



# Election (Northern Ireland) Act 1985

## 1985 CHAPTER 2

An Act to make further provision for preventing personation at elections in Northern Ireland. [24th January 1985.]

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:—

### *Parliamentary elections*

#### **1 Voters to produce specified documents.**

- (1) In the Representation of the People Act 1983 (“the 1983 Act”) Schedule 1 (parliamentary elections rules) shall be amended as follows.
- (2) the following shall be inserted after rule 37(1) (ballot paper to be delivered to voter on application)—
  - “(1A) A ballot paper shall not be delivered to a voter unless he has produced a specified document to the presiding officer or a clerk.
  - (1B) Where a voter produces a specified document, the presiding officer or clerk to whom it is produced shall deliver a ballot paper to the voter unless the officer or clerk decides that the document raises a reasonable doubt as to whether the voter is the elector or proxy he represents himself to be.
  - (1C) Where a voter produces a specified document to a presiding officer and he so decides, he shall refuse to deliver a ballot paper to the voter.
  - (1D) Where a voter produces a specified document to a clerk and he so decides, he shall refer the matter and produce the document to the presiding officer who shall proceed as if the document had been produced to him in the first place.
  - (1E) For the purposes of this rule a specified document is one which for the time being falls within the following list:—

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*Status: This is the original version (as it was originally enacted).*

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- (a) a current licence to drive a motor vehicle granted under Part III of the Road Traffic Act 1972 (excluding a provisional licence), or under Article 12 of the Road Traffic (Northern Ireland) Order 1981 or any corresponding enactment for the time being in force;
- (b) a current passport issued by the Government of the United Kingdom or by the Government of the Republic of Ireland;
- (c) a current book for the payment of allowances, benefits or pensions issued by the Department of Health and Social Services for Northern Ireland;
- (d) a medical card issued by the Northern Ireland Central Services Agency for the Health and Social Services;
- (e) a certified copy, or extract, of an entry of marriage issued by a Registrar General, where the voter producing the copy or extract is a woman married within the period of two years ending with the day of the poll concerned.

In sub-paragraph (e) above “a Registrar General” means the Registrar General for England and Wales, the Registrar General of Births, Deaths and Marriages for Scotland or the Registrar General for Northern Ireland.

- (1F) Regulations may make provision varying the list in paragraph (1E) above (whether by adding or deleting documents or varying any description of document).
- (1G) References in this rule to producing a document are to producing it for inspection.”
- (3) The following shall be inserted after rule 38(1) (incapacitated voter’s vote to be marked on ballot paper on application)—
  - “(1A) Paragraphs (1A) to (1G) of rule 37 shall apply in the case of a voter who applies under paragraph (1) above as they apply in the case of a voter who applies under rule 37(1), but reading references to delivering a ballot paper to a voter as references to causing a voter’s vote to be marked on a ballot paper.”
- (4) The following shall be inserted after rule 39(2) (blind voter to be allowed assistance of companion on application)—
  - “(2A) Paragraphs (1A) to (1G) of rule 37 shall apply in the case of a voter who applies under paragraph (1) above as they apply in the case of a voter who applies under rule 37(1), but reading references to delivering a ballot paper to a voter as references to granting a voter’s application.”
- (5) The following shall be inserted after rule 40(1) (person entitled to mark tendered ballot paper after another has voted)—
  - “(1A) Paragraphs (1A) to (1G) of rule 37 shall apply in the case of a person who seeks to mark a tendered ballot paper under paragraph (1) above as they apply in the case of a voter who applies for a ballot paper under rule 37(1).
  - (1B) Paragraph (1C) below applies where a presiding officer refuses to deliver a ballot paper to a person under paragraph (1C) of rule 37 (including that paragraph as applied by rule 38 or 39 or this rule).
  - (1C) The person shall, on satisfactorily answering the questions permitted by law to be asked at the poll, nevertheless be entitled, subject to the following

provisions of this rule, to mark a ballot paper (in these rules referred to as “a tendered ballot paper”) in the same manner as any other voter.”

(6) The following shall be inserted after rule 40(4)—

“(5) A person who marks a tendered ballot paper under paragraph (1C) above shall sign the paper, unless it was marked after an application was refused under rule 38 or 39.

(6) A paper which is required to be signed under paragraph (5) above and is not so signed shall be void.”

## **2 Further provisions.**

(1) Schedule 1 to the 1983 Act shall be further amended as mentioned in subsections (2) to (4).

(2) At the end of rule 26(3) (clerks may do what presiding officer may do, with the exceptions) there shall be inserted “or refuse to deliver a ballot paper under paragraph (1C) of rule 37 (including that paragraph as applied by rule 38, 39 or 40).”

(3) The following minor amendments shall be made—

(a) in rule 37(1) for “A” there shall be substituted “Subject to paragraphs (1A) to (1G) below, a”;

(b) in rule 38(1) for “The” there shall be substituted “Subject to paragraph (1A) below, the”;

(c) in rule 39(2) for “If” there shall be substituted “Subject to paragraph (2A) below, if”.

(4) After rule 40 there shall be inserted—

### *“Refusal to deliver ballot paper*

(1) This rule applies where a presiding officer refuses to deliver a ballot paper under paragraph (1C) of rule 37 (including that paragraph as applied by rule 38, 39 or 40).

(2) The refusal shall be subject to review on an election petition but, subject to that, shall be final and shall not be questioned in any proceeding whatsoever.”

(5) The following shall be inserted after section 61(6) of the 1983 Act (voting offences)—

“(6A) Where a person is alleged to have committed an offence under subsection (2) (a)(i) or (3)(a)(i) above by voting on a second or subsequent occasion at a parliamentary election, he shall not be deemed by virtue of subsection (6) above to have voted by applying on a previous occasion for a ballot paper for the purpose of voting in person unless he then marked a tendered ballot paper under rule 40(1C) of the parliamentary election rules.”

## **3 Offences relating to specified documents.**

(1) A person commits an offence if, on the day of or the day next preceding the poll for a parliamentary election, he has possession of a document to which this section applies, with the intention of committing or of enabling another person to commit the offence of personation at the election.

- (2) This section applies to—
- (a) a document which is not, but purports to be, a specified document within the meaning of rule 37 of the parliamentary elections rules on Schedule 1 to the 1983 Act, and
  - (b) a specified document within the meaning of that rule which either falsely bears the name of the person in possession or does not bear that name.
- (3) If a constable has reasonable grounds for suspecting that a person has possession of a document in contravention of subsection (1), the constable may—
- (a) search that person, and detain him for the purpose of searching him;
  - (b) search any vehicle in which the constable suspects that the document may be found, and for that purpose require the person in control of the vehicle to stop it;
  - (c) seize and retain, for the purpose of proceedings for an offence under subsection (1), any document found in the course of a search if there are reasonable grounds for suspecting that it is a document to which this section applies.
- (4) If a resident magistrate is satisfied by complaint on oath that there are reasonable grounds for suspecting that a person has possession on any premises of a document in contravention of subsection (1), he may grant a warrant authorising any constable—
- (a) to enter, if need be by force, the premises named in the warrant,
  - (b) to search the premises and any person found there, and
  - (c) to seize and retain, for the purpose of proceedings for an offence under subsection (1), any document found in the course of the search if there are reasonable grounds for suspecting that it is a document to which this section applies.
- (5) A person commits an offence if he—
- (a) intentionally obstructs a constable in the exercise of his powers under this section, or
  - (b) conceals from a constable acting in the exercise of those powers any document to which this section applies.
- (6) A constable may arrest without warrant a person who has committed or whom the constable has reasonable grounds for suspecting to have committed, an offence under subsection (1) or (5) if—
- (a) he has reasonable grounds for believing that that person will abscond unless arrested,
  - (b) the name and address of that person are unknown to, and cannot be ascertained by, him, or
  - (c) he is not satisfied that a name and address furnished by that person as his name and address are true.
- (7) A person is guilty of a corrupt practice if he commits or aids, abets, counsels or procures the commission of an offence under subsection (1); and the provisions of the 1983 Act relating to corrupt practices shall apply in such a case, but reading for the words “one year” in section 168(2)(b) (penalty on indictment) the words “two years”.
- (8) A person guilty of an offence under subsection (5) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale (as provided by Article

5 of the Fines and Penalties (Northern Ireland) Order 1984) or to imprisonment for a term not exceeding 6 months or to both.

(9) A prosecution shall not be instituted in respect of an offence under subsection (1) except by or with the consent of the Director of Public Prosecutions for Northern Ireland.

(10) In this section—

“premises” includes any place and, in particular, includes any movable structure, and

“vehicle” means a vehicle intended or adapted for use on land (however propelled, and including a caravan or other vehicle intended or adapted to be drawn).

#### **4 Effect on the franchise.**

The provisions of the Representation of the Peoples Acts stating who is entitled to vote at parliamentary elections shall have effect subject to the provisions contained in the parliamentary elections rules by virtue of sections 1 and 2 above.

#### *Other elections*

#### **5 Elections other than parliamentary.**

(1) Without prejudice to the generality of section 38(1) of the Northern Ireland Constitution Act 1973 (power by Order in Council to provide for local authority elections, but not the franchise) an Order in Council under it may contain provisions corresponding to any of those of sections 1 to 3 of this Act; and in section 38(1)(a) the words “(but not the franchise)”, and the Electoral Law Act (Northern Ireland) 1962, shall have effect subject to that.

(2) Without prejudice to the generality of section 2(5) of the Northern Ireland Assembly Act 1973 (power to make by order provision concerning elections to Assembly, including provision as to franchise) any order under it may contain provisions corresponding to any of those of sections 1 to 3 of this Act.

(3) Paragraph 2(1) of Schedule 1 to the European Assembly Election Act 1978 (person entitled to vote if he would be entitled at parliamentary or local election) shall have effect subject to anything in regulations under paragraph 2 (conduct of elections) which applies or corresponds to any of the provisions of sections 1 to 3 of this Act; but otherwise those provisions, and any provision corresponding to any of them, shall be ignored in construing paragraph 2(1).

#### *General*

#### **6 Expenses.**

Any increase attributable to this Act in the sums to be paid out of, or charged on and paid out of, the Consolidated Fund under any other enactment shall be paid out of, or charged on and paid out of, that fund.

**7 Citation, commencement and extent.**

- (1) This Act may be cited as the Elections (Northern Ireland) Act 1985, and shall be included among the Acts that may be cited as the Representation of the People Acts.
- (2) Subject to subsection (3), this Act shall come into force on such day as the Secretary of State may appoint by order made by statutory instrument.
- (3) Section 5(1), section 6 and this section (and sections 1 to 3 so far as necessary to give effect to section 5(1)) shall come into force on the day on which this Act is passed.
- (4) This Act extends to Northern Ireland only.