

SCHEDULE 1

Regulation 9

EUROPEAN PARLIAMENTARY ELECTIONS RULES

PART 1

PROVISIONS AS TO TIME

Timetable

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

<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 and list of candidates of registered parties	Between the hours of 10 a.m. and 4 p.m. in the United Kingdom 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 or list of candidates of registered parties.	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"> (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 registered party or candidate on the party's list or individual candidate unless made at or immediately after the time of the delivery of the nomination paper; and (b) the foregoing provisions do not apply to objections made in pursuance of rule 17(2).
Publication of statement of parties and individual candidates nominated.	At the close of the time for making objections to nomination papers or list of candidates of registered parties 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—

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- (a) a Saturday or Sunday,
- (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 in the combined region a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom or a Bank or Public Holiday in Gibraltar not otherwise falling within sub-paragraph (b) of paragraph (1),
- (b) in relation to a by-election in the combined region a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales or a Bank or Public Holiday in Gibraltar not otherwise falling within sub-paragraph (b) of paragraph (1),
- (c) in relation to a general election in a region other than the combined region, a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom, and
- (d) in relation to a by-election in a region other than the combined region a day which is a bank holiday under that Act in that part of the United Kingdom in which the electoral region is situated,

but at a general election sub-paragraph (b) or (d) and not sub-paragraph (a) or (c) (as the case may be) 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 2

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 19 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.

(3) The returning officer shall send a copy of the notice to the local returning officer for each local counting area wholly or partly contained in the electoral region; and each local returning officer shall publish the copy of the notice at a place within the area in which he acts.

Nomination of individual candidates

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

- (2) The nomination paper shall state the individual 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) in the case of an individual candidate standing on behalf of a registered party at a by-election, a description (of not more than 6 words in length) which is authorised as mentioned in rule 5(1); or
 - (b) the word “Independent”.
- (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.

Nomination papers: name of registered political party at a by-election

- 5.—**(1) A nomination paper may not include a description of an individual candidate which is likely to lead voters to associate the candidate with a registered political party unless—
- (a) the individual candidate is standing on behalf of a registered party at a by-election;
 - (b) the party is a qualifying party in relation to the electoral region; and
 - (c) the description in question is authorised by a certificate—
 - (i) issued by or on behalf of the registered nominating officer of the party, and
 - (ii) 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 2 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”);
 - (b) a registered political party is a qualifying party in relation to an electoral region if the region is in England (including the combined region) or is Wales or Scotland and the party was at the relevant time registered in respect of that part of Great Britain in the Great Britain register maintained under that Part of that Act.

Nomination papers: name of registered political party at a general election

- 6.—**(1) A registered party which is to stand for election in the electoral region shall be nominated by a nomination paper delivered, to the returning officer at the place which he has fixed for the purpose, by the party's nominating officer or a person authorised in writing by him.
- (2) The nomination paper shall state the name by which the registered party is to stand for election; and that name need not be the party's registered name but must not be such as would be likely to lead voters to associate that party with another registered party.
- (3) That name shall not exceed 6 words in length.
- (4) The nomination paper shall be accompanied by a list of candidates which complies with rule 7.
- (5) The nomination paper shall include a statement that the party is nominated by or on behalf of the nominating officer of the registered party in question and shall be signed by the person making it.

(6) Where a nomination paper and list of candidates are delivered in respect of the same registered party after an earlier paper and list have been so delivered, that later paper and list shall be deemed to supersede the earlier ones.

(7) A person shall be guilty of a corrupt practice if he fraudulently purports to be authorised to make the statement required by paragraph (5) on behalf of a registered party's nominating officer.

(8) In the application of this rule in relation to an election "registered party" means a party which was registered under Part 2 of the 2000 Act at the time by which the notice of election is required to be published.

List of candidates

7.—(1) The number of candidates in the list of a registered party's candidates which must accompany its nomination paper shall not exceed the number of MEPs to be elected in the electoral region at the election.

(2) The list shall set out the full names and home addresses in full of each candidate.

Consent to nomination

8.—(1) A person shall not be validly nominated as an individual candidate or a candidate on a registered party's list 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,
- (b) is attested by one witness,
- (c) in the case of a candidate on a registered party's list, identifies the party in question, and
- (d) 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 or Gibraltar (as the case may be) 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

9.—(1) Where the candidate is a relevant citizen of the Union, he shall not be validly nominated as an individual candidate or as a candidate on a registered party's list, 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 or Gibraltar 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 parties and individual 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 either by virtue of the list of candidates which accompanied a registered party's nomination or as an individual 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(1).

Deposit

10.—(1) A person shall not be validly nominated as an individual 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) A registered party shall not be validly nominated unless the sum of £5,000 is deposited on its behalf with the returning officer at the place and during the time for the delivery of nomination papers.

(3) 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 registered party or individual 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 33, 34 or 38 of these Regulations).

Place for delivery of nomination papers

11. 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.

(1) O. J. L 043, 20.02.1993 p. 42.

Right to attend nomination

12.—(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 an individual candidate or included in a list under rule 7,
 - (b) the election agent of a registered party which has submitted a nomination or of an individual 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 or list of candidates.

Decisions as to validity of nomination papers

13.—(1) Where, in the case of an individual candidate, a nomination paper and the candidate's consent to it (and, where required, a declaration and certificate under rule 9(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) Where, in the case of a registered party, a nomination paper and list under rule 7 are delivered and a deposit is made in accordance with these rules, the party and (subject to paragraph (5)) the candidates on its list shall be deemed to stand nominated unless and until the returning officer determines that the nomination paper or list is invalid.

(3) The returning officer is entitled to hold a nomination paper of an individual 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 (which applies in respect of the office of MEP by virtue of section 10(1)(a) of the 2002 Act⁽²⁾) or any corresponding provision in respect of detained offenders in Gibraltar made under section 10(4A) of the 2002 Act⁽³⁾.

(4) The returning officer is entitled to hold a nomination paper of a registered party, together with the list of candidates accompanying it, invalid only on one of the following grounds—

- (a) that the contents of the nomination paper are not as required by law; and;
- (b) that the number of candidates in the list breaches rule 7(1).

(5) Where—

- (a) the particulars of any candidate in the list of candidates accompanying the nomination paper of a political party are not as required by law;
- (b) the consent to nomination of any such candidate is not delivered in accordance with these rules, or

(2) Section 10 was amended by section 21(1)(a) of the European Parliament (Representation) Act 2003 (c. 7).

(3) Subsection 4A was inserted by section 21(1)(b) of the European Parliament (Representation) Act 2003 (c. 7).

(c) any such candidate is a relevant citizen of the Union and a declaration and certificate under paragraphs (2) and (3) of rule 9 have not been delivered in accordance with that rule, the returning officer shall delete the name and address of that candidate from the list.

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

(7) 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.

(8) Where the returning officer deletes any name from the list of candidates of a registered party, he must endorse on the nomination paper the fact and the reasons for his decision to do so and sign the paper.

(9) The returning officer's decision that a nomination paper and, where applicable, its accompanying list, is valid shall be final and shall not be questioned in any proceeding whatsoever.

(10) Subject to paragraph (9) nothing in this rule prevents the validity of a nomination being questioned on a European Parliamentary election petition.

Withdrawal of candidates

14.—(1) An individual 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.

(2) The nominating officer of a registered party or a person authorised in writing by him may withdraw that party's nomination by a notice of withdrawal signed by him and delivered to the returning officer at the place for delivery of nomination papers.

Publication of statement of persons nominated

15.—(1) The returning officer shall prepare and publish a statement ("the statement of parties and individual candidates nominated") showing—

(a) the registered parties which have been and stand nominated, together with the list of persons who stand as candidates of those parties;

(b) the persons who have been and stand nominated as individual candidates; and,

(c) any other persons who have been nominated (whether on a list of a registered party or as individual candidates) together with the reason why they no longer stand nominated.

(2) The statement shall show the registered parties which have been and stand nominated in alphabetical order, with the names and home addresses of the candidates who appear on the list of each party as given in that list and arranged in the order in which their names appear on that list.

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

(4) The statement shall show the persons standing nominated as individual candidates after the names of the registered parties standing nominated 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.

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

Local publication of statement under rule 15

16.—(1) Immediately following publication of the statement of parties and individual candidates nominated, the returning officer shall forward a copy of it to the local returning officer for each local counting area wholly or partly contained in the electoral region.

(2) As soon as practicable after receipt of the copy of the statement, each local returning officer shall publish it at a place within the area for which he acts.

Disqualification by Representation of the People Act 1981

17.—(1) If it appears to the returning officer that any of the persons nominated as an individual 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) or any corresponding provision in respect of detained offenders in Gibraltar made under section 10(4A) 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 15 but limited to persons standing as individual candidates only.

(2) The draft shall be headed “Draft statement of individual candidates nominated” but shall contain a notice stating that any person who wishes to object to the nomination of any individual candidate on the ground that he is disqualified for nomination under the Representation of the People Act 1981 or any corresponding provision in respect of detained offenders in Gibraltar made under section 10(4A) of the 2002 Act 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

18.—(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

19.—(1) If the statement of persons nominated shows more candidates than there are seats to be filled, a poll shall be taken in accordance with Part 3 of these rules.

(2) If the statement of persons nominated shows a number of candidates (whether on a registered party’s list or individual candidates) which is the same as, or less than, the number of seats to be filled, those candidates shall be declared to be elected in accordance with Part 4 of these rules.

PART 3

CONTESTED ELECTIONS

Poll to be taken by ballot

20. The votes at the poll shall be given by ballot in accordance with sub-section (4) of section 2 of the 2002 Act and the seats shall be allocated in accordance with sub-sections (5) to (9) of that section.

The ballot papers

21.—(1) The ballot of every voter shall consist of a ballot paper, and the registered parties, together with their candidates shown in the statement of parties and individual candidates nominated and the individual candidates so shown 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 registered parties shown in the statement of parties and individual candidates nominated, together with the names of the candidates of those parties as so shown, and the names and description, if any, of the individual candidates so shown;
- (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) If a request is made by or on behalf of a nominating officer of a registered party, the ballot paper shall contain adjacent to the party's name the party's registered emblem (or, as the case may be, one of the party's registered emblems).

(4) The request must—

- (a) be made in writing to the returning officer, and
- (b) be received by him during the period for delivery of nomination papers set out in the Table in rule 1.

(5) The order of the names of the registered parties, together with their candidates, and of the individual candidates in the ballot paper shall be the same as in the statement of parties and individual candidates nominated.

The official mark

22.—(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 local counting area.

(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

23. 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

24.—(1) The local returning officer may use, free of charge, for the purpose of taking the poll—

- (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—

- (i) in England and Wales, to a school maintained or assisted by a local education authority or a school in respect of which grants are made out of moneys provided by Parliament to the person or body of persons responsible for the management of the school;
- (ii) in Scotland, to a school other than an independent school within the meaning of the Education (Scotland) Act 1980(4);
- (iii) in Gibraltar, to a school the expense of maintaining which is payable wholly or partly out of public funds or out of any rate, or by a body whose expenses are so payable.

(2) The local 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.

Notice of poll

25.—(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) In respect of each local counting area or part of an area contained in the electoral region, the local 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

26. The local 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 prescribed by paragraph 28 of that Schedule, together with such envelopes for their return (whether free of charge or otherwise) as are required for the purposes of paragraph 36 of that Schedule.

Provision of polling stations

27.—(1) The local 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 local 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.

(4) 1980 c. 44.

Appointment of presiding officers and clerks

28.—(1) The local 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 registered party or individual candidate in or about the election.

(2) The local 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 a local returning officer so presiding with the necessary modifications as to things to be done by the local returning officer to the presiding officer or by the presiding officer to the local 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.

Issue of official poll cards

29.—(1) The local 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 cards shall be in the forms in the Appendix, or forms to the like effect, 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 63(5) 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

30.—(1) The local returning officer shall provide each presiding officer with such number of ballot boxes and ballot papers as in the local returning officer's opinion may be necessary.

(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 local 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).

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- (4) The local 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 sub-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 40(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 local 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 “Put only one cross on the ballot paper. Put no other mark on the ballot paper, or your vote may not be counted”.
- (8) Where proof has been given to the returning officer’s satisfaction of the death of a candidate on a registered party’s list or an individual candidate, he shall request each local returning officer to 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 a 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—
 - (i) identify the spaces on the ballot paper on which he may mark his vote;
 - (ii) identify the registered party or individual candidate to which each such space refers; and
 - (iii) mark his vote on the space he has chosen.

Appointment of polling and counting agents

31.—(1) The election agent or sub-agent of a registered party standing nominated or an individual 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) For each count one (but no more than one) counting agent of each registered party or individual candidate may be authorised by the terms of his appointment to require a re-count at that count.
- (3) The local returning officer may limit the number of counting agents, so however that—
- (a) the number shall be the same in the case of each registered party standing nominated or individual candidate; and
 - (b) the number allowed to a registered party standing nominated or individual 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 registered parties standing nominated and the number of individual 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 local returning officer and shall be so given not later than the fifth 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 local 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 local 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 or of his registered party, if appointed, would have been authorised to do, or may assist any such agent in doing any such act or thing.

(9) An election agent or sub-agent of a registered party standing nominated or the election agent or sub-agent of an individual candidate may do or assist in doing anything which a polling or counting agent of that party or 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 an election agent or sub-agent of a registered party standing nominated or the election agent or sub-agent of an individual candidate instead of that party's or 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

32. The local 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 voter with disabilities 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 29 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

33.—(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—

(a) the candidates and the election agents of any registered party standing nominated and any individual 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

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(f) representatives of the Electoral Commission.

(2) Not more than one polling agent shall be admitted at the same time to a polling station on behalf of the same registered party standing nominated and any individual candidate.

(3) A constable or person employed by a local 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 local returning officer, as the case may be.

(4) Any certificate surrendered under this rule shall forthwith be cancelled.

Keeping of order in station

34.—(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 local 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

35. 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

36.—(1) The presiding officer may, and if required by a candidate or the election or polling agent of a registered party standing nominated or of an individual 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 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?”

(3) 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.

(4) No inquiry shall be permitted as to the right of any person to vote, except as authorised by this rule.

Challenge of voter

37.—(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 registered party standing nominated or of an individual 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

38.—(1) 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 counterfoil;
- (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) The voter, on receiving the ballot paper, shall forthwith proceed into one of the compartments in the polling station and there secretly mark his paper and fold it up so as to conceal his vote, and shall then show to the presiding officer the back of the paper, so as to disclose the official mark, and put the ballot paper so folded up into the ballot box in the presiding officer’s presence.

(3) 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.

Votes marked by presiding officer

39.—(1) 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 vote to be marked on a ballot paper in manner directed by the voter, and the ballot paper to be placed in the ballot box.

(2) The name and number on the register of electors of every voter whose vote 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 votes 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

40.—(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) 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) 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.

(4) 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.

- (5) 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.
- (6) No fee or other payment shall be charged in respect of the declaration.

Tendered ballot papers

- 41.**—(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) 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.
- (3) 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”).
- (4) 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.

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, if any, attached,
- (b) the unused and spoiled 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 local returning officer to be taken charge of by him; but if the packets are not delivered by the presiding officer personally to the local returning officer, the arrangements for their delivery shall require the local returning 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 local returning 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 returning officer and 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 local returning officer and his clerks,
- (b) the candidates and—
 - (i) in England and Wales, their spouses; or
 - (ii) in Scotland, one guest each,
- (c) the election agents,
- (d) the counting agents,
- (e) representatives of the Electoral Commission,

may attend the verification of the ballot paper accounts, unless permitted by the local returning 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 local returning 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 local returning 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 it is returned in the manner prescribed in paragraph 41 of Schedule 2 so as to reach the local returning officer or any polling station in the local counting area in question before the close of the poll and the declaration of identity duly signed and authenticated is also returned in that manner before that time.

(3) The local returning officer shall not count any tendered ballot paper.

(4) The local returning officer, while counting and recording the number of ballot papers, shall keep the ballot papers with their faces downwards.

(5) The local returning officer shall verify each ballot paper account by comparing it with the number of ballot papers recorded by him, the unused and spoilt ballot papers in his possession and the tendered votes list (opening and resealing the packets containing the unused and spoilt 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.

(6) The local returning officer shall determine the hours during which the procedure under this rule is proceeded with.

(7) The local returning officer shall take proper precautions for the security of the ballot papers and documents.

(8) On completion of the procedure under this rule, the local returning officer shall—

- (a) place the ballot papers and other documents relating to the election in packets under his own seal and the seals of such counting agents as desire to affix their seals, unless he proceeds immediately to the counting of the votes under rule 48;
- (b) otherwise take proper precautions for the security of the papers and documents; and;
- (c) inform the returning officer of the total number of ballot papers counted.

Attendance at counting of votes

47.—(1) The local 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, before or after the material time and in either case so that the requirements of rule 52(1) are satisfied as soon as practicable after 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 and the returning officer notice in writing of the time and place at which he will begin to count the votes.

For the purposes of this paragraph the “material time” means in relation to a general election of MEPs, the close of the polling in the Member State whose electors are the last to vote in the election.

(2) No person other than—

- (a) the returning officer, the local returning officer and his clerks,

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- (b) the candidates and—
 - (i) in England and Wales, their spouses; or
 - (ii) in Scotland, one guest each,
- (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 local 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 local 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 local 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.

(5) In particular, where the votes are counted by sorting the ballot papers according to the registered party or individual candidate for whom the vote is given and then counting the number of ballot papers for each registered party or individual candidate, the counting agents shall be entitled to satisfy themselves that the ballot papers are correctly sorted.

(6) If the amendments made to the Act annexed to Council Decision 76/787 contained in Council Decision 2002/787/ECSC, EEC, Euratom(5) have not entered into force by the close of the poll, paragraph (1)(a) shall have effect as if the words “before or” and “in either case” were omitted.

The count

48.—(1) The local returning officer shall—

- (a) where the ballot papers and other documents have been placed in packets under rule 46(8), open the packets of ballot papers other than unused, spoilt and tendered ballot papers;
- (b) mix together all of the ballot papers other than unused, spoilt and tendered ballot papers.

(2) The local returning officer shall not count any tendered ballot paper.

(3) The local returning officer, while 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.

(4) The local 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 an individual candidate or the election agent of a registered party shall be as effective as the agreement of the counting agents of that counting agent or party.

(5) During the time so excluded the local 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.

(5) 1980 c. 44.

(6) In the case of a general election of MEPs, if the counting of the votes has commenced before the material time (within the meaning of rule 47(1)) the local returning officer or his clerks shall not disclose the number of votes given for each registered party and individual candidate to anyone other than the returning officer or his clerks until after that time, and the counting of the votes shall be deemed not to have been completed until after that time.

Re-count

49.—(1) A candidate, the election agent of a registered party or individual candidate or a counting agent authorised under rule 31(2) may, if present when the counting of the votes is completed (or, if later, deemed to be completed under rule 48(6)) or any re-count of the votes is completed, require the local returning officer to have the votes re-counted or again re-counted but the local returning officer may refuse to do so if in his opinion the request is unreasonable.

(2) No step shall be taken on the completion of the counting (or, if later, its deemed completion) or any re-count of votes until any persons referred to in paragraph (1) who are present at its completion (or, if later, its deemed completion) have been given a reasonable opportunity to exercise the right conferred by this rule.

Rejected ballot papers

50.—(1) Any ballot paper—

- (a) which does not bear the official mark, or
- (b) on which votes are given for more than one registered party or individual candidate or for a registered party and an individual candidate, or
- (c) on which anything is written or marked by which the voter can be identified except the printed number on the back, or
- (d) which is unmarked or void for uncertainty,

shall, subject to the provisions of the next following paragraph, be void and not counted.

(2) A ballot paper on which the vote is marked—

- (a) elsewhere than in the proper place, or
- (b) otherwise than by means of a cross, or
- (c) by more than one mark,

shall not for such reason be deemed to be void if an intention that the vote shall be for one or other of the registered parties or individual candidates clearly appears, and the way the paper is marked does not itself identify the voter and it is not shown that he can be identified by it.

(3) A ballot paper on which a vote is marked for a particular candidate on a party's list of candidates shall, if otherwise valid, be treated as a vote for that party, whether or not there is also a vote for that party.

(4) The local returning officer shall endorse the word "rejected" on any ballot paper which under this rule is not to be counted, and shall add to the endorsement the words "rejection objected to" if an objection is made by a counting agent to his decision.

(5) The local returning officer shall draw up a statement showing the number of ballot papers rejected under the several heads of—

- (a) want of official mark;
- (b) voting for more than one registered party or candidate;
- (c) writing or mark by which voter could be identified;
- (d) unmarked or void for uncertainty.

Decisions on ballot papers

51. The decision of the local 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.

Notification of local result

52.—(1) As soon as practicable after the completion of the count (or, if later, its deemed completion under rule 48(6)), the local returning officer shall draw up a statement showing the number of votes given for each registered party and individual candidate, excluding any votes given on ballot papers rejected under rule 50.

(2) The local returning officer shall forthwith inform the returning officer of the contents of that statement.

(3) The local returning officer shall give public notice of the statements prepared under this rule and under rule 50 as soon as practicable after the returning officer has agreed that he should do so.

Attendance at allocation of seats

53.—(1) The returning officer shall make arrangements for making the calculation and allocation required by rule 54.

(2) No person other than—

- (a) the returning officer and his clerks,
- (b) the election agent of each registered party standing at the election or a person acting on his behalf,
- (c) each candidate on the list of such a party and—
 - (i) in England and Wales, the candidate's spouse or;
 - (ii) in Scotland, one guest each,
- (d) the election agent of each individual candidate or a person acting on his behalf,
- (e) each individual candidate and—
 - (i) in England and Wales, his spouse or;
 - (ii) in Scotland, one guest each,
- (f) representatives of the Electoral Commission,

may be present at that calculation and allocation unless permitted by the returning officer to attend.

(3) The returning officer shall give to—

- (a) the election agent of each registered party standing at the election, and
- (b) each individual candidate,

notice in writing of the place at which he will conduct the proceedings under rule 54 and of the time after which he will begin those proceedings.

Allocation of seats

54.—(1) The returning officer, as soon as practicable after he has been informed of the contents of the statements prepared under rule 52(1) by local returning officers in his region shall calculate the total number of votes given to each registered party and individual candidate in all of the local counting areas wholly or partly contained within the electoral region, as shown in those statements.

(2) Subject to paragraph (4) and rule 55, the returning officer shall then allocate the seats in accordance with subsections (5) to (9) of section 2 of the 2002 Act.

(3) The returning officer shall give the persons entitled to be present reasonable facilities for satisfying themselves that the results of the calculation and allocation which he is required to make are accurate; and, in particular, a person entitled to be present may require the returning officer to make a calculation or allocation again but the returning officer may refuse to do so if in his opinion the request is unreasonable.

(4) At a by-election at which there is only one vacancy, subsections (5) to (9) of section 2 of the 2002 Act shall have effect as though they provided that the party or individual candidate to whom the majority of the votes have been given shall be declared to be elected.

Equality of seats

55.—(1) Where in the case of the last seat to be allocated, two or more registered parties or individual candidates have an equal number of votes and that number is greater than the number of votes of any other party or candidate, one vote shall be added to the votes of each party or individual candidate having such an equal number and the rules in subsections (5) to (9) of section 2 of the 2002 Act shall be applied again.

(2) Where, after the application of the procedure set out in paragraph (1), two or more parties or individual candidates still have an equal number of votes and that number is greater than the number of votes of any other party or candidate, the returning officer shall forthwith decide between the parties and individual candidates having such an equal number by lot, and allocate the seat to the party or candidate on whom the lot falls.

(3) Where the lot falls on a party, the returning officer shall comply with section 2(8) of the 2002 Act.

PART 4

Final Proceedings

Declaration of result

56.—(1) In a contested election, when the result of the allocation and filling of seats has been ascertained, the returning officer shall—

- (a) forthwith declare to be elected those candidates on a registered party's list by whom seats are filled and those individual candidates to whom seats are allocated under rules 54 and 55;
- (b) prepare a statement setting out—
 - (i) the total number of valid votes (as notified to him) given to each registered party and individual candidate;
 - (ii) the number of votes which such a party or candidate had, after the application of subsections (4) to (9) of section 2 of the 2002 Act, at any stage when a seat was allocated to that party or candidate;
 - (iii) the names in full and home address in full of each candidate who fills a seat or to whom a seat has been allocated; and
 - (iv) whether, in the case of a party, there are remaining candidates on that party's list who have not been declared to be elected; and
- (c) give public notice of that statement and send a copy to the Secretary of State.

(2) In the case of an uncontested election, the statement of parties and individual candidates nominated, in addition to showing the registered parties, the candidates on the list of those parties and

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individual candidates standing nominated, shall also declare to be elected any candidate so shown; and the returning officer shall send a copy of that statement and declaration to the Secretary of State.

Return or forfeiture of candidate's deposit

57.—(1) The deposit made under rule 10 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 registered party or an individual candidate is not shown as standing nominated in the statement of parties and individual candidates nominated, or
- (b) in the case of an individual candidate, 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 (3) the deposit shall be forfeited if a poll is taken and, after the total number of valid votes for each registered party and individual candidate has been ascertained under rule 54(1), the party or candidate is found not to have polled more than one-fortieth of the total number of votes polled by all the parties and candidates.

PART 5

Disposal of Documents

Sealing up of ballot papers

58.—(1) On the completion of the counting at a contested election (or, if later, its deemed completion under rule 48(6)) the local returning officer shall seal up in separate packets the counted and rejected ballot papers.

(2) The local 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 local returning officer

59. The local 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

60.—(1) An order—

- (a) for the inspection or production of any rejected ballot papers in the custody of the local 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 a 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 local 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,

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 to the High Court or to a county court, may be exercised by any judge of the court otherwise than in open court.

(6) Where an order is made for the production by the local 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 local returning officer or to open any sealed packets of counterfoils and certificates.

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

(9) In the application of this rule to documents retained by the local returning officer for the Gibraltar local counting area, the references to the county court, except in paragraph (5)(b), and to the High Court in paragraph (4) shall be construed as references to the Gibraltar court.

Retention and public inspection of documents






61.—(1) The local returning officer shall retain for a year all documents relating to an election to which rule 59 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 local returning officer.

(3) The local returning officer may, 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 local authority by which he is employed.

APPENDIX OF FORMS

Form of front of ballot paper (see next page)

<p style="text-align: center;">Election for the European Parliament NORTH WEST REGION You have one vote</p>		
1	Conservative Party	
	<p>1. Arthur John Briggs 2. Edith Pickering 3. David Hamish Scott 4. Ibrahim Malik 5. Douglas Alasdair Chapman</p>	<p>6. Christopher Paul Hampton 7. Derek Holloway-Jones 8. Russell Montgomery Johnsons 9. Anita Patel 10. Stella Hammond-Amstrong</p>
2	Green Party	
	<p>1. James Edward Wellingborough 2. Kathleen Mary Fenner 3. Mary Jean Chandler 4. Frank Probert 5. Samuel James Winstanley</p>	<p>6. William Anderson 7. Paul Alfred Mackenzie 8. Kathleen Siobhan Murphy 9. Maximus Paul Alexander 10. Philip Paul Holland</p>
3	Labour Party	
	<p>1. Eileen McAlpine 2. Indra Anila Gupta 3. Robert Henry Anderton 4. Victor Daniel Amos 5. Annabelle Susannah Hilary-Bowles</p>	<p>6. Andrew Wilson 7. Harry Townsend 8. Eric Harvey Williamson 9. Monica Christine Mackison 10. Gareth Geatrey Hardman</p>
4	Liberal Democrat Party	
	<p>1. Peggy Verchica Greenburgh 2. David Loyd-Peiry 3. Simon Daniel Gabrielson 4. Julia Menzies Drake-Henderson 5. Francesca Mixed Pezison</p>	<p>6. Ayoba Ajoku 7. Geraldine Mary Jennings 8. Barnaby James Scrimson 9. Patricia Jude Hendryka 10. Gustav Arthur Jones</p>
5	United Kingdom Independence Party	
	<p>1. Peter Hamilton Puck 2. Gordon Harold Bradley 3. Cerrie Stephane Urewater 4. Leonard David Atherton 5. Charles Henry Robinson-Browne</p>	<p>6. Josef Davidson 7. Camille Jocelyn Stuart 8. Richard Annibald Butler 9. Carlos Philippe Jameson 10. Brian Atkinson</p>
6	<p>Elizabeth Penelope Nightingale Independent</p>	
7	<p>Manmeet Singh Independent</p>	

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

Directions as to printing the ballot paper

1. Nothing is to be printed on the ballot paper except in accordance with these directions.
2. So far as is practicable, the arrangements set out in paragraphs 3 to 16 below shall be observed in the printing of the ballot paper.
3. No word shall be printed on the face of the ballot paper except the words “Election for the European Parliament”, the name of the electoral region, the statement “You have one vote”, the names of registered political parties, the names and descriptions of individual candidates, the names of candidates on a party list, the number of each registered party or individual candidate and a number for each candidate on a party list and words forming parts of emblems.
4. The words “Election for the European Parliament”, the name of the region and the statement referred to in paragraph 3 above shall appear above the higher horizontal rule.
5. No horizontal rule shall be printed on the face except—
 - (a) the higher horizontal rule immediately below the statement mentioned in paragraph 3 above,
 - (b) a horizontal rule between the entry for each registered party or individual candidate, and
 - (c) the lower horizontal rule at the foot of the ballot paper.
6. No vertical rule shall be printed on the face except—
 - (a) the vertical rule separating the number of the registered parties or individual candidates from their names, and
 - (b) the vertical rule separating the names of the parties or individual candidates from the space where a vote may be marked.
7. The space on the ballot paper between the horizontal rule referred to in paragraph 5(a) and each horizontal rule below it shall be 3.5 centimetres.
8. Where a registered emblem of a registered political party is to be included with that party’s name—
 - (a) it shall be printed adjacent and to the right of the registered party’s name, and
 - (b) its size as printed shall not exceed two centimetres square.
9. Subject to paragraphs 10 to 15 below, all of the words on the ballot paper shall appear in the same large type.
10. The words “Election for the European Parliament” shall appear in very large type.
11. The name of the electoral region shall appear in bold capitals.
12. The word “one” in the statement referred to in paragraph 3 shall be in bold type.
13. No other capitals shall be used except initial capitals for names of parties and candidates and the first word in the statement and in the direction referred to in paragraph 3 above.
14. The names of the candidates on a party’s list of candidates shall appear in the same order as on the party’s list of candidates and they shall be numbered in that order.
15. The description of individual candidates shall appear in ordinary type.
16. The number on the back of the ballot paper shall be printed in small characters.

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

Form of Back of Ballot Paper

No.

Election for theelectoral region

on20

Note:- The number on the ballot paper is to correspond with that on the counterfoil.

Rule 29

Elector's official poll card

Front of card

EUROPEAN PARLIAMENTARY ELECTION

OFFICIAL POLL CARD

Electoral Region,

Number on register,

Polling day,

Name,

Your polling station will be

Address.....

.....

.....

.....

.....

Polling hours, 7 a.m. to 10 p.m.

Back of card

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

EUROPEAN PARLIAMENTARY ELECTION

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.

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. Mark a cross (X) to the right of the name of the party or individual candidate you are voting for.

Hold 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.

Vote for one party or individual candidate only. Put no other mark on the ballot paper, or your vote may not be counted.

If by mistake you spoil a ballot paper, show it to the presiding officer and ask for another one.

If you have appointed a proxy to vote in person for you, you may nevertheless vote at this election if you do so before your proxy has voted on your behalf.

If you have been granted a postal vote, you will not be entitled to vote in person at this election, so please ignore this poll card.

ISSUED BY THE LOCAL RETURNING OFFICER

Rule 29

Proxy's Official Poll Card

Front of card

EUROPEAN PARLIAMENTARY ELECTION

PROXY'S OFFICIAL POLL CARD

Proxy's name

Proxy's address

.

EUROPEAN PARLIAMENTARY ELECTION

. Electoral Region

Polling day

The poll will be open from 7 am to 10 pm.

Back of card

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

The elector named below whose proxy you are is entitled to vote at the polling station

.....

To vote as proxy you must go to that polling station. Tell the clerk that you wish to vote as proxy: give the name and qualifying address of the elector, as follows:

Number on register

Name (of elector)

Address

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, eg if that person has been convicted and is detained in a penal institution in pursuance of his 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 vote in person at this election if he is able, and wishes, to do so and if he votes before you on his behalf.

ISSUED BY THE LOCAL RETURNING OFFICER

Rule 30

Form of directions for the guidance of the voters in voting

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. Mark a cross (X) to the right of the name of the party or individual candidate for whom you are voting.
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. Vote for one party or party or individual candidate only. Put no other mark on the ballot paper, or your votes may not be counted.
5. If by mistake you spoil a ballot paper, show it to the presiding officer and ask for another one.

Rule 33

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

Certificate of Employment

EUROPEAN PARLIAMENTARY ELECTION

ELECTION IN THE..... ELECTORAL REGION

I certify that (name)

who is numbered.....in the register of electors for the

..... [parliamentary constituency] cannot reasonably be expected to go in person to the

polling station allocated to him or her at the election on (date of poll)

by reason of the particular circumstances of his or her employment on that date for a purpose connected with the election—

*Delete whichever *(a) as a constable
is inappropriate *(b) by me.

Signature

^Returning officer/pollin officer (inspector or above)

Date.....

Note: The person named above is entitled to vote at any polling station in the electoral region on production and surrender of this certificate to the presiding officer.

Rule 40(5)

Form of declaration to be made by the companion of a voter with disabilities

I, **AB**, of ... having been requested to assist **CD**, (in the case of a voter with disabilities voting as proxy and voting as proxy for **MN**) whose number on the register is ... to record his vote at the election now being held in this electoral region, hereby declare that I am entitled to vote as an elector at the said election) (I am the ... (*State the relationship of the companion to the voter*; ... of the said voter and have attained the age of ... years), and that I have not previously assisted any voter with disabilities (except **EF**, of ...) to vote at the said election.

(Signed) **AB**,

day of ... 20...

I, the undersigned, being the presiding officer for the ... polling station for the ... local counting area, hereby certify that the above declaration, having been first read to the above-named declarant, was signed by the declarant in my presence

(Signed) **GHI**,

day of ... 20...

minutes past ... o'clock (am) (pm)

NOTICE—

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 European Parliamentary elections 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 10

ABSENT VOTING

PART 1

ENTITLEMENT

Interpretation

1.—(1) In this Schedule—

“allotted polling station” has the meaning set out in paragraph 16(7) of this Schedule.

(2) A reference in this Schedule to a form identified by means of a letter shall be construed as a reference to the form so identified in the Appendix to this Schedule.

Manner of voting at European Parliamentary elections

2.—(1) This paragraph 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—

(a) he is not entitled as an elector to an absent vote at the election, but

(b) he 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 local 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 local counting area.

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

(a) a person to whom section 7 of the 1983 Act⁽⁶⁾ (mental patients who are not detained offenders) or, in Gibraltar, paragraph 10 of Schedule 4 applies and who is 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⁽⁷⁾ (persons remanded in custody) or, in Gibraltar, paragraph 11 of Schedule 4 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 the provisions of—

(a) these Regulations, and

(b) the 1983 Act, the 2002 Act and the 2003 Act,

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 in those provisions 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 definite or indefinite period

3.—(1) Where a person applies to the registration officer to vote by post at European Parliamentary elections (whether for an indefinite period or for a particular period specified in his application), the registration officer shall grant the application if—

(a) he is satisfied that the applicant is or will be registered in the register of electors, and

(b) the application meets the requirements of Part 2 of this Schedule.

⁽⁶⁾ Amended by section 4 of the Representation of the People Act 2000 (c. 2).

⁽⁷⁾ Inserted by section 5 of the Representation of the People Act 2000 (c. 2).

(2) Where a person applies to the registration officer to vote by proxy at European Parliamentary elections (whether for an indefinite period or for a particular period specified in his application), the registration officer shall grant the application if—

- (a) he is satisfied that the applicant is eligible to vote by proxy at European Parliamentary elections,
- (b) he is satisfied that the applicant is or will be registered in the register of electors, and
- (c) the application meets the requirements of Part 2 of this Schedule.

(3) For the purposes of this paragraph a person is eligible to vote by proxy at a European Parliamentary election—

- (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 a person is also eligible to vote by proxy at European Parliamentary elections if he is or will be registered in pursuance of an overseas elector's declaration or a European Parliamentary overseas elector's declaration.

(4) The registration officer shall keep a record of those whose applications under this paragraph have been granted showing—

- (a) whether their applications were to vote by post or proxy for an indefinite or a particular period (specifying that period),
- (b) 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
- (c) in the case of those who may vote by proxy, the names and addresses of those appointed as their proxies.

(5) The registration officer shall remove a person from the record—

- (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 in pursuance of—
 - (i) a service declaration,
 - (ii) a declaration of local connection, or
 - (iii) an overseas elector's declaration,
- (c) in the case of any person shown in the record as voting by proxy, if the registration officer gives notice that he has reason to believe there has been a material change of circumstances, or
- (d) in the case of a person who applied to vote by post or proxy for a particular period, once that period has expired.

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

(6) A person shown in the record as voting by post may subsequently alter his choice by applying to the registration officer to vote by proxy instead (whether for an indefinite period or for a particular period specified in his application); and, if the registration officer would be required to grant that application if it were one made under sub-paragraph (2), the registration officer shall amend the record accordingly.

(7) A person shown in the record as voting by proxy may subsequently alter his choice by applying to the registration officer to vote by post instead (whether for an indefinite period or for a particular period specified in his application); and, if the application meets the requirements of Part 2 of this Schedule, the registration officer shall amend the record accordingly.

Absent vote at particular election

4.—(1) Where a person applies to the registration officer to vote by post at a particular European Parliamentary election, the registration officer shall grant the application if—

- (a) he is satisfied that the applicant is or will be registered in the register of electors, and
- (b) the application meets the requirements of Part 2 of this Schedule.

(2) Where a person applies to the registration officer to vote by proxy at a particular European Parliamentary election, the registration officer shall 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 him under the European Parliamentary elections rules,
- (b) he is satisfied that the applicant is or will be registered in the register of electors, and
- (c) the application meets the requirements of Part 2 of this Schedule.

(3) Nothing in sub-paragraph (1) or (2) applies to a person who is included in the record kept under paragraph 3, 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 from that shown in the record, or
- (b) to vote by proxy,

if he is shown in the record as voting by post at elections of the kind in question.

(4) The registration officer shall grant an application under sub-paragraph (3) if—

- (a) (in the case of any application) it meets the requirements of Part 2 of this Schedule; and
- (b) (in the case of an application to vote by proxy) the registration officer 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.

Absent voters list

5.—(1) The registration officer shall, in respect of each European Parliamentary election, keep a special list ("the absent voters list") consisting of the two lists mentioned in sub-paragraphs (2) and (3) respectively.

(2) The first of those lists is a list of—

- (a) those whose applications under paragraph 4(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
- (b) those who are for the time being shown in the record kept under paragraph 3 as voting by post at European Parliamentary elections (excluding those so shown whose applications

under paragraph 4(3)(b) to vote by proxy at the election have been granted), together with the addresses provided by them in their applications under paragraph 3 or, as the case may be, paragraph 4(3)(a) as the addresses to which their ballot papers are to be sent.

- (3) The second of the lists mentioned in sub-paragraph (1) is a list (“the list of proxies”) of—
- (a) those whose applications under paragraph 4(2) or (3) to vote by proxy at the election have been granted, and
 - (b) those who are for the time being shown in the record kept under paragraph 3 as voting by proxy at elections of the kind in question,

together with (in each case) the names and addresses of those appointed as their proxies.

(4) The registration officer shall, forthwith on completion of the compilation of that special list, supply to the local returning officer for any local counting area wholly or partly within the area for which he acts so much of that list as relates to that constituency.

Proxies at elections

6.—(1) Subject to the provisions of this paragraph, any person is capable of being appointed proxy to vote for another (in this paragraph and paragraph 7 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 elections (whether in the same electoral region or elsewhere).

- (3) A person is not capable of being appointed to vote, or voting, as proxy at an 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 18.

(5) A person is not entitled to vote as proxy at the same European Parliamentary election in any electoral region 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 (whether for an indefinite period or for a particular period specified in his application), the registration officer shall make the appointment if the application meets the requirements of Part 2 of this Schedule and he is satisfied that the elector is or will be—

- (a) registered in the register of electors, and
- (b) shown in the record kept under paragraph 3 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 Part 2 of this Schedule and he is satisfied that the elector is or will be—

- (a) registered in the register of electors, and
- (b) entitled to vote by proxy at that election by virtue of an application under paragraph 4(2) or (3),

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

(8) The appointment of a proxy under this paragraph is to be made by means of a proxy paper in Form A 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—

- (a) where the appointment related to a particular European Parliamentary election or elections, on the issue of a proxy paper appointing a different person to vote for him at a European Parliamentary election or elections (whether in the same electoral region or elsewhere),
- (b) where the appointment was for a particular period, once that period expires.

(10) Subject to sub-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 paragraph 3 in pursuance of the same application under that paragraph.

Voting as proxy

7.—(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, the 1983 Act, the 2002 Act and the 2003 Act 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 sub-paragraph (8) in respect of the election.

(4) Where a person applies to the registration officer to vote by post—

- (a) as proxy at European Parliamentary elections (whether for an indefinite period or for a particular period specified in his application), or
- (b) as proxy at a particular European Parliamentary election,

the registration officer shall grant the application if the conditions set out in sub-paragraph (5) are satisfied.

(5) Those conditions are—

- (a) that the registration officer is satisfied that the elector is or will be registered in the register of electors,
- (b) that 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; and
- (c) that the application meets the requirements of Part 2 of this Schedule.

(6) The registration officer shall keep a record of those whose applications under sub-paragraph (4)(a) have been granted showing—

- (a) whether their applications were to vote by post as proxy for an indefinite or a particular period (specifying that period), and
- (b) the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent.

(7) Where, in the case of a particular European Parliamentary election, a person included in the record kept under sub-paragraph (6) applies to the registration officer for his ballot paper to be sent to a different address from that shown in the record, the registration officer shall grant the application if it meets the requirements of Part 2 of this Schedule.

(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 sub-paragraph (6), together with the addresses provided by them in their applications under sub-paragraph (4) (a) or, as the case may be, sub-paragraph (7) as the addresses to which their ballot papers are to be sent, and
- (b) those whose applications under sub-paragraph (4)(b) 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,

and, forthwith on completion of the compilation of that list, supply to the local returning officer for any local counting area wholly or partly within the area for which he acts so much of that list as relates to any such constituency.

- (9) The registration officer shall remove a person from the record kept under sub-paragraph (6)—
 - (a) if he applies to the registration officer to be removed,
 - (b) if the elector ceases to be registered as mentioned in sub-paragraph (5)(a),
 - (c) if the appointment of the person concerned as the elector's proxy ceases to be in force (whether or not he is re-appointed), or
 - (d) in the case of a person who applied to vote by post as proxy for a particular period, once that period expires.

Offences

- 8. A person who—
 - (a) in any declaration or form used for any of the purposes of this Schedule, makes a statement which he knows to be false, or
 - (b) attests an application under paragraph 3 or 4 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.

PART 2

APPLICATIONS

Forms

9.—(1) The registration officer shall supply free of charge as many forms for use in connection with applications made under this Part and Part 3 of this Schedule as appear to that officer reasonable in the circumstances to any person who satisfies that officer of his intention to use the forms in connection with an election.

(2) The forms set out in this Part and Part 3 of this Schedule or forms substantially to the like effect may be used with such variations as the circumstances may require.

Communication of applications, notices etc

10. The requirement in this Part and Part 3 of this Schedule that any application, notice or objection should be in writing is satisfied where (apart from the usual meaning of that expression) the text of it—

- (a) is transmitted by electronic means,
- (b) is received in legible form, and

- (c) is capable of being used for subsequent reference.

Electronic signatures and related certificates

11.—(1) A requirement in this Part and Part 3 of this Schedule for an application, notice or objection to be signed is satisfied (as an alternative to the signature given by hand) where there is—

- (a) an electronic signature incorporated into or logically associated with a particular electronic communication, and
- (b) the certification by any person of such a signature.

(2) For the purposes of this paragraph an electronic signature is so much of anything in electronic form as—

- (a) is incorporated into or otherwise logically associated with any electronic communication or both; and
- (b) purports to be so incorporated or associated for the purpose of being used in establishing the authenticity of the communication, the integrity of the communication or both.

(3) For the purposes of this paragraph an electronic signature incorporated into or associated with a particular electronic communication is certified by any person if that person (whether before or after the making of the communication) has made a statement confirming that—

- (a) the signature,
- (b) a means of producing, communicating or verifying the signature, or
- (c) a procedure applied to the signature,

is (either alone or in combination with other factors) a valid means of establishing the authenticity of the communication, the integrity of the communication or both.

Time

12.—(1) Where the day or last day of the time allowed by this Part and Part 3 of this Schedule for the doing of any thing falls on any of the days mentioned in sub-paragraph (3) below, that time shall be extended until the next following day which is not one of those days.

(2) Subject to paragraph 19(6), in computing any period of not more than 7 days for the purposes of this Part and Part 3 of this Schedule any of the days mentioned in sub-paragraph (3) below shall be disregarded.

(3) The days referred to in sub-paragraphs (1) and (2) above are a Saturday, Sunday, Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a bank holiday.

(4) In sub-paragraph (3) above “bank holiday” means—

- (a) as respects the combined region, a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales and a Bank or Public Holiday in Gibraltar not otherwise falling within sub-paragraph (3);
- (b) as respects an electoral region other than Scotland or the combined region, a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales; and
- (c) as respects Scotland, a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in Scotland.

Interference with notices etc

13. If any person without lawful authority destroys, mutilates, defaces or removes any notice published by the registration officer in connection with his registration duties or any copies of a

document which have been made available for inspection in pursuance of those duties, he shall be liable on a summary conviction to a fine not exceeding level 3 on the standard scale or, in Gibraltar, not exceeding £1000.

General requirements for applications for an absent vote

14.—(1) An application under this Part of this Schedule must comply with the requirements of this paragraph and such further requirements in this Part of this Schedule as are relevant to the application.

(2) The application must state—

- (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 paragraph 7(4) or (7) of this Schedule;
- (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 subparagraph (b) above;
- (d) in the case of a person applying to vote by post, the address to which the ballot paper should be sent; and
- (e) in the case of an application to vote by proxy, 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) An application under this Schedule which is made for an indefinite period or the period specified in the application must state—

- (a) that it is so made, and
- (b) that it is made for European Parliamentary elections.

(5) An application under this Schedule which is made for a particular European Parliamentary election must—

- (a) state that it is so made, and
- (b) identify the election in question.

(6) 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 15.

(7) An application under this Part of this Schedule may be combined with an application for an absent vote made under the 2001 Regulations⁽⁸⁾, including those Regulations as applied by regulations under sections 44 and 105 or 45 and 105 of the Local Government Act 2000, or the 2001 (Scotland) Regulations⁽⁹⁾.

Additional requirements for applications for the appointment of a proxy

15. An application for the appointment of a proxy under paragraphs 3 and 4 of this Schedule 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—

(8) Regulation 53 of the 2001 Regulations was amended by paragraph 21 of the Schedule to S.I.2002/881 and Regulations 2 and 5 of S.I. 2001/1700, Regulation 54 was amended by Regulations 2 and 5 of S.I. 2001/1700, Regulation 56 was amended by Regulations 2 and 6 of S.I. 2001/1700 and Regulation 60 was amended by Regulations 2 and 7 of S.I. 2001/1700.

(9) Regulation 53 of the 2001 (Scotland) Regulations was amended by paragraph 23 of the Schedule to S.I. 2002/881, Regulation 56 was amended by Regulations 2 and 5 of S.I. 2001/1749(S. 11).

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- (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 for a proxy vote for a definite or indefinite period on grounds of physical incapacity or blindness

16.—(1) An application to vote by proxy for a particular or indefinite period under paragraph 3(3)(b) of this Schedule 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—

- (a) a registered medical practitioner;
- (b) a nurse registered on the register maintained by the Nursing and Midwifery Council pursuant to paragraph 10 of the Nursing and Midwifery Order 2001⁽¹⁰⁾ by virtue of qualifications in nursing or, in Scotland, a registered nurse within the meaning of section 7(7) of the Nurses, Midwives and Health Visitors Act 1997⁽¹¹⁾;
- (c) a Christian Science practitioner;
- (d) the person registered—
 - (i) in England and Wales, under the Care Standards Act 2000⁽¹²⁾ as carrying on a care home within the meaning of section 3⁽¹³⁾ of that Act, where the applicant states that he is resident in such a home; or
 - (ii) in Scotland, under the Regulation of Care (Scotland) Act 2001⁽¹⁴⁾ as carrying on a care home service within the meaning of section 2 of that Act, where the applicant states that he is resident in such a home;
- (e) the matron or other person in charge of residential accommodation provided by a local authority—
 - (i) in England and Wales, under section 21(1) of the National Assistance Act 1948⁽¹⁵⁾; or
 - (ii) in Scotland, under section 59(2) of the Social Work (Scotland) Act 1968⁽¹⁶⁾, where the applicant states that he is resident in such accommodation;
- (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; or
- (g) in Gibraltar, in the case of an applicant who is resident in a residential home for persons of pensionable age or for physically disabled persons, the senior nursing officer of the home.

(3) A person who qualifies by virtue of sub-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

⁽¹⁰⁾ S.I. 2002/253.

⁽¹¹⁾ 1997 c. 24.

⁽¹²⁾ 2000 c. 14.

⁽¹³⁾ Section 3 was amended by Regulation 3 of S.I. 2001/3965.

⁽¹⁴⁾ 2001 c. 8.

⁽¹⁵⁾ 1948 c. 29. Section 21(1) was amended by paragraph 2 of Schedule 23 to the Local Government Act 1972 (c. 70), paragraph 11(1) of Schedule 13 to the Children Act 1989 (c. 41), section 42(1) of the National Health Service and Community Care Act 1990 (c. 19) and the Schedule to the Housing (Homeless Persons) Act 1977 (c. 48). The section was repealed in relation to Scotland by part 1 of Schedule 9 to the Social Work (Scotland) Act 1968 (c. 49). The section has been amended in other ways not relevant to these Regulations.

⁽¹⁶⁾ 1968 c. 49.

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) in England and Wales, the application is based on the applicant's blindness and the applicant is registered as a blind person by the local authority which is specified in the application under section 29(4)(g) of the National Assistance Act 1948;
 - (b) in Scotland, the application is based on the applicant's blindness and the applicant is registered as a blind person by the local authority which is specified in the application; or
 - (c) 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 Act 1992(17)) because of the physical incapacity specified in the application.
- (6) The fact that an applicant is registered with a local authority as mentioned in sub-paragraph (5) shall be deemed sufficient evidence that he is eligible to vote by proxy on the grounds set out in paragraph 3(3)(b) of this Schedule.

(7) In this paragraph and in paragraphs 17 and 18 "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.

Additional requirements for applications for a proxy vote for a definite or indefinite period based on occupation, service, employment or attendance on a course

17.—(1) An application to vote by proxy for a particular or indefinite period under paragraph 3(3)(c) of this Schedule 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 regulation referred to as "the employed person") is self employed, that fact; and in any other case the name of that person's employer;

(17) 1992 c. 4.

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

- (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 sub-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 sub-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, 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 for a proxy vote in respect of a particular election

18. An application under paragraph 4(2) of this Schedule to vote by proxy at a particular election shall set out why the applicant's circumstances on the date of the poll for that 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.

Closing date for applications

19.—(1) An application under paragraph 3(6) or (7) of this Schedule shall be disregarded for the purposes of a particular European Parliamentary election and an application under paragraph 4(3) of this Schedule shall be refused if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that election.

(2) An application under paragraph 3(1) or (2), or 6(6) or 7(4) of this Schedule shall be disregarded for the purposes of a particular European Parliamentary election if it is received by the registration officer after 5 pm on the sixth day before the date of the poll at that election.

(3) An application under paragraph 4(1) or (2) or 6(7) of this Schedule shall be refused if it is received by the registration officer after 5 pm on the sixth day before the date of the poll at the election for which it is made.

(4) An application under paragraph 7(7) of this Schedule shall be refused if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at the election for which it is made.

(5) An application under—

(a) paragraph 3(5)(a) of this Schedule by an elector to be removed from the record kept under paragraph 3(4) of this Schedule, or

(b) paragraph 7(9)(a) of this Schedule by a proxy to be removed from the record kept under paragraph 7(6) of this Schedule,

and a notice under paragraph 6(9) of this Schedule by an elector cancelling a proxy's appointment shall be disregarded for the purposes of a particular European Parliamentary election if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that election.

(6) In computing a period of days for the purposes of this paragraph, Saturday, Sunday, Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a bank holiday shall be disregarded.

(7) In sub-paragraph (6) above "bank holiday" means—

(a) in relation to a general election in the combined region a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom or a Bank or Public Holiday in Gibraltar not otherwise falling within sub-paragraph (6);

(b) in relation to a by-election in the combined region a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales or a Bank or Public Holiday in Gibraltar not otherwise falling within sub-paragraph (6),

(c) in relation to a general election in a region other than the combined region, a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom; and

(d) in relation to a by-election in a region other than the combined region a day which is a bank holiday under that Act in that part of the United Kingdom in which the electoral region is situated.

Grant or refusal of applications

20.—(1) Where the registration officer grants an application to vote by post, 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) Where the registration officer refuses an application under this Part of this Schedule, he shall notify the applicant of his decision and of the reason for it.

(4) Where, under paragraph 19, a registration officer disregards an application for the purposes of any particular European Parliamentary election, he shall, where practicable, notify the applicant of this.

(5) At a European Parliamentary election where the registration officer is not the local returning officer for any local counting area or part of such area in the area for which he is the registration officer, he shall send to that officer details of any application to vote by post which he has granted as soon as practicable after doing so.

Notice of appeal

21.—(1) A person desiring to appeal under regulation 21(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 20(3) specifying the grounds of appeal.

(2) The registration officer shall forward any such notice to the appropriate county court or, in Gibraltar, the Gibraltar court in the manner directed by rules of 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) In Scotland, the registration officer shall forward any such notice to the sheriff 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; and he shall give to the sheriff any other information which the sheriff may require and which the registration officer is able to give.

(4) 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, sheriff or, in Gibraltar, the Gibraltar court of this to enable the court or sheriff (if it or he thinks fit) to consolidate the appeals or select a case as a test case.

Cancellation of proxy appointment

22. Where the appointment of a proxy is cancelled by notice given to the registration officer under paragraph 6(9) of this Schedule or ceases to be in force under that provision or is no longer in force under paragraph 6(10)(b) of this Schedule, 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 paragraph 3(4)(c) of this Schedule.

Inquiries by registration officer

23.—(1) The registration officer may, at such times as he thinks fit, make inquiries of a person who is shown as voting by proxy in the record kept under paragraph 3(4) of this Schedule in pursuance of an application granted on the grounds set out in paragraph 3(3)(b) and (c) of this Schedule for the purpose of determining whether there has been a material change of circumstances.

(2) Where the grant of an application for a proxy vote for an indefinite or particular period was based on the grounds referred to in paragraph 3(3)(c) of this Schedule, the registration officer shall make the inquiries referred to 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 this Schedule

24.—(1) The registration officer shall, on request, supply free of charge a copy of the list kept under paragraphs 5 and 7(8) of this Schedule to the election agent of each registered party standing nominated and each individual candidate or his election agent.

(2) The registration officer shall make available for inspection at his office a copy of the records kept under paragraph 3(4) or 7(6) of this Schedule.

(3) As soon as practicable after the sixth day before the day of the poll (calculated in accordance with paragraph 19) the registration officer shall—

- (a) publish the lists kept under paragraphs 5 and 7(8) of this Schedule by making a copy of them available for inspection at his office; and
- (b) at a European Parliamentary election if he is not the local returning officer for any local counting area or part of such area in the area for which he is the registration officer, send to that officer a copy of those lists.

Marked register for polling stations

25. 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 3

ISSUE AND RECEIPT OF POSTAL BALLOT PAPERS

Interpretation of Part 3

26.—(1) For the purposes of this Part of this Schedule, unless the context otherwise requires—

“absent voters list” means the list kept under paragraph 5 of this Schedule;

“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 36 of this Schedule;

“GLRO” means the Greater London returning officer, being the person who is for the time being the proper officer of the Greater London Authority for the purposes of section 35(2C) of the Representation of the People Act 1983(18);

“list of postal proxies” means the list kept under paragraph 7(8) of this Schedule;

“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 43(1)(a) of this Schedule;

“receptacle for ballot paper envelopes”, and other references to specified receptacles, means the receptacles referred to in paragraph 43(5) of this Schedule;

“relevant election or referendum” means one or more of the following—

- (a) a parliamentary election,
- (b) a local government election,
- (c) a mayoral election,
- (d) a referendum,

the poll at which is taken together with the poll at the European Parliamentary election;

“spoilt postal ballot paper” means a ballot paper referred to in paragraph 39(1) of this Schedule;

(18) Subsection (2C) was inserted by paragraphs 1 and 3 of Schedule 3 to the 1999 Act.

“universal postal service provider” has the meaning given in the Postal Services Act 2000 to a “universal service provider”; and

“valid declaration of identity” means one falling within paragraph 47(1) of this Schedule.

(2) In the case of a referendum, a reference to—

- (a) a candidate shall be construed as a reference to a petition organiser, within the meaning of regulation 2(1) of the Local Authorities (Conduct of Referendums) (England) Regulations 2001⁽¹⁹⁾;
- (b) an election agent or counting agent shall be construed as a reference to a counting observer, within the meaning of that regulation;
- (c) a polling agent shall be construed as a reference to a polling observer, within the meaning of that regulation; and
- (d) a returning officer shall be construed as a reference to a counting officer, within the meaning of that regulation.

Issue of Postal Ballot Papers

Combination of polls

27. Where the poll at the European Parliamentary election is to be taken together with—

- (a) the poll at an election under subsection (1) or (2) of section 15 of the 1985 Act (combination of polls at parliamentary, European Parliamentary and local government elections), or
- (b) the poll at a mayoral election or a referendum in accordance with regulations made under sections 44 and 105 or 45 and 105 of the Local Government Act 2000,

or two or more such polls, the proceedings on the issue and receipt of postal ballot papers in respect of each election or referendum may, if the returning officers concerned agree, be taken together.

Form of declaration of identity

28. The form of the declaration of identity for the purposes of rule 26 of the European Parliamentary elections rules in Schedule 1 to these Regulations shall be—

- (a) in Form B at a European Parliamentary election in England and Wales taken alone;
- (b) in Form C at a European Parliamentary election in England and Wales where the proceedings on the issue and receipt of postal ballot papers are taken together with those proceedings at a relevant election or referendum;
- (c) in Form D at a European Parliamentary election in England and Wales where the poll is taken together with the poll at a relevant election or referendum, but where the proceedings on the issue and receipt of postal ballot papers are not;
- (d) in Form E at a European Parliamentary election in Scotland taken alone;
- (e) in Form F at a European Parliamentary election in Scotland where the proceedings on the issue and receipt of postal ballot papers are taken together with those proceedings at another election; and
- (f) in Form G at a European Parliamentary election in Scotland where the poll is taken together with the poll at another election, but where the proceedings on the issue and receipt of postal ballot papers are not.

⁽¹⁹⁾ S.I. 2001/1298; which was amended by S.I. 2004/226.

Persons entitled to be present at proceedings on issue of postal ballot papers

29. No person may be present at the proceedings on the issue of postal ballot papers other than the local returning officer and his clerks.

Persons entitled to be present at proceedings on receipt of postal ballot papers

30. No person may be present at the proceedings on the receipt of postal ballot papers other than—

- (a) the local returning officer and his clerks,
- (b) a candidate,
- (c) an election agent or a person appointed by him or a sub-agent to attend in his place,
- (d) any agents appointed under paragraph 31,
- (e) representatives of the Electoral Commission.,
- (f) where the proceedings on the receipt of postal ballot papers are taken together with the those proceedings for a relevant election or referendum, persons entitled to be present at the proceedings for the relevant election or referendum.

Agents of candidates who may attend proceedings on receipt of postal ballot papers

31.—(1) The election agent or sub-agent of each registered party standing nominated or each individual candidate may appoint one or more agents to attend the proceedings on the receipt of the postal ballot papers up to the number he may be authorised by the local returning officer to appoint so, however, that the number authorised shall be the same in the case of each registered party standing nominated or each individual candidate.

(2) Notice in writing of the appointment stating the names and addresses of the persons appointed shall be given by the election agent or sub-agent to the local returning officer before the time fixed for the opening of the postal voters' ballot box.

(3) Where postal ballot papers for more than one election or referendum are issued together under paragraph 27, the returning officer to whom notice shall be given under sub-paragraph (2) above and sub- paragraphs (4) and (5) is the returning officer who issues the postal ballot papers.

(4) If an agent dies or becomes incapable of acting, the candidate or election agent of a registered party may appoint another agent in his place and shall forthwith give to the local returning officer notice in writing of the name and address of the agent appointed.

(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 sub-paragraph (1) above, who are within the number authorised by the local returning officer.

(6) A candidate may himself do any act or thing which any agent of his or his party, if appointed, would have been authorised to do, or may assist his agent or the agent of his party 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.

Notification of requirement of secrecy

32. The local 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 regulations 29(5) and (7).

Time when postal ballot papers are to be issued

33.—(1) In the case of a person shown in the record kept under—

- (a) paragraph 3(4), or
- (b) paragraph 7(6),

of this Schedule (electors and proxies entitled to vote by post for an indefinite or definite period), no postal ballot paper (and declaration of identity) shall be issued until after 5 pm on the eleventh day before the date of the poll (computed in accordance with paragraph 19(6)).

(2) In the case of any other person, the postal ballot paper (and declaration of identity) shall be issued by the local returning officer as soon as practicable after the application to vote by post has been granted.

Procedure on issue of postal ballot paper

34.—(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) Where postal ballot papers for the European Parliamentary election and a relevant election or referendum are issued together under paragraph 27—

- (a) one mark shall be placed in the absent voters list or the list of postal proxies under subparagraph (3) to denote that ballot papers have been issued in respect of each election or referendum; except that, where ballot papers are not so issued, a different mark shall be placed in the absent voters list or list of postal proxies to identify the election or referendum in respect of which the ballot paper was issued; and
- (b) the number of each ballot paper shall be marked on the declaration of identity under subparagraph (4).

(6) Where the poll at a European Parliamentary election is taken with the poll at a relevant election or referendum (under the provisions referred to in paragraph 27) but not the proceedings on the issue and receipt of postal ballot papers, the colour of the postal ballot paper shall also be marked on the declaration of identity sent with that paper.

(7) The address to which the postal ballot paper, declaration of identity and the envelopes referred to in paragraph 36 are to be sent is—

- (a) in the case of an elector, the address shown in the absent voters list;
- (b) in the case of a proxy, the address shown in the special list kept under paragraph 7(8) of this Schedule.

Refusal to issue postal ballot paper

35. Where a local 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 at any one election.

Envelopes

36.—(1) Sub-paragraphs (2) and (3) below prescribe 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 26 of the European Parliamentary elections rules).

(2) There shall be issued an envelope for the return of the postal ballot paper or, as the case may be, ballot papers 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 or, as the case may be, ballot papers.

(4) Where polls are taken together (under the provisions referred to in paragraph 27 of this Schedule) but not the proceedings on the issue and receipt of postal ballot papers—

- (a) the envelope referred to in sub-paragraph (2) shall 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), after the words “Ballot paper envelope” there shall be added the words “for the [*insert colour of ballot paper*] coloured ballot paper”.

Sealing up of counterfoils and security of special lists

37.—(1) As soon as practicable after the issue of each batch of postal ballot papers, the local 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 local 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 local returning officer shall take proper precautions for the security of the lists referred to in that sub-paragraph.

Delivery of postal ballot papers

38.—(1) For the purposes of delivering postal ballot papers, the local returning officer may use—

- (a) a universal postal service provider or, in Gibraltar, the Gibraltar Post Office;
- (b) a commercial delivery firm, or
- (c) clerks appointed under rule 28(1) of the European Parliamentary elections rules.

(2) Where the services of a universal postal service provider, the Gibraltar Post Office or a commercial delivery firm are to be used, envelopes addressed to postal voters shall be counted and delivered by the local 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 (except where sub-paragraph (1)(c) applies).

(4) Return postage shall be prepaid on all covering envelopes where the address provided by the postal voter for the receipt of the postal ballot paper is within the United Kingdom or Gibraltar.

Spoilt postal ballot papers

39.—(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 local returning officer the spoilt ballot paper and the declaration of identity.

(2) Where postal ballot papers for more than one election or referendum have been issued together under paragraph 27, the postal voter shall, if he exercises the entitlement conferred by sub-paragraph (1), return all of the ballot papers so issued, whether spoilt or not.

(3) On receipt of the documents referred to in sub-paragraph (1) and, where applicable sub-paragraph (2), the local returning officer shall issue another postal ballot paper or, as the case may be, ballot papers except where those documents are received after 5 pm on the day before the day of the poll.

(4) Paragraphs 34 (except sub-paragraph (3)), 36, 37 and, subject to sub-paragraph (7) below, 38 shall apply to the issue of a replacement postal ballot paper under sub-paragraph (3).

(5) The spoilt postal ballot paper, and any other postal ballot paper issued with it, and the declaration of identity shall be immediately cancelled.

(6) The local 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.

(7) Where a postal voter applies in person, the local returning officer may hand a replacement postal ballot paper to him instead of delivering it in accordance with paragraph 38.

(8) The local returning officer shall enter in a list kept for the purpose (“the list of spoilt postal ballot papers”)—

- (a) the name and number of the elector as stated in the register;
- (b) the number of the postal ballot paper (or papers) issued under this paragraph; and
- (c) where the postal voter whose ballot paper is spoilt is a proxy, his name and address.

Lost postal ballot papers

40.—(1) Where a postal voter has not received his postal ballot paper by the fourth day before the day of the poll, or in Scotland by the third day before the day of the poll, he may apply (whether or not in person) to the local returning officer for a replacement ballot paper.

(2) Such an application shall include evidence of the voter’s identity.

(3) Where the application is received by the local returning officer before 5 pm on the day before the day of the poll and the local returning officer—

- (a) is satisfied as to the voter’s identity, and
 - (b) has no reason to doubt that the postal voter did not receive the original postal ballot paper,
- he shall issue another postal ballot paper or, as the case may be, postal ballot papers.

(4) The local returning officer shall enter in a list kept for the purpose (“the list of lost postal ballot papers”)—

- (a) the name and number of the elector as stated in the register;
- (b) the number of the postal ballot paper issued under this paragraph; and
- (c) where the postal voter whose ballot paper is lost is a proxy, his name and address.

(5) Paragraphs 34 (except sub-paragraph (3)), 36, 37 and, subject to sub-paragraph (6) below, 38 shall apply to the issue of a replacement postal ballot paper under sub-paragraph (3).

(6) Where a postal ballot voter applies in person, the local returning officer may hand a replacement ballot paper to him instead of delivering it in accordance with paragraph 38.

Receipt of Postal Ballot Papers

Alternative means of returning postal ballot paper or declaration of identity

41.—(1) For the purposes of rule 46(2) of the European Parliamentary elections rules in Schedule 1 to these Regulations the manner in which a postal ballot paper or declaration of identity may be returned to a polling station is by hand.

(2) For these purposes, the manner in which such a paper or declaration may be returned to the local returning officer is by post or by hand.

(3) The presiding officer of the polling station shall deliver, or cause to be delivered, any postal ballot paper or declaration of identity returned to that station to the local returning officer in the same manner and at the same time as he delivers, or causes to be delivered, the packets referred to in rule 44(1) of the European Parliamentary elections rules.

Notice of opening of postal ballot paper envelopes

42.—(1) The local returning officer shall give to each election agent, or where appointments have been made of a sub-agent, sub-agent 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 the election agent or sub-agent may appoint under paragraph 31(1) to attend each opening.

Postal ballot boxes and receptacles

43.—(1) The local 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, and with the name of the local counting area or parliamentary constituency or electoral area (or areas) or voting area for which the election (or elections) or referendum is (or are) held.

(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 local returning officer shall then lock the ballot box, if it has a lock, 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 local returning officer shall provide the following receptacles—

- (a) the receptacle for rejected votes;
- (b) the receptacle for declarations of identity;
- (c) the receptacle for ballot paper envelopes; and
- (d) the receptacle for rejected ballot paper envelopes.

(6) The local returning officer shall take proper precautions for the safe custody of every ballot box and receptacle referred to in this paragraph.

Receipt of covering envelope

44.—(1) The local returning officer shall, immediately on receipt (whether by hand or by post) of a covering envelope (or an envelope which is stated to include a postal vote) before the close of the poll, place it unopened in a postal voters' ballot box.

(2) Where an envelope, other than a covering envelope issued by the local returning officer—

(a) has been opened, and

(b) contains a ballot paper envelope, declaration of identity or ballot paper,

the first-mentioned envelope, together with its contents, shall be placed in a postal voters' ballot box.

Opening of postal voters' ballot box

45.—(1) Each postal voters' ballot box shall be opened by the local returning officer in the presence of the agents, if in attendance.

(2) So long as the local 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.

(3) The last postal voters' ballot box and the postal ballot box shall be opened at the verification of the ballot paper accounts under rule 46 of the European Parliamentary elections rules.

Opening of covering envelopes

46.—(1) When a postal voters' ballot box is opened, the local returning officer shall count and record the number of covering envelopes (including any envelope described in paragraph 44(2)), and shall then open each covering envelope separately.

(2) The procedure in paragraph 47 applies where a covering envelope (including an envelope to which paragraph 44(2) applies) contains both—

(a) a declaration of identity; and

(b) a ballot paper envelope, or if there is no ballot paper envelope, a ballot paper (or ballot papers).

(3) Where the covering envelope does not contain the declaration of identity separately, the local 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 (or ballot papers),

the local returning officer shall mark the covering envelope “provisionally rejected”, attach its contents (if any) and place it in the receptacle for rejected votes.

Procedure in relation to declarations of identity

47.—(1) The local returning officer shall satisfy himself that the declaration of identity has been duly signed by the voter and authenticated by a witness who has signed the declaration and given his name (except in Scotland) and address (referred to as a “valid declaration of identity”).

(2) Where the local 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 (or ballot papers), and, subject to sub-paragraph (3) below, place it in the receptacle for rejected votes.

(3) Before placing the declaration in the receptacle for rejected votes, the local 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”.

(4) The local returning officer shall then examine the number (or numbers) on the declaration of identity against the number (or numbers) 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.

(5) Where—

- (a) the number (or numbers) on a valid declaration of identity is (or are) not the same as the number (or numbers) on the ballot paper envelope, or
- (b) that envelope has no number on it (or only one number when the declaration of identity has more than one),

the local returning officer shall open the envelope.

(6) Sub-paragraph (7) 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 46(3) or sub-paragraph (5).

(7) In the circumstances described in sub-paragraph (6), the local returning officer shall place—

- (a) in the postal ballot box, any ballot paper the number on which is the same as the number (or one of the numbers) 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 “provisionally rejected”;
- (c) in the receptacle for rejected votes, any valid declaration of identity marked “provisionally rejected” where—
 - (i) there is no ballot paper, or
 - (ii) in the case of a declaration on which the number of more than one ballot paper appears, there is not a sufficient number of ballot papers and, in such a case, shall mark the declaration to indicate which ballot paper is missing;
- (d) in the receptacle for declarations of identity, any valid declaration not disposed of under sub-paragraph (b) or (c) above.

Opening of ballot paper envelopes

48.—(1) The local 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 (or one of the numbers) on the ballot paper envelope;
- (b) in the receptacle for rejected votes, any other ballot paper which shall be marked “provisionally rejected” and to which shall be attached the ballot paper envelope; and
- (c) in the receptacle for rejected ballot paper envelopes, any ballot paper envelope which shall be marked “provisionally rejected” because it does not contain either a ballot paper or, where more than one number appears on the ballot paper envelope, a sufficient number of ballot papers (and indicating, in such a case, the missing ballot paper).

Lists of rejected postal ballot papers

49.—(1) In respect of any election, the local returning officer shall keep two separate lists of rejected postal ballot papers.

(2) In the first list, he shall record the ballot paper number of any postal ballot paper for which no valid declaration of identity was received with it.

(3) In the second list, he shall record the ballot paper number of any postal ballot paper which is entered on a valid declaration of identity where that ballot paper is not received with the declaration of identity.

Checking of lists kept under paragraph 49

50.—(1) Where the local returning officer receives a valid declaration of identity without the postal ballot paper (or papers or, as the case may be, all of the papers) to which it relates, he may, at any time prior to the close of the poll, check the list kept under paragraph 49(2) to see whether the number (or numbers) of a postal ballot paper to which the declaration relates is entered in that list.

(2) Where the local returning officer receives a postal ballot paper without the declaration of identity to which it relates, he may, at any time prior to the close of the poll, check the list kept under paragraph 49(3) to see whether the number of that ballot paper is entered in that list.

(3) The local returning officer shall conduct the checks required by sub-paragraphs (1) and (2) above as soon as practicable after the receipt of packets from every polling station in the local counting area, parliamentary constituency, electoral area or, as the case may be, voting area under rule 44(1) of the European Parliamentary elections rules.

(4) Where the ballot paper number in the list matches that number on a valid declaration of identity or, as the case may be, the postal ballot paper, the local returning officer shall retrieve that declaration or paper.

(5) The local returning officer shall then take the appropriate steps under this Part of this Schedule as though any document earlier marked “provisionally rejected” had not been so marked and shall amend the document accordingly.

Sealing of receptacles

51.—(1) As soon as practicable after the completion of the procedure under paragraph 50(3) and (4), the local returning officer shall make up into separate packets the contents of—

- (a) the receptacle of rejected votes,
- (b) the receptacle of declarations of identity,
- (c) the receptacle of rejected ballot paper envelopes, and
- (d) the lists of spoilt and lost postal ballot papers,

and shall seal up such packets.

(2) Any document in those packets marked “provisionally rejected” shall be deemed to be marked “rejected”.

Retention of documents

52.—(1) Subject to sub-paragraph (2), the local returning officer shall retain for one year after the date of the poll any packets referred to in paragraphs 37, 39(6) and 51 endorsing on each a description of its contents and, after the expiry of that period, cause those packets to be destroyed unless otherwise directed by the High Court or, in Scotland, the Court of Session.

(2) Where the proceedings on the issue and receipt of postal ballot papers are taken together under paragraph 27, the returning officer discharging those functions shall forward the packets containing—

- (a) the marked copies of the absent voters list and list of postal proxies; and
- (b) the declarations of identity,

to the same person, and at the same time and in the same manner, as he is required to forward those documents as respects the election or referendum for which he is the returning officer.

(3) Where—

- (a) any covering envelopes are received by the local returning officer after the close of the poll (apart from those delivered in accordance with the provisions of paragraph 41(3));
- (b) any envelopes addressed to postal voters are returned as undelivered too late to be readdressed, or
- (c) any spoilt postal ballot papers are returned too late to enable other postal ballot papers to be issued,

the local returning officer shall put them unopened in a separate packet, seal up such packet and endorse and retain it and subsequently deal with it in the manner described in sub-paragraph (1) above.

(4) Rules 60 and 61 of the European Parliamentary elections rules shall apply to any packet or document retained under this regulation.

(5) A completed statement in Form H shall be provided by the local returning officer to the Secretary of State.

(6) The statement referred to in sub-paragraph (5) shall identify the local counting areas or parts of such areas within the electoral region for which it is prepared.

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

Paragraph 6(8)

APPENDIX OF FORMS

Form A

Proxy Paper

REPRESENTATION OF THE PEOPLE ACTS

Constituency

Polling district

Local government electoral area(s)

European Parliamentary electoral region

Voting area

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 *local government *European Parliamentary *mayoral election *and referendum for
the above *constituency *electoral area *European Parliamentary electoral region *voting area on
(date).....

*any *parliamentary *local government *European Parliamentary *mayoral election *and referendum
for the above *constituency *electoral area *European Parliamentary electoral region *voting area

*This proxy appointment is not valid until

*This proxy appointment remains 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 or referendum 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 or referendum only, or it may be for
a definite or indefinite period. 59

If it is for a particular election or referendum, you have the right to vote as proxy only at the election or
referendum 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,
European Parliamentary, local government or mayoral election or referendum for which the elector is
qualified to vote until the electoral registration officer informs you to the contrary.

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

Form B

Declaration of Identity

(for use in England and Wales)

Front of form

**DECLARATION OF IDENTITY
EUROPEAN PARLIAMENTARY ELECTION**

Ballot Paper No.

I hereby declare that I am the person to whom the ballot paper numbered as above was sent.

Voter's signature (or mark)

The voter, who is personally known to me, has signed this declaration in my presence.

Witness's signature (or mark)

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 or mark this declaration of identity in the presence of a person known to you. That person should then sign or mark this declaration as a witness, adding his or her name and address. Without this the declaration will be invalid.

(2) Vote for one party or individual candidate only. Put no other mark on the ballot paper or your vote may not be counted.

(3) Mark a cross (X) to the right of the name of the party or individual candidate you are voting for. Do this secretly. If you cannot vote without assistance, the person assisting you must not disclose how you have voted.

(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 returning officer not later than the close of the poll. Alternatively, it may be delivered to a polling station in this local counting area on polling day.

(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 returning officer for another one. With your application you must return 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.

Paragraph 28(b)

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

Form C

Declaration of identity

(for use in England and Wales when there is joint issue and receipt of postal ballots)

Front of form

REPRESENTATION OF THE PEOPLE ACTS

Ballot Paper No(s).....

I hereby declare that I am the person to whom the ballot paper(s) numbered as above were sent.

Voter's signature (or mark)

The voter, who is personally known to me, has signed (or marked) this declaration in my presence

Witness's signature (or mark)

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 or mark this declaration of identity in the presence of a person known to you. That person should then sign or mark this declaration as a witness, adding his or her name and address. Without this the declaration will be invalid.

2. [*When you are voting in a Parliamentary/ local government election* (*insert colour of ballot paper*) ballot paper], mark a cross (X) to the right of the name of the candidate of your choice. Vote for one candidate only/ Vote for no more than candidates*.]

3. When you are voting in a European Parliamentary election (*insert colour of ballot paper*) ballot paper), mark a cross (X) to the right of the name of the party or individual candidate of your choice. Vote once only.

4. [*When you are voting in a GLA election—

- (a) [*in the constituency members election (*insert colour of ballot paper*) ballot paper), mark a cross (X) to the right of the name of the candidate of your choice. Vote for one candidate only.]
- (b) [*in the London members election (*insert colour of ballot paper*) ballot paper), mark a cross (X) to the right of the name of the party or individual candidate of your choice. Vote once only.]
- (c) [*in the London Mayoral election (*insert colour of ballot paper*) ballot paper), vote ONCE for your FIRST CHOICE and ONCE for your SECOND CHOICE.]]

5. [*When you are voting in a (*specify*) election (*insert colour of ballot paper*) ballot paper), mark a cross (X) to the right of the name of the candidate of your choice. Vote for one candidate only/ Vote once for your first choice and once for your second choice*]

6. [*When you are voting in a referendum, mark a cross (X) to the right of the answer of your choice. Vote once only.]

7. Put no other mark on the ballot paper(s) or your vote(s) may not be counted.

8. Mark all votes secretly. If you cannot vote without assistance, the person assisting you must not disclose how you have voted.

9. Put the ballot paper in the small envelope marked "A" and seal it. Then put the envelope, together with this declaration of identity, in the larger envelope marked "B". Return it without delay. The ballot papers, in order to be counted, must be received by the returning officer not later than the close of the poll.

Paragraph 28(c)

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

Form D

Declaration of Identity

(for use in England and Wales where there is separate issue and receipt of postal ballots)

Front of form

**DECLARATION OF IDENTITY
EUROPEAN PARLIAMENTARY ELECTION**

To be returned with: *(insert colour of ballot paper)* coloured ballot paper.

(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)* ballot paper(s) numbered as above was sent.

Voter's signature (or mark)

The voter, who is personally known to me, has signed (or marked) this declaration in my presence.

Witness's signature (or mark)

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 or mark this declaration of identity in the presence of a person known to you. *You are required to this even if you have already signed a similar declaration of identity in respect of another election or referendum to be held on the same day.* That person should then sign or mark this declaration as a witness, adding his or her name and address. Without this the declaration will be invalid.

(2) Vote for one party or individual candidate only. Put no other mark on the ballot paper or your vote may not be counted.

(3) **Mark a cross (X) in the column of the party or individual candidate you are voting for. Do this secretly.** If you cannot without assistance, the person assisting you must not disclose how you have voted.

(4) Different colours are used for the ballot papers for each election or referendum. 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 that envelope, together with the correct declaration of identity, in the correct covering envelope and seal it;
- (c) return the covering envelopes without delay. ⁶⁴ Ballot papers must be received by the returning officer not later than the close of the poll.

*Alternatively they may be returned to any of the following polling stations on polling day

* *(insert polling station)..... J. or*

Paragraph 28(d)

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

Form E

DECLARATION OF IDENTITY

EUROPEAN PARLIAMENTARY ELECTION

DECLARATION OF IDENTITY

Ballot Paper No

I hereby declare that I am the person to whom the ballot paper numbered as above was sent.

Voter's signature

The voter, who is personally known to me, has signed this declaration in my presence.

Witness's signature

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. That person should then sign this declaration as a witness, adding his or her name and address. Without this the declaration will be invalid.
2. Vote for one party or individual candidate only. Put no other mark on the ballot paper or your vote may not be counted.
3. Mark a cross (X) in the box on the right hand side of the ballot paper opposite the name of the candidate you are voting for. Do this secretly. If you cannot vote without assistance, the person assisting you must not disclose how you have voted.
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 returning officer not later than the close of the poll. Alternatively, it may be delivered to a polling station in the constituency to which the ballot paper relates by the close of the poll on the day of the election.
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 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.

Paragraph 28(e)

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

Form F

DECLARATION OF IDENTITY

(for use in Scotland when postal ballots are combined)

Front of form

REPRESENTATION OF THE PEOPLE ACTS

DECLARATION OF IDENTITY

Ballot Paper Nos

I hereby declare that I am the person to whom the ballot papers numbered as above were sent.

Voter's signature

The voter, who is personally known to me, has signed this declaration in my presence.

Witness's signature

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. That person should then sign this declaration as a witness, adding his or her name and address. Without this the declaration will be invalid.

2. At the European Parliamentary election, vote for one party or individual candidate only. *At the election of candidates.] Put no other marks on the ballot paper or your vote may not be counted.

*To be completed by the returning officer depending on the election to which paragraph 27 applies

3. Mark a cross (X) in the box on the right hand side of the ballot paper opposite the name(s) of the candidate(s) you are voting for. Do this secretly. If you cannot vote without assistance, the person assisting you must not disclose how you have voted.

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 returning officer not later than the close of the poll. Alternatively, it may be delivered to a polling station in the constituency to which the ballot paper relates by the close of the poll on the day of the election.

5. If you receive more than one ballot paper relating to the same election, remember that it is illegal to vote more than once (otherwise than as proxy) at the same election.

6. At these elections you cannot vote in person at a polling station, even if you receive an official poll card.

Paragraph 28(f)

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

Form G

DECLARATION OF IDENTITY

(for use in Scotland when a European Parliamentary poll is combined with another poll but the postal ballots are not combined)

Front of form

EUROPEAN PARLIAMENTARY ELECTION

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.

Voter's signature

The voter, who is personally known to me, has signed this declaration in my presence

Witness's signature

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. Without this the declaration will be invalid.
2. Vote for one party or individual candidate only. Put no other mark on the ballot paper or your vote may not be counted.
3. Mark a cross (X) in the box on the right hand side of the ballot paper opposite the name of the candidate you are voting for. Do this secretly. If you cannot vote without assistance, the person assisting you must not disclose how you have voted.
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 that 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 the poll. Alternatively, they may be delivered to a polling station in the constituency to which the ballot papers relate by the close of the poll on the day of the election.
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.

Paragraph 52(4)

Form H

Statement as to Postal Ballot Papers

EUROPEAN PARLIAMENTARY ELECTION

Local Counting Area:

Date of poll: 20.....

A Issue of postal ballot papers **Number**

- 1. Total number of postal ballot papers issued under paragraph 34
- 2. Total number of postal ballot papers issued under paragraph 39 (where the first ballot paper was spoilt and returned for cancellation)
- 3. Total number of postal ballot papers issued (1 + 2)

B Receipt of postal ballot papers **Number**

- 4. Number of covering envelopes received by the returning officer or at a polling station before the close of poll (excluding any undelivered or returned under paragraph 39(1) with spoilt ballot papers)
- 5. Number of covering envelopes received by the returning officer after the close of 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 returning officer by the date of this statement (0 Total Nos 4 to 9 (This number should be the same as that in 3 above))

C Count of postal ballot papers **Number**

- 11. Number of covering envelopes received by the returning officer before the close of poll (excluding any undelivered or returned under paragraph 39(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 a covering envelope or its contents were marked "Rejected" (cancellations under paragraph 39(5) are not rejections and should be included in items 2 and 6 above)

Date:

Signed:

Local Returning Officer

Address:

SCHEDULE 3

Regulation 11

MODIFICATION OF EUROPEAN PARLIAMENTARY
ELECTIONS RULES FOR COMBINED POLLS

PART 1

ENGLAND AND WALES

1. This Part of this Schedule applies in the circumstances set out in regulation 11(i) of these Regulations.

2.—(1) In this Part of this Schedule, and in any provision of these Regulations modified by this Schedule—

“relevant election or referendum” means one or more of the following—

- (a) a parliamentary election,
- (b) a local government election,
- (c) a mayoral election,
- (d) a referendum,

the poll at which is taken together with the poll at the European Parliamentary election; and

“GLRO” means the Greater London Returning Officer, being the person who is for the time being the proper officer of the Greater London Authority for the purposes of section 35(2C) of the Representation of the People Act 1983.

(2) In the case of a referendum, a reference to—

- (a) an election agent or counting agent shall be construed as a reference to a counting observer, within the meaning of regulation 2(1) of the Local Authorities (Conduct of Referendums) (England) Regulations 2001⁽²⁰⁾;
- (b) a polling agent shall be construed as a reference to a polling observer, within the meaning of that regulation; and
- (c) a returning officer shall be construed as a reference to a counting officer, within the meaning of that regulation.

3. At the end of paragraph (2) of rule 21 (the ballot papers) insert the following sub-paragraph—

“(e) shall be of a different colour from that of any ballot papers used at any relevant election or referendum.”

4. At the end of rule 25 (notice of poll) insert the following paragraph—

“(3) The notice published under paragraph (2) above shall, in addition—

- (a) state that the poll at the European Parliamentary election is to be taken together with the poll at a relevant election or referendum;
- (b) specify the relevant parliamentary constituency, local authority or, as the case may be, voting area and, in the case of a local government election to fill a casual vacancy, the electoral area for which the election is held; and
- (c) where the polls are to be taken together in part of the local counting area only, specify that part.”

⁽²⁰⁾ S.I. 2001/1298; which was amended by S.I. 2004/226.

5. At the end of rule 29 (issue of official poll cards) insert the following paragraph—
 - “(5) If the returning officer for each relevant election or referendum agrees, an official poll card issued under this rule may be combined with an official poll card issued at each relevant election or referendum, with necessary adaptations”.
6. After paragraph (1) of rule 30 (equipment of polling stations) insert—
 - “(1A) The same ballot box may be used for the poll at the European Parliamentary election and the poll at each relevant election or referendum, if the returning officer who discharges the functions specified in regulation 5 of the Combination of Polls Regulations thinks fit.
 - (1B) Where the same ballot box is not used under paragraph (1A), each ballot box shall be clearly marked with—
 - (a) the election or referendum to which it relates, as shown on the ballot papers for that election or referendum; and
 - (b) the words “Please insert the [*specify colour of ballot papers in question*] coloured ballot papers in here.”
7. After paragraph (4) of rule 30 (equipment of polling stations) insert the following paragraph—
 - “(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.”
8. For paragraph (7) of rule 30 (equipment of polling stations) substitute the following paragraph—
 - “(7) In every compartment of every polling station there shall be exhibited the notice:

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

***PARLIAMENTARY ELECTION**

(*[Specify colour]* ballot paper)

Vote for ONE candidate only

EUROPEAN PARLIAMENTARY ELECTION

(*[Specify colour]* ballot paper)

Vote for ONE party or individual candidate only

****[Specify name of council]*COUNCIL ELECTION**

(*[Specify colour]* ballot paper)

*[Vote for no more thancandidates]

*[Vote for ONE candidate only]

***ELECTION OF THE MAYOR OF LONDON**

(*[Specify colour]* ballot paper)

#On the ballot paper for the election of the Mayor, vote ONCE for your first choice and ONCE for your second choice.

***ELECTION OF THE LONDON ASSEMBLY**

#On the constituency members ballot paper [*specify colour*]vote for ONE candidate only.

#On the London members ballot paper [*specify colour*]vote for ONE party or individual candidate only.

****[Specify other]* ELECTION/REFERENDUM**

(*[Specify colour]* ballot paper)

*[Vote for ONE candidate only]

*[Vote ONCE for your FIRST CHOICE and ONCE for your SECOND CHOICE]

PUT NO OTHER MARK ON THE BALLOT PAPER

OR YOUR VOTE MAY NOT BE COUNTED

***[PLEASE DO NOT FOLD THE BALLOT PAPERS FOR [*specify the election(s) at which the votes are to be counted electronically*] *Post them, face downwards, in the [**appropriate*] ballot box.]**

[Include the words in the brackets if the votes at some of the polls are to be counted electronically.]

**Complete or omit as necessary*

#Alternatively, insert such information as the GLRO may decide

9. In paragraph (1)(b) of rule 31 (appointment of polling and counting agents) omit the words “the verification of the ballot paper accounts and” and in paragraph (3) of that rule omit the words “verification of the ballot papers accounts or”.

10. At the end of paragraph (4) of rule 31 (appointment of polling and counting agents) insert—
“Notices of the appointment of polling agents and counting agents which are required by this paragraph and paragraph (5) below to be given to the local returning officer shall be given to the returning officer who discharges the functions specified in regulation 5 of the Combination of Polls Regulations.”

11. In rule 32(b) (notification of requirement of secrecy) the words “the verification of the ballot paper accounts or” and “(3)” shall be omitted.

12. In rule 33(1) (admission to polling stations), at the end of sub-paragraph (f), insert the following sub-paragraph—

“(g) persons entitled to be admitted to the polling station at a relevant election or referendum.”

13. In question (ii) in sub-paragraphs (a) and (b) of paragraph (1) of rule 36 (questions to be put to voters) and in the second question in paragraph (2) of that rule, after the words “at this” insert “European Parliamentary”.

14. At the end of rule 38 (voting procedure) insert the following paragraph—

“(4) The same copy of the register may be used under paragraph (1) above for a relevant election or referendum 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 election or referendum; except that, where a ballot paper has not been issued in respect of a relevant election or referendum, a different mark shall be placed in the register or, as the case may be, list so as to identify each election or referendum in respect of which the ballot paper was issued.”

15. At the end of paragraph (2) of rule 39 (votes marked by presiding officer) insert—

“The same list may be used for each relevant election or referendum and, where it is so used, an entry in that list shall be taken to mean that the ballot papers were so marked in respect of each election or referendum, unless the list identifies the election or referendum at which the ballot paper was so marked.”

16. At the end of paragraph (4) of rule 40 (voting by person with disabilities) insert—

“The same list may be used for each relevant election or referendum and, where it is so used, an entry in that list shall be taken to mean that votes were so given in respect of each election or referendum, unless the list identifies the election or referendum at which the vote was given.”

17. At the end of paragraph (3) of rule 41 (tendered ballot papers) insert—

“The same list may be used for each relevant election or referendum and, where it is so used, an entry in that list shall be taken to mean that tendered ballot papers were marked in respect of each election or referendum, unless the list identifies the election or referendum at which a tendered ballot paper was marked.”

18. At the end of paragraph (1) of rule 43 (adjournment of poll in case of riot) insert “who discharges the functions specified in regulation 5 of the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004”.

19. In paragraph (1) of rule 44 (procedure on close of poll), after the words “polling agents”, in the first place where they occur, insert “appointed for the purposes of the European Parliamentary election and those appointed for the purposes of each relevant election or referendum”.

20. After paragraph (1) of rule 44 (procedure on close of poll) 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 under the corresponding rule that applies at each relevant election or referendum; nor shall the statement prepared under paragraph (3) below be so combined.

(1B) References to the local returning officer in paragraph (1) above are references to the returning officer who discharges the functions specified in regulation 5 of the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004.”

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

21. Omit rules 45 (attendance at verification of the ballot paper accounts) and 46 (procedure at verification of the ballot paper accounts).

22. For paragraph (1) of rule 47 (attendance at counting of votes) substitute the following paragraph—

“(1) The local returning officer shall make arrangements for counting the votes in the presence of the counting agents after the delivery of the ballot papers to him by the returning officer who discharges the functions specified in regulation 5 of the Combination of Polls Regulations—

(a) in the case of a general election of MEPs, before or after the material time and in either case so that the requirements of rule 52(1) are satisfied as soon as practicable after the material time,

(b) in the case of a by-election, as soon as practicable after that delivery,

and shall give to the counting agents and the returning officer notice in writing of the time after which he will begin to count the votes if by then he has received the ballot papers and of the place at which the count will take place.

For the purposes of this paragraph the “material time” means in relation to a general election of MEPs, the close of the polling in the Member State whose electors are the last to vote in the election.”

23. For paragraph (1) of rule 48 (the count) substitute—

“(1) The local returning officer shall—

(a) on receipt of the containers of ballot papers from the returning officer who discharges the functions specified in regulation 5 of the Combination of Polls Regulations and after the time specified in the notice given under rule 47(1) in the presence of the counting agents open each container;

(b) where the proceedings on the issue and receipt of postal ballot papers are not taken together with those proceedings at each relevant election or referendum under paragraph 27 of Schedule 2 count such of the postal ballot papers as have been duly returned and record the number counted; and

(c) mix together the postal ballot papers and the ballot papers from all of the containers and count the votes given on them.

(1A) Where separate ballot boxes have been used, no vote for any individual candidate or registered party shall be rendered invalid by the ballot paper being placed in the ballot box used at any relevant election or referendum.

(1B) A postal ballot paper shall not be deemed to be duly returned unless it is returned in the manner prescribed in paragraph 41 of Schedule 2 so as to reach the local returning officer or any polling station in the appropriate area before the close of the poll and the declaration of identity duly signed and authenticated is also returned in that manner before that time.

(1C) In paragraph (1A) the “appropriate area” means—

(a) the area in the local counting area common to the parliamentary constituency, electoral area or voting area (as the case may be) in which the polls at the European Parliamentary election and a relevant election or referendum are being taken together; and

(b) in respect of which polls the voter has been issued with a postal ballot paper.”

24. In paragraph (3) of rule 48 (the count) after the word “while” insert “counting and recording the number of postal ballot papers and”.

25. In paragraph (4) of rule 48 (the count), omit the words “, in so far as he and the agents agree,” and the words from “For the purposes” to the end.

26. In paragraph (1) of rule 59 (retention of documents) omit sub-paragraphs (c) and (e).

27. In the Appendix of forms for the form of direction for the guidance of the voters in voting substitute—

“Form of directions for the guidance of the voters in voting

GUIDANCE FOR VOTERS AT COMBINED POLLS

1. Make sure the ballot papers you are given are [stamped with the official mark/have the official mark*].

2. Go to one of the compartments.

3.A. [At the [Parliamentary/local government election(s)*] mark a cross (X) in the box on the right hand side of each ballot paper opposite the name of each candidate for whom you are voting. [Vote once only/Vote for no more than candidates.*]]

B. At the European Parliamentary election, mark a cross (X) to the right of the name of the party or individual candidate for whom you are voting*. Vote once only.

[#C. At the Greater London Authority election—

[(i) in the election for the constituency members of the London assembly, vote for ONE candidate only;]* #

[(ii) in the election of the London members of the London Assembly, vote for ONE party or candidate only]*#

[(iii) in the Mayoral election VOTE ONCE FOR YOUR FIRST CHOICE AND ONCE FOR YOUR SECOND CHOICE.* #]]

D. [At the [specify other] election/referendum* mark a cross (X) to the right of [the candidate/the answer*] for which you are voting. [*Vote once only][*VOTE ONCE for your FIRST CHOICE and ONCE for your SECOND CHOICE.]]

4. [Please do not fold the ballot papers for the [*specify the election(s) at which the votes are to be counted electronically*]*] [Fold [each/any other*] ballot paper(s) in two and show the official mark on it to the presiding officer.*] Do not let anyone see your vote. Put each ballot paper in the [*appropriate] ballot box and leave the polling station.

Include the words in the first of square brackets, and the corresponding amendment in the following sentence if the votes are to be counted electronically at one or more of the elections.

5. Vote only for the number of candidates specified on each ballot paper [and only one of the answers available in the referendum*]. Put no other mark on the ballot papers, or your votes may not be counted.

6. If by mistake you spoil a ballot paper, show it to the presiding officer and ask for another one.

**Complete or omit as necessary*

#Alternatively, insert such information as to the manner of voting as the GLRO may decide.”

28. In the Appendix of forms, for the form of declaration to be made by the companion of a voter with disabilities substitute—

“Form of declaration to be made by the companion of a voter with disabilities

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

Rule 40(5)

I, A. B., of.....having been requested to assist C.D. (in the case of a voter with disabilities voting as proxy add voting as proxy for M.N.) whose number on the register isto record his vote at the election[s]* and [*referendum[s]]* now being held in this *parliamentary constituency/*European Parliamentary electoral region/*Greater London Authority constituency/*district/*London borough/*parish or community/*local government area (*delete those which are inappropriate) hereby declare that (I am entitled to vote as an elector at the said election[s]* *[and referendum[s]] (I am the #.....of the said voter and have attained the age of 18 years), and that I have not previously assisted any voter with disabilities (except E.F., of) to vote at the said elections.

(Signed) AB,

day of 20

#State the relationship of the companion to the voter.

I, the undersigned, being the presiding officer for the..... polling station for the..... local counting area, hereby certify that the above declaration, having been first read to the above-named declarant, was signed by the declarant in my presence.

(Signed) GH,

day of..... 20.....

minutes past o'clock (am) (pm)

NOTE—

- 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 European Parliamentary elections rule 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

PART 2

SCOTLAND

- 1. This Part of this Schedule applies in the circumstances set out in regulation 11(ii) of these Regulations.
- 2. At the end of paragraph (2) of rule 21 (the ballot papers) insert the following sub-paragraph—
 - “(e) shall be of a different colour from that of any ballot papers used at an election the poll for which is taken together with the poll for the European Parliamentary election.”
- 3. At the end of rule 25 (notice of poll) insert the following paragraph—
 - “(3) The notice published under paragraph (2) above shall, in addition:
 - (a) state that the poll at the European Parliamentary election is to be taken together with the poll at a parliamentary or, as the case may be, local government election;
 - (b) specify the relevant parliamentary constituency or, as the case may be, local authority and, in the case of a local government election to fill a casual vacancy, the electoral area for which the election is held; and
 - (c) where the polls are to be taken together in part of the European Parliamentary electoral region only, specify that part.”

4. At the end of rule 29 (issue of official poll cards) insert the following paragraph—

“(5) An official poll card issued under this rule may be combined with an official poll card issued at a parliamentary election or, as the case may be, local government election.”
5. After paragraph (1) of rule 30 (equipment of polling stations) insert the following paragraph—

“(1A) The same ballot box shall be used for the poll at the European Parliamentary election and the poll at the parliamentary election or, as the case may be, local government election.”
6. After paragraph (4) of rule 30 (equipment of polling stations) insert the following paragraph—

“(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.”
7. For paragraph (7) of rule 30 (equipment of polling stations) substitute the following paragraph—

“(7) In every compartment of every polling station there shall be exhibited the notice:

EUROPEAN PARLIAMENTARY ELECTION
(*[Specify colour]* ballot paper)
vote for one party or individual candidate only

*PARLIAMENTARY ELECTION
(*[Specify colour]* ballot paper)
vote for one candidate only

[Specify name of council]COUNCIL ELECTION
(*[Specify colour]* ballot paper)
*[vote for no more thancandidates]
*[vote for one candidate only]

PUT NO OTHER MARK ON THE BALLOT PAPER
OR YOUR VOTE MAY NOT BE COUNTED
*Delete as necessary
8. In paragraph (1)(b) of rule 31 (appointment of polling and counting agents) omit the words “the verification of the ballot paper accounts and” and in paragraph (3) of that rule omit the words “verification of the ballot papers accounts or”.
9. At the end of paragraph (4) of rule 31 (appointment of polling and counting agents) insert—

“Notices of the appointment of polling agents and counting agents which are required by this paragraph and paragraph (5) below to be given to the local returning officer shall be given to the returning officer who discharges the functions specified in regulation 96 of the 1986 (Scotland) Regulations.”
10. In rule 32(b) (notification of requirement of secrecy) the words “the verification of the ballot paper accounts or” and “(3)” shall be omitted.
11. In question (ii) in sub-paragraphs (a) and (b) of paragraph (1) of rule 36 (questions to be put to voters) and in the second question in paragraph (2) of that rule, after the words “at this” insert “European Parliamentary”.
12. At the end of rule 38 (voting procedure) insert the following paragraph—

“(4) The same copy of the register may be used under paragraph (1) above for each 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 election; except that, where a ballot paper has been issued in respect of one election only, a different mark shall be placed in the register or, as the case may be, list so as to identify the election in respect of which the ballot paper was issued.”

13. At the end of paragraph (2) of rule 39 (votes marked by presiding officer) insert—

“The same list may be used for each election and, where it is so used, an entry in that list shall be taken to mean that the ballot papers were so marked in respect of each election, unless the list identifies the election at which the ballot paper was so marked.”

14. At the end of paragraph (4) of rule 40 (voting by person with disabilities) insert—

“The same list may be used for each election and, where it is so used, an entry in that list shall be taken to mean that votes were so given in respect of each election, unless the list identifies the election at which the vote was given.”

15. At the end of paragraph (3) of rule 41 (tendered ballot papers) insert—

“The same list may be used for each election and, where it is so used, an entry in that list shall be taken to mean that tendered ballot papers were marked in respect of each election, unless the list identifies the election at which a tendered ballot paper was marked.”

16. At the end of paragraph (1) of rule 43 (adjournment of poll in case of riot) insert “who discharges the functions specified in regulation 96 of the 1986 (Scotland) Regulations”.

17. In rule 44(1) (procedure on close of poll), after the words “polling agents”, in the first place where they occur, insert “for the European Parliamentary election and for the parliamentary, or as the case may be, local government election”.

18. After paragraph (1) of rule 44 (procedure on close of poll) 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 under the corresponding rule that applies at a parliamentary election or, as the case may be, local government election; nor shall the statement prepared under paragraph (3) below be so combined.

(1B) References to the local returning officer in paragraph (1) above are references to the returning officer who discharges the functions specified in regulation 96 of the 1986 (Scotland) Regulations.”

19. Omit rules 45 (attendance at verification of the ballot paper accounts) and 46 (procedure at verification of the ballot paper accounts).

20. For paragraph (1) of rule 47 (attendance at counting of votes) substitute the following paragraph—

“(1) The local returning officer shall make arrangements for counting the votes in the presence of the counting agents after the delivery of the ballot papers to him by the returning officer who discharges the functions specified in regulation 96 of the 1986 (Scotland) Regulations—

(a) in the case of a general election of MEPs, before or after the material time and in either case so that the requirements of rule 52(1) are satisfied as soon as practicable after the material time,

(b) in the case of a by-election, as soon as practicable after that delivery,

and shall give to the counting agents and the returning officer notice in writing of the time after which he will begin to count the votes if by then he has received the ballot papers and of the place at which the count will take place.

For the purposes of this paragraph the “material time” means in relation to a general election of MEPs, the close of the polling in the Member State whose electors are the last to vote in the election.”

21. For paragraph (1) of rule 48 (the count) substitute—

“(1) The local returning officer shall—

- (a) on receipt of the containers of ballot papers from the returning officer who discharges the functions specified in regulation 96 of the 1986 (Scotland) Regulations and after the time specified in the notice given under rule 47(1) in the presence of the counting agents open each container;
- (b) where the proceedings on the issue and receipt of postal ballot papers are not taken together with those proceedings at another election under paragraph 27 of Schedule 2 count such of the postal ballot papers as have been duly returned and record the number counted; and
- (c) mix together the postal ballot papers and the ballot papers from all of the containers and count the votes given on them.

(1A) A postal ballot paper shall not be deemed to be duly returned unless it is returned in the manner prescribed in paragraph 41 of Schedule 2 so as to reach the local returning officer or any polling station in the local counting area before the close of the poll and the declaration of identity duly signed and authenticated is also returned in that manner before that time.”

22. In paragraph (3) of rule 48 (the count) after the word “while” insert “counting and recording the number of postal ballot papers and”.

23. In paragraph (1) of rule 59 (retention of documents) omit sub-paragraphs (c) and (e).

24. In the Appendix of forms for the form of direction for the guidance of the voters in voting substitute—

“Form of directions for the guidance of the voters in voting

GUIDANCE FOR VOTERS AT COMBINED POLLS

- 1.** Make sure the ballot papers you are given are stamped with the official mark.
- 2.** Go to one of the compartments. At a [parliamentary] [local government] election, mark a cross (X) in the box on the right hand side of each ballot paper opposite the name of each candidate you are voting for. At a European Parliamentary election, mark a cross (X) to the right of the name of the party or individual candidate you are voting for.
- 3.** Fold each ballot paper in two. Show the official mark on each ballot paper to the presiding officer, but do not let anyone see your vote. Put each ballot paper in the ballot box and leave the polling station.
- 4.** Place only one other mark on the ballot papers, or your votes may not be counted.
- 5.** If by mistake you spoil a ballot paper, show it to the presiding officer and ask for another one.”.

25. In the Appendix of forms, in the form of declaration to be made by the companion of a voter with disabilities—

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

- (a) after the words “election now being held in this European Parliamentary electoral region” insert “and the election now being held in this *parliamentary constituency/*electoral area (* delete whichever is inappropriate)”; and
- (b) for the words “said election” in both places where they occur substitute “said elections”.

SCHEDULE 4

Regulation 12

ENTITLEMENT TO REGISTRATION AND LEGAL INCAPACITY TO VOTE IN GIBRALTAR

PART 1

GENERAL APPLICATION AND INTERPRETATION

General application and interpretation

- 1.—(1) This Schedule makes provision as to—
 - (a) legal incapacity to vote in Gibraltar as an elector at a European Parliamentary election; and
 - (b) entitlement to registration in the Gibraltar register.
- (2) For the purposes of this Schedule, “the register” means the Gibraltar register.

Time

- 2.—(1) Where the day or last day of the time allowed by this Schedule for the doing of any thing falls on any of the days mentioned in sub-paragraph (3), that time shall be extended until the next following day which is not one of those days.
- (2) In computing any period of not more than 7 days for the purposes of this Schedule any of the days mentioned in sub-paragraph (3) shall be disregarded.
- (3) The days referred to in sub-paragraphs (1) and (2) are a Saturday, Sunday, Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a bank holiday.
- (4) In this regulation “bank holiday” means a day which is a Bank or Public Holiday in Gibraltar not otherwise falling within sub-paragraph (3).

PART 2

ENTITLEMENT TO REGISTRATION AND LEGAL INCAPACITY

Legal incapacity

Legal incapacity to vote of offenders in prison etc

- 3.—(1) A convicted person during the time that he is detained in a penal institution in Gibraltar in pursuance of his sentence or unlawfully at large when he would otherwise be so detained is legally incapable of voting at any European Parliamentary election.
- (2) For this purpose—

- (a) “convicted person” means any person found guilty of an offence (whether under the law of Gibraltar or not), including a person found guilty by a court-martial, but not including a person dealt with by committal or other summary process for contempt of court; and
 - (b) a person detained for default in complying with his sentence shall not be treated as detained in pursuance of the sentence, whether or not the sentence provided for detention in the event of default, but a person detained by virtue of a conditional pardon in respect of an offence shall be treated as detained in pursuance of his sentence for the offence.
- (3) It is immaterial for the purposes of this paragraph whether a conviction or sentence was before or after the coming into force of these Regulations.

Legal incapacity to vote of offenders detained in mental hospitals

- 4.—(1) A person to whom this paragraph applies is, during the time that he is—
- (a) detained at any place in pursuance of the order by virtue of which this paragraph applies to him, or
 - (b) unlawfully at large when he would otherwise be so detained,
- legally incapable of voting at any European Parliamentary election.
- (2) This paragraph applies to the following persons—
- (a) any person in respect of whom an order has been made under section 251, 252 or 256(1) of the Criminal Procedure Ordinance;
 - (b) a convicted person, within the meaning of paragraph 3, in respect of whom an order has been made under section 257 of the Criminal Procedure Ordinance; and
 - (c) any person in respect of whom an admission order has been made under section 116B of the Army Act 1955(21).
- (3) Any reference in any of sub-paragraphs (2)(a) to (c) to a provision of any Ordinance or Act includes a reference to any earlier provision (whether of that Ordinance or Act as originally enacted or made or as previously amended, or otherwise) to the like effect.

Persons under the age of 18

Entitlement to registration of person under the age of 18

- 5.—(1) A person otherwise qualified for registration is (despite sections 15(1)(d) and 16(1)(d) and (2)(d) of the 2003 Act) entitled to be registered in the register if he will attain voting age before the end of the period of 12 months beginning with the 1st December next following the relevant date, but—
- (a) his entry in the register shall give the date on which he will attain that age; and
 - (b) until the date given in the entry he shall not by virtue of the entry be treated as an elector for any purposes other than those of an election the date of the poll for which is the date so given or any later date.
- (2) In this paragraph “the relevant date”, in relation to a person, means—
- (a) the date on which an application for registration is made (or, by virtue of paragraph 6, is treated as having been made) by him;
 - (b) in the case of a person applying for registration in pursuance of a declaration of local connection or a service declaration, the date on which the declaration was made.

(21) 1955 c. 18; section 116B was inserted by paragraph 1 to Schedule 2 to the Armed Forces Act 1996 (c. 46).

Circumstances in which an application for registration in the Gibraltar register may be treated as having been made

6. Where—

- (a) in connection with a canvass under paragraph 9 of Schedule 1 to the European Parliamentary Elections Ordinance 2004, the form completed in respect of any address specifies any person as a person who is entitled to be registered in the register, and
- (b) that person is not for the time being registered in the register in respect of that address,

he shall be treated as having made, on the canvass date (within the meaning of that Ordinance) in question, an application for registration in the register in respect of that address.

Alteration of Gibraltar register: pending elections

7.—(1) An alteration in a published version of the register which takes effect under paragraph 12(2) of Schedule 1 to the European Parliamentary Elections Ordinance 2004 after the final nomination day for a European Parliamentary election shall not have effect for the purposes of that election unless the alteration—

- (a) is made in consequence of a decision or determination falling within paragraph 12(1)(c) or (d) of that Schedule; and
- (b) takes effect on or before the fifth day before the date of the poll.

(2) In this paragraph—

“the final nomination day”, in relation to such an election, means the last day on which nomination papers may be delivered to the returning officer for the purposes of the election.

Residence

Residence: general

8.—(1) This paragraph applies where the question whether a person is resident at a particular address on the relevant date for the purposes of section 16(1)(a) of the 2003 Act falls to be determined for the purposes of that section.

(2) Regard shall be had, in particular, to the purpose and other circumstances, as well as to the fact, of his presence at, or absence from, the address on that date.

For example, where at a particular time a person is staying at any place otherwise than on a permanent basis, he may in all the circumstances be taken to be at that time—

- (a) resident there if he has no home elsewhere, or
- (b) not resident there if he does have a home elsewhere.

(3) For the purpose of determining whether a person is resident in a dwelling on the relevant date for the purposes of section 16(1)(a) of the 2003 Act, his residence in the dwelling shall not be taken to have been interrupted by reason of his absence in the performance of any duty arising from or incidental to any office, service or employment held or undertaken by him if—

- (a) he intends to resume actual residence within six months of giving up such residence, and will not be prevented from doing so by the performance of that duty; or
- (b) the dwelling serves as a permanent place of residence (whether for himself or for himself and other persons) and he would be in actual residence there but for his absence in the performance of that duty.

(4) For the purposes of sub-paragraph (3) any temporary period of unemployment shall be disregarded.

(5) Sub-paragraph (3) shall apply in relation to a person's absence by reason of his attendance on a course provided by an educational institution as it applies in relation to a person's absence in the performance of any duty such as is mentioned in that subsection.

(6) Subject to paragraphs 10 and 11, a person who is detained at any place in legal custody shall not, by reason of his presence there, be treated for the purposes of section 16(1)(a) of the 2003 Act as resident there.

Residence: merchant seamen

9. At any time when a merchant seaman is not resident in Gibraltar and would have been resident there but for the nature of his occupation, he shall be entitled to be treated for the purposes of section 16(1)(a) of the 2003 Act as resident—

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

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

Residence: patients in mental hospitals who are not detained offenders or on remand

10.—(1) This paragraph applies to a person who—

- (a) is a patient in a mental hospital in Gibraltar (whether or not he is liable to be detained there), but
- (b) is not a person to whom paragraph 4 or paragraph 11 applies.

(2) A person to whom this paragraph applies shall (subject to sub-paragraph (5)) be regarded for the purposes of section 16(1)(a) of the 2003 Act as resident at the mental hospital in question if the length of the period which he is likely to spend at the hospital is sufficient for him to be regarded as being resident there for the purposes of electoral registration.

(3) A person registered in the register in pursuance of an application for registration made by virtue of sub-paragraph (2) is entitled to remain so registered until—

- (a) the end of the period of 12 months beginning with the date when the entry in the register first takes effect, or
- (b) another entry made in respect of him in the register takes effect (whether or not in pursuance of an application made by virtue of sub-paragraph (2)),

whichever first occurs.

(4) Where the entitlement of such a person to remain so registered terminates by virtue of sub-paragraph (3), the registration officer concerned shall remove that person's entry from the register, unless he is entitled to remain registered in pursuance of a further application made by virtue of sub-paragraph (2).

(5) Sub-paragraph (2) shall not be taken as precluding the registration of a person to whom this paragraph applies—

- (a) by virtue of his residence at some place other than the mental hospital in which he is a patient, or
- (b) in pursuance of a declaration of local connection.

(6) In this paragraph “mental hospital” means any establishment (or part of an establishment) maintained wholly or mainly for the reception and treatment of persons suffering from any form of

mental disorder; and for this purpose “mental disorder”, has the same meaning as in section 3(1) of the Mental Health Ordinance.

Residence: persons remanded in custody etc

11.—(1) This paragraph applies to a person who is detained at any place in Gibraltar pursuant to a relevant order or direction and is so detained otherwise than after—

- (a) being convicted of any offence, or
- (b) a finding in criminal proceedings that he did the act or made the omission charged.

(2) A person to whom this paragraph applies shall (subject to sub-paragraph (5)) be regarded for the purposes of section 16(1)(a) of the 2003 Act as resident at the place at which he is detained if the length of the period which he is likely to spend at that place is sufficient for him to be regarded as being resident there for the purposes of electoral registration.

(3) A person registered in the register in pursuance of an application for registration made by virtue of sub-paragraph (2) is entitled to remain so registered until—

- (a) the end of the period of 12 months beginning with the date when the entry in the register first takes effect, or
- (b) another entry made in respect of him in the register takes effect (whether or not in pursuance of an application made by virtue of sub-paragraph (2)),

whichever first occurs.

(4) Where the entitlement of such a person to remain so registered terminates by virtue of sub-paragraph (3), the registration officer concerned shall remove that person’s entry from the register, unless he is entitled to remain registered in pursuance of a further application made by virtue of sub-paragraph (2).

(5) Sub-paragraph (2) shall not be taken as precluding the registration of a person to whom this section applies—

- (a) by virtue of his residence at some place other than the place at which he is detained, or
- (b) in pursuance of a declaration of local connection.

(6) In this section “a relevant order or direction” means—

- (a) a remand or committal in custody;
- (b) a remand to a hospital under section 249(6)(c), 250(4) or (5) of the Criminal Procedure Ordinance;
- (c) a direction for removal to a hospital under section 257 of that Ordinance.

Notional residence: declarations of local connection

12.—(1) A declaration under this paragraph (“a declaration of local connection”)—

- (a) may be made only by a person to whom this paragraph applies, but
- (b) may be made by such a person despite the fact that by reason of his age he is not entitled to vote.

(2) This paragraph applies to any person who on the date when he makes such a declaration is—

- (a) a person to whom paragraph 10 applies and who would not be entitled to be registered by virtue of residence at any place other than the mental hospital (within the meaning of that paragraph) at which he is a patient, or

- (b) a person to whom paragraph 11 applies and who would not be entitled to be registered by virtue of residence at any place other than the place at which he is detained as mentioned in sub-paragraph (1) of that paragraph, or
 - (c) a person who does not fall within paragraph (a) or (b) (and is not otherwise in legal custody) and who is not, for the purposes of section 16(1)(a) of the 2003 Act, resident at any address in Gibraltar (a “homeless person”).
- (3) A declaration of local connection shall state—
- (a) the name of the declarant and either—
 - (i) an address to which correspondence for him from the registration officer or the returning officer can be delivered, or
 - (ii) that he is willing to collect such correspondence periodically from the registration officer’s office;
 - (b) the date of the declaration;
 - (c) that on the date of the declaration the declarant falls into one of the categories of persons to whom this paragraph applies, specifying—
 - (i) the category in question, and
 - (ii) (in the case of a person falling within sub-paragraph (2)(a) or (b)) the name and address of the mental hospital at which he is a patient or (as the case may be) of the place at which he is detained;
 - (d) the required address (as defined by sub-paragraph (4));
 - (e) the nationality of the declarant on the date of the declaration confirming that he is a Commonwealth citizen or a relevant citizen of the Union;
 - (f) whether the declarant has on the date of the declaration attained the age of 18 years, and, if he has not, the date of his birth.
- (4) For the purposes of this paragraph “the required address” is—
- (a) in the case of a person falling within sub-paragraph (2)(a) or (b)—
 - (i) the address in Gibraltar where he would be residing if he were not such a patient, or detained, as mentioned in that provision, or
 - (ii) if he cannot give such an address, an address in Gibraltar at which he has resided;
 - (b) in the case of a homeless person, the address of, or which is nearest to, a place in Gibraltar where he commonly spends a substantial part of his time (whether during the day or at night).
- (5) If a person—
- (a) makes a declaration of local connection stating more than one address under sub-paragraph (3)(d), or
 - (b) makes more than one declaration of local connection bearing the same date and stating different addresses under that provision,
- the declaration or declarations shall be void.
- (6) A declaration of local connection may be cancelled at any time by the declarant.
- (7) A declaration of local connection shall be of no effect unless it is received by the registration officer within the period of three months beginning with the date of the declaration.

Effect of declaration of local connection

13.—(1) Where a person's declaration of local connection is in force when he applies for registration, he shall be regarded for the purposes of section 16(1)(a) of the 2003 Act as resident on the date of the declaration at the address stated in it in accordance with paragraph 12.

(2) A person registered in the register in pursuance of a declaration of local connection is entitled to remain so registered until—

- (a) the end of the period of 12 months beginning with the date when the entry in the register first takes effect,
- (b) the declaration is cancelled under paragraph 12(6), or
- (c) another entry made in respect of him in the register takes effect (whether or not in pursuance of a declaration of local connection),

whichever first occurs.

(3) Where the entitlement of such a person to remain so registered terminates by virtue of subparagraph (2), the registration officer shall remove that person's entry from the register, unless he is entitled to remain registered in pursuance of a further declaration of local connection.

(4) This paragraph shall not be taken as precluding the registration of a person falling within paragraph 12(2)(a) or (b) in pursuance of an application made by virtue of paragraph 10(2) or 11(2).

*Overseas electors***Registration of overseas electors**

14.—(1) A person qualifies for registration in Gibraltar as an overseas elector, for the purposes of section 16(2)(a) of the 2003 Act and these Regulations, if—

- (a) he makes a declaration under and in accordance with paragraph 15; and
- (b) on that date ("the relevant date")—
 - (i) he is not resident in Gibraltar; and
 - (ii) he satisfies one of the following sets of conditions.

(2) The first set of conditions is that—

- (a) he was included in the register in respect of an address at a place that is situated within Gibraltar,
- (b) that entry in the register was made on the basis that he was resident, or to be treated for the purposes of registration as resident, at that address,
- (c) that entry in the register was in force at any time falling within the period of 15 years ending immediately before the relevant date, and
- (d) subsequent to that entry ceasing to have effect no entry was made in the register on the basis that he was resident, or to be treated for the purposes of registration as resident, at any other address.

(3) The second set of conditions is that—

- (a) he was last resident in Gibraltar within the period of 15 years ending immediately before the relevant date,
- (b) he was by reason only of his age incapable of being included in the register in force on the last day on which he was resident in Gibraltar, and

- (c) the address at which he was resident on that day was at a place that is situated within Gibraltar and a parent or guardian of his was included, in respect of that address, in the register in force on that day.

Overseas elector's declaration

15.—(1) A declaration made by an elector under and in accordance with this paragraph is referred to in these Regulations as an “overseas elector's declaration”.

(2) A person registered in the register in pursuance of an overseas elector's declaration is entitled to remain so registered until—

- (a) the end of the period of 12 months beginning with the date when the entry in the register first takes effect,
- (b) the declaration is cancelled under sub-paragraph (5), or
- (c) any entry made in respect of him in the register takes effect otherwise than in pursuance of an overseas elector's declaration,

whichever first occurs; and, where the entitlement of such a person to remain so registered terminates by virtue of this sub-paragraph, the registration officer shall remove that person's entry from the register, unless he is entitled to remain registered in pursuance of a further overseas elector's declaration.

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

- (a) the date of the declaration,
- (b) the declarant's nationality confirming that he is a Commonwealth citizen,
- (c) that the declarant is not resident in Gibraltar on the relevant date, and
- (d) when he ceased to be so resident or, in the case of a person relying on registration in pursuance of a service declaration, when he ceased to have a service qualification or, if later, ceased to be so resident,

and must also satisfy the requirements of sub-paragraph (4) and paragraph 14 of Schedule 1 to the European Parliamentary Elections Ordinance 2004.

(4) An overseas elector's declaration must—

- (a) show which set of conditions in paragraph 14 the declarant claims to satisfy,
- (b) in the case of the first set of conditions, specify the address in respect of which he was registered, and
- (c) in the case of the second set of conditions, specify—
 - (i) the date of the declarant's birth,
 - (ii) the address in Gibraltar at which he was resident, and
 - (iii) the name of the parent or guardian on whose registration in respect of that address he relies, and whether the person named was a parent or guardian,

and may not, in the case of either set of conditions, specify more than one such address; and if the declarant makes more than one such declaration bearing the same date and specifying different addresses in Gibraltar as the address in respect of which he was registered or, as the case may be, at which he was resident the declarations shall be void.

(5) An overseas elector's declaration may be cancelled at any time by the declarant.

(6) An overseas elector's declaration shall be of no effect unless it is received by the registration officer concerned within the period of three months beginning with the relevant date.

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

(7) For the purposes of paragraph 12, where a person is registered in the register in pursuance of an overseas elector's declaration, it shall be conclusively presumed that he was not resident in Gibraltar on the relevant date.

(8) In this paragraph "the relevant date" has the meaning given by paragraph 14(1).

Service Voters

Service qualification

16. A person has a service qualification for the purposes of these Regulations who—

- (a) is a member of the Royal Gibraltar regiment,
- (b) is the wife or husband of a member of the Royal Gibraltar regiment.

Service declaration

17.—(1) A service declaration shall be made only by a person who has a service qualification, and a service declaration may be made by such a person notwithstanding the fact that by reason of his age he is not yet entitled to vote.

(2) Where a person is registered in the Gibraltar register in pursuance of a service declaration, the person is entitled to remain so registered until—

- (a) the end of the period of 12 months beginning with the date when the entry in the register first takes effect,
- (b) the declaration is cancelled under sub-paragraph (5), or
- (c) another entry made in respect of him in the register takes effect (whether or not in pursuance of a service declaration),

whichever first occurs.

(3) Where the entitlement of such a person to remain so registered terminates by virtue of sub-paragraph (2), the registration officer shall remove that person's entry from the register, unless he is entitled to remain registered in pursuance of a further service declaration.

(4) If a person—

- (a) makes a service declaration declaring to more than one address, or
- (b) makes more than one service declaration bearing the same date and declaring to different addresses,

the declaration or declarations shall be void.

(5) A service declaration may at any time be cancelled by the declarant.

(6) A service declaration shall be of no effect unless it is received by the registration officer within the period of three months beginning with the date of the declaration.

(7) Arrangements shall be made by the Gibraltar Ministry of Defence for securing that (so far as circumstances permit) every person having a service qualification by virtue of sub-paragraph (a) or (b) of paragraph 16 shall—

- (a) have an effective opportunity of exercising from time to time as occasion may require the rights conferred on him by these Regulations in relation to the making and cancellation of service declarations and of appointments of a proxy, and in relation to voting by post; and
- (b) receive such instructions as to the effect of these Regulations, and such other assistance, as may be reasonably sufficient in connection with the exercise by him and any wife of his or, as the case may be, by her and any husband of hers, of any rights conferred on them as mentioned above.

Contents of service declaration

18. A service declaration shall state—

- (a) the date of the declaration,
- (b) that on that date the declarant is, or but for the circumstances entitling him to make the declaration would have been, residing in Gibraltar,
- (c) the address where the declarant is or, as the case may be, would have been residing in Gibraltar or, if he cannot give any such address, an address at which he has resided in Gibraltar,
- (d) the nationality of the declarant on the date of the declaration confirming that he is a Commonwealth citizen or a relevant citizen of the Union,
- (e) whether the declarant had on the date of the declaration attained the age of 18 years, and, if he had not, the date of his birth, and
- (f) such particulars (if any) of the declarant's identity and service qualifications as are required by paragraph 19 of Schedule 1 to the European Parliamentary Elections Ordinance 2004.

Effect of service declaration

19.—(1) Where a person's service declaration is in force when he applies for registration, he shall be regarded for the purposes of section 16(1)(a) of the 2003 Act as—

- (a) resident on the date of the declaration at the address specified in it in accordance with paragraph 18(c);
- (b) until the contrary is proved, as being a Commonwealth citizen or a relevant citizen of the Union of the age appearing from the declaration and as not being subject to any legal incapacity except as so appearing.

(2) Where a service declaration appearing to be properly made out and (where required) attested is transmitted to the registration officer in the proper manner, the declarant shall, until the contrary is proved, be treated for the purposes of registration as having had from the date of the declaration or such later date, if any, as appears from it, and as continuing to have, a service qualification.

Relevant citizens of the Union

Notification of and removal of names of relevant citizens of the Union from the register

20.—(1) As soon as practicable after the registration officer has entered the name of a relevant citizen of the Union in the register where he would be entitled to vote at a European Parliamentary election in pursuance of the registration, he shall send a copy of the application and declaration by virtue of which he entered the name in the register to the person shown as the representative of the State in respect of which the applicant is a national in a direction containing a list of such representatives issued by the Lord Chancellor under regulation 8(3) of the 2001 Franchise Regulations⁽²²⁾.

(2) A declaration under paragraph 25(3)(b) of Schedule 1 to the European Parliamentary Elections Ordinance 2004 may be cancelled at any time by the declarant.

(3) A relevant citizen of the Union registered in the register is entitled to remain so registered until—

- (a) the end of the period of 12 months beginning with the date when the entry in the register first takes effect;

(22) Regulation 8(1) was amended and Regulation 8(3) was inserted by Regulation 5(a) and (b) of S.I. 2003/1557, respectively.

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

- (b) the declaration under paragraph 25(3)(b) of Schedule 1 to the European Parliamentary Elections Ordinance 2004 is cancelled under sub-paragraph (2);
- (c) the citizen applies for his name to be removed,

whichever first occurs.

(4) Where the entitlement of such a person to remain registered terminates by virtue of sub-paragraph (3), the registration officer shall remove the person's entry from the register, unless he is entitled to remain in pursuance of a further application and declaration under paragraph 25 of Schedule 1 to the European Parliamentary Elections Ordinance.

(5) The registration officer shall remove the name of a relevant citizen of the Union from the register where the Secretary of State sends to that officer a copy of information provided by the Member State of which that citizen is a national to show that he has lost the right to vote there.

PART 3

DISCHARGE OF REGISTRATION DUTIES

Discharge of registration duties

21.—(1) The registration officer shall comply with any general or special directions which may be given by the Secretary of State with respect to the arrangements to be made by the registration officer for carrying out his functions under this Schedule.

(2) Without prejudice to the generality of sub-paragraph (1), the directions which may be given under sub-paragraph (1) include directions requiring the registration officer to maintain the register in a specified electronic form; and any such directions may in particular specify—

- (a) the software which is to be used in connection with the maintenance of the register in that form;
- (b) the standards in accordance with which that software is to be maintained and updated;
- (c) how information required by this Schedule to be included in the register is to be recorded and stored in that form.

SCHEDULE 5

Regulation 13

MODIFICATIONS FOR RELEVANT CITIZENS OF THE ACCESSION STATES IN 2004

1. This Schedule applies in the circumstances set out in regulation 13 of these Regulations.
2. In section 16 of the 2003 Act (entitlement to be registered in Gibraltar)—
 - (a) in subsection (1)(c), after “is a citizen of the European Union (other than a qualifying Commonwealth citizen)” insert “or, subject to paragraph (1C), a relevant citizen of an Accession State”; and
 - (b) after subsection (1), insert—

“(1A) The entry in the Gibraltar register for a relevant citizen of an Accession State shall, subject to subsection (1B), include a mark against his name in the register consisting of the letter “Y” to indicate that he is registered as a relevant citizen of an Accession State and, before the date on which that State accedes to the European Union, he shall not be treated as an elector for any purposes other than those of an election the poll for which is held on or after that date.

(1B) Where a relevant citizen of an Accession State is registered in the Gibraltar register, and that State accedes to the European Union on 1st May 2004, the mark referred to in subsection (1A) shall be removed from his entry in the register.

(1C) From 1st May 2004, no relevant citizen of an Accession State shall be entitled to be registered in the Gibraltar register unless he has become a citizen of the European Union following the accession to the European Union of the Accession State of which he is a national.”

3. In section 27(1) (interpretation) of the 2003 Act insert, at the appropriate places, the following definitions—

““Accession State” 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, or
- (j) the Slovak Republic;” and

““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”.

4. In regulation 2, in the definition of “elector”, after the word “age”, insert “, or, subject to regulation 4(1A) of the 2001 Franchise Regulations and section 16(1A) of the 2003 Act, those shown in the register as a relevant citizen of an Accession State,”.

5. In regulation 17, insert after paragraph (4)—

“(5) 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.”

6. In regulation 24(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.”

7. In paragraph 33 of Schedule 2—

- (a) insert at the beginning of sub-paragraph (2) “Subject to sub-paragraph (3),”; and
- (b) after sub-paragraph (2), insert—

“(3) In the case of a relevant citizen of an Accession State, no postal ballot paper or declaration of identity may be issued by the returning officer before he has been informed

by the Lord Chancellor that the Accession State in question has ratified the Treaty of Athens.”

8. In paragraph 12(3)(e) of Schedule 4, after “relevant citizen of the Union”, insert “or of an Accession State”.

9. In paragraph 18(d) of Schedule 4, after “relevant citizen of the Union”, insert “or of an Accession State”.

10. In paragraph 19(1)(b) of Schedule 4, after “relevant citizen of the Union”, insert “or of an Accession State”.

11. In paragraph 20 of Schedule 4 (notification of and removal of names of relevant citizens of the Union from the register)—

(a) in sub-paragraph (1) after “relevant citizen of the Union” insert “or of an Accession State”;

(b) in sub-paragraph (3), after “relevant citizen of the Union” insert “and, subject to paragraph (6), a relevant citizen of an Accession State”;

(c) in sub-paragraph (5)—

(i) after “relevant citizen of the Union” insert “or of an Accession State”; and

(ii) after “Member State” insert “and Accession State”; and

(d) after sub-paragraph (5), insert—

“(6) The registration officer shall remove the name of a relevant citizen of an Accession State registered in the Gibraltar register if the Accession State of which he is a citizen does not accede to the European Union on 1st May 2004.”

SCHEDULE 6

Regulation 42

CONTROL OF DONATIONS TO INDIVIDUAL CANDIDATES

PART 1

INTRODUCTORY

Operation and interpretation of Schedule

1.—(1) This Schedule has effect for controlling donations to individual candidates at an election.

(2) The following provisions have effect for the purposes of this Schedule.

(3) In accordance with sub-paragraph (1), references to a candidate are to an individual candidate.

(4) “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.

(5) In sub-paragraph (4) 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.

(6) “Donation” shall be construed in accordance with paragraphs 2 to 4 below.

(7) Where—

- (a) at a time when any order is in force under section 70(1) of the 2000 Act a donation is received by a candidate at a European Parliamentary election in Great Britain or Gibraltar, and
- (b) the order provides for sub-paragraph (7) of paragraph 1 of Schedule 2A to the 1983 Act⁽²³⁾ to apply to any such donation,

references to a permissible donor falling within section 54(2) of that Act⁽²⁴⁾ in relation to the donation, as not including a registered party which is registered in the Northern Ireland register maintained by the Commission under Part 2 of that Act⁽²⁵⁾.

- (8) “The Commission” means the Electoral Commission established by section 1 of that Act.

Donations: general rules

2.—(1) “Donation”, in relation to an individual 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-

⁽²³⁾ Schedule 2A was inserted by section 130 of, and Schedule 16 to, the 2000 Act.

⁽²⁴⁾ Section 54(2) was amended by Regulation 11(b) of the 2001 Regulations.

⁽²⁵⁾ Schedule 2A was inserted by section 130 of, and Schedule 16 to, the 2000 Act.

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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.

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 2

CONTROLS ON DONATIONS

Prohibition on accepting donations from impermissible donors

6.—(1) A relevant donation received by an individual 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

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- (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—
 - (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).
- (9) In the application of this paragraph to an individual candidate (or his election agent) at an election in the combined region—
 - (a) the references in sub-paragraphs (1)(a) and (3)(b)(i) to a permissible donor falling within section 54(2) include references to persons listed in section 54(2A)(a) to (g) of the 2000 Act;
 - (b) in sub-paragraph (3)(b)(ii) the reference to an unincorporated association which is a permissible donor includes a reference to an unincorporated association falling within section 54(2A)(g) of the 2000 Act; and
 - (c) in sub-paragraph (2) and (3)(a) the references to an exempt trust donation include a reference to an exempt Gibraltar trust donation (within the meaning of section 162 of the 2000 Act).

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 3 of this Schedule.

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(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
 - (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 3 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 38(1) 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 an individual 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 3

REPORTING OF DONATIONS

Statement of relevant donations

10. The candidate's election agent must include in any return required to be delivered under regulation 51 a statement of relevant donations which complies with paragraphs 11 and 12 below.

Donations from permissible donors

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;

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- (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.

SCHEDULE 7

Regulation 51

DECLARATION AS TO ELECTION EXPENSES

FORM OF DECLARATION

*[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.

Signature of declarant

Signed and declared by the above named declarant on the day of before me,

(Signed)

(NOTE:- Where there has been a change of election agent, suitable variations may be introduced into the declaration as to expenses.)

SCHEDULE 8

Regulation 66

USE FOR EUROPEAN PARLIAMENTARY ELECTION MEETINGS OF ROOMS IN SCHOOL PREMISES AND OF MEETING ROOMS

1. Any arrangements for the use of a room in school premises shall be made with the local education authority maintaining the school or, in the case of a room in the premises of a foundation or voluntary aided school, with the governing body of the school.

2. Any question as to the rooms in school premises which a candidate in any local counting area is entitled to use, or as to the times at which he is entitled to use them, or as to the notice which is reasonable, shall be determined by the Secretary of State.

3. Any person stating himself to be, or to be authorised by, a candidate or the election agent of a registered party or an individual candidate shall be entitled at all reasonable hours to inspect the lists of rooms in school premises and of meeting rooms prepared under Schedule 5 to the 1983 Act, or a copy of those lists.

4. In the application of this Schedule to Scotland, for any reference to a local education authority substitute a reference to an education authority.

5. In the application of this Schedule to Gibraltar—

- (a) in paragraph 1, for the reference to the local education authority substitute a reference to the Department of Education and Training;
- (b) in paragraph 2, for the reference to the Secretary of State substitute a reference to the Government of Gibraltar;
- (c) for paragraph 3, substitute the following paragraph—

“3.—(1) The Department of Education and Training shall prepare and revise lists of the rooms in school premises in Gibraltar which candidates are entitled to use.

(2) The Government of Gibraltar shall prepare and revise lists of the meeting rooms in Gibraltar which candidates are entitled to use, and the list shall-

- (a) indicate the person to whom applications for the use of the room are to be made in each case; and
- (b) not include any room if the person maintaining it disputes the right of candidates to use it.

(3) The list of rooms in school premises and of meeting rooms prepared under sub-paragraphs (1) and (2) shall be kept by the European Parliamentary electoral registration officer for Gibraltar, and those lists and particulars of any change made on their revision shall be forwarded to him accordingly.

(4) Any person stating himself to be, or to be authorised by, a candidate or the election agent of a registered party or an individual candidate shall be entitled at all reasonable hours to inspect the lists of rooms in school premises and of meeting rooms prepared under this paragraph.”