
DRAFT STATUTORY INSTRUMENTS

2023 No.

**The Representation of the People (Franchise
Amendment and Eligibility Review) Regulations 2023**

PART 2

Review of registration entitlement of relevant citizens of the Union in England and
of eligibility of relevant citizens of the Union to vote in PCC elections in Wales

CHAPTER 3

Review of eligibility of relevant citizens of the Union to vote in a PCC election in Wales

**Duty to determine whether relevant citizens of the Union continue to satisfy eligibility
criteria**

14.—(1) A registration officer appointed for an area in Wales must determine in accordance with this Chapter whether a relevant person continues to satisfy the eligibility criteria.

(2) Subject to paragraph (3), a registration officer must make the determination specified in paragraph (1) by the end of 31st January 2025.

(3) Paragraph (2) does not apply when at the end of 31st January 2025—

- (a) a registration officer has requested information from a relevant person under regulation 19(1), and the date for response specified in that request has not yet passed, or
- (b) the 14 day period within which the relevant person may request a review hearing, following notification from the registration officer pursuant to regulation 21(2), has not yet passed, or
- (c) the relevant person has requested a hearing pursuant to regulation 21(2)(e), and
 - (i) the review has not been heard, or
 - (ii) the review has been heard but the subject of the review has not been notified of the outcome of the review,

and in consequence the registration officer has not made a determination.

(4) Where paragraph (3) applies, the registration officer must discharge the functions specified in paragraph (1) as soon as reasonably practicable after 31st January 2025.

Procedure for reviewing eligibility to vote in a PCC election – data-based review

15.—(1) A registration officer in Wales must conduct a review in respect of a relevant person, to determine whether that person continues to satisfy the eligibility criteria.

(2) As part of a review under paragraph (1), the registration officer may consider (amongst other things) any information provided in accordance with regulation 26(1)(fa) of the 2001 Regulations as part of an application received from a relevant person pursuant to section 10ZC(1)(a) of the 1983 Act.

Procedure for reviewing eligibility to vote in a PCC election – correspondence-based review

16.—(1) Subject to paragraph (2), where a registration officer is not satisfied following a review under regulation 15(1) that the relevant person continues to satisfy the eligibility criteria, the registration officer must—

- (a) give notice to that person containing information specified at paragraph (2) (a “first review notice”), and
- (b) enter the review in the list kept pursuant to regulation 31E of the 2001 Regulations.

(2) Where the relevant person is registered pursuant to an application for anonymous entry under section 9B of the 1983 Act and the date on which the relevant person’s entitlement to remain registered under section 9C of the 1983 Act expires is before the end of 31st January 2025, paragraph (1) is to be read as if for “must” there were substituted “may”.

(3) A first review notice must—

- (a) explain that the criteria under section 52 of the 2011 Act by which a citizen of a member State is eligible to vote in a PCC election have changed,
- (b) state that eligibility to vote in PCC elections in Wales is unrelated to eligibility to register and vote in local government elections in Wales,
- (c) state that the registration officer is not certain that the relevant person remains eligible to vote in a PCC election, and the grounds for the registration officer’s opinion,
- (d) require that the relevant person provide such further information as specified in the notice relating to whether that person meets the eligibility criteria,
- (e) provide information on how the relevant person may respond to the request for information, and
- (f) state that it is an offence to provide false information to the registration officer, and the maximum penalty for that offence.

(4) Paragraph (5) applies where—

- (a) the registration officer sends to a relevant person a first review notice, and
- (b) that person does not respond within a reasonable time from the date on which that notice is sent.

(5) Where this paragraph applies, the registration officer must give a further notice to the relevant person, setting out the same information as at paragraph (2) (a “second review notice”).

(6) Subject to paragraph (7), a first or second review notice may be given to a relevant person either—

- (a) by sending it to the person’s address, or
- (b) by electronic means.

(7) Where the first review notice was given to a relevant person by electronic means, the second review notice must be sent to the person’s address.

(8) The registration officer may contact the relevant person, either by telephone or by visiting the address to which a first or second review notice was delivered, to—

- (a) obtain information requested in the notice, or
- (b) encourage the relevant person to provide the information requested.

Notification of possible ineligibility in the event of non-response

17.—(1) This regulation applies where—

- (a) the registration officer has given first and second review notices to a relevant person, and

- (b) the relevant person has not responded within a reasonable time from the date of the second review notice.
- (2) Where this regulation applies, the registration officer must send a notice to a relevant person (a “notification of possible ineligibility”) which must—
 - (a) include the information set out in regulation 16(3),
 - (b) state the date of issue of the notice, and
 - (c) state that if within 14 days beginning with the date of issue the registration officer has not received the information requested—
 - (i) the registration officer may determine that the person is no longer eligible to vote in a PCC election, and
 - (ii) the relevant person would not be entitled to appeal against the registration officer’s determination in those circumstances.
- (3) A notification of possible ineligibility must be delivered to the relevant person by paper communication to the person’s address, accompanied by a pre-addressed reply envelope, return postage of which must be prepaid.

Requirement to attempt personal contact with relevant person

- 18.**—(1) This regulation applies where—
- (a) a registration officer has issued a notification of possible ineligibility to a relevant person,
 - (b) the relevant person is not registered pursuant to—
 - (i) a declaration of local connection under section 7B of the 1983 Act,
 - (ii) an application for anonymous entry under section 9B of the 1983 Act, or
 - (iii) a service declaration,
 - (c) the relevant person is aged 16 or over,
 - (d) the relevant person has not responded to the notification of possible ineligibility, and
 - (e) the registration officer has not previously attempted to contact the relevant person by telephone or by visiting the address.
- (2) Where this regulation applies, within 7 days beginning with the date of issue of a notification of possible ineligibility the registration officer must attempt to contact the relevant person either by telephone or by visiting the address, to—
- (a) obtain information requested in the notification, or
 - (b) encourage the relevant person to provide the information requested.
- (3) Where this regulation applies, a registration officer must not determine that the relevant person has ceased to satisfy the eligibility criteria before the registration officer has attempted to contact the relevant person in accordance with paragraph (2).
- (4) In this regulation, the “address” means the address to which the first or second review notice under regulation 16(1) or (5) was delivered.

Request for further information

- 19.**—(1) The registration officer may request further information from a relevant person, including information that may be requested of an applicant for registration under regulation 26BA and 26BB of the 2001 Regulations(1), where—

(1) Regulation 26BA is inserted by regulation 34 of this instrument.

- (a) the registration officer has sent a first or second review notice or notification of possible ineligibility to the relevant person, and
 - (b) the relevant person has responded but the registration officer considers further information is necessary for the officer to be satisfied that the relevant person satisfies the eligibility criteria.
- (2) A request for further information pursuant to paragraph (1) may be given to the relevant person by sending it to the person's address, or by electronic means, and must—
- (a) state that eligibility to vote in PCC elections in Wales is unrelated to eligibility to register and vote in local government elections in Wales,
 - (b) state that if by a specified date that is a reasonable time after the request was issued the registration officer has not received the information requested—
 - (i) the registration officer may determine that the relevant person has ceased to satisfy the eligibility criteria, and
 - (ii) the relevant person would not be entitled to appeal against the registration officer's determination in those circumstances.

Confirmation of continued eligibility following review

- 20.**—(1) Where, in accordance with this Chapter, a registration officer determines that the relevant person continues to satisfy the eligibility criteria, the registration officer must—
- (a) send a confirmation notice to that person in accordance with paragraph (2), and
 - (b) mark the person's name in accordance with regulation 42(3B) of the 2001 Regulations⁽²⁾.
- (2) A confirmation notice under paragraph (1) must—
- (a) be sent to the person's address, or by electronic means,
 - (b) state that eligibility criteria under section 52(1C) of the 2011 Act for a citizen of a member State to vote in PCC elections have changed,
 - (c) state that eligibility to vote in PCC elections in Wales is unrelated to eligibility to register and vote in local government elections in Wales, and
 - (d) state that the registration officer has determined that the relevant person continues to satisfy those criteria.

Procedure for determination of ineligibility following response to communications

- 21.**—(1) This regulation applies where—
- (a) a relevant person has responded to a notice, notification or request under regulations 16 to 19 or has provided requested information in response to the registration officer making contact with that person, and
 - (b) the registration officer is not satisfied that the relevant person continues to satisfy the eligibility criteria.
- (2) The registration officer must send a notice to the relevant person's address, which must—
- (a) state the date of issue of the notice,
 - (b) advise that eligibility criteria under section 52 of the 2011 Act for a citizen of a member State to vote in PCC elections have changed,
 - (c) state that the registration officer is of the opinion that the relevant person has ceased to satisfy the eligibility criteria, and the grounds for the registration officer's opinion,

(2) Paragraph (3B) is inserted by regulation 35(b) of this instrument.

- (d) state that eligibility to vote in PCC elections in Wales is unrelated to eligibility to register and vote in local government elections in Wales,
 - (e) state that if the relevant person does not notify the registration officer within 14 days beginning with the date of issue that the relevant person requires the review to be heard—
 - (i) the registration officer may determine that the relevant person is not eligible to vote in a PCC election, and
 - (ii) the relevant person would not be entitled to appeal against the registration officer’s determination in those circumstances.
- (3) The relevant person is entitled to require the review to be heard by notifying the registration officer within 14 days beginning with the date of issue of the notice sent under paragraph (2), and where the relevant person does so the following provisions of the 2001 Regulations apply—
- (a) regulation 31F(2) to (7), and
 - (b) regulation 31FZA(1), which applies as if the reference to regulation 31D(2) were a reference to a notice under paragraph (2).
- (4) The registration officer may determine that the relevant person has ceased to satisfy the eligibility criteria where—
- (a) the registration officer has delivered the notice under paragraph (2), and
 - (b) the relevant person has not requested a hearing within 14 days beginning with the date of that notice.

Confirmation of ceased eligibility following non-response to communications

- 22.**—(1) This regulation applies where a relevant person does not respond—
- (a) to a notification of possible ineligibility within the period of 14 days beginning with the date of issue of that notification, or
 - (b) to a request for further information by the specified date in that request.
- (2) Where this regulation applies, the registration officer—
- (a) may determine that the relevant person has ceased to satisfy the eligibility criteria, and
 - (b) if the registration officer does so, must send a notification to the relevant person’s address, containing the information set out in paragraph (3).
- (3) A notification under paragraph (2) must—
- (a) advise that eligibility criteria under section 52 of the 2011 Act for a citizen of a member State to vote in PCC elections have changed,
 - (b) state that eligibility to vote in PCC elections in Wales is unrelated to eligibility to register and vote in local government elections in Wales,
 - (c) state that the registration officer has determined that the relevant person does not satisfy those criteria, and the registration officer’s reasoning for that determination,
 - (d) state that there is no right of appeal against that determination.

Eligibility appeals

23. Paragraph 4 of Schedule A1 to the 2012 Order (eligibility appeals)(3) applies in respect of a determination under this Chapter that a relevant person has ceased to satisfy the eligibility criteria as it applies to such a determination under that Schedule.

(3) Schedule A1 is inserted by regulation 36(5) of this instrument.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument:
The Representation of the People (Franchise Amendment and Eligibility Review) Regulations 2023 No. 1150
