
DRAFT STATUTORY INSTRUMENTS

2013 No. XXXX

REPRESENTATION OF THE PEOPLE

The Electoral Registration and Administration Act 2013
(Transitional Provisions) Order 2013

Made - - - -

Coming into force in accordance with article 1

The Lord President of the Council makes the following Order in exercise of the powers conferred by section 11(3) and (5) of, and paragraphs 4, 8, 9, 12, 13, 17(7) and 29 of Schedule 5 to, the Electoral Registration and Administration Act 2013(a).

The Lord President of the Council has consulted the Electoral Commission, the Information Commissioner and such other persons as he considered appropriate, in accordance with section 53(5) of the Representation of the People Act 1983(b).

In accordance with section 11(2) of the Electoral Registration and Administration Act 2013, a draft of this Order has been laid before and approved by a resolution of each House of Parliament.

Citation, commencement, extent and interpretation

1. This Order may be cited as the Electoral Registration and Administration Act 2013 (Transitional Provisions) Order 2013 and comes into force on the date on which Schedule 5 to the 2013 Act comes fully into force, except for article 5, which comes into force on 11th September 2014.

2. This Order does not extend to Northern Ireland, except for article 25.

3. In this Order—

“the 1983 Act” means the Representation of the People Act 1983;

“the 2013 Act” means the Electoral Registration and Administration Act 2013;

“the two 2001 Regulations” means the Representation of the People (England and Wales) Regulations 2001(c) and the Representation of the People (Scotland) Regulations 2001(d);

“Lord President” means the Lord President of the Council;

(a) 2013 c.6. Section 25(1) defines “the Minister” as the Lord President of the Council or the Secretary of State; “prescribed” has the meaning given in paragraph 30(1) of Schedule 5.

(b) 1983 c.2; section 53(5) was inserted by paragraph 5 of Schedule 2 to the Electoral Registration and Administration Act 2013.

(c) S.I. 2001/341; relevant amending instruments are S.I. 2002/1871, 2006/2910 and 2013/

(d) S.I. 2001/497; relevant amending instruments are S.I. 2002/1872, 2007/925 and 2013/

“registration officer” means a registration officer in Great Britain, unless otherwise stated.

Time

4.—(1) Where the day or last day of the time required or allowed by this Order for the doing of any thing falls on any of the days mentioned in paragraph (3), that time is extended until the next following day which is not one of those days.

(2) In computing any period of not more than seven days for the purposes of this Order, any of the days mentioned in paragraph (3) is disregarded.

(3) The days are a Saturday, Sunday, Christmas Eve, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971(a) in England and Wales or, as the case may be, in Scotland.

Applications for registration in Scotland made between 11th and 18th September 2014

5. Where a registration officer in Scotland determines an application for registration made in the period starting with 11th September 2014 and ending with 18th September 2014, the proviso in regulation 29(4) of the Representation of the People (Scotland) Regulations 2001 does not apply.

Confirmation of entitlement to remain registered

6.—(1) Each registration officer must within the specified period check whether each person who—

- (a) has an entry in a register maintained by the registration officer; and
- (b) does not fall within paragraph 4(5) of Schedule 5 to the 2013 Act

is entitled to remain registered.

(2) The specified period—

- (a) in England and Wales is the period starting with 16th June 2014 and ending with 30th November 2014; and
- (b) in Scotland is the period starting with 19th September 2014 and ending with 27th February 2015.

Verification of information in order to confirm entitlement to remain registered

7.—(1) The registration officer must, in relation to each person in article 6, verify the following information for the purposes of that article —

- (a) the person’s full name;
- (b) the person’s date of birth, where the registration officer has that information;
- (c) the person’s address including postcode.

(2) Subject to article 10, the registration officer must disclose the information in paragraph (1) to the Lord President on such date or dates and in such a format and through such a conduit system as the Lord President may have notified to the registration officer in writing.

(3) Following receipt of the information from the registration officer, the Lord President may disclose the information to the Secretary of State.

(4) Where information has been disclosed to the Secretary of State under paragraph (3), the Secretary of State may compare it against—

- (a) the name, date of birth and address, including postcode, of individuals appearing in the following types of databases kept by the Secretary of State—

(a) 1971 c. 80. Schedule 1 was amended by section 1 of the St Andrew’s Day Bank Holiday (Scotland) Act 2007 (asp 2).

- (i) databases kept for the purposes of functions relating to social security (including such information kept on behalf of the Department for Social Development); and
 - (ii) databases relating to working tax credit, child tax credit and child benefit (being information kept on behalf of Her Majesty's Revenue and Customs); and
- (b) any other information contained in those databases which relates to the information disclosed under paragraph (3).
- (5) The Secretary of State may disclose the results of the comparison to the Lord President.
- (6) On receipt of such results, the Lord President may disclose them to the registration officer in whose register the person is registered.
- (7) Where the Lord President does so, the registration officer must take the results into account in determining whether the person is entitled to remain registered.
- (8) The evidence specified for the purpose of paragraph 4(2) of Schedule 5 to the 2013 Act shall be evidence that an entry on the register corresponds—
- (a) with the information held by the Secretary of State against which it has been compared, or
 - (b) where the entry does not correspond with that information or where no results are disclosed to the registration officer, with information contained in records which the registration officer is entitled to inspect under regulation 35 of each of the two 2001 Regulations.
- (9) Registration officers must have regard to any guidance that may be given by the Lord President about the process for determining whether the person is entitled to be registered in the register and the relative weight to be given to different kinds of evidence.
- (10) In this article—
- (a) “conduit system” has the same meaning as in paragraph 1 of Schedule 2 to the Telecommunications Act 1984(a);
 - (b) “Secretary of State” means the Secretary of State for Work and Pensions.
- 8.** Articles 6 and 7 do not apply to persons who are entered in the register with an anonymous entry.

Processing of information to confirm entitlement to remain registered

- 9.**—(1) Information disclosed under article 7 may not be disclosed to any other person, except—
- (a) for the purpose of confirming entitlement to remain registered; or
 - (b) for the purpose of any civil or criminal proceedings.
- (2) A person who discloses information in breach of paragraph (1) is guilty of an offence and liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both;
 - (b) on summary conviction, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding the statutory maximum, or to both.
- 10.**—(1) Any person who discloses information under this Order must process it in accordance with any requirements as to the processing of information that may have been imposed by the Lord President in writing, including requirements as to the transfer, storage, destruction and security of that information.
- (2) Any requirements, in accordance with which a person must process information, must be imposed by the Lord President before a registration officer is required to disclose that information under article 7(2).

(a) 1984 c.12; paragraph 1 has been amended but no amendments are relevant to this Order.

Notification of confirmed entries on register

11.—(1) Where a registration officer has confirmed a person’s entitlement to remain registered under article 6, the registration officer must give notice in writing to that person.

(2) Such notice must be given—

- (a) in England and Wales within the period starting with 1st July 2014 and ending with 30th November 2014, and
- (b) in Scotland within the period starting with 1st October 2014 and ending with 27th February 2015.

(3) The notice must—

- (a) state the full name and address of the person to whom it is given;
- (b) state that the person’s entry on the register has been confirmed and that the person need not make a new application for registration in order to remain on the register unless their entitlement to be registered changes;
- (c) state that, if the person ceases to reside at their current address, they should inform the registration officer;
- (d) give the following information about the edited register—
 - (i) an explanation of what the edited register is, using the short version of the form of words prescribed in regulation 45 of, and Schedule 3 to, the Representation of the People (Description of Electoral Registers and Amendment) (England and Wales) Regulations 2013(a) and regulation 47 of, and Schedule 3 to, the Representation of the People (Description of Electoral Registers and Amendment)(Scotland) Regulations 2013(b);
 - (ii) an indication whether the name and address of the person are omitted from the edited register;
 - (iii) information as to how the person may request that their name and address be included in or omitted from the edited register;
- (e) be given in an envelope on which is printed—
 - (i) a direction that the envelope must not be redirected if it is incorrectly addressed;
 - (ii) a direction requesting that any other person who receives the envelope who is resident at the address to which the notice is addressed inform the registration officer if the addressee is not resident at that address and of the full names of the persons over 16 years old who are resident at the address; and
 - (iii) the registration officer’s contact details.

(4) In this article, “edited register” has the same meaning as in regulation 93 of each of the two 2001 Regulations.

Entries carried forward

12.—(1) Where a person’s entry in the register was carried forward on the conclusion of the final old canvass, the registration officer in whose register the entry appears may, within the period specified in article 6(2), check whether the person is entitled to remain registered by means of the process set out in article 7(1) to (6).

(2) Articles 9 and 10 apply in relation to checks under paragraph (1) as they apply to verification under article 7.

(3) Where, at the first new canvass, a canvass form is completed and returned in respect of the person and the address to which the entry relates—

(a) S.I. 2013/
(b) S.I. 2013/

- (a) the registration officer must take the results of the check into account in determining whether the person is entitled to remain registered,
- (b) where the registration officer is satisfied that there is evidence of a kind specified in article 7(8), the registration officer is to treat the person's entitlement to remain registered as confirmed, and
- (c) article 7(9) applies as it applies to verification under that article.

(4) Where a registration officer has confirmed a person's entitlement to remain registered under this article, article 11 applies as it applies to confirmation under article 6.

Period within which invitations to register must be given to existing electors in 2014

13. Each registration officer must give invitations under paragraph 8 of Schedule 5 to the 2013 Act—

- (a) in England and Wales, within the period starting with 1st July 2014 and ending with 30th September 2014, and
- (b) in Scotland, within the period starting with 1st October 2014 and ending with 31st December 2014.

First new canvass in Scotland

14.—(1) The first new canvass in Scotland is postponed and is to be conducted within the period starting with 1st October 2014 and ending with 27th February 2015.

(2) In consequence of paragraph (1)—

- (a) section 13(1) and (1A) of the 1983 Act^(a) does not apply to registration officers in Scotland for 2014;
- (b) any other provision of that Act which refers to a register published under section 13(1)(a) of that Act applies in the same way to a register published in Scotland under article 15.

Publication of revised version of the register in Scotland following first new canvass

15. Each registration officer in Scotland must publish a revised version of their registers by 28th February 2015.

Period within which canvass forms must be given for second new canvass

16. Any canvass forms to be used for the purpose of the second new canvass are to be given within the period starting with 1st July 2015 and ending with 30th November 2015.

Invitations to register given to existing electors

17.—(1) The Electoral Commission must design an invitation to make a new application for registration, which must include—

- (a) the full name and address of the person to be invited;
- (b) an explanation of how to make a new application for registration;
- (c) a statement as to the circumstances in which a civil penalty may be imposed under paragraph 13(4) of Schedule 5 to the 2013 Act, and the amount of the civil penalty.

(a) 2000 c.2. Paragraph 3 was amended by section 261 of, and paragraph 164 of Schedule 27 to, the Civil Partnership Act 2004 (c.33), sections 10, 14 and 74 of, and paragraphs 19, 20 and 137 to, Schedule 1 to the Electoral Administration Act 2006 (c.22) and sections 20 and 34 of the Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14). Paragraph 5 was amended by sections 10 and 74 of, and paragraphs 19, 22 and 137 of Schedule 1 to, the Electoral Administration Act 2006 and section 20 of the Local Electoral Administration and Registration Services (Scotland) Act 2006.

(2) The Electoral Commission must also design such an invitation to be given under paragraph 8 of Schedule 5 to the 2013 Act to a person shown in the record kept under paragraph 3 of Schedule 4 to the Representation of the People Act 2000^(a) or the list mentioned in paragraph 5(2) or (3) of that Schedule, which—

- (a) meets the requirements of paragraph (1) of this article; and
- (b) includes an explanation that if the person does not make a new application for registration which is successful before the registration officer publishes a revised version of the register following the first new canvass, the person will cease to be entitled to vote by post or (as the case may be) by proxy.

(3) The Electoral Commission must obtain the approval of the Lord President to an invitation under this article which it has designed and must then make the invitation available to registration officers.

(4) Where a registration officer is required by paragraph 8 or 11 of Schedule 5 to the 2013 Act to give a person an invitation to make a new application for registration—

- (a) the registration officer must give—
 - (i) an invitation in the form designed by the Electoral Commission under paragraph (1) or (2), as appropriate; and
 - (ii) an application form in the form designed by the Electoral Commission under regulation 26(3) of each of the two 2001 Regulations, on which the registration officer has, if practicable, printed the full name and address of the person to be invited; and
- (b) the invitation, the application form and a pre-addressed reply envelope, return postage of which has been prepaid, must be given in an envelope on which is printed—
 - (i) a direction requesting that the envelope is not redirected if it is incorrectly addressed;
 - (ii) a direction requesting that any other person who receives the envelope who is resident at the address to which the invitation is addressed inform the registration officer if the addressee is not resident at that address; and
 - (iii) the registration officer's contact details.

Steps to be taken by a registration officer to encourage a person to make a new application for registration in response to an invitation to do so

18.—(1) If a registration officer has given a person an invitation to make a new application for registration under paragraph 8 or 11 of Schedule 5 to the 2013 Act and the person has not made an application to register within a reasonable time of receipt of the invitation, the registration officer must give the person a second invitation.

(2) If no application is received in respect of the second invitation within a reasonable time of receipt of the second invitation, the registration officer must give the person a third invitation.

(3) The registration officer may visit the address at which the first invitation was given in order to encourage the person to make a new application for registration at any time and must make or have made one visit if no application has been received in response to the third invitation.

(4) The second and third invitations to apply for registration, if required, must be in the same form as the first invitation to apply for registration.

(5) Paragraphs (1) to (3) do not apply if the registration officer is satisfied that—

(a) 2000 c.2. Paragraph 3 was amended by section 261 of, and paragraph 164 of Schedule 27 to, the Civil Partnership Act 2004 (c.33), sections 10, 14 and 74 of, and paragraphs 19, 20 and 137 to, Schedule 1 to the Electoral Administration Act 2006 (c.22) and sections 20 and 34 of the Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14). Paragraph 5 was amended by sections 10 and 74 of, and paragraphs 19, 22 and 137 of Schedule 1 to, the Electoral Administration Act 2006 and section 20 of the Local Electoral Administration and Registration Services (Scotland) Act 2006.

- (a) the person is not entitled to be registered at the address at which the invitation or invitations to make a new application for registration was or were given; or
- (b) the person is registered at a different address.

Requiring a person to make a new application for registration

19.—(1) Where a registration officer requires a person to make a new application for registration by a specified date under paragraph 13(1) of Schedule 5 to the 2013 Act, the registration officer must give the person notice in writing of the requirement.

- (2) A registration officer may not require a person to apply for registration unless—
 - (a) the registration officer has taken the last of the steps required by article 18;
 - (b) the registration officer has established that the person—
 - (i) has received an invitation to apply for registration;
 - (ii) has been informed how to make a new application for registration; and
 - (iii) has been informed that the registration officer may impose a civil penalty if the person is required to make a new application but does not do so; and
 - (c) the registration officer has established that the person is resident at the address at which the invitations to apply for registration were given.
- (3) A notice under paragraph (1) must state—
 - (a) the date by which a person must make a new application for registration;
 - (b) that, if the person does not make a new application by that date, the registration officer may impose a civil penalty on that person;
 - (c) the amount of any such civil penalty and the rate of interest payable if the penalty is not paid on time;
 - (d) that, if the person is not entitled to be registered, they must, before the date in sub-paragraph (a), inform the registration officer of that fact and explain why they are not so entitled, and the person is not required to make a new application for registration;
 - (e) that, if the person is registered at another address, they must, before the date in sub-paragraph (a), inform the registration officer of that fact and provide that address, and the person is not required to make a new application for registration;
 - (f) that the person may make other representations before the date in sub-paragraph (a) as to why they should not be required to make a new application to register by the specified date, or why a civil penalty should not be imposed if they do not do so.

(4) The registration officer must give with the notice an application form in the form designed by the Electoral Commission under regulation 26(3) of each of the two 2001 Regulations, on which the registration officer has, if practicable, printed the full name and address of the person.

(5) A registration officer must cancel a requirement to make a new application for registration, and give the person concerned notice in writing of the cancellation if—

- (a) the registration officer is satisfied that the person is not entitled to be registered at the address at which the invitations to register were given;
- (b) the registration officer is satisfied that the person is registered at a different address; or
- (c) any of the requirements in paragraph (2) has not been met.

(6) A registration officer may cancel a requirement to make a new application for registration if the registration officer considers it appropriate to do so and must give the person concerned notice in writing of the cancellation.

Notice of civil penalty

20.—(1) The amount of the civil penalty which a registration officer may impose under paragraph 13(4) of Schedule 5 to the 2013 Act is £80.

(2) Where a registration officer imposes a civil penalty under that paragraph, the registration officer must give the person notice in writing that the penalty has been imposed and specify the reasons for imposing it.

(3) The notice in paragraph (2) must state that the person must—

- (a) within 28 days of the date of the notice, make an application to register;
- (b) within 28 days of the date of the notice, pay the full amount of the civil penalty; or
- (c) within 14 days of the date of the notice, request a review of the decision to impose the civil penalty.

(4) The notice in paragraph (2) must also state—

- (a) the amount due;
- (b) how to make payment;
- (c) the rate of interest payable if the penalty is not paid on time; and
- (d) that making an application to register within 28 days will prevent the person being liable to pay the civil penalty.

Payment, enforcement and cancellation of civil penalty

21.—(1) Subject to paragraph (2), a person on whom a civil penalty is imposed under paragraph 13(4) of Schedule 5 to the 2013 Act must pay the amount of the penalty to the registration officer who imposed it within 28 days of the date of the notice given under article 20(2).

(2) If a person on whom a civil penalty is imposed requests a review under article 22(1) or brings an appeal under article 23(1), the 28 day period in paragraph (1) ceases to run whilst that review or appeal is being considered, and in the calculation of that period—

- (a) the day on which the review is requested or the appeal brought shall be excluded, and
- (b) the day on which the review or appeal is concluded shall be included.

(3) If the person does not pay the civil penalty as required by paragraph (1) or (2), interest at 8% per annum will be charged from the date payment becomes overdue to the date of payment.

(4) In England and Wales a civil penalty not paid in accordance with paragraph (1) or (2) and any interest on the civil penalty is recoverable, if a county court so orders on the application of the registration officer, as if it were payable under an order of the court.

(5) In Scotland, a civil penalty not paid in accordance with paragraph (1) or (2) and any interest on the civil penalty is recoverable as a civil debt.

(6) A registration officer must cancel a civil penalty, and give the person concerned notice in writing of the cancellation, if—

- (a) the person makes an application for registration at any time before the time for payment of the civil penalty in paragraph (1) or (2) has elapsed; or
- (b) the registration officer is satisfied that—
 - (i) the person is not entitled to be registered at the address at which the invitations to register were given; or
 - (ii) the person is registered at a different address; or
- (c) any of the requirements in article 19(2) has not been met.

(7) A registration officer may cancel the civil penalty if the registration officer considers it appropriate to do so and must give the person concerned notice in writing of the cancellation.

Review of registration officer's decision to impose a civil penalty

22.—(1) A person on whom a civil penalty has been imposed may request a review of the registration officer's decision to impose the penalty.

(2) A request under paragraph (1) must be made in writing within 14 days of the date of the notice given under article 20(2).

(3) Where a person requests a review of the registration officer's decision under paragraph (1), the registration officer must within 7 days of receiving the request send notice in writing to the person—

- (a) acknowledging the request;
- (b) informing the person that they may within 14 days of the date of the notice—
 - (i) make representations explaining why they have not made an application to register or why the civil penalty should be cancelled;
 - (ii) submit evidence in support of such representations; and
- (c) explaining how such representations may be made and such evidence may be submitted.

(4) The registration officer must carry out a review, and such review may not start before the earlier of—

- (a) the end of the fourteenth day after the date of the notice sent under paragraph (3); or
- (b) the receipt of any representations or evidence.

(5) Following a review under paragraph (4) the registration officer may—

- (a) uphold the decision to issue a civil penalty; or
- (b) cancel the civil penalty.

(6) The registration officer must inform the person in writing of the outcome of the review.

(7) If the registration officer upholds the decision to impose a civil penalty, the notice must also state that the person on whom the penalty has been imposed—

- (a) may appeal against that decision to the First-tier Tribunal, and how to make such an appeal; and
- (b) must pay the penalty by a specified date, which shall be the date on which the period of 28 days referred to in article 21(1) or (2) expires.

Appeals to the First-tier Tribunal against a notice of civil penalty

23.—(1) If a registration officer upholds the decision to issue a civil penalty under article 22(5)(a), the person on whom the penalty was imposed may appeal to the First-tier Tribunal.

(2) On an appeal under paragraph (1) the First-tier Tribunal may—

- (a) uphold the registration officer's decision to impose the civil penalty; or
- (b) cancel the civil penalty.

Notification that an elector has lost their absent vote

24. A registration officer who is required by paragraph 17(7) of Schedule 5 to the 2013 Act to notify a person that their entry has been removed from the absent voters' record or list must—

- (a) give such notice in writing within one month of the register having been published under section 13(1) of the 1983 Act or under article 15;
- (b) include in that notice an explanation of—
 - (i) why the person is no longer entitled to vote by post or (as the case may be) by proxy;
 - (ii) what the person must do in order to be able to vote by post or (as the case may be) by proxy; and
- (c) provide with that notice—
 - (i) an application form in the form designed by the Electoral Commission under regulation 26(3) of each of the two 2001 Regulations, on which the registration officer has, if practicable, printed the person's full name and address; and
 - (ii) an application form for an application to vote by post or (as the case may be) by proxy.

Steps which may be taken by a registration officer in relation to proxies

25. A registration officer may require a registration officer in Great Britain or Northern Ireland to provide information as soon as reasonably practicable about whether a proxy for an existing absent voter has or will have an entry in the relevant register maintained by that officer.

Signed by authority of the Lord President of the Council

Date

Name
Minister
Cabinet Office

EXPLANATORY NOTE

(This note is not part of the Order)

This Order contains transitional provisions relating to the introduction of individual elector registration in Great Britain. They are made under Schedule 5 to the Electoral Registration and Administration Act 2013. The new system is expected to begin on 10th June 2014 in England and Wales and on 19th September 2014 in Scotland.

Article 5 shortens the period immediately before commencement in which applications for registration in Scotland may be determined.

Article 6 requires each electoral registration officer (ERO) in Great Britain to check whether each person with an entry on an electoral register (with some exceptions) is entitled to remain registered. Article 7 makes provision about the information an ERO must verify for the purpose of confirming entitlement to remain registered and the process by which verification must take place. It provides for the disclosure of the information and its comparison with data held by the Secretary of State for Work and Pensions and specifies the evidence which supports a person's entitlement to remain registered. Article 9 makes it a criminal offence to disclose the information except for the purposes of confirmation or for the purpose of any civil or criminal proceedings.

Article 11 requires an ERO to give notice in writing of a person's entitlement to remain registered.

Article 12 empowers EROs to use the verification procedure in article 7 in relation to people whose entries on the register were carried forward at the conclusion of the final old canvass.

Article 13 prescribes the period within which invitations to register must be given to existing electors in 2014. Articles 14 and 15 provide for the first new canvass in Scotland to be delayed and, as a consequence, for the revised version of the register in Scotland to be published by 28th February 2015. Article 16 prescribes the period within which canvass forms must be given for the second new canvass throughout Great Britain.

Article 17 makes provision about invitations to register in relation to existing electors which EROs are required to give. Article 18 requires the ERO to send a second invitation if no response is received to the first invitation and a third invitation if no response is received to the second invitation. It also provides for visits to an address.

Article 19 makes provision about requirements to make an application for registration by a specified date, including the manner and circumstances in which an ERO may and may not give a person notice of such a requirement, the form of notice and the cancellation of a notice.

Articles 20 to 23 make provision as to civil penalties. Article 20 sets the level of the civil penalty. It requires an ERO to give a person notice in writing of the civil penalty and prescribes the form

and content of that notice. Articles 21 to 23 provide for payment, enforcement and cancellation of a civil penalty and for reviews of and appeals against a civil penalty.

Article 24 provides for the manner in which an ERO must notify certain absent voters that their entry has been removed from the register.

Article 25 enables EROs to find out whether a proxy for an absent voter is registered in another officer's registers.

An overall impact assessment in relation to the individual electoral registration scheme is available on the Cabinet Office website at <http://www.cabinetoffice.gov.uk/sites/default/files/resources/IER-Impact>.

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