
EXPLANATORY NOTE

(This note is not part of the Regulations)

The European Parliamentary Elections (Amendment) Regulations 2009 (“the 2009 Regulations”) amend the European Parliamentary Elections Regulations 2004 (S.I. 2004/293) (“the 2004 Regulations”), which set out in full how European Parliamentary elections are to be conducted. The 2004 Regulations correspond to the provisions of the Representation of the People Acts of 1983 and 1985 and regulations made under them, which they apply subject to modifications.

The 2009 Regulations apply for the purposes of European Parliamentary elections the changes to electoral procedures made by the Electoral Administration Act 2006 (c.22) (“the 2006 Act”). They also apply the amendments made for the purposes of implementing the 2006 Act’s provisions by the Representation of the People (England and Wales) (Amendment) (No. 2) Regulations 2006 (S.I. 2006/2910), the Representation of the People (Scotland)(Amendment) Regulations 2007 (S.I. 2007/925), the Representation of the People (Scotland)(Amendment) Regulations 2008 (S.I. 2008/305), the Representation of the People (England and Wales) (Combination of Polls) Regulations 2006 (S.I. 2006/3278) and the Service Voters’ Registration Period Order 2006 (S.I. 2006/3406). They also reflect other amendments to subordinate legislation made since the 2004 Regulations were made.

The amendments made to the 2004 Regulations reflect the changes made by the 2006 Act to the Representation of the People Act 1983 (c.2) (“the 1983 Act”). Regulation 11 of these Regulations amends regulation 15 of the 2004 Regulations to bring the provisions relating to payments to and by returning officers at European Parliamentary elections into line with the provision made at parliamentary elections by section 29 of the 1983 Act. Regulation 27 of the 2009 Regulations amends the 2004 Regulations so that the definition of “election expenses” made in the 2004 Regulations mirrors that made in section 90ZA of, and Schedule 4A to, the 1983 Act (as inserted by section 27 of the 2006 Act). The provisions relating to time limits for prosecutions in regulation 114 of the 2004 Regulations, as substituted by regulation 37 of the 2009 Regulations, reflect the amendments made to section 176 of the 1983 Act by section 70 of the 2006 Act. New regulation 122A of the 2004 Regulations, as inserted by regulation 38, makes provision which is equivalent to section 199B of the 1983 Act (translations etc. of certain documents) as inserted by section 36 of the 2006 Act.

Schedule 2 to the Regulations replaces the European Parliamentary elections rules in Schedule 1 to the 2004 Regulations. The European Parliamentary elections rules in Schedule 1 to these Regulations apply, with modifications and exceptions, the Parliamentary elections rules set out in Schedule 1 to the 1983 Act.

The rules differ from the 2004 rules by including, with relevant modifications, the amendments to the Parliamentary elections rules made by the 2006 Act. Particular changes resulting from the 2006 Act are mentioned below.

The rules reflect new security measures introduced by the 2006 Act. Security markings on ballot papers are provided for; so too are unique identifying marks. Counterfoils on ballot papers are replaced by corresponding number lists.

The rules reflect the changes made as to the persons who may be admitted to polling stations and to count to observe elections.

Amendments are made in consequence of the provisions in section 13B of the 1983 Act, as amended by section 11 of the 2006 Act, which moved the deadline for applying for registration closer to polling day. Amendments are made to provide for the transmission of information to a presiding

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officer about alterations to the electoral register taking place on the day of the poll. Amendments consequential to the introduction of a scheme for the anonymous registration of certain electors are made.

The rules reflect the changes made regarding the retention and inspection of election documents after the poll.

Consequential amendments are made to the forms prescribed for use at European Parliamentary elections.

Schedule 3 to the 2009 Regulations replaces Schedule 2 to the 2004 Regulations and provides for absent voting at European Parliamentary elections. The amended Schedule 2 reflects the changes made to Schedule 4 of the Representation of the People Act 2000 (c. 2) and the regulations made under it, which make provision for absent voting in Great Britain at parliamentary and local elections, by the 2006 Act. In particular, provision is made in the amended Schedule 2 for the collection of personal identifiers from persons applying to vote by post or by proxy at a European Parliamentary election. Postal voters at European Parliamentary elections will be required to provide their signature and date of birth on postal voting statements which they must complete and return with their postal ballot papers. A postal ballot paper will not be deemed to be valid if the postal voting statement does not contain either a signature or date of birth. Local returning officers are required to take steps to verify the signature and date of birth on postal voting statements which involve checking that the identifiers provided on the postal voting statement correspond with those previously provided with the postal vote application.

Schedule 4 to these Regulations replaces Schedule 3 to the 2004 Regulations which sets out the modifications needed to the European Parliamentary elections rules when the poll at a European Parliamentary election is taken together with the poll at a relevant election or referendum, meaning a Parliamentary election, a local government election (which includes Greater London Authority elections in London) or referendum, or an election for an elected mayor held under the Local Government Act 2000 (c.22).

These Regulations extend to Gibraltar and the changes in electoral law since 2004 are applied to Gibraltar by these Regulations. Changes are also made as a result of the Gibraltar Constitution Order 2006. A copy of the Gibraltar Constitution Order 2006 and the Gibraltar Acts referred to in these Regulations can be obtained from www.gibraltarlaws.gov.gi.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.