

POLITICAL PARTIES AND ELECTIONS ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Elections

Section 26: Filling vacant European Parliament seats in Northern Ireland

125. **Section 26** amends section 5 of the European Parliamentary Elections Act 2002 (“the 2002 Act”) to extend the power to make regulations in respect of filling vacant European Parliament seats in Northern Ireland. Currently, section 5 of the 2002 Act only enables regulations to provide either that a by-election is held to fill a vacant seat or that it is filled from a party’s list. As the party list system does not operate in Northern Ireland this means a by-election must be held if a Northern Ireland seat in the European Parliament becomes vacant.
126. Section 26(1) inserts new section 5(4) and (5) which will apply specifically to filling vacant seats in Northern Ireland. Subsection (4) enables regulations to make provision for seats to be filled in three ways depending on whether or not the previous member of the European Parliament (MEP) stood in the name of a registered party when elected, two or more registered parties when elected or was an independent candidate. Where the previous MEP stood in the name of a registered party when returned, regulations may require the vacancy to be filled by a person nominated by the nominating officer of that party. Where the previous MEP stood in the name of two or more registered parties, regulations may require the vacancy to be filled by a person nominated jointly by the nominating officers of both (or all) of those parties. If the MEP was not a member of a registered party when returned, the regulations may provide for a person named in a list of substitutes submitted by him or her to fill the vacancy.
127. By virtue of section 26(2) the regulations made under the 2002 Act to reflect this new provision will also apply to any vacancies in the seats of Northern Ireland MEPs that have already arisen providing that the notice of by-election has not been published by the time the regulations come into force.