



# European Assembly Elections Act 1978

## 1978 CHAPTER 10

An Act to make provision for and in connection with the election of representatives to the Assembly of the European Communities, and to prevent any treaty providing for any increase in the powers of the Assembly from being ratified by the United Kingdom unless approved by Act of Parliament. [5th May 1978]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### **1 Election of representatives to the European Assembly**

The representatives of the people of the United Kingdom in the Assembly of the European Communities (in this Act referred to as " the Assembly ") shall be elected in accordance with this Act.

### **2 Number of representatives**

The number of representatives to the Assembly to be elected in the United Kingdom shall be 81; and of those representatives—

- (a) 66 shall be elected in England;
- (b) 8 shall be elected in Scotland;
- (c) 4 shall be elected in Wales; and
- (d) 3 shall be elected in Northern Ireland.

### **3 Method of election**

Assembly elections shall be held and conducted in accordance with the provisions of Schedule 1 to this Act (with Schedule 2) under the simple majority system (for Great Britain) and the single transferable vote system (for Northern Ireland).

#### **4 Double voting**

- (1) Without prejudice to any enactment relating to voting offences as applied by regulations under this Act to elections of representatives to the Assembly held in the United Kingdom, a person shall be guilty of an offence if, on any occasion when under Article 9 elections to the Assembly are held in all the member States, he votes otherwise than as a proxy more than once in those elections, whether in the United Kingdom or elsewhere.
- (2) The provisions of the Representation of the People Act 1949 as applied by regulations under this Act shall have effect in relation to an offence under this section as they have effect in relation to an offence under section 48(2) of that Act (double voting); and, without prejudice to the generality of the foregoing provision, section 48(7) of that Act (which makes such an offence an illegal practice but allows any incapacity resulting from conviction to be mitigated by the convicting court) and section 155 of that Act (prosecutions for offences committed outside the United Kingdom) shall apply accordingly.

#### **5 Exemption from jury service**

- (1) In Part III of Schedule 1 to the Juries Act 1974 (excusal of certain persons from jury service in England and Wales) and in Schedule 2 to the Juries (Northern Ireland) Order 1974 (exemptions from jury service in Northern Ireland), before the heading "*The Forces*" there shall be inserted the following:

*“European Assembly*

*Representatives to the Assembly of the European Communities.”.*

- (2) A person who is a representative to the Assembly shall not be liable to serve on any jury in Scotland.

#### **6 Parliamentary approval of treaties increasing Assembly's powers**

- (1) No treaty which provides for any increase in the powers of the Assembly shall be ratified by the United Kingdom unless it has been approved by an Act of Parliament.
- (2) In this section "treaty" includes any international agreement, and any protocol or annex to a treaty or international agreement.

#### **7 Expenses**

- (1) There shall be charged on, and paid out of, the Consolidated Fund
  - (a) such reasonable charges as returning officers are by virtue of this Act entitled to in connection with Assembly elections; and
  - (b) any increase attributable to this Act in the sums charged on and payable out of that Fund under any other enactment.
- (2) There shall be paid out of money provided by Parliament—
  - (a) any additional sums payable by way of rate support grant because of an increase attributable to this Act in the registration expenses of registration officers in Great Britain;

- (b) any increase so attributable in the sums payable out of money so provided under section 43(2) of the Representation of the People Act 1949 on account of the registration expenses of registration officers in Northern Ireland; and
- (c) any increase so attributable in the sums payable out of money so provided under the House of Commons (Redistribution of Seats) Act 1949.

## **8 Interpretation**

- (1) The provisions of this Act, except section 4, apply only in relation to representatives to the Assembly who fall to be elected in the United Kingdom; and references in this Act (except section 4) to elections to the Assembly shall be construed accordingly.
- (2) In this Act—
  - (a) any reference to a numbered Article is a reference to the Article so numbered of the Act concerning the election of the representatives of the Assembly by direct universal suffrage annexed to the decision of the Council of the European Communities dated the 20th September 1976, and any reference to a numbered subdivision of a numbered Article shall be construed accordingly;
  - (b) " enactment " includes an enactment contained in an Act of the Parliament of Northern Ireland or an Order in Council made under the Northern Ireland (Temporary Provisions) Act 1972, or in a Measure of the Northern Ireland Assembly.
- (3) Except where the context otherwise requires, any reference in this Act to an enactment is a reference to that enactment as amended, and includes a reference to it as applied, by or under any other enactment, including this Act.

## **9 Citation etc.**

- (1) This Act may be cited as the European Assembly Elections Act 1978.
- (2) Any power to make orders or regulations conferred by this Act shall be exercisable by statutory instrument; and any power to make an order under any provision of this Act includes power to vary or revoke a previous order made under that provision.

## SCHEDULES

### SCHEDULE 1

Section 3.

#### SIMPLE MAJORITY SYSTEM (FOR GREAT BRITAIN) WITH S.T.V. (FOR NORTHERN IRELAND)

##### *Assembly constituencies*

- 1 (1) Representatives to the Assembly shall be elected in Great Britain for the Assembly constituencies for the time being specified in an Order in Council under Schedule 2 to this Act, and in Northern Ireland for a single Assembly constituency comprising the whole of Northern Ireland ; and there shall be—
- (a) one representative for each such constituency in Great Britain; and
  - (b) three representatives for the Assembly constituency of Northern Ireland.
- (2) There shall be a total of 79 Assembly constituencies, of which—
- (a) 66 shall be in England ;
  - (b) 8 shall be in Scotland ;
  - (c) 4 shall be in Wales;
  - (d) 1 shall be that of Northern Ireland.

##### *Assembly elections*

- 2 (1) The persons entitled to vote as electors at an Assembly election in any particular Assembly constituency shall be—
- (a) those who, on the day appointed under paragraph 3 below for the election, would be entitled to vote as electors at a parliamentary election in a parliamentary constituency wholly or partly comprised in the Assembly constituency (excluding any person not registered in the register of parliamentary electors at an address within the Assembly constituency); and
  - (b) peers who, on that day, would be entitled to vote at a local government election in an electoral area wholly or partly comprised in the Assembly constituency (excluding any peer not registered at an address within the Assembly constituency for the purposes of local government elections).
- (2) In an Assembly election in the constituency of Northern Ireland each vote shall be a single transferable vote, that is to say a vote—
- (a) capable of being given so as to indicate the voter's order of preference for the candidates for election as representatives for the constituency ; and
  - (b) capable of being transferred to the next choice—
    - (i) when the vote is not required to give a prior choice the necessary quota of votes ; or
    - (ii) when, owing to the deficiency in the number of votes given for a prior choice, that choice is eliminated from lie list of candidates.
- (3) Subject to the provisions of this and the following paragraph, the Secretary of State may by regulations make provision—

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- (a) as to the conduct of Assembly elections (including the registration of electors and the limitation of candidates' election expenses); and
  - (b) as to the questioning of such an election and the consequences of irregularities.
- (4) Regulations under this paragraph may—
- (a) apply, with such modifications or exceptions as may be specified in the regulations, any provision of the Representation of the People Acts or of any other enactment relating to parliamentary elections or local government elections, and any provision made under any enactment;
  - (b) amend any form contained in regulations made under the Representation of the People Acts so far as may be necessary to enable it to be used both for the purpose indicated in regulations so made and for the corresponding purpose in relation to Assembly elections ;
  - (c) so far as may be necessary in consequence of any provision made by or under this Act, amend any provision made by or under any enactment relating to the registration of parliamentary electors or local government electors.
- (5) Section 2(1) of the Welsh Language Act 1967 (power to prescribe Welsh version) shall apply in relation to regulations under this paragraph as it applies in relation to enactments.
- (6) No regulations shall be made under this paragraph unless a draft thereof has been laid before Parliament and approved by a resolution of each House of Parliament.

#### *Times of elections*

- 3
- (1) Each general election of representatives to the Assembly shall be held on a day appointed by order of the Secretary of State.
  - (2) Subject to sub-paragraph (4) below, where, an Assembly election having been held in any particular Assembly constituency, the seat of a representative to the Assembly is or falls vacant, a by-election shall be held to fill the vacancy.
  - (3) A by-election in pursuance of sub-paragraph (2) above shall be held on a day appointed by order of the Secretary of State, being a day not later than six months after the occurrence of either of the following events, namely—
    - (a) notification of the vacancy by the Assembly under Article 12(2); or
    - (b) declaration of the vacancy by the Secretary of State.
  - (4) A by-election need not be held if the latest date for holding it would fall on or after the relevant Thursday (that is to say the Thursday with which the next period for holding elections to the Assembly in all the member States would begin in accordance with Article 10(2) in the absence of any determination by the Council thereunder).
  - (5) A statutory instrument made under this paragraph shall be laid before Parliament after being made.

#### *Returning officers, and staff to assist them*

- 4
- (1) In England and Wales the returning officer for an Assembly election in any Assembly constituency shall be the person who is the returning officer for parliamentary elections for such one of the parliamentary constituencies wholly or partly comprised

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in that Assembly constituency as may be designated in an order made by the Secretary of State.

- (2) In Scotland the returning officer for an Assembly election shall be—
- (a) in the case of an Assembly constituency wholly situated in one region or islands area, the person who under section 6 of the Local Government (Scotland) Act 1973 is, or may discharge the functions of, the returning officer at elections of councillors for the council of that region or islands area;
  - (b) in the case of an Assembly constituency situated in more than one region or islands area, such person as aforesaid as the Secretary of State may by order direct.
- (3) In Northern Ireland the Chief Electoral Officer shall be the returning officer for every Assembly election.
- (4) The council of a local government area wholly or partly situated in an Assembly constituency in England, Wales or Scotland shall place the services of their officers at the disposal of the returning officer for that Assembly constituency for the purpose of assisting him in the discharge of any functions conferred on him in relation to an Assembly election in that Assembly constituency.
- (5) In this paragraph " local government area" means—
- (a) in England and Wales, a district or London borough;
  - (b) in Scotland, a region, islands area or district.

*Disqualification for office of representative to Assembly*

- 5 (1) Subject to sub-paragraph (3) below, and without prejudice to Article 6(1) (incompatibility of office of representative with certain offices in or connected with Community institutions), a person is disqualified for the office of representative to the Assembly if—
- (a) he is disqualified, whether under the House of Commons Disqualification Act 1975 or otherwise, for membership of the House of Commons ; or
  - (b) he is a Lord of Appeal in Ordinary.
- (2) A person is disqualified for the office of representative to the Assembly for a particular Assembly constituency if he is under section 1(2) of the House of Commons Disqualification Act 1975 disqualified for membership of the House of Commons for any particular parliamentary constituency wholly or partly comprised in that Assembly constituency.
- (3) A person is not disqualified for office as a representative to the Assembly by reason only—
- (a) that he is a peer, whether of the United Kingdom, Great Britain, England or Scotland ; or
  - (b) that he has been ordained or is a minister of any religious denomination ; or
  - (c) that he holds an office mentioned in section 4 of the House of Commons Disqualification Act 1975 (stewardship of CM-tern Hundreds etc.); or
  - (d) that he holds any of the offices for the time being described in Part II or Part III of Schedule 1 to the House of Commons Disqualification Act 1975 which are for the time being designated in an order by the Secretary of State as non-disqualifying offices in relation to the Assembly.

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- (4) If any person disqualified under this paragraph for the office of representative to the Assembly, or for the office of representative to the Assembly for a particular Assembly constituency, is elected as a representative to the Assembly or as a representative for that constituency, as the case may be, his election shall be void.
- (5) If a representative to the Assembly becomes disqualified under this paragraph for the office of representative to the Assembly or for the office of representative to the Assembly for the Assembly constituency for which he was elected, his seat shall be vacated.
- (6) A statutory instrument made under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*Judicial proceedings as to disqualification under paragraph 5*

- 6 (1) Any person who claims that a person purporting to hold office as a representative to the Assembly is disqualified or was disqualified at the time of, or at any time since, his election may apply to the court for a declaration or, as the case may be, declarator to that effect, and the decision of the court on the application shall be final.
- (2) On an application under this paragraph the person in respect of whom the application is made shall be the respondent or, as the case may be, defender; and the applicant shall give such security for the costs or expenses of the proceedings, not exceeding £200, as the court may direct.
- (3) No declaration or declarator shall be made under this paragraph in respect of any person on grounds which subsisted at the time of his election if there is pending, or has been tried, an election petition in which his disqualification on those grounds is, or was, in issue.
- (4) Any declaration or declarator made by the court on an application under this paragraph shall be certified in writing to the Secretary of State forthwith by the court.
- (5) The court for the purposes of this paragraph is the High Court, the Court of Session or the High Court of Justice in Northern Ireland according as the Assembly constituency to which the application relates is in England and Wales, or Scotland, or Northern Ireland; and in this paragraph "disqualified" means disqualified under paragraph 5 above for the office of representative to the Assembly (whether generally or in relation to a particular Assembly constituency).

SCHEDULE 2

Section 3 and Schedule 1, para. 1.

ASSEMBLY CONSTITUENCIES IN GREAT BRITAIN

**PART I**

REPORTS OF BOUNDARY COMMISSION AND ORDERS IN COUNCIL

- 1 As soon as may be after the passing of this Act each Boundary Commission shall submit to the Secretary of State a report showing the Assembly constituencies into which they recommend that the part of Great Britain with which they are concerned

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should be divided in order to give effect to the provisions of paragraph 1(2) of Schedule 1 to this Act and Part II of this Schedule.

- 2 Where the Boundary Commission for any part of Great Britain submit to the Secretary of State a report under section 2(1) of the 1949 Act, they shall submit with it a supplementary report either—
- (a) showing the Assembly constituencies into which they recommend that that part of Great Britain should be divided in order to give effect to the provisions of paragraph 1(2) of Schedule 1 to this Act and Part II of this Schedule; or
  - (b) stating that, in the opinion of the Commission, no alteration is required to be made in the Assembly constituencies in that part of Great Britain in order to give effect to those provisions.
- 3 Where the Boundary Commission for any part of Great Britain submit to the Secretary of State a report under section 2(3) of the 1949 Act containing recommendations which, if no alteration were made in the Assembly constituencies into which that part of Great Britain is for the time being divided, would produce a result in conflict with paragraph 9 below, they shall submit with it a supplementary report showing the alterations which they recommend should be made in those Assembly constituencies in order to avoid such a result.
- 4 (1) Subject to the following sub-paragraph—
- (a) sections 2(4), 2(5) and 3 of the 1949 Act (notice of proposed report of Boundary Commission and implementation of recommendations in report) shall apply in relation to a report or supplementary report made under this Schedule and a recommendation made or proposed to be made in such a report or supplementary report; and
  - (b) paragraph 4 of Part III of Schedule 1 to that Act (local inquiries) and section 4 of the 1958 Act (procedure) shall apply in relation to a supplementary report so made (but not to a report under paragraph 1 above) and to a recommendation made or proposed to be made in such a supplementary report.
- (2) In their application in accordance with the preceding sub-paragraph the provisions there mentioned shall have effect with the following modifications, that is to say—
- (a) references to constituencies shall be read as references to Assembly constituencies;
  - (b) in section 3(1) of the 1949 Act, the words from "and whether " onwards shall be omitted ;
  - (c) in section 3(6) of the 1949 Act, the proviso shall be omitted ; and
  - (d) in section 4 of the 1958 Act—
    - (i) references to paragraph 3 of Part III of Schedule 1 to the 1949 Act shall be read as references to paragraph 5 of this Schedule ;
    - (ii) for the words " one hundred or more" in subsection (2) (which specify the number of electors whose objection in a body may make a local inquiry necessary) there shall be substituted the words " five hundred or more "; and
    - (iii) in subsection (2) " elector " shall mean an elector for any of the Assembly constituencies affected by the recommendation in question (and the definition of " elector " in subsection (3) shall not apply).



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- 5 (1) Where a Boundary Commission have provisionally determined to make recommendations with respect to any Assembly constituency, they shall publish a notice under this paragraph in such manner as they think best calculated to bring it to the attention of those concerned.
- (2) A notice under this paragraph relating to an Assembly constituency shall state—
- (a) the effect of the proposed recommendations with respect to that constituency and (except where the proposed recommendations do not involve any alteration in that Assembly constituency) that copies of the recommendations are open to inspection at one or more specified places within each parliamentary constituency included in that Assembly constituency ; and
  - (b) that representations with respect to the proposed recommendations may be made to the Commission within one month after the first publication of the notice,
- and the Commission shall take into consideration any representations duly made in accordance with any such notice.
- 6 Section 250(2) and (3) of the Local Government Act 1972 or, as the case may be, section 210(4) and (5) of the Local Government (Scotland) Act 1973 (attendance of witnesses at inquiries) shall apply in relation to an inquiry held in pursuance of paragraph 4 above.
- 7 Nothing in paragraph 4 above shall be taken as enabling the Secretary of State to modify any recommendation or draft Order in Council in a manner conflicting with the provisions of Part II of this Schedule.
- 8 (1) An Order in Council under the provisions applied by paragraph 4 above shall apply to the first general election of representatives to the Assembly held after the Order comes into force and (subject to any further Order in Council) to any subsequent Assembly election, but shall not affect any earlier election.
- (2) The validity of an Assembly election held in an Assembly constituency consisting of an area determined by an Order in Council made under the provisions applied by paragraph 4 above, being an Order which applies to that election, shall not be affected by any alteration made in any parliamentary constituency since the making of that Order.

## PART II

### DIVISION OF GREAT BRITAIN INTO ASSEMBLY CONSTITUENCIES

- 9 In Great Britain—
- (a) each Assembly constituency shall consist of an area that includes two or more parliamentary constituencies ; and
  - (b) no parliamentary constituency shall be included partly in one Assembly constituency and partly in another.
- 10 The electorate of any Assembly constituency in Great Britain shall be as near the electoral quota as is reasonably practicable having regard, where appropriate, to special geographical considerations.

### PART III

#### INTERPRETATION

- 11 In this Schedule—
- " the 1949 Act " means the House of Commons (Redistribution of Seats) Act 1949 ;
  - " the 1958 Act " means the House of Commons (Redistribution of Seats) Act 1958 ;
  - " Boundary Commission " means a Boundary Commission established by the 1949 Act other than the Boundary Commission for Northern Ireland.
- 12 In Part II of this Schedule and this paragraph in their application to a part of Great Britain for which there is a Boundary Commission—
- " electoral quota " means the number obtained by dividing the electorate of that part of Great Britain by the number of Assembly constituencies specified for that part in paragraph 1(2) of Schedule 1 to this Act;
  - " electorate " means—
    - (a) in relation to an Assembly constituency, the number of persons whose names appear on the relevant registers for that Assembly constituency in force on the enumeration date;
    - (b) in relation to that part of Great Britain, the number of persons whose names appear on the relevant registers for that part of Great Britain in force on the enumeration date;
  - " enumeration date " means—
    - (a) in relation to any report of a Boundary Commission under paragraph 1 above, the 16th February 1977;
    - (b) in relation to any supplementary report of a Boundary Commission under paragraph 2 or 3 above, the date on which the notice with respect to that report is published in accordance with section 2(4) of the 1949 Act;
  - " the relevant registers " means the following registers under the Representation of the People Acts, namely—
    - (a) in relation to an Assembly constituency, the registers of parliamentary electors to be used at an Assembly election in that Assembly constituency;
    - (b) in relation to that part of Great Britain, the registers of parliamentary electors for the parliamentary constituencies in that part.