

SCHEDULE 2

Article 5

Amendments to the 1985 Order

Part 1

Amendments to Article 6 (manner of voting)

1.—(1) Article 6 of the 1985 Order ^{M1} is amended as follows.

(2) After paragraph (7) (manner of voting) insert—

“(7A) Nothing in the preceding provisions of this Article applies to—

- (a) a person (“P”) to whom section 7 of the Representation of the People Act 1983 ^{M2} (patients in mental hospitals who are not detained offenders or on remand) applies and who is liable, by virtue of any enactment, to be detained in the mental hospital in question, or
- (b) a person (“P”) to whom section 7A of that Act (persons remanded in custody) applies,

whether P is registered by virtue of that provision or not; and P may only vote by post or by proxy (where P is entitled as an elector to vote by post or, as the case may be, by proxy at the election).

(7B) Paragraph (1) does not prevent a person (“P”), at the polling station allotted to P, marking a tendered ballot paper in pursuance of rule 37 of the Local Elections Rules.”.

Marginal Citations

M1 [S.I. 1985/454](#); [Article 6](#) was amended by [S.I. 1987/168](#).

M2 [1983 c.2](#); [section 7](#) was substituted by section 4 of [Representation of the People Act 2000 \(c.2\)](#). Section 7(3)(aa) was inserted by section 12(1) of the [Electoral Administration Act 2006 \(c.22\)](#).

Part 2

Amendments to Part 1 of Schedule 2 (Absent voting – voting by post, by proxy and by post as proxy)

2. Part 1 of Schedule 2 to the 1985 Order ^{M3} is amended as follows.

Marginal Citations

M3 [Part 1](#) of Schedule 2 was substituted by article 5(5) of [S.I. 1987/168](#). Paragraph 6 of Part 1 of Schedule 2 was amended by [S.I. 1992/809](#).

3.—(1) Paragraph 1 (absent vote at local elections for indefinite period) is amended as follows.

(2) In sub-paragraph (2)(b) for “physical incapacity” substitute “disability”.

(3) In sub-paragraph (2)(c)—

- (a) for “spouse, civil partner” substitute “spouse or civil partner”; and
- (b) at the end insert “by reason of his attendance on a course provided by an educational institution or that of his spouse or civil partner, or”.

(4) In sub-paragraph (4)(b) after “service elector” insert “ or in pursuance of a declaration of local connection within the meaning of section 7B of the 1983 Act ”.

4. In paragraph 4 (voting as proxy) after sub-paragraph (10) insert—

“(10A) Sub-paragraph (2) does not prevent a person (“P”), at the polling station allotted to P, marking a tendered ballot paper in pursuance of rule 37 of the Local Elections Rules.”.

5.—(1) Paragraph 5(1) (general requirements for applications) is amended as follows.

(2) After “paragraph 1, 2, 3 or 4” insert “ shall be made in writing and ”.

(3) After “shall be signed” insert “ and dated ”.

6. After paragraph 5 insert—

“Additional requirement for applications for ballot papers to be sent to different address from that in register

5B.—(1) Sub-paragraph (2) applies where—

- (a) in the case of an application to vote by post under paragraph 1(1), the addresses provided in accordance with paragraph 1(6) and paragraph 5(1)(b) are different;
- (b) in the case of an application to vote by post under paragraph 2(1), the addresses provided in accordance with paragraph 2(5) and paragraph 5(1)(b) are different;
- (c) in the case of an application by a proxy to vote by post under paragraph 4(4) or 4(6), the address provided in accordance with paragraph 4(11) and the address of the applicant provided in accordance with paragraph 5(1)(c) are different.

(2) The application must set out why the applicant's (“A”) circumstances will be or are likely to be such that A requires the ballot paper to be sent to the address provided in accordance with, as the case may be, paragraph 1(6), 2(5) or 4(11).

Additional requirements for applications for ballot papers to be sent to different address from that shown in the record kept under paragraph 1(3) or 4(5).

5C. An application under—

- (a) paragraph 2(2)(a) by a person (“A”) shown as voting by post in the record kept under paragraph 1(3); or
- (b) paragraph 4(7) by a person (“A”) shown as voting by post in the record kept under paragraph 4(5),

for A's ballot paper to be sent to a different address from that shown in the record must set out why A's circumstances will be or are likely to be such that A requires the ballot paper to be sent to that address.”.

7.—(1) Paragraph 6 (additional requirements for applications on grounds of disability) is amended as follows.

(2) In the heading for “physical incapacity” substitute “ blindness or other disability ”.

(3) In sub-paragraphs (1), (2) and (3)(a), (b) and (c) for “physical incapacity” or “incapacity”, wherever they appear, substitute “ disability ”.

(4) In sub-paragraph (2) after “signed by” insert “ a person who is registered in the register and who is ”.

(5) For sub-paragraph (2)(b) substitute—

- “(b) a nurse registered on the register maintained by the Nursing and Midwifery Council under article 5 of the Nursing and Midwifery Order 2001 ^{M4} by virtue of qualifications in nursing;
- (ba) a social worker registered under the principal part of the register maintained by the Northern Ireland Social Care Council under section 3 of the Health and Personal Services Act (Northern Ireland) 2001 ^{M5}.”
- (6) For sub-paragraph (2)(f) substitute—
- “(f) the manager or other person in charge of premises forming one of a group of premises provided for persons of pensionable age or persons with a disability for which there is a resident manager or other person in charge, where the applicant states that he resides in such premises.”
- (7) After sub-paragraph (3)(a) insert—
- “(aa) that he is registered in the register;”
- (8) In sub-paragraph (4)(a) for “Health and Social Services Board” substitute “Health and Social Care Trust”.
- (9) For sub-paragraph (4)(b) substitute—
- “(b) the application states that the applicant is in receipt of—
- (i) the higher rate of attendance allowance (payable under section 65 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992) ^{M6}; or
- (ii) the highest rate of the care component or the higher rate of the mobility component (or both) of the disability living allowance (payable under sections 72 and 73 of that Act),
- because of the disability specified in the application.”
- (10) In sub-paragraph (5) for “Health and Social Services Board” substitute “Health and Social Care Trust”.

Marginal Citations

- M4** S.I. 2002/253.
- M5** 2001 c. 3 (NI); section 3 has been amended by S.I. 2007/3101.
- M6** 1992 c. 7 (NI).

8.—(1) Paragraph 7 (additional requirements for applications based on occupation, service etc.) is amended as follows.

(2) For “An application under paragraph 1(2)(c)” substitute “ In the case of an application made under paragraph 1(2)(c) by reason of a person's occupation, service or employment, the application ”.

(3) In sub-paragraph (1)(c) after “self-employed” insert “ or otherwise does not have an employer ”.

(4) In sub-paragraph (2)(a) after “self-employed” insert “ or otherwise does not have an employer ”.

(5) In the full-out words at the end of sub-paragraph (2) omit “paragraph (i) of”.

(6) For sub-paragraph (3) substitute—

“(3) The person attesting an application under sub-paragraph (2) shall—

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- (a) where the applicant is the employed person, certify that the statements included in the application in accordance with the requirements of paragraphs (a) to (d) of sub-paragraph (1) are true;
- (b) where the applicant is the spouse or civil partner of the employed person, certify that the statements included in the application in accordance with the requirements of paragraphs (a) to (c) of sub-paragraph (1) are true;
- (c) in all cases, state his name and address, that he is aged 18 years or over, resides in the United Kingdom and knows the employed person, but is not related to such person; and
- (d) in the case of a person who attests an application under paragraph (b) of that sub-paragraph, state either that he is the employer of that person or the position he holds in the employment of that employer.”.

9. After paragraph 7 insert—

“Additional requirements for applications based on attendance on a course

7A.—(1) In the case of an application made under paragraph 1(2)(c) by reason of a person's attendance on a course, the application shall state—

- (a) whether the person attending the course is the applicant or his spouse or civil partner;
- (b) the nature of the course;
- (c) why the applicant cannot reasonably be expected to go in person to his allotted polling station (within the meaning of paragraph 6(6)) by reason of the general nature of the course.

(2) The application shall be attested and signed by a person who—

- (a) is aged 18 years or over;
- (b) resides in the United Kingdom;
- (c) knows the person attending the course;
- (d) is not related to the person attending the course; and
- (e) is the director or tutor of that course or the principal or head of that institution or an employee to whom this function is delegated by the head or principal.

(3) The person attesting the application shall—

- (a) state his name and address;
- (b) state that he is aged 18 years or over, that he resides in the United Kingdom, that he knows the person attending the course and that he is not related to the person attending the course;
- (c) state the post he holds in the educational institution;
- (d) certify that the applicant's statements under sub-paragraph (1)(a) and (b) are true;
- (e) in a case where the applicant is the person attending the course, certify that the applicant's statement under sub-paragraph (1)(c) is true.

(4) For the purposes of this paragraph one person is related to another if the person is the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild of the other.”.

10.—(1) Paragraph 8 (additional requirements for applications in respect of a particular election) is amended as follows.

(2) In sub-paragraph (2)(d)—

- (a) for “any” substitute “ more than one ”; and
 - (b) at the end insert “ or another election in Northern Ireland the poll for which is taking place on the same day ”.
- (3) In sub-paragraph (3)(e)—
- (a) for “any” substitute “ more than one ”; and
 - (b) at the end insert “ or another election in Northern Ireland the poll for which is taking place on the same day ”.
- (4) In sub-paragraph (4)(a) omit “physically”.
- (5) In sub-paragraph (4)(c) after “by” insert “ a person who is registered in the register and who is ”.
- (6) For sub-paragraph (5)(a) substitute—
- “(a) his name and address, that he is treating the applicant in connection with the illness specified in sub-paragraph (4) or that the applicant is receiving care from him in respect of that illness, and the qualification by virtue of which he is authorised to attest it;”.
- (7) At the end of sub-paragraph (5)(a) omit “and”.
- (8) After sub-paragraph (5)(a) insert—
- “(aa) that he is registered in the register; and”.
- (9) In sub-paragraph (5)(b) omit “physical”.
- (10) In sub-paragraph (6)(d) after “by” insert “ a person who is registered in the register and who is ”.
- (11) For sub-paragraph (7)(a) substitute—
- “(a) his name and address, that he is treating the applicant in connection with the circumstances set out in sub-paragraph (1) or that the applicant is receiving care from him in respect of those circumstances, and the qualification by virtue of which he is authorised to attest it;”.
- (12) After sub-paragraph (7)(a) insert—
- “(aa) that he is registered in the register;
 - (ab) that to the best of his knowledge and belief—
 - (i) the applicant is suffering from the illness or other health-related matter specified in the application;
 - (ii) that he will be or is likely to be so suffering on the date of the poll; and
 - (iii) that in those circumstances he cannot reasonably be expected to vote in person at his allotted polling station; and”.
- (13) In paragraph 8(8)(d) omit “chief”.
- 11.** In paragraph 11(6) (closing dates for applications) omit “, Maundy Thursday”.
- 12.—**(1) Paragraph 12 (grant or refusal of applications) is amended as follows.
- (2) After sub-paragraph (1) insert—
- “(1A) Where the Chief Electoral Officer grants an application for the appointment of a proxy, he shall confirm in writing to the elector that the proxy has been appointed, his name and address, and the duration of the appointment.
 - (1B) The proxy paper to be issued by the Chief Electoral Officer on the appointment of a proxy shall be in the form in the Appendix or a form to the like effect.”.

(3) In sub-paragraph (2) after “decision” insert “ and, in the case of an application under paragraphs 1(1) or 4(4), of the reasons for it, ”.

13.—(1) Paragraph 15 (records and lists kept under paragraphs 1, 2 and 4) is amended as follows.

(2) Omit sub-paragraphs (1) to (4) and (8).

(3) For sub-paragraph (6) substitute—

“(6) As soon as practicable after the sixth day before the day of the poll (calculated in accordance with paragraph 11(6)) the Chief Electoral Officer shall publish the lists kept under paragraphs 2(4) and 4(8) by making a copy of them available for inspection at his office during ordinary office hours.”.

(4) For sub-paragraph (7) substitute—

“(7) The Chief Electoral Officer shall, on request, supply free of charge a copy of the lists referred to in sub-paragraph (6) to each candidate or his election agent.”.

14.—(1) The Appendix is amended as follows.

(2) After “Appendix” insert—

“Arrangement of Forms

1. Form of Proxy Paper

2. Statements as to Postal Ballot Papers”.

(3) The Form of proxy paper (“Form 1”) is numbered “1”.

(4) At the end of the heading “Form of Proxy Paper” insert “ (Schedule 2, Part 1, Paragraph 3) ”.

(5) For the words from “Your Right to Vote as Proxy” to the end of Form 1 substitute—

“YOUR RIGHT TO VOTE AS PROXY

1. This proxy paper gives you the right to vote as proxy on behalf of the elector whose name is given overleaf. However, you may not vote as proxy at the same election for more than two electors of whom you are not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild.

2. Your appointment as proxy may be for a particular election only, or it may be for an indefinite period.

If it is for a particular election, you have the right to vote as proxy only at the election specified in the proxy paper.

If it is for an indefinite period, you have in general the right to vote as proxy at any local election for which the elector is qualified to vote until the Chief Electoral Officer informs you to the contrary.

3. You may vote as proxy at the polling station allotted to the elector on whose behalf you are appointed. Shortly before polling day you will be sent a proxy poll card telling you where the polling station is. You do not need to take either the poll card or this proxy paper to the polling station but you may find it helpful to do so.

4. If you cannot vote in person at the polling station, you should contact the Help Line [**Help Line Number**] about your right to vote by post.”

(6) After Form 1 insert—

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"2. Statement as to Postal Ballot Papers (Schedule 2, Part 3, Paragraph 19(1)(b))	
ELECTION OF DISTRICT COUNCILLORS	
District electoral area	
Date of poll	
A	<u>Issue of postal ballot papers</u>
1	Total number of postal ballot papers issued under paragraph 6 of Part 3 of Schedule 2
2	Total number of postal ballot papers issued under paragraph 12(2) of Part 3 of Schedule 2 (where the first ballot paper was spoilt and returned for cancellation)
3	Total number of postal ballots issued (1+2)
B	<u>Receipt of postal ballot papers</u>
4	Number of covering envelopes received by the returning officer or at a polling station before the close of poll (excluding any undelivered or returned under paragraph 12(1) of Part 3 of Schedule 2 with spoilt ballot papers)
5	Number of covering envelopes received by the returning officer after the close of poll, excluding any returned as undelivered
6	Number of postal ballot papers returned spoilt for cancellation under paragraph 12(1) of Part 3 of Schedule 2 in time for another ballot paper to be issued
7	Number of postal ballot papers returned as spoilt too late for another ballot paper to be issued
8	Number of covering envelopes returned as undelivered (up to the date of this statement)
9	Number of covering envelopes not received by the returning officer by the date of this statement
10	Total Nos. 4 to 9 (This number should be the same as that in 3 above)
C	<u>Count of postal ballot papers</u>
11	Number of covering envelopes received by the returning officer or at a polling station before the close of poll (excluding any undelivered or returned under paragraph 12(1) of Part 3 of Schedule 2 with spoilt ballot papers)
12	Number of ballot papers returned by postal voters which were included in the count of ballot papers
13	Number of cases in which a covering envelope or its contents were marked "Rejected" (cancellations under paragraph 12(3) of Part 3 of Schedule 2 are not rejections and should be included in items 2 and 6 above)

Number

Number

Number

Date

Signed

Returning Officer

Address

..

Part 3

Amendments to Part 3 of Schedule 2 (Absent voting – issue and receipt of ballot papers)

15. Part 3 of Schedule 2 to the 1985 Order is amended as follows.
16. Omit the definition of “election rules” in paragraph 1 (interpretation).
17. In paragraph 2 (form of ballot paper) for “elections rules” substitute “Local Elections Rules”.
- 18.—(1) Paragraph 3 (persons entitled to be present at issue and receipt of postal ballot papers) is amended as follows.
 - (2) In sub-paragraph (1) after paragraph (d) insert—

“(e) persons who are entitled to be present at the proceedings on the issue or receipt of postal ballot papers by virtue of sections 6A, 6B, 6C or 6D of the Political Parties, Elections and Referendums Act 2000, ”^{M7}
 - (3) For sub-paragraph (2) substitute—

“(2) Each candidate may appoint one or more agents to attend the proceedings on the issue or receipt of the postal ballot papers up to the number he may be authorised by the returning officer to appoint so however that the number authorised must be the same in the case of each candidate.”.
 - (4) In sub-paragraph (3) after “notice” insert “ in writing ”.

Marginal Citations

M7 2000 c. 41; section 6(3)(a) and (b) were amended by S.I. 2007/1388; sections 6A-F were inserted by section 29 of the Electoral Administration Act 2006 (c.22); section 6A(5)(d) was amended by S.I. 2007/1388.

- 19.—(1) Paragraph 6 (marking of postal ballot paper) is amended as follows.
 - (2) For the heading substitute “ Procedure on issue of postal ballot paper ”.
 - (3) In sub-paragraph (1) for the words preceding “and a mark” substitute “ The number of the elector as stated in the register shall be marked on the corresponding number list, next to the number and unique identifying mark of the ballot paper issued to the elector ”.
 - (4) After sub-paragraph (3) insert—

“(4) The address to which the postal ballot paper, declaration of identity and the envelopes referred to in paragraph 8 are to be sent is—

 - (a) in the case of an elector, the address shown in the absent voters list; and
 - (b) in the case of a proxy, the address shown in the special list kept under paragraph 4(8) of Part 1 of this Schedule.”.
- 20.—(1) Paragraph 8 (ballot paper envelope) is amended as follows.
 - (2) In sub-paragraph (1)—
 - (a) For “elections rules” substitute “ Local Elections Rules ”;
 - (b) for “marked” substitute “ referred to as a ”; and
 - (c) omit “bearing the number of the ballot paper”.
 - (3) After sub-paragraph (1) insert—

“(1A) The covering envelope shall be marked with the letter “B”.

(1B) The ballot paper envelope shall be marked with—

- (a) the letter “A”;
- (b) the words “ballot paper envelope”; and
- (c) the number of the ballot paper, unless the envelope has a window through which the number on the ballot paper (or ballot papers) can be displayed.”.

(4) After sub-paragraph (2) insert—

“(2A) In paragraphs 17A and 17B, a reference to the number on a ballot paper envelope includes, in the case of an envelope of the kind referred to in paragraph (1B)(c), a reference to the number that is displayed through the window in that envelope.”.

21. For paragraph 9 substitute—

“Delivery of postal ballot papers

9.—(1) For the purpose of delivering postal ballot papers the returning officer may use—

- (a) a universal postal service provider;
- (b) a commercial delivery firm; or
- (c) clerks appointed under rule 23(1) of the Local Elections Rules.

(2) Where the services of a universal postal service provider or commercial delivery firm are to be used envelopes addressed to postal voters must be counted and delivered by the returning officer with such form of receipt to be endorsed by that provider or firm as may be arranged.

(3) Postage must be prepaid on the covering envelopes and, where the method of delivery specified in sub-paragraph (1)(a) or (b) is used, on envelopes addressed to the postal voters.”.

22. Paragraph 10 (provision of postal voters ballot box) is omitted.

23. For paragraph 11 substitute—

“Sealing up of completed corresponding number lists and security of special lists

11.—(1) As soon as practicable after the issue of each batch of postal ballot papers, the returning officer shall make up into a packet the completed corresponding number lists of those ballot papers which have been issued and shall seal such a packet.

(2) As soon as practicable after the last batch of postal ballot papers has been issued the returning officer shall make up into a packet the marked copy of the absent voters list and the list of postal proxies and shall seal that packet.

(3) Until the time referred to in paragraph (2) the returning officer shall take precautions for the security of the lists referred to in that paragraph.”.

24.—(1) Paragraph 12 (spoilt postal ballot paper) is amended as follows.

(2) In sub-paragraph (1)—

- (a) after “the spoilt postal ballot paper” on the second occasion on which it appears insert “ and ”; and
- (b) omit the words “the ballot paper envelope and the covering envelope”.

(3) In sub-paragraph (2) for “unless the documents are received too late for another postal ballot paper to be returned before the close of the poll” substitute “ except where those documents are received after 5 p.m. on the day before the day of the poll ”.

(4) In sub-paragraph (3)—

- (a) after “the spoilt postal ballot paper” insert “ and ”; and
- (b) omit the words “and the ballot paper envelope”.

(5) After sub-paragraph (4) insert—

“(5) Where a postal voter applies in person, the returning officer may hand a replacement postal ballot paper to him instead of delivering it in accordance with paragraph 9.

(6) The returning officer shall enter in a list kept for the purpose (“the list of spoilt ballot papers”)—

- (a) the name and address of the elector as stated in the register;
- (b) the number of any postal ballot paper issued under this paragraph; and
- (c) where the postal voter whose ballot paper is spoilt is a proxy, his name and address.”.

25. In paragraph 14(4) (postal ballot boxes and receptacles) ^{M8} after “the ballot box” insert “ , if it has a lock, ”.

Marginal Citations

M8 Paragraphs 13 to 17C were substituted by S.I. 2002/2835.

26. In paragraph 16(3) (opening of postal voters' ballot box) for “elections rules” substitute “ Local Elections Rules ”.

27. In paragraph 17 (opening of covering envelopes) after sub-paragraph (4) insert—

“(5) Where an envelope opened in accordance with sub-paragraph (1) contains a declaration of identity, the returning officer must, having first unsealed the relevant packet, place a mark in the marked copy of the absent voters list or the proxy postal voters list in a place corresponding to the number of the elector to denote that a postal vote has been returned.

(6) A mark made under sub-paragraph (5) must be distinguishable from and must not obscure the mark made under paragraph 6(1).

(7) As soon as practicable after the last covering envelope has been opened, the returning officer must make up into a packet the copy of the absent voters list and the copy of the proxy postal voters list that have been marked in accordance with sub-paragraph (5) and must seal that packet.”.

28.—(1) Paragraph 17A (procedure in relation to declarations of identity) is amended as follows.

(2) In sub-paragraph (1)(b) for “elections rules” substitute “ Local Elections Rules ”.

(3) In sub-paragraph (6)(b) after “on it” insert “ and the number is not displayed through a window in it ”.

29. In paragraph 17C (sealing of receptacles) for “possible” substitute “ practicable ”.

30.—(1) Paragraph 19 (disposal of documents) ^{M9} is amended as follows.

(2) In sub-paragraph (1) for “any packets referred to in paragraphs 11, 12 and 17C” substitute—
“, at the same time as he forwards the documents mentioned in rule 58 of the Local Elections Rules—

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- (a) any packets referred to in paragraphs 11, 12 and 17C, endorsing on each packet a description of its contents, the date of the election to which it relates and the name of the local government electoral area for which the election was held; and
 - (b) a completed statement in Form 2 in the Appendix to Part 1, or in a form which has substantially the same effect.”
- (3) In sub-paragraph (3) for “elections rules” substitute “ Local Elections Rules ”.

Marginal Citations

M9 Paragraph 19 was amended by [S.I. 2002/2835](#).

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