

Draft Regulations laid before Parliament under section 201(2) of the Representation of the People Act 1983, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2010 No.

**REPRESENTATION OF THE PEOPLE, NORTHERN
IRELAND**

**The Representation of the People (Northern Ireland)
(Amendment) Regulations 2010**

Made - - - - *****

Coming into force in accordance with regulation 1(2)

In accordance with section 7(1) and (2)(e) of the Political Parties, Elections and Referendums Act 2000(a) the Electoral Commission has been consulted prior to making these Regulations.

In accordance with section 201(2) of the Representation of the People Act 1983(b) a draft of these Regulations has been laid before and approved by a resolution of each House of Parliament.

Accordingly, the Secretary of State, in exercise of the powers conferred by the provisions which are specified in the Schedule to this instrument, makes the following Regulations:

Citation, commencement, extent and interpretation

1.—(1) These Regulations may be cited as the Representation of the People (Northern Ireland) (Amendment) Regulations 2010.

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

(3) These Regulations extend to Northern Ireland only.

(4) In these Regulations “the 2008 Regulations” means the Representation of the People (Northern Ireland) Regulations 2008(c).

Amendment of regulation 25 of the 2008 Regulations

2.—(1) Amend regulation 25 of the 2008 Regulations (alteration of registers under section 13BA(3) of the 1983 Act) as follows.

(2) After paragraph (3)(j) insert—

(a) 2000 c.41.

(b) 1983 c. 2; section 201(2) was substituted by paragraph 69 of Schedule 4 to the Representation of the People Act 1985 (c.50) and amended by paragraph 6 of Schedule 21 to the Political Parties, Elections and Referendums Act 2000 (c.41) and article 5(b) of S.I. 1991/1728.

(c) S.I. 2008/1741.

“(ja)a 60+ SmartPass issued under the Northern Ireland Concessionary Fares Scheme for use from 1st October 2008;”

(3) In paragraph (6), after sub-paragraph (e) omit “and” and after sub-paragraph (f) insert—

“; and

(g) a bill or statement issued by a Credit Union within the meaning of article 2 of the Credit Unions (Northern Ireland) Order 1985(a)”.

Amendment of regulation 35 of the 2008 Regulations

3.—(1) Amend regulation 35 of the 2008 Regulations (summary procedure for determining in specified circumstances whether a person has ceased to satisfy conditions for registration) as follows.

(2) For paragraph 2(d) substitute—

“(d) has been notified by a relative or executor of the elector or by a registrar of births and deaths or by the Senior Coroner for Northern Ireland that the elector has died;”

(3) In paragraph (3) after the definition of “elector” insert—

““registrar of births and deaths” means the Registrar General of Births and Deaths in Northern Ireland, any registrar of births and deaths in England, Wales or Scotland, or the Registrar General (an tArd-Chláráitheoir) in the Republic of Ireland;”.

Amendment of regulation 42 of the 2008 Regulations

4.—(1) Amend regulation 42 of the 2008 Regulations (provision of information to the registration officer) as follows.

(2) In paragraph (2)(c) for “the Northern Ireland Central Services Agency” substitute “the Regional Business Services Organisation”.

(3) After paragraph (2)(e) omit “and” and insert—

“(ea) institutions of further education within the meaning of article 2 of the Further Education (Northern Ireland) Order 1997(b); and”.

Additional requirements for applications for absent votes

5.—(1) After regulation 55 of the 2008 Regulations insert—

“Additional requirement for applications for ballot papers to be sent to a different address to that in register

55A.—(1) Paragraph (2) applies where—

- (a) in the case of an application to vote by post under section 6(1) of the 1985 Act(c), the addresses provided in accordance with section 6(6) of that Act and regulation 55(2)(b) are different;
- (b) in the case of an application to vote by post under section 7(1) of the 1985 Act, the addresses provided in accordance with section 7(5) of that Act and regulation 55(2)(b) are different;

(a) S.I. 1985/1205 (N.I. 12); article 2 was amended by S.I. 2002/1855 but those amendments are not relevant to these Regulations.

(b) S.I. 1997/1772 (N.I. 15).

(c) 1985 c.50; sections 6, 7 and 9 (see below) were amended by Schedule 6 to the Representation of the People Act 2000 (c.2); sections 6 and 7 were amended by section 3 of the Electoral Fraud (Northern Ireland) Act 2002 (c.13); section 6 was amended by paragraph 134 of Schedule 1 to the Electoral Administration Act 2006 (c.22) and section 9 was amended by section 38(4) of that Act.

- (c) in the case of an application by a proxy to vote by post under section 9(4) of the 1985 Act, the address provided in accordance with section 9(12) of that Act and the proxy's address provided in accordance with regulation 55(2)(c) are different.

(2) The application must set out why the applicant's ("A") circumstances will be or are likely to be such that A requires the ballot paper to be sent to the address provided in accordance with the provisions of the 1985 Act mentioned above.

Additional requirement for applications for ballot papers to be sent to different address from that shown in the record kept under section 6(3) or section 9(6) of the 1985 Act

55B. An application under—

- (a) section 7(2) of the 1985 Act by a person ("A") shown as voting by post in the record kept under section 6(3) of that Act; or
- (b) section 9(8) of the 1985 Act by a person ("A") shown as voting by post in the record kept under section 9(6) of that Act,

for A's ballot paper to be sent to a different address from that shown in the record shall set out why A's circumstances will be or are likely to be such that A requires the ballot paper to be sent to that address."

Amendment of regulation 57 of the 2008 Regulations

6.—(1) Amend regulation 57 of the 2008 Regulations (additional requirements for applications on grounds of blindness or other disability) as follows.

(2) In paragraph (2) after "signed by" insert "a person who is registered in the register and who is".

(3) After paragraph (2)(b) insert—

"(ba) a social worker registered under the principal part of the register maintained by the Northern Ireland Social Care Council under section 3 of the Health and Personal Services Act (Northern Ireland) 2001(a);".

(4) After paragraph (3)(a) insert—

"(ab) that he is registered in the register;".

(5) In paragraph (4)(a) for "a Health and Social Services Board" substitute "a Health and Social Care trust".

(6) For paragraph (4)(b) substitute—

"(b) the application states that the applicant is in receipt of—

- (i) the higher rate of attendance allowance (payable under section 65 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(b)); or
- (ii) the highest rate of the care component or the higher rate of the mobility component (or both) of the disability living allowance (payable under section 72 and section 73 of that Act),

because of the disability specified in the application."

(7) In paragraph (5) for "a Health and Social Services Board" substitute "a Health and Social Care trust".

(a) 2001 c. 3 (N.I.); section 3 was amended by S.I. 2007/3101.

(b) 1992 c.7 (N.I.); sections 72 and 73 (referred to in paragraph (ii)) were amended by section 48 of the Welfare Reform Act (Northern Ireland) 2007 (c. 2).

Amendment of regulation 59 of the 2008 Regulations

7.—(1) Amend regulation 59 of the 2008 Regulations (additional requirements for applications in respect of a particular election) as follows.

(2) For paragraph (2)(d) substitute—

“(d) has not attested under this paragraph more than one other application in respect of the election for which the application he attests is made or that election taken together with any other election in Northern Ireland the poll for which is taking place on the same day.”.

(3) For paragraph (3)(e) substitute—

“(e) that he has not attested under paragraph (2) more than one other application in respect of the election for which the application he attests is made or that election taken together with any other election in Northern Ireland the poll for which is taking place on the same day.”.

(4) In paragraph (4)(b) after “signed by” insert “a person who is registered in the register and who is”.

(5) After paragraph (5)(a) insert—

“(ab) that he is registered in the register;”.

(6) In paragraph (6)(d) after “signed by” insert “a person who is registered in the register and who is”.

(7) After paragraph (7)(a) insert—

“(ab) that he is registered in the register;”.

Amendment of regulation 72 of the 2008 Regulations

8. In regulation 72(1)(a) of the 2008 Regulations (persons entitled to be present at proceedings on issue and receipt of postal ballot papers) after “officer” insert “and the returning officer’s clerks”.

Ballot paper envelopes

9.—(1) After regulation 78(4) of the 2008 Regulations (envelopes) insert—

“(5) In regulations 87 and 88, a reference to the number on a ballot paper envelope includes, in the case of an envelope of the kind referred to in paragraph (3)(c), a reference to the number that is displayed through the window in that envelope.”.

(2) In regulation 87(6)(b) after “on it” insert “and the number is not displayed through a window in it”.

Amendment of provisions on the supply on request of full register

10.—(1) Amend regulation 101 (supply of full register etc under regulations 102 to 107: general provisions) as follows—

(a) in paragraph (1) for “107” substitute “107A”;

(b) in paragraph (5) after “regulation 106” insert “or regulation 107A”;

(c) in paragraph (6) for “107” substitute “107A”; and

(d) in the heading for “107” substitute “107A”.

(2) After regulation 107 (supply of full register etc to police forces and restrictions on use), insert—

“Supply of full register etc to a registered medical practitioner and restrictions on use.

107A.—(1) This regulation applies to a registered medical practitioner.

(2) For the purposes of regulation 101(1), the relevant part of the documents listed in that provision is so much of them as relate to the person (“A”) in respect of whom the registered medical practitioner’s request is made.

(3) No person to whom this regulation applies who has been supplied with a copy of the register may—

- (a) supply a copy of the full register to any person;
- (b) disclose any information contained in it (and not contained in the edited register); or
- (c) make use of any such information,

otherwise than where it is necessary for medical purposes.

(4) The restrictions in paragraph (3) apply to a person to whom any of the full register has been supplied or information disclosed under that paragraph as they apply to a person to whom this regulation applies.

(5) In paragraph (3) “medical purposes” means the provision of medical care or treatment to A or a dependant of A.

(6) For the purposes of paragraph (5) a person is a dependant of A if he or she is—

- (a) A’s spouse or civil partner;
- (b) A’s child;
- (c) A’s parent; or
- (d) a person who relies on A to make arrangements for the provision of his or her care.

Sale of full register etc to government departments

11. At the end of regulation 111 (sale of register etc to government departments) insert—

“(7) In this regulation “government department” includes a Northern Ireland department.”

Amendment of rule 37(1E) of the elections rules

12.—(1) Amend rule 37(1E) of the elections rules(a) as follows.

(2) After sub-paragraph (k) insert—

“(l) a 60+ SmartPass issued under the Northern Ireland Concessionary Fares Scheme for use from 1st October 2008;”.

(3) At the end of paragraph (1E)—

- (a) omit “(excluding a provisional licence),”; and
- (b) after “in force” insert “and includes a Community licence within the meaning of those enactments”.

(a) Rule 37 of the elections rules was substituted for England, Wales and Scotland by section 47 of, and paragraph 75 of Schedule 1 to, the Electoral Administration Act 2006 (c.22) (“2006 Act”). However, this substitution did not extend to Northern Ireland (see paragraph 75(2) of Schedule 1 to the 2006 Act). Paragraphs (1A) to (1G) were inserted for Northern Ireland by section 1 of the Elections (Northern Ireland) Act 1985 (c. 2). Sub-paragraph (1E)(a) was substituted, and sub-paragraphs (1E)(c) to (g) were repealed, by S.I. 2003/1156. Sub-paragraphs (1E)(f) and (g) were substituted for Northern Ireland by regulation 14 of S.I. 2001/400. Sub-paragraph (1E)(h) was inserted in relation to Northern Ireland by section 4 of the Electoral Fraud (Northern Ireland) Act 2002 (c. 13). Sub-paragraph (1E)(i) was inserted in relation to Northern Ireland by S.I.2002/1873. In paragraph (1E) from the words “in sub-paragraph (a)” to “being in force” were substituted by S.I. 2003/1156. Sub-paragraphs (1E)(a), (b) and (h) were amended by; 1E(j) and (k) inserted by; and the words “Article 12” at the end of paragraph 1E omitted by, S.I. 2008/1741.

SCHEDULE

Enabling Powers

These Regulations are made under the following powers:

- (a) sections 10A(5)(b), (6), (7) and (9)(a), 53(b) and 201(1) and (3)(c) of, rule 37(1F)(d) of Schedule 1 and paragraphs 1, 5A, 10B, 11, 11A and 12 of Schedule 2(e) to, the Representation of the People Act 1983 (“the 1983 Act”);
- (b) having regard to the definition of “prescribed” in section 202(1) of the 1983 Act, section 13BA(3)(f); and
- (c) having regard to the definition of “prescribed” in section 202(1) of the 1983 Act and section 27(2) of the Representation of the People Act 1985 (“the 1985 Act”), sections 6(1), 7(1), 9(4), and (8) of the 1985 Act(g).

In the case of the 1983 Act, the provisions cited include those provisions as applied with modifications by section 2(1) of, and Schedule 1 to, the Elected Authorities (Northern Ireland) Act 1989(h).

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- (a) Section 10A was inserted by section 8 of, and Schedule 1 to, the Representation of the People Act 2000 (c.2); sub-section (5)(b) was substituted by section 12 of the 2006 Act; and sub-section (9) has been amended by the Political Parties and Elections Act 2009 (c. 12) but those amendments are not yet in force.
 - (b) Section 53 was amended by Schedules 4 and 5 to the Representation of the People Act 1985 (c. 50) (“the 1985 Act”) and Schedule 1 to the Representation of the People Act 2000 (c. 2) and sub-section (4) of section 53 was inserted by paragraph 109 of Schedule 1 to the 2006 Act.
 - (c) Section 201(1) was amended by paragraph 6(1) and (7)(a) of Schedule 21 to the Political Parties, Elections and Referendums Act 2000 (c.41) (“2000 Act”) and section 201(3) was inserted by Schedule 1 to the Representation of the People Act 2000 (c. 2) and amended by paragraph 6(1) and (7)(d) of Schedule 21 to the 2000 Act.
 - (d) Rule 37(1F) was inserted by section 1 of the Elections (Northern Ireland) Act 1985 (c.2) for Northern Ireland. Rule 37 was substituted for England, Wales and Scotland by section 47 of, and paragraph 75 of Schedule 1 to, the 2006 Act but this substitution does not extend to Northern Ireland (see paragraph 75(2) of Schedule 1 to the 2006 Act).
 - (e) The relevant paragraphs of Schedule 2 have been amended as follows: paragraph 1 was amended by Schedule 16 to the Local Government (Wales) Act 1994 (c.19), Schedule 1 to the Representation of the People Act 2000 (c.2), section 6 of the Electoral Fraud (Northern Ireland) Act 2002 (c.13), section 7 of the Northern Ireland (Miscellaneous Provisions) Act 2006 (c.33) and section 33 of the Political Parties and Elections Act 2009 (c. 12) but these latter provisions are not yet in force. Paragraph 5A was inserted by section 11 of, and Schedule 2 to, the 1985 Act and amended by paragraphs 3,11(1) and (2) of Schedule 6 to the Representation of the People Act 2000 (c. 2). Paragraphs 10, 10A, 10B and 11 were substituted for paragraphs 10 and 11 of the Schedule as originally enacted by section 9 of the Representation of the People Act 2000 (c. 2). Paragraph 11A was inserted by Schedule 4 to the 1985 Act and amended by Schedule 15 to the Data Protection Act 1998 (c.29); sub-paragraph (1A) was inserted by section 7 of the Northern Ireland (Miscellaneous Provisions) Act 2006 (c.33). Paragraph 12 was amended by Schedule 6 to the Representation of the People Act 2000 (c. 2); sub-paragraph (aa) of paragraph 12 was inserted by paragraph 94 of Schedule 1 to the 2006 Act.
 - (f) Section 13BA(3) was inserted by section 6 of the Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33).
 - (g) Sections 6(1) and 7(1) were amended for Northern Ireland by section 15 of, and Schedules 6 and 7 to, the Representation of the People Act 2000 (c.2) and by section 3 of the Electoral Fraud (Northern Ireland) Act 2002 (c. 13); paragraphs (4) and (8) of section 9 were amended for Northern Ireland by section 15 of, and Schedules 6 and 7 to, the 2000 Representation of the People Act 2000 (c. 2).
 - (h) 1989 c.3; Schedule 1 was amended by Schedule 3 to the Representation of the People Act 2000 (c.2), section 7 of the Electoral Fraud (Northern Ireland) Act 2002 (c.13) and Schedule 4 to the Northern Ireland (Miscellaneous Provisions) Act 2006 (c.33).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Representation of the People (Northern Ireland) Regulations 2008 (“the 2008 Regulations”), which make provision for the registration of local and Parliamentary electors and other matters concerning, for the most part, Parliamentary elections in Northern Ireland.

Regulations 2 and 12 both amend provisions concerning identification. Regulation 2 amends regulation 25 of the 2008 Regulations and adds a 60+ SmartPass and a bill or statement from a credit union to the forms of identification that may be produced in support of a late application to register. Rule 37 of the Parliamentary Elections Rules requires certain forms of identification to be produced when a person (whether as elector or proxy) votes in person. Regulation 12 adds a 60+ SmartPass to the list of acceptable identification and relaxes the requirement for a full UK driver’s licence; provisional and Community licences will now also be acceptable.

Regulation 35 of the 2008 Regulations sets out the circumstances in which the registration officer may determine summarily whether a person has ceased to satisfy the conditions for registration. These include when he or she is notified by the Registrar General of Births and Deaths in Northern Ireland that the elector has died. Regulation 3 extends this to include notification that the elector has died by registrars of births and deaths throughout the UK and the Registrar General (an tArd-Chláraitheoir) in the Republic of Ireland.

For the purposes of meeting his or her registration objectives (as set out in the Northern Ireland (Miscellaneous Provisions) Act 2006) the registration officer can request information from such bodies as are specified. Regulation 42 of the 2008 Regulations specifies those bodies and regulation 4 adds colleges of further education. The functions of the Northern Ireland Central Services Agency have been transferred to the newly-created Regional Business Services Organisation and the former’s entry is replaced to reflect this.

Currently those applying to vote by post (whether as elector or proxy) must provide an address to which their ballot papers are to be sent. Regulation 5 inserts new regulations 55A and 55B in the 2008 Regulations. Henceforth under new regulation 55A when the address provided is different to that at which the elector is registered (or in the case of a proxy, the proxy’s address as notified by the elector in his or her application for a postal vote), the applicant will need to say why this is the case. Similarly under new regulation 55B, if a voter (whether as elector or proxy) with an indefinite postal vote applies for their ballot paper to be sent to a different address to that in the registration officer’s record, reasons why must be provided.

Both regulations 57 and 59 of the 2008 Regulations set out additional requirements for those applying for absent votes. Regulation 6 amends regulation 57 which concerns applications made on grounds of blindness or other disability. It extends the list of those who may attest such applications but will also henceforth require that they are on the electoral register. In certain circumstances receipt of a specified benefit will be sufficient evidence and the number of such benefits has been increased.

Regulation 7 amends regulation 59, which concerns applications for an absent vote at a particular election. Currently a person may only attest one such application made on general grounds and this has been increased to two. It also introduces a new requirement for those attesting applications made on grounds of ill health: henceforth they must themselves be on the electoral register.

Regulation 8 amends regulation 72 of the 2008 Regulations and adds the returning officer’s clerks to those who may be present when postal ballot papers are issued and received.

Regulation 9 inserts a new regulation 78(5) in the 2008 Regulations and clarifies how ballot paper envelopes (that is, the envelope containing a postal voter’s marked ballot paper) should be handled when, instead of bearing the number of the ballot paper, a window envelope has been used through which the ballot paper number can be seen. It also makes a consequential amendment to regulation 87 of the 2008 Regulations to make provision for this.

Regulation 10 inserts a new regulation 107A in the 2008 Regulations making provision for a further category of person, namely registered medical practitioners, who may request a copy of the full register. The medical practitioner may only do this for medical purposes which are defined to mean where it is necessary for the care or treatment of a person. The medical practitioner may only request so much of the information on the register as relates to that person (or his or her dependant).

Regulation 11 amends regulation 111 of the 2008 Regulations to clarify that reference to a Government department (which may purchase copies of the full register) includes a Northern Ireland department.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sector is foreseen.

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