot paper envelopes.

- (6) Where—
- (a) the number on a valid declaration of identity is not the same as the number on the ballot paper envelope, or
  - (b) that envelope has no number on it,
- the returning officer shall open the envelope.

- (7) Sub-paragraph (8) below applies where—
- (a) there is a valid declaration of identity but no ballot paper envelope, or
  - (b) the ballot paper envelope has been opened under paragraph 31(3) or sub-paragraph (6) above.
- (8) In the circumstances described in sub-paragraph (7) above, the returning officer shall place—
- (a) in the postal ballot paper box, any ballot paper the number on which is the same as the number on the valid declaration of identity;
  - (b) in the receptacle for rejected votes, any other ballot paper, with the valid declaration of identity attached and marked “rejected”;

- (c) in the receptacle for rejected votes, any valid declaration of identity marked “rejected” where there is no ballot paper;
- (d) in the receptacle for declarations of identity, any valid declaration not disposed of under paragraph (b) or (c) above.

### **Opening of ballot paper envelopes**

**33.**—(1) The returning officer shall open separately each ballot paper envelope placed in the receptacle for ballot paper envelopes.

(2) He shall place—

- (a) in the postal ballot box, any ballot paper the number on which is the same as the number on the ballot paper envelope;
- (b) in the receptacle for rejected votes, any other ballot paper which shall be marked “rejected” and to which shall be attached the ballot paper envelope; and
- (c) in the receptacle for rejected votes any ballot paper envelope which shall be marked “rejected” because it does not contain a ballot paper.

### **Sealing of receptacles**

**34.** As soon as practicable after the completion of the procedure under paragraph 33 above, the returning officer shall make up into separate packets the contents of—

- (a) the receptacle of rejected votes, and
- (b) the receptacle of declarations of identity,

and shall seal up such packets.

### **Abandoned poll**

**35.** Where a poll is abandoned or countermanded after postal ballot papers have been issued, by reason of the death of a candidate, the returning officer—

- (a) shall not take any step or further step to open covering envelopes or deal with the contents in accordance with the provisions of this Part of this Schedule; and
- (b) shall notwithstanding paragraphs 31 to 33 above, treat all unopened covering envelopes and the contents of those that have been opened as if they were counted ballot papers.

### **Retention of documents**

**36.**—(1) The returning officer shall retain at the same time as he retains the documents mentioned in rule 63 of the European Parliamentary elections rules—

- (a) any packets referred to in paragraphs 24, 26(5) and 34 above, subject to paragraph 35 above, endorsing on each packet a description of its contents and the date of the election to which it relates, and
- (b) a completed statement in Form H in the Appendix of the number of postal ballot papers issued.

(2) Where—

- (a) any covering envelopes are received by the returning officer after the close of the poll;
- (b) any envelopes addressed to postal voters are returned as undelivered too late to be readdressed, or

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(c) any spoiled postal ballot papers are returned too late to enable other postal ballot papers to be issued,

the returning officer shall put them unopened in a separate packet, seal up such packet and endorse and retain it at a subsequent date in the manner described in sub-paragraph (1) above.

(3) Rules 64 and 65 of the European Parliamentary elections rules shall apply to any packet or document retained under this regulation.

(4) A copy of the statement referred to in sub-paragraph (1)(b) above shall be provided by the returning officer to the Electoral Commission.

APPENDIX OF FORMS  
PROXY PAPER

REPRESENTATION OF THE PEOPLE ACTS  
EUROPEAN PARLIAMENTARY ELECTIONS ACT 2002

Constituency Area .....

European Parliamentary Electoral Region of Northern Ireland

Name of Proxy .....

Address .....

.....

.....

is hereby appointed as proxy for

(Name of elector) .....

\*[who is qualified to be registered for

(Qualifying address) .....

\*[who qualifies as an overseas elector in respect of the above constituency] to vote for him/her at

\*[the \*[parliamentary] \*[European Parliamentary] election for the above \*[constituency] \*[European Parliamentary electoral region] on (date) .....

\*[any \*[parliamentary] \*[European Parliamentary] election for the above \*[constituency] \*[European Parliamentary electoral region]]

\*[This proxy appointment is not valid until .....

Signature .....

Electoral Registration Officer

Address .....

.....

.....

Date .....

\*Delete whichever is inappropriate

YOUR RIGHT TO VOTE AS PROXY

1. This proxy paper gives you the right to vote as proxy on behalf of the elector whose name is given overleaf. However, you may not vote as proxy at the same election for more than two electors of whom you are not the husband, wife, parent, grandparent, brother, sister, child or grandchild.

2. Your appointment as proxy may be for a particular election only, or it may be for an indefinite period.

If it is for a particular election, you have the right to vote as proxy only at the election specified in the proxy paper.

If it is for an indefinite period, you have in general the right to vote as proxy at any parliamentary or European Parliamentary election for which the elector is qualified to vote until the electoral registration officer informs you to the contrary.

3. You may vote as proxy at the polling station allotted to the elector on whose behalf you are appointed. Shortly before polling day you will be sent a proxy poll card telling you where the polling station is. You do not need to take either the poll card or this proxy paper to the polling station but you may find it helpful to do so.

4. If you cannot vote in person at the polling station, you should consult the electoral registration officer about whether you satisfy the entitlement to vote by post.

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**EUROPEAN PARLIAMENTARY ELECTION  
ELECTORAL REGION OF NORTHERN IRELAND**

**DECLARATION OF IDENTITY**

**DECLARATION BY VOTER**

Ballot Paper No. ....

- I hereby declare that I am the person to whom the ballot paper numbered as above was sent.

Date of Birth must be given below except where the voter is a proxy.

- My date of birth is 

D	D	M	M	Y	Y	Y	Y
---	---	---	---	---	---	---	---

Voter's signature \_\_\_\_\_

**CERTIFICATION BY WITNESS**

The voter, who is personally known to me, has signed this declaration in my presence.

Witness's signature \_\_\_\_\_

Name of Witness \_\_\_\_\_  
(WRITE CLEARLY)

Address of Witness \_\_\_\_\_  
(WRITE CLEARLY)

\_\_\_\_\_

**SEE INSTRUCTIONS ON THE BACK OF THIS FORM**

**INSTRUCTIONS TO THE VOTER**

1. You must sign this declaration of identity in the presence of a person known to you. That person should then sign this declaration as a witness, adding his or her name and address. You must also give your date of birth where indicated (unless voting as a proxy). Without all the above the declaration will be invalid.
2. Mark your vote by putting "1" against the candidate of your first choice, "2" against the candidate of your second choice and so on. Do this secretly; if you cannot vote without assistance, the person assisting you must not disclose how you have voted.
3. You may show your preference for as many or as few candidates as you wish but you should not show the same preference against more than one candidate. Put no other mark on the ballot paper, or your vote may not be counted.
4. Put the ballot paper in the small envelope marked "A" and seal it. Then put the envelope marked "A", together with the declaration of identity, in the larger envelope marked "B". Return it without delay. The ballot paper must be received by the Deputy Returning Officer not later than the close of the poll.
5. If you receive more than one ballot paper, remember that it is illegal to vote more than once (otherwise than as proxy) at the same election.
6. At this election you cannot vote in person at a polling station, even if you receive an official poll card.
7. If you inadvertently spoil your ballot paper, you can apply to the deputy returning officer for another one. With your application you must return, in your own envelope, the spoiled ballot paper and the declaration of identity. Remember that there is little time available if a fresh postal ballot paper is to be issued and counted.



**EUROPEAN PARLIAMENTARY ELECTION**  
**ELECTORAL REGION OF NORTHERN IRELAND**

**STATEMENT AS TO POSTAL BALLOT PAPERS**

**PARLIAMENTARY  
CONSTITUENCY OF** \_\_\_\_\_

**DATE OF POLL** \_\_\_\_\_

<b>A Issue of postal ballot papers</b>	<b>Number</b>
1. Total number of postal ballot papers issued under Sch 2 – PART II – Para 20 of the European Parliamentary Elections (NI) Regulations 2004.	
2. Total number of postal ballot papers issued under Sch 2 – PART II – Para 26(2) of the European Parliamentary Elections (NI) Regulations 2004, (where the first ballot paper was spoilt and returned for cancellation)	
3. Total number of postal ballot papers issued (1 + 2)	

<b>B Receipt of postal ballot papers</b>	<b>Number</b>
4. Number of covering envelopes received by the Deputy Returning Officer before the close of the poll (excluding any undelivered or returned under Sch 2 – PART II – Para 26(1), with spoilt ballot papers)	
5. Number of covering envelopes received by the Deputy Returning Officer after the close of the poll, excluding any returned as undelivered	
6. Number of postal ballot papers returned spoilt for cancellation in time for another ballot paper to be issued	
7. Number of postal ballot papers returned as spoilt too late for another ballot paper to be issued	
8. Number of covering envelopes returned as undelivered (up to the date of this statement)	
9. Number of covering envelopes not received by the Deputy Returning Officer by the date of this statement	
10. Total Nos. 4 to 9 (This number should be the same as that in 3 above)	

<b>C Count of postal ballot papers</b>	<b>Number</b>
11. Number of covering envelopes received by the Deputy Returning Officer before the close of the poll (excluding any undelivered or returned under Sch 2 – PART II – Para 26(1), with spoilt ballot papers)	
12. Number of ballot papers returned by postal voters which were included in the count of ballot papers	
13. Number of cases in which the covering envelope or its contents were marked "Rejected" (cancellations under Sch 2 – PART II – Para 26(4) are not rejections and should be only included in items 2 and 6 above)	

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
*Deputy Returning Officer*

Address: \_\_\_\_\_

## SCHEDULE 3

Regulation 14

## MODIFICATIONS FOR RELEVANT CITIZENS OF THE ACCESSION STATES IN 2004

1. This Schedule applies in the circumstances set out in regulation 14 of these Regulations.
2. In regulation 2, in the definition of “elector”, after the word “age”, insert “,or, subject to regulation 4(1A) of the 2001 Franchise Regulations, those shown in the register as a relevant citizen of an Accession State,”.
3. In regulation 18, insert after paragraph (3)—
  - “(4) Nothing in paragraph (2) shall prevent a relevant citizen of an Accession State from being excluded from voting on the ground that the Accession State of which he is a national has not acceded to the European Union.”.
4. In regulation 25(1), for the words “For the purposes of this paragraph” to the end of the paragraph, substitute—
  - “For the purposes of this paragraph, references to a person being subject to a legal incapacity to vote do not, in relation to things done before polling day at the election or first election at which or for which they are done—
    - (i) include his being below voting age if he will be of voting age on that day;
    - (ii) include his being a citizen of an Accession State, and therefore not entitled to vote until the Accession State in question accedes to the European Union on 1st May 2004.”.
5. In paragraph 20 of Schedule 2, after sub-paragraph (2) insert—
  - “(3) In the case of a relevant citizen of an Accession State, no postal ballot paper may be issued by the returning officer before he has been notified by the Secretary of State that the Accession State in question has ratified the Treaty of Athens.”.

## SCHEDULE 4

Regulation 38

## CONTROL OF DONATIONS TO CANDIDATES

## PART I

*Introductory***Operation and interpretation of Schedule**

- 1.—(1) This Schedule has effect for controlling donations to candidates at an election.
- (2) The following provisions have effect for the purposes of this Schedule.
- (3) “Relevant donation”, in relation to a candidate at an election, means a donation to the candidate or his election agent for the purpose of meeting election expenses incurred by or on behalf of the candidate.
- (4) In sub-paragraph (3) above the reference to a donation for the purpose of meeting election expenses incurred by or on behalf of a candidate includes a reference to a donation for the purpose of securing that any such expenses are not so incurred; and a donation shall be taken to be a donation for either of those purposes if, having regard to all the circumstances, it must be reasonably assumed to be such a donation.

- (5) “Donation” shall be construed in accordance with paragraphs 2 to 4 below.
- (6) “The Commission” means the Electoral Commission established by section 1 of the 2000 Act.

**Donations: general rules**

2.—(1) “Donation”, in relation to a candidate at an election, means (subject to paragraph 4 below)

- (a) any gift to the candidate or his election agent of money or other property;
- (b) any sponsorship provided in relation to the candidate (as defined by paragraph 3 below);
- (c) any money spent (otherwise than by the candidate, his election agent or any sub-agent) in paying any election expenses incurred by or on behalf of the candidate;
- (d) any money lent to the candidate or his election agent otherwise than on commercial terms;
- (e) the provision otherwise than on commercial terms of any property, services or facilities for the use or benefit of the candidate (including the services of any person).

(2) Where—

- (a) any money or other property is transferred to a candidate or his election agent pursuant to any transaction or arrangement involving the provision by or on behalf of the candidate of any property, services or facilities or other consideration of monetary value, and
- (b) the total value in monetary terms of the consideration so provided by or on behalf of the candidate is less than the value of the money or (as the case may be) the market value of the property transferred,

the transfer of the money or property shall (subject to sub-paragraph (4) below) constitute a gift to the candidate or (as the case may be) his election agent for the purposes of sub-paragraph (1)(a) above.

(3) In determining—

- (a) for the purposes of sub-paragraph (1)(d) above, whether any money lent to a candidate or his election agent is so lent otherwise than on commercial terms, or
- (b) for the purposes of sub-paragraph (1)(e) above, whether any property, services or facilities provided for the use or benefit of a candidate is or are so provided otherwise than on such terms,

regard shall be had to the total value in monetary terms of the consideration provided by or on behalf of the candidate in respect of the loan or the provision of the property, services or facilities.

(4) Where (apart from this sub-paragraph) anything would be a donation both by virtue of sub-paragraph (1)(b) above and by virtue of any other provision of this paragraph, sub-paragraph (1)(b) (together with paragraph 3 below) shall apply in relation to it to the exclusion of the other provision of this paragraph.

(5) The reference in sub-paragraph (1)(c) above to money spent as mentioned in that provision is a reference to money so spent by a person, other than the candidate, his election agent or any sub-agent, out of his own resources (with no right to reimbursement out of the resources of any such other person); and where, by virtue of sub-paragraph (1)(c) above, money so spent constitutes a donation to the candidate, the candidate shall be treated as receiving an equivalent amount on the date on which the money is paid to the creditor in respect of the expenses in question.

(6) In this paragraph—

- (a) any reference to anything being given or transferred to a candidate or his election agent includes a reference to its being given or transferred either directly or indirectly through any third person;
- (b) “gift” includes a bequest or any other form of testamentary disposition.

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### **Sponsorship**

- 3.—(1) For the purposes of this Schedule sponsorship is provided in relation to a candidate if—
- (a) any money or other property is transferred to the candidate or to any person for the benefit of the candidate, and
  - (b) the purpose (or one of the purposes) of the transfer is (or must, having regard to all the circumstances, reasonably be assumed to be)—
    - (i) to help the candidate with meeting, or to meet, to any extent any defined expenses incurred or to be incurred by or on behalf of the candidate, or
    - (ii) to secure that to any extent any such expenses are not so incurred.
- (2) In sub-paragraph (1) above “defined expenses” means expenses in connection with—
- (a) any conference, meeting or other event organised by or on behalf of the candidate,
  - (b) the preparation, production or dissemination of any publication by or on behalf of the candidate, or
  - (c) any study or research organised by or on behalf of the candidate.
- (3) The following do not, however, constitute sponsorship by virtue of sub-paragraph (1) above—
- (a) the making of any payment in respect of—
    - (i) any charge for admission to any conference, meeting or other event, or
    - (ii) the purchase price of, or any other charge for access to, any publication;
  - (b) the making of any payment in respect of the inclusion of an advertisement in any publication where the payment is made at the commercial rate payable for the inclusion of such an advertisement in any such publication.
- (4) In this paragraph “publication” means a publication made available in whatever form and by whatever means (whether or not to the public at large or any section of the public).

### **Payments etc not to be regarded as donations**

- 4.—(1) None of the following shall be regarded as a donation—
- (a) the provision of any facilities provided in pursuance of any right conferred on a candidate at an election by these Regulations;
  - (b) the provision by an individual of his own services which he provides voluntarily in his own time and free of charge;
  - (c) any interest accruing to a candidate or his election agent in respect of any donation which is dealt with by the candidate or (as the case may be) his election agent in accordance with section 56(2)(a) or (b) of the 2000 Act (as applied by paragraph 7 below).
- (2) There shall also be disregarded any donation whose value (determined in accordance with paragraph 5 below) is not more than £50.

### **Value of donations**

- 5.—(1) The value of any donation falling within paragraph 2(1)(a) above (other than money) shall be taken to be the market value of the property in question.
- (2) Where, however, paragraph 2(1)(a) above applies by virtue of paragraph 2(2) above, the value of the donation shall be taken to be the difference between—
- (a) the value of the money, or the market value of the property, in question, and
  - (b) the total value in monetary terms of the consideration provided by or on behalf of the candidate or his election agent.

(3) The value of any donation falling within paragraph 2(1)(b) above shall be taken to be the value of the money, or (as the case may be) the market value of the property, transferred as mentioned in paragraph 3(1) above; and accordingly any value in monetary terms of any benefit conferred on the person providing the sponsorship in question shall be disregarded.

(4) The value of any donation falling within paragraph 2(1)(d) or (e) above shall be taken to be the amount representing the difference between—

(a) the total value in monetary terms of the consideration that would have had to be provided by or on behalf of the candidate or his election agent in respect of the loan or the provision of the property, services or facilities if—

(i) the loan had been made, or

(ii) the property, services or facilities had been provided,  
on commercial terms, and

(b) the total value in monetary terms of the consideration (if any) actually so provided by or on behalf of the candidate or his election agent.

(5) Where a donation such as is mentioned in sub-paragraph (4) above confers an enduring benefit on the donee over a particular period, the value of the donation—

(a) shall be determined at the time when it is made, but

(b) shall be so determined by reference to the total benefit accruing to the donee over that period.

(6) In this paragraph “market value” in relation to any property, means the price which might reasonably be expected to be paid for the property on a sale in the open market.

## PART II

### *Controls on donations*

#### **Prohibition on accepting donations from impermissible donors**

6.—(1) A relevant donation received by a candidate or his election agent must not be accepted if—

(a) the person by whom the donation would be made is not, at the time of its receipt by the candidate or (as the case may be) his election agent, a permissible donor falling within section 54(2) of the 2000 Act; or

(b) the candidate or (as the case may be) his election agent is (whether because the donation is given anonymously or by reason of any deception or concealment or otherwise) unable to ascertain the identity of the person offering the donation.

(2) For the purposes of this Schedule any relevant donation received by a candidate or his election agent which is an exempt trust donation shall be regarded as a relevant donation received by the candidate or his election agent from a permissible donor; and section 162 of the 2000 Act (interpretation: exempt trust donations) shall apply for the purposes of this Schedule as it applies for the purposes of that Act.

(3) But, for the purposes of this Schedule, any relevant donation received by a candidate or his election agent from a trustee of any property (in his capacity as such) which is not—

(a) an exempt trust donation, or

(b) a relevant donation transmitted by the trustee to the candidate or his election agent on behalf of beneficiaries under the trust who are—

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- (i) persons who at the time of its receipt by the candidate or his election agent are permissible donors falling within section 54(2) of the 2000 Act, or
- (ii) the members of an unincorporated association which at that time is such a permissible donor,

shall be regarded as a relevant donation received by the candidate or his election agent from a person who is not such a permissible donor.

(4) Where any person (“the principal donor”) causes an amount (“the principal donation”) to be received by a candidate or his election agent by way of a relevant donation—

- (a) on behalf of himself and one or more other persons, or
- (b) on behalf of two or more other persons,

then for the purposes of this Part each individual contribution by a person falling within paragraph (a) or (b) of more than £50 shall be treated as if it were a separate donation received from that person.

(5) In relation to each such separate donation, the principal donor must ensure that, at the time when the principal donation is received by the candidate or his election agent, the candidate or (as the case may be) his election agent is given—

- (a) (except in the case of a donation which the principal donor is treated as making) all such details in respect of the person treated as making the donation as are required by virtue of paragraph 11(c) below; and
- (b) (in any case) all such details in respect of the donation as are required by virtue of paragraph 11(a) below.

(6) Where—

- (a) any person (“the agent”) causes an amount to be received by a candidate or his election agent by way of a donation on behalf of another person (“the donor”), and
- (b) the amount of the donation is more than £50,

the agent must ensure that, at the time when the donation is received by the candidate or his election agent, the candidate or (as the case may be) his election agent is given all such details in respect of the donor as are required by virtue of paragraph 11(c) below.

(7) A person commits an offence if, without reasonable excuse, he fails to comply with sub-paragraph (5) or (6) above.

(8) A person guilty of an offence under sub-paragraph (7) shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum or to a term of imprisonment not exceeding 6 months (or both);
- (b) on conviction on indictment, to a fine or to a term of imprisonment not exceeding one year (or both).

### **Acceptance or return of donations**

7.—(1) Sections 56 to 60 of the 2000 Act shall apply for the purposes of this Schedule in relation to—

- (a) a relevant donation received by a candidate or his election agent, and
- (b) the candidate or (as the case may be) the election agent,

as they apply in relation to a donation received by a registered party and the registered party.

(2) In the application of sections 56 to 60 of that Act in accordance with sub-paragraph (1)—

- (a) section 56(1) shall have effect as if the reference to the particulars relating to a donor which would be required to be included in a donation report by virtue of paragraph 2 of Schedule 6

(if the donation were a recordable donation within the meaning of that Schedule) were construed as a reference to the particulars which are required to be included in a return by virtue of paragraph 11(c) below;

- (b) section 56(3) shall have effect as if the reference to the party were omitted and the reference to the treasurer of the party were construed as a reference to the candidate or (as the case may be) his election agent; and
- (c) section 56(4) shall have effect as if the reference to the treasurer of the party were construed as a reference to the candidate or (as the case may be) his election agent.

### **Transfer of donations received by candidate to election agent**

8.—(1) Sub-paragraph (2) below applies in relation to any relevant donation received by a candidate after the deadline for appointing an election agent (unless the candidate is, or is deemed to be, his own election agent at the time of receipt of the donation).

(2) The candidate shall, on receipt of any such donation as is mentioned in sub-paragraph (1) above, forthwith deliver to his election agent—

- (a) the donation,
- (b) where paragraph 6(5) or (6) above applies in relation to the donation, the information provided to the candidate in pursuance of that provision, and
- (c) any other information which the candidate has about the donation and its donor which might reasonably be expected to assist the election agent in the discharge of any duties imposed on him, in relation to the donation, under this Part or Part III of this Schedule.

(3) Where a donation is delivered to an election agent in accordance with sub-paragraph (2) above, the donation shall be treated for the purposes of paragraph 6(1) to (4) above and the provisions applied by paragraph 7 above as if it had been—

- (a) originally received by the election agent, and
- (b) so received by him on the date on which it was received by the candidate.

(4) Where a candidate receives a relevant donation before the deadline for appointing an election agent but at a time when an appointment of a person (other than the candidate himself) as election agent is in force he shall either—

- (a) forthwith deliver the donation and the information mentioned in sub-paragraph (2)(b) and (c) above to the agent, or
- (b) (if he fails to do so) deal with the donation in accordance with section 56 of the 2000 Act.

(5) Sub-paragraph (3) above shall have effect in relation to any relevant donation delivered to an election agent in accordance with sub-paragraph (4)(a) above as it has effect in relation to a donation delivered to him in accordance with sub-paragraph (2) above.

(6) Sub-paragraph (7) below applies where—

- (a) a relevant donation received by a candidate before the deadline for appointing an election agent has been dealt with by the candidate in accordance with section 56 of the 2000 Act either because—
  - (i) it was received by him at a time when no appointment of another person as his election agent was in force, or
  - (ii) although such an appointment was in force, he was by virtue of sub-paragraph (4) (b) required to deal with the donation; and
- (b) an appointment of a person (other than the candidate himself) as election agent is in force at, or at any time after—
  - (i) the deadline for appointing an election agent, or

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- (ii) if later, the time when the candidate has dealt with the donation in accordance with section 56 of the 2000 Act.
- (7) Subject to sub-paragraph (9) below, the candidate shall, as soon as reasonably practicable after the relevant time, deliver to the election agent—
  - (a) the donation (if it has been accepted by him), and
  - (b) any information which he has about the donation and the donor which might reasonably be expected to assist the election agent in the discharge of any duties imposed on him, in relation to the donation, under Part III of this Schedule.
- (8) The relevant time for the purposes of sub-paragraph (7) above is—
  - (a) the time mentioned in sub-paragraph (6)(b)(i) or (ii) (as the case may be) if the appointment of another person as election agent is in force at that time, or
  - (b) otherwise, the time when any such appointment subsequently comes into force.
- (9) The duty imposed on a candidate by sub-paragraph (7)(a) above does not apply to any relevant donation to the extent to which it has been lawfully used by the candidate for the purpose of paying election expenses.
- (10) In this paragraph—
  - (a) any reference to the deadline for appointing an election agent is a reference to the latest time by which an election agent may in accordance with regulation 34 be named as election agent by the candidate; and
  - (b) any reference to any provision of section 56 of the 2000 Act is a reference to that provision as applied by paragraph 7 above.

#### **Evasion of restrictions on donations**

- 9. Section 61 of the 2000 Act shall apply for the purposes of this Schedule as if—
  - (a) any reference to donations were to relevant donations;
  - (b) any reference to a registered party were, in relation to a relevant donation, a reference to a candidate or (as the case may be) his election agent; and
  - (c) any reference in subsection (2) to the treasurer of a registered party were, in relation to a relevant donation, a reference to either the candidate or his election agent (or both).

## **PART III**

### *Reporting of donations*

#### **Statement of relevant donations**

10. The candidate's election agent must include in any return required to be delivered under regulation 47 a statement of relevant donations which complies with paragraphs 11 and 12 below.

#### **Donations from permissible donor**

- 11. The statement must record, in relation to each relevant donation accepted by the candidate or his election agent—
  - (a) the amount of the donation (if a donation of money, in cash or otherwise) or (in any other case) the nature of the donation and its value as determined in accordance with paragraph 5 above;



- (b) the date when the donation was accepted by the candidate or his election agent;
- (c) the information about the donor which is, in connection with recordable donations to registered parties, required to be recorded in donation reports by virtue of paragraph 2 of Schedule 6 to the 2000 Act; and
- (d) such other information as may be required by regulations made by the Commission.

**Donations from impermissible donors**

**12.**—(1) This paragraph applies to relevant donations falling within paragraph 6(1)(a) or (b) above.

- (2) Where paragraph 6(1)(a) above applies, the statement must record—
  - (a) the name and address of the donor;
  - (b) the amount of the donation (if a donation of money, in cash or otherwise) or (in any other case) the nature of the donation and its value as determined in accordance with paragraph 5 above;
  - (c) the date when the donation was received, and the date when, and the manner in which, it was dealt with in accordance with section 56(2)(a) of the 2000 Act; and
  - (d) such other information as is required by regulations made by the Commission.
- (3) Where paragraph 6(1)(b) above applies, the statement must record—
  - (a) details of the manner in which the donation was made;
  - (b) the amount of the donation (if a donation of money, in cash or otherwise) or (in any other case) the nature of the donation and its value as determined in accordance with paragraph 5 above;
  - (c) the date when the donation was received, and the date when, and the manner in which, it was dealt with in accordance with section 56(2)(b) of the 2000 Act; and
  - (d) such other information as is required by regulations made by the Commission.
- (4) In this paragraph any reference to any provision of section 56 of the 2000 Act is a reference to that provision as applied by paragraph 7 above.

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\*[General election of MEPs on (insert date of poll)]

\*[European Parliamentary election in . . . . . electoral region on (insert date of poll)]

[Name of candidate]

I solemnly and sincerely declare as follows:—

1. I am the person named above as a candidate at this election (and was my own election agent) or was at this election the election agent of the person named above as a candidate.

2. I have examined the return of election expenses (about to be) delivered by my election agent (by me) to the returning officer, of which a copy is now shown to me and marked ..... and to the best of my knowledge and belief it is a complete and correct return as required by law.

3. To the best of my knowledge and belief, all expenses shown in the return as paid were paid by my election agent (by me), except as otherwise stated in relation to my (the candidate's) personal expenses.

4. I understand that the law does not allow any election expenses not mentioned in this return to be defrayed except in pursuance of a court order.

Signature of declarant .....

Signed and declared by the above named declarant on the ..... day of ....., before me,

(Signed).....

Justice of the Peace (or as the case may be) for .. . . . .

(NOTE: Where there has been a change of election agent, suitable variations may be introduced into the declaration as to expenses.)

SCHEDULE 6

Regulation 115

COMBINED POLLS

General

1. This Schedule applies in the circumstances set out in regulation 115 of these Regulations.

2. In this Schedule, and in any provision modified by this Schedule, “relevant election” means a parliamentary election or a local election the poll at which is taken together with the poll at the European Parliamentary election.

European Parliamentary Elections Rules

3. In rule 19(2) (ballot papers), after sub-paragraph (d) insert—

“(e) shall be of a different colour from that of any ballot paper used at any relevant election.”.

4. In rule 23 (notice of poll), after paragraph (2) insert—

“(2A) The notice published under paragraph (2)—

(a) must state that the poll at the European Parliamentary election is to be taken with the poll at a relevant election;

(b) must specify the relevant parliamentary constituency or district council.”.

5. In rule 28 (issue of official poll cards), after paragraph (3) insert—

“(3A) An official poll card issued under this rule may be combined with an official poll card issued at a relevant election, with necessary adaptations.”.

6. In rule 29 (equipment of polling stations)—
  - (a) after paragraph (1) insert—

“(1A) The same ballot box may be used for the poll at the European Parliamentary election and the poll at each relevant election.

(1B) Where the same ballot box is not used under paragraph (1A), each ballot box shall be clearly marked with—

    - (a) the election to which it relates, as shown on the ballot papers for that election; and
    - (b) the words “Please insert the [specify colour of ballot papers in question] coloured ballot papers in here”.”;
  - (b) after paragraph (4) insert—

“(4A) The large version of the ballot paper referred to in paragraph (4)(a) above shall be printed on paper of the same colour as that of the ballot papers for use at the European Parliamentary election.”;
  - (c) in paragraph (5), for “inside and outside every polling station” substitute “outside every polling station and in every compartment of every polling station”;
  - (d) after paragraph (5) insert—

“(5A) The notice referred to in paragraph (5) must—

    - (a) clearly indicate the election to which it relates; and
    - (b) be printed on paper of the same colour as the ballot papers (other than tendered ballot papers) used at the election to which it relates.”; and
  - (e) omit paragraph (7).
7. In rule 32(1) (admission to polling station), after sub-paragraph (f) insert—

“(g) persons entitled to be admitted at a relevant election.”.
8. In rule 35 (questions to be put to voters), in question (ii) in each of paragraphs (1)(a) and (1)(b) and in the second question in paragraph (3), after “at this” insert “European Parliamentary election”.
9. In rule 37 (voting procedure), after paragraph (9) insert —

“(10) The same copy of the register may be used under paragraph (1) above for each relevant election and one mark may be placed in that register under paragraph (1)(d) above or in the list of proxies under paragraph (1)(e) above to denote that a ballot paper has been received in respect of each relevant election; except that, where a ballot paper has been issued in respect of only one election, a different mark must be placed in the register or list (as the case may be) so as to identify the election in respect of which the ballot paper is issued.”.
10. In rule 38 (votes marked by presiding officer) after paragraph (3) insert—

“(4) The same list may be used under paragraph (3) for each relevant election and, where it is so used, an entry in that list shall be taken to mean that the ballot papers were marked in pursuance of this rule in respect of each election, unless the list identifies the election at which the ballot paper was so marked.”.
11. In rule 39 (voting by persons with disabilities) after paragraph (5) insert—

“(5A) The same list may be used under paragraph (5) for each relevant election and, where it is so used, an entry in that list shall be taken to mean that votes were given in accordance with this rule in respect of each election, unless the list identifies the election at which the vote was so given.”.

12. In rule 40 (tendered ballot papers) after paragraph (6) insert—
- “(6A) The same list may be used under paragraph (6) for each relevant election and, where it is so used, an entry in the list shall be taken to mean that the tendered ballot papers were marked in respect of each election, unless the list identifies the election at which a tendered ballot paper was marked.”.
13. In rule 44 (procedure on close of poll)—
- (a) in paragraph (1) after “polling agents” where those words first appear insert “appointed for the purposes of the European Parliamentary election and those appointed for the purposes of each relevant election”;
- (b) after paragraph (1) insert—
- “(1A) The contents of the packets referred to in sub-paragraphs (b), (c) and (e) of paragraph (1) above shall not be combined with the contents of packets made up under the corresponding rule that applies at each relevant election; nor shall the statement prepared under paragraph (3) below be so combined.”.
14. At the end of rule 49 (preliminary proceedings and conduct of the count) insert—
- “(5) Where separate ballot boxes have been used, no ballot paper marked in respect of the European Parliamentary election shall be rendered invalid by the ballot paper being placed in the ballot box used at any relevant election.”
15. In rule 66 (countermand or abandonment of poll on death of candidate)—
- (a) after paragraph (1) insert—
- “(1A) Neither the countermand of the poll at the European Parliamentary election nor the direction that that poll be abandoned affects the poll at any relevant election.”;
- (b) for paragraph (2) substitute—
- “(2) If the poll at the European Parliamentary election is abandoned because of a candidate’s death—
- (a) no further ballot papers at that election shall be delivered in any polling station;
- (b) the returning officer shall dispose of ballot papers used at the European Parliamentary election and other documents in his possession as he is required to do on the completion in due course of the counting of the votes at any relevant election,
- but this is subject to paragraph (2A).
- (2A) In a case falling within paragraph (2)—
- (a) a ballot paper account for the European Parliamentary election need not be prepared or verified;
- (b) the returning officer, having separated the ballot papers relating to any relevant election, shall take no step or further step for the counting of the ballot papers used at the European Parliamentary election or of the votes;
- (c) the returning officer shall seal up all of those ballot papers whether the votes have been counted or not;
- (d) it is not necessary to seal up counted and rejected ballot papers in separate packets.”.

*Absent Voting*

16. After paragraph 15 of Schedule 2 insert—

**“Combination of polls**

**15A.** Where the poll at the European Parliamentary election is to be taken together with the poll at a relevant election, the proceedings on the issue and receipt of postal ballot papers in respect of each relevant election shall be taken together.”

**17.** In paragraph 16 of Schedule 2, for “in Form G in the Appendix” substitute—

- “(a) in Form G in the Appendix at a European Parliamentary election where the poll is taken alone, and
- (b) in Form J in the Appendix at a European Parliamentary election where the poll is taken together with the poll at a relevant election.”

**18.** In paragraph 21 of Schedule 2, at the end insert—

“(6) Where the poll at the European Parliamentary election is taken together with the poll at a relevant election, the colour of the postal ballot paper must also be marked on the declaration of identity sent with that paper.”

**19.** In paragraph 23 of Schedule 2, at the end insert—

“(4) Where the poll at the European Parliamentary election is taken together with the poll at a relevant election—

- (a) the envelope referred to in sub-paragraph (2) above must also be marked “Covering envelope for the *[insert colour of ballot paper]* coloured ballot paper”, and
- (b) on the envelope referred to in sub-paragraph (3) above after the words “Ballot paper envelope” there must be added “for the *[insert colour of ballot paper]* coloured ballot paper”.”

**20.** In the Appendix of Forms at the end of Schedule 2, after Form G insert—  
“FORM JDECLARATION OF IDENTITY (COMBINED POLLS)

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

(for use when a European Parliamentary poll is combined with a parliamentary poll or a local poll)

Front of form

**EUROPEAN PARLIAMENTARY ELECTION  
ELECTORAL REGION OF NORTHERN IRELAND  
DECLARATION OF IDENTITY**

To be returned with the [*insert colour of ballot paper*] coloured ballot paper No.

I hereby declare that I am the person to whom the [*insert colour of ballot paper*] coloured ballot paper numbered as above was sent.

*Date of birth must be given below except where the voter is a proxy.*

My date of birth is.....

**Voter's signature**

The voter, who is personally known to me, has signed this declaration in my presence.

**Witness's signature**

Name of witness (WRITE CLEARLY)

Address of witness (WRITE CLEARLY)

**SEE INSTRUCTIONS ON THE BACK OF THIS FORM**

Back of form

## **INSTRUCTIONS TO THE VOTER**

**1**

You must sign this declaration of identity in the presence of a person known to you. You are required to do this even if you have already signed a similar declaration of identity in respect of another election to be held on the same day. That person should then sign this declaration as a witness, adding his or her name and address. You must also give your date of birth where indicated (unless voting as a proxy). Without this the declaration will be invalid.

**2**

Mark your vote by putting "1" against the candidate of your first choice, "2" against the candidate of your second choice and so on. Do this secretly; if you cannot vote without assistance, the person assisting you must not disclose how you have voted.

**3**

You may show your preference for as many or as few candidates as you wish but you should not show the same preference against more than one candidate. Put no other mark on the ballot paper, or your vote may not be counted.

**4**

Different colours are used for the ballot papers for each election. Each ballot paper has its own ballot paper envelope (the smaller envelope marked "A"), declaration of identity and covering envelope (the larger envelope marked "B"). The covering envelope and declaration of identity for a particular ballot paper are those which refer to the colour of that ballot paper. It is important that you use the correct envelopes and declaration of identity, otherwise your vote may not be counted. You may find it helpful to sort the documents into separate sets, each consisting of a ballot paper, ballot paper envelope, declaration of identity and covering envelope. Then proceed as follows—

- (a) place each ballot paper in the correct smaller envelope and seal it;
- (b) put the envelope, together with the correct declaration of identity, in the correct covering envelope and seal it;
- (c) return the covering envelopes without delay. Ballot papers must be received by the returning officer not later than the close of poll.

**5**

If you receive more than one ballot paper, remember that it is illegal to vote more than once (otherwise than as proxy) at the same election. You are entitled to vote at different elections which are held on the same day.

**6**

At this election you cannot vote in person at a polling station, even if you receive an official poll card.

**7**

If you inadvertently spoil your ballot paper, you can apply to the returning officer for another one. With your application you must return, in your own envelope, the spoiled ballot paper, the declaration of identity and the envelopes marked "A" and "B". Remember that there is little time available if a fresh postal ballot paper is to be issued and counted."

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

## SCHEDULE 7

Regulation 116

## REVOCATIONS

<i>Instruments revoked</i>	<i>References</i>	<i>Extent of revocation</i>
The European Parliamentary Elections (Northern Ireland) Regulations 1986	<a href="#">S.I. 1986/2250</a>	The whole Regulations
The European Parliamentary Elections (Northern Ireland) (Amendment) Regulations 1989	<a href="#">S.I. 1989/502</a>	The whole Regulations
The European Parliamentary Elections (Northern Ireland) (Amendment) Regulations 1990	<a href="#">S.I. 1990/562</a>	The whole Regulations
The European Parliamentary Elections (Northern Ireland) (Amendment) Regulations 1991	<a href="#">S.I. 1991/1675</a>	The whole Regulations
The European Parliamentary Elections (Changes to the Franchise and Qualification of Representatives) Regulations 1994	<a href="#">S.I. 1994/342</a>	Regulations 6 and 16
The European Parliamentary Elections (Northern Ireland) (Amendment) Regulations 1994	<a href="#">S.I. 1994/782</a>	The whole Regulations
The European Parliamentary Elections (Northern Ireland) (Amendment) Regulations 1997	<a href="#">S.I. 1997/969</a>	The whole Regulations
The European Parliamentary Elections (Northern Ireland) (Amendment) Regulations 1999	<a href="#">S.I. 1999/1268</a>	The whole Regulations



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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which extend to Northern Ireland only, make provision for the conduct of elections to the European Parliament and for the questioning of such an election and the consequences of irregularities. They revoke and replace the European Parliamentary Elections (Northern Ireland) Regulations 1986, as amended by the instruments listed in Schedule 7, which applied provisions of the Representation of the People Acts and regulations made under those Acts as modified by those Regulations. In these Regulations, the relevant provisions of the Representation of the People Acts and regulations made thereunder are set out in full with appropriate modifications.

Part 1 of these Regulations makes general provision for the conduct of the poll and the manner of voting in the electoral region of Northern Ireland. Regulation 6 introduces Schedule 1, which contains rules for European Parliamentary elections. Provision about absent voting is made by regulations 7 to 13 and Schedule 2. Regulation 14 and Schedule 3 modify these Regulations for the 2004 election in respect of citizens of the Accession States (as defined in regulation 2, that is the States joining the European Union on 1st May 2004). Provision is also made about the register of electors and the functions of the registration officer and returning officer (who is by virtue of section 6(4) of the European Parliamentary Elections Act 2002 the Chief Electoral Officer). Offences relating to voting and other offences are created by regulations 23 to 29 and provision is made about the secrecy of voting and prohibition of publication of exit polls by regulations 30 and 31.

Part 2 makes provision about the election campaign including the appointment of agents and the issuing of election broadcasts and publications. Regulation 38 and Schedule 4 impose controls on donation to candidates and regulations 39 to 57 and Schedule 5 deal with the election expenses of candidates. Various election offences including bribery and treating are created. Part 3 provides for the filling of vacancies by the holding of by-elections.

Part 4 deals with legal proceedings in relation to European Parliamentary elections. Regulation 79 provides for the questioning of such an election to be by election petition and regulations 80 to 96 govern how such a petition is to be presented and served, provide for the hearing of a petition by an election court and for the procedure at and following the trial of an election petition. Regulations 97 to 109 deal with the prosecution of offences.

Part 5 contains miscellaneous provisions. Regulation 115 and Schedule 6 provide for the combination of polls at European Parliamentary elections with those at parliamentary or local elections. Regulation 116 and Schedule 7 revoke the European Parliamentary Elections (Northern Ireland) Regulations 1986 and amending regulations.