

# Keeling Schedule for the Representation of the People Act 1983 as amended by the Electoral Administration Act 2006

July 2007

This version of the Act has been prepared to assist readers to understand the changes that were made to it by the Electoral Administration Act 2006. Whilst care has been taken in its preparation it may not be full and complete in every respect. Some provisions of the Act have not been fully reproduced, particularly in sections where no amendments are proposed.

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## Representation of the People Act 1983

### 1983 CHAPTER 2

An Act to consolidate the Representation of the People Acts of 1949, 1969, 1977, 1978 and 1980, the Electoral Registers Acts of 1949 and 1953, the Elections (Welsh Forms) Act 1964, Part III of the Local Government Act 1972, sections 6 to 10 of the Local Government (Scotland) Act 1973, the Representation of the People (Armed Forces) Act 1976, the Returning Officers (Scotland) Act 1977, section 3 of the Representation of the People Act 1981, section 62 of and Schedule 2 to the Mental Health (Amendment) Act 1982, and connected provisions; and to repeal as obsolete the Representation of the People Act 1979 and other enactments related to the Representation of the People Acts.

[8th February 1983]

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:—

### PART I

#### PARLIAMENTARY AND LOCAL GOVERNMENT FRANCHISE AND ITS EXERCISE

##### *Parliamentary and local government franchise*

#### 1 Parliamentary electors.

(1) A person is entitled to vote as an elector at a parliamentary election in any constituency if on the date of the poll he—

- (a) is registered in the register of parliamentary electors for that constituency;
- (b) is not subject to any legal incapacity to vote (age apart);
- (c) is either a Commonwealth citizen or a citizen of the Republic of Ireland; and
- (d) is of voting age (that is, 18 years or over).

(2) A person is not entitled to vote as an elector—

- (a) more than once in the same constituency at any parliamentary election; or
- (b) in more than one constituency at a general election.

#### 2 Local government electors.

(1) A person is entitled to vote as an elector at a local government election in any electoral area if on the date of the poll he—

- (a) is registered in the register of local government electors for that area;
- (b) is not subject to any legal incapacity to vote (age apart);
- (c) is a Commonwealth citizen, a citizen of the Republic of Ireland or a relevant citizen of the Union; and
- (d) is of voting age (that is, 18 years or over).

(2) A person is not entitled to vote as an elector—

- (a) more than once in the same electoral area at any local government election; or
- (b) in more than one electoral area at an ordinary election for a local government area which is not a single electoral area.

### **3 Disfranchisement of offenders in prison etc.**

(1) A convicted person during the time that he is detained in a penal institution in pursuance of his sentence or unlawfully at large when he would otherwise be so detained is legally incapable of voting at any parliamentary or local government election.

(2) For this purpose—

- (a) “convicted person” means any person found guilty of an offence (whether under the law of the United Kingdom or not), including a person found guilty by a court-martial under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957 or on a summary trial under section 49 of the Naval Discipline Act 1957, or by a Standing Civilian Court established under the Armed Forces Act 1976, but not including a person dealt with by committal or other summary a person for contempt of court; and
- (b) “penal institution” means an institution to which the Prison Act 1952, the Prisons(Scotland) Act 1952 or the Prison Act (Northern Ireland) 1953 applies; and
- (c) a person detained for default in complying with his sentence shall not be treated as detained in pursuance of the sentence, whether or not the sentence provided for detention in the event of default, but a person detained by virtue of a conditional pardon in respect of an offence shall be treated as detained in pursuance of his sentence for the offence.

(3) It is immaterial for the purposes of this section whether a conviction or sentence was before or after the passing of this Act.

### **3A Disfranchisement of offenders detained in mental hospitals.**

(1) A person to whom this section applies is, during the time that he is—

- (a) detained at any place in pursuance of the order or direction by virtue of which this section applies to him, or
- (b) unlawfully at large when he would otherwise be so detained, legally incapable of voting at any parliamentary or local government election.

(2) As respects England and Wales, this section applies to the following persons—

- (a) any person in respect of whom—
  - (i) an order has been made under section 37, 38, 44 or 51(5) of the Mental Health Act 1983, or
  - (ii) a direction has been given under section 45A, 46 or 47 of that Act;

(b) any person in respect of whom an order has been made under section 5(2)(a) of the Criminal Procedure (Insanity) Act 1964; and

(c) any person in respect of whom the Court of Appeal has made an order under—

(i) section 6(2)(a) of the Criminal Appeal Act 1968, or

(ii) section 14(2)(a) of that Act.

(3) As respects Scotland, this section applies to the following persons—

(a) any person in respect of whom an order has been made under section 53, 54, 57(2)(a) or (b) or 58 of the Criminal Procedure (Scotland) Act 1995; and

(b) any person in respect of whom a direction has been given under section 69 of the Mental Health (Scotland) Act 1984 or section 71 of that Act (being a person to whom that section applies by virtue of subsection (2)(a) of that section) or section 59A of that Act of 1995.

(4) As respects Northern Ireland, this section applies to the following persons—

(a) any person in respect of whom—

(i) an order has been made under Article 44, 45, 50A(2)(a) or 57(5) of the Mental Health (Northern Ireland) Order 1986, or

(ii) a direction has been given under Article 52 or 53 of that Order; and

(b) any person in respect of whom the Court of Appeal has made an order under—

(i) section 11(1)(b) or (2)(b) of the Criminal Appeal (Northern Ireland) Act 1980, or

(ii) section 13(5A) of that Act.

(5) As respects any part of the United Kingdom, this section applies to any person in respect of whom an admission order has been made under—

(a) section 116B of the Army Act 1955 or the Air Force Act 1955, or

(b) section 63B of the Naval Discipline Act 1957.

(6) In this section any reference to a person in respect of whom any order or direction falling within subsection (2), (3) or (4) has been made or given includes a reference to a person in respect of whom any such order or direction is, by virtue of any enactment, to be treated as having been made or given in connection with his transfer to a place in the part of the United Kingdom mentioned in that subsection.

(7) Any reference in any of subsections (2) to (4) above to a provision of any Act or Order includes a reference to any earlier provision (whether of that Act or Order as originally enacted or made or as previously amended, or otherwise) to the like effect.

#### *Entitlement to registration*

### **4 Entitlement to be registered as parliamentary or local government elector.**

(1) A person is entitled to be registered in the register of parliamentary electors for any constituency or part of a constituency if on the relevant date he—

(a) is resident in the constituency or that part of it;

(b) is not subject to any legal incapacity to vote (age apart);

(c) is either a qualifying Commonwealth citizen or a citizen of the Republic of Ireland; and

(d) is of voting age.

(2) A person is not entitled to be registered in the register of parliamentary electors for any constituency in Northern Ireland unless, in addition to complying with subsection (1) above, he has been resident in Northern Ireland during the whole of the period of three months ending on the relevant date.

(3) A person is entitled to be registered in the register of local government electors for any electoral area if on the relevant date he—

- (a) is resident in that area;
- (b) is not subject to any legal incapacity to vote (age apart);
- (c) is a qualifying Commonwealth citizen, a citizen of the Republic of Ireland or a relevant citizen of the Union; and
- (d) is of voting age.

(4) The preceding provisions have effect—

- (a) subject to—
  - (i) any enactment imposing a disqualification for registration as a parliamentary, or (as the case may be) local government, elector; and
  - (ii) compliance with any prescribed requirements; and
- (b) (as respects registration as a parliamentary elector) without prejudice to section 2(1) of the Representation of the People Act 1985 (registration of British citizens overseas).

(5) A person otherwise qualified is (despite subsection (1)(d) or (3)(d), as the case may be) entitled to be registered in a register of parliamentary electors or local government electors if he will attain voting age before the end of the period of 12 months beginning with the 1st December next following the relevant date, but—

- (a) his entry in the register shall give the date on which he will attain that age; and
- (b) until the date given in the entry he shall not by virtue of the entry be treated as an elector for any purposes other than those of an election the date of the poll for which is the date so given or any later date.

**(5A) If a person entitled to be registered by virtue of subsection (5) above has an anonymous entry in the register, the references in paragraphs (a) and (b) of that subsection to his entry in the register are to be read as references to his entry in the record of anonymous entries prepared in pursuance of paragraph 8A of Schedule 2 below.**

(6) In this section—

“qualifying Commonwealth citizen” means a Commonwealth citizen who either—

- (a) is not a person who requires leave under the Immigration Act 1971 to enter or remain in the United Kingdom, or
- (b) is such a person but for the time being has (or is, by virtue of any enactment, to be treated as having) any description of such leave;

“the relevant date”, in relation to a person, means—

- (a) the date on which an application for registration is made (or, by virtue of section 10A(2) below, is treated as having been made) by him;
- (b) in the case of a person applying for registration in pursuance of a declaration of local connection or a service declaration, the date on which the declaration was made.

## **5 Residence: general**

(1) This section applies where the question whether a person is resident at a particular address on the relevant date for the purposes of section 4 above falls to be determined for the purposes of that section.

(2) Regard shall be had, in particular, to the purpose and other circumstances, as well as to the fact, of his presence at, or absence from, the address on that date.

For example, where at a particular time a person is staying at any place otherwise than on a permanent basis, he may in all the circumstances be taken to be at that time—

- (a) resident there if he has no home elsewhere, or
- (b) not resident there if he does have a home elsewhere.

(3) For the purpose of determining whether a person is resident in a dwelling on the relevant date for the purposes of section 4 above, his residence in the dwelling shall not be taken to have been interrupted by reason of his absence in the performance of any duty arising from or incidental to any office, service or employment held or undertaken by him if—

- (a) he intends to resume actual residence within six months of giving up such residence, and will not be prevented from doing so by the performance of that duty; or
- (b) the dwelling serves as a permanent place of residence (whether for himself or for himself and other persons) and he would be in actual residence there but for his absence in the performance of that duty.

(4) For the purposes of subsection (3) above any temporary period of unemployment shall be disregarded.

(5) Subsection (3) above shall apply in relation to a person's absence by reason of his attendance on a course provided by an educational institution as it applies in relation to a person's absence in the performance of any duty such as is mentioned in that subsection.

(6) Subject to sections 7 and 7A below, a person who is detained at any place in legal custody shall not, by reason of his presence there, be treated for the purposes of section 4 above as resident there.

## **6 Residence: merchant seamen**

At any time when a merchant seaman is not resident in the United Kingdom and would have been resident there but for the nature of his occupation, he shall be entitled to be treated for the purposes of section 4 above as resident—

- (a) at any place at which he would have been resident but for the nature of his occupation; or
- (b) at any hostel or club providing accommodation for merchant seamen at which he commonly stays in the course of his occupation.

For this purpose “merchant seaman” means any person not having a service qualification whose employment or the greater part of it is carried out on board seagoing ships, and includes any such person while temporarily without employment.

## **7 Residence: patients in mental hospitals who are not detained offenders or on remand.**

(1) This section applies to a person who—

- (a) is a patient in a mental hospital (whether or not he is liable to be detained there), but
- (b) is not a person to whom section 3A above or section 7A below applies.

(2) A person to whom this section applies shall (subject to subsection (5) below) be regarded for the purposes of section 4 above as resident at the mental hospital in question if the length of the period which he is likely to spend at the hospital is sufficient for him to be regarded as being resident there for the purposes of electoral registration.

(3) A person registered in a register of electors in pursuance of an application for registration made by virtue of subsection (2) above is entitled to remain so registered until—

(a) the end of the period of 12 months beginning with the date when the entry in the register first takes effect, or

**(aa) the registration officer determines in accordance with regulations that the person was not entitled to be registered, or**

(b) another entry made in respect of him in any register of electors takes effect (whether or not in pursuance of an application made by virtue of subsection (2)),

whichever first occurs.

(4) Where the entitlement of such a person to remain so registered terminates by virtue of subsection (3) above, the registration officer concerned shall remove that person's entry from the register, unless he is entitled to remain registered in pursuance of a further application made by virtue of subsection (2).

(5) Subsection (2) above shall not be taken as precluding the registration of a person to whom this section applies—

(a) by virtue of his residence at some place other than the mental hospital in which he is a patient, or

(b) in pursuance of a declaration of local connection.

(6) In this section “mental hospital” means any establishment (or part of an establishment) maintained wholly or mainly for the reception and treatment of persons suffering from any form of mental disorder; and for this purpose “mental disorder”—

(a) in relation to England or Wales, has the same meaning as in the Mental Health Act 1983,

(b) in relation to Scotland, has the same meaning as in the Mental Health (Scotland) Act 1984, and

(c) in relation to Northern Ireland, has the same meaning as in the Mental Health (Northern Ireland) Order 1986.

## **7A Residence: persons remanded in custody etc.**

(1) This section applies to a person who is detained at any place pursuant to a relevant order or direction and is so detained otherwise than after—

(a) being convicted of any offence, or

(b) a finding in criminal proceedings that he did the act or made the omission charged.

(2) A person to whom this section applies shall (subject to subsection (5) below) be regarded for the purposes of section 4 above as resident at the place at which he is detained if the length of the period which he is likely to spend at that place is sufficient for him to be regarded as being resident there for the purposes of electoral registration.

(3) A person registered in a register of electors in pursuance of an application for registration made by virtue of subsection (2) above is entitled to remain so registered until—

- (a) the end of the period of 12 months beginning with the date when the entry in the register first takes effect, or
- (aa) the registration officer determines in accordance with regulations that the person was not entitled to be registered, or.**
- (b) another entry made in respect of him in any register of electors takes effect (whether or not in pursuance of an application made by virtue of subsection (2)),

whichever first occurs.

(4) Where the entitlement of such a person to remain so registered terminates by virtue of subsection (3) above, the registration officer concerned shall remove that person's entry from the register, unless he is entitled to remain registered in pursuance of a further application made by virtue of subsection (2).

(5) Subsection (2) above shall not be taken as precluding the registration of a person to whom this section applies—

- (a) by virtue of his residence at some place other than the place at which he is detained, or
- (b) in pursuance of a declaration of local connection.

(6) In this section “a relevant order or direction” means—

- (a) a remand or committal in custody;
- (b) a remand to a hospital under section 35 or 36 of the Mental Health Act 1983 or Article 42 or 43 of the Mental Health (Northern Ireland) Order 1986;
- (c) a direction for removal to a hospital under section 48 of that Act or Article 54 of that Order;
- (d) a committal to a hospital under section 52 of the Criminal Procedure (Scotland) Act 1995; or
- (e) a transfer order under section 70 of the Mental Health (Scotland) Act 1984 or a transfer direction under section 71 of that Act made in respect of a person to whom that section applies by virtue of subsection (2)(c) of that section.

## **7B Notional residence: declarations of local connection.**

(1) A declaration under this section (“a declaration of local connection”)—

- (a) may be made only by a person to whom this section applies, but
- (b) may be made by such a person despite the fact that by reason of his age he is not entitled to vote.

(2) This section applies to any person who on the date when he makes such a declaration is—

- (a) a person to whom section 7 above applies and who would not be entitled to be registered by virtue of residence at any place other than the mental hospital (within the meaning of that section) at which he is a patient, or
- (b) a person to whom section 7A applies and who would not be entitled to be registered by virtue of residence at any place other than the place at which he is detained as mentioned in subsection (1) of that section, or
- (c) a person who does not fall within paragraph (a) or (b) above (and is not otherwise in legal custody) and who is not, for the purposes of section 4 above, resident at any address in the United Kingdom (a “homeless person”).

(3) A declaration of local connection shall state—

- (a) the name of the declaring and either—
  - (i) an address to which correspondence for him from either the registration officer concerned or the returning officer can be delivered, or

- (ii) that he is willing to collect such correspondence periodically from the registration officer's office;
- (b) the date of the declaration;
- (c) that on the date of the declaration the declarant falls into one of the categories of persons to whom this section applies, specifying—
  - (i) the category in question, and
  - (ii) (in the case of a person falling within subsection (2)(a) or (b) above) the name and address of the mental hospital at which he is a patient or (as the case may be) of the place at which he is detained;
- (d) the required address (as defined by subsection (4) below);
- (e) that on the date of the declaration the declarant is a Commonwealth citizen or a citizen of the Republic of Ireland or (if the declaration is made for the purposes only of local government elections) a relevant citizen of the Union;
- (f) whether the declarant has on the date of the declaration attained the age of 18 years, and, if he has not, the date of his birth.

(4) For the purposes of this section “the required address” is—

- (a) in the case of a person falling within subsection (2)(a) or (b) above—
  - (i) the address in the United Kingdom where he would be residing if he were not such a patient, or detained, as mentioned in that provision, or
  - (ii) if he cannot give such an address, an address in the United Kingdom at which he has resided;
- (b) in the case of a homeless person, the address of, or which is nearest to, a place in the United Kingdom where he commonly spends a substantial part of his time (whether during the day or at night).

(5) Where a declaration of local connection is made for the purposes of registration in Northern Ireland, the declaration must state that the declarant has been in Northern Ireland during the whole of the period of three months ending on the date of the declaration.

(6) Where a declaration of local connection made by a homeless person is delivered to the registration officer concerned during the period—

- (a) beginning with the date when a vacancy occurs—
  - (i) in the seat for the parliamentary constituency within which the required address falls, or
  - (ii) in the seat for any Scottish Parliament constituency or National Assembly for Wales constituency within which it falls, and
- (b) ending on the final nomination day (within the meaning of section 13B below) for the parliamentary by-election, or (as the case may be) the election under section 9 of the Scotland Act 1998 or section 8 of the Government of Wales Act 1998, held in respect of that vacancy,

the declaration must state that, during the period of three months ending on the date of the declaration, the declarant has commonly been spending a substantial part of his time (whether during the day or at night) at, or near, the required address.

(7) No declaration of local connection shall be specially made by a person for the purposes of local government elections, and any such declaration made for the purposes of parliamentary elections shall have effect also for the purposes of local government elections; but—

- (a) a declaration of local connection may be made for the purposes only of local government elections by a person who is as a peer subject to a legal incapacity to vote at parliamentary elections or by a relevant citizen of the Union; and



(b) where so made, shall be marked to show that it is available for local government elections only, but shall in all other respects be the same as other declarations of local connection.

(8) If a person—

(a) makes a declaration of local connection stating more than one address under subsection (3)(d) above, or

(b) makes more than one declaration of local connection bearing the same date and stating different addresses under that provision, the declaration or declarations shall be void.

(9) A declaration of local connection may be cancelled at any time by the declarant.

(10) A declaration of local connection shall be of no effect unless it is received by the registration officer concerned within the period of three months beginning with the date of the declaration.

### **7C Effect of declaration of local connection**

(1) Where a person's declaration of local connection is in force when he applies for registration, he shall be regarded for the purposes of section 4 above as—

(a) resident on the date of the declaration at the address stated in it in accordance with section 7B(3)(d) above; and

(b) for the purposes of registration in Northern Ireland, as resident in Northern Ireland during the whole of the period of three months ending with that date.

(2) A person registered in a register of electors in pursuance of a declaration of local connection is entitled to remain so registered until—

(a) the end of the period of 12 months beginning with the date when the entry in the register first takes effect,

**(aa) the registration officer determines in accordance with regulations that the person was not entitled to be registered,**

(b) the declaration is cancelled under section 7B(9) above, or

(c) another entry made in respect of him in any register of electors takes effect (whether or not in pursuance of a declaration of local connection),

whichever first occurs.

(3) Where the entitlement of such a person to remain so registered terminates by virtue of subsection (2) above, the registration officer concerned shall remove that person's entry from the register, unless he is entitled to remain registered in pursuance of a further declaration of local connection.

(4) This section shall not be taken as precluding the registration of a person falling within section 7B(2)(a) or (b) above in pursuance of an application made by virtue of section 7(2) or 7A(2) above.

## *Registration of parliamentary and local government electors*

### **8 Registration officers**

(1) For the registration of electors there shall be electoral registration officers (in this Act referred to as “registration officers”).

(2) In England—

(a) the council of every district and London borough shall appoint an officer of the council to be registration officer for any constituency or part of a constituency coterminous with or situated in the district or borough, and

(b) the Common Council shall appoint an officer to be registration officer for the part of the constituency containing the City and the Inner Temple and the Middle Temple.

(2A) In Wales, the council of every county or county borough shall appoint an officer of the council to be registration officer for any constituency or part of a constituency coterminous with or situated in the area of the council.

(3) In Scotland, every local authority shall appoint an officer of the authority for their area or for any adjoining area, or an officer appointed by any combination of local authorities, to be registration officer for any constituency or part of a constituency which is situated within their area.

(4) In Northern Ireland, the Chief Electoral Officer for Northern Ireland is the registration officer for each constituency.

## **9 Registers of electors**

(1) Each registration officer shall maintain—

(a) a register of parliamentary electors for each constituency or part of a constituency in the area for which he acts; and

(b) a register of local government electors for the local government areas or parts of local government areas included in the area for which he acts.

(2) ~~Each register~~ **Subject to section 9B(3) below, each register** shall contain—

(a) the names of the persons appearing to the registration officer to be entitled to be registered in it (subject to their complying with any prescribed requirements);

(b) (subject to any prescribed exceptions) the qualifying addresses of the persons registered in it; and

(c) in relation to each such person, that person's electoral number.

(3) A person's electoral number is such number (with or without any letters) as is for the time being allocated by the registration officer to that person as his electoral number for the purposes of the register in question.

(4) Electoral numbers shall be allocated by a registration officer in such a way as to ensure, so far as is reasonably practicable, that in each separate part of a register the numbers run consecutively.

(5) The registers of parliamentary electors and of local government electors shall so far as practicable be combined, the ~~names~~ **entries** of persons registered only as parliamentary electors or local government electors being marked to indicate that fact.

~~(6) A registration officer's duty under subsection (1) above includes the duty to take reasonable steps to obtain information required by him in connection with the performance of his duty under that subsection (without prejudice to any specific requirement of this Act or regulations under it).~~

(7) Where under this section two or more registration officers maintain registers of parliamentary electors in respect of different parts of the same constituency, then in relation to that constituency any reference in this Act (whether express or implied) to the register of parliamentary electors for a constituency shall be read—

- (a) as a reference to one of those registers, or
- (b) in relation to one of those registration officers, as the register maintained by him, as the context may require.

(8) In this Act—

- (a) any reference, in relation to a registration officer, to “his” registers is a reference to the registers maintained by him under this section; and
- (b) “qualifying address”, in relation to a person registered in a register of electors, is the address in respect of which he is entitled to be so registered.

### **9A Registration officers: duty to take necessary steps**

**(1) Each registration officer must take all steps that are necessary for the purpose of complying with his duty to maintain the registers under section 9 above.**

**(2) The steps include—**

- (a) sending more than once to any address the form to be used for the canvass under section 10 below;**
- (b) making on one or more occasions house to house inquiries under subsection (5) of that section;**
- (c) making contact by such other means as the registration officer thinks appropriate with persons who do not have an entry in a register;**
- (d) inspecting any records held by any person which he is permitted to inspect under or by virtue of any enactment or rule of law;**
- (e) providing training to persons under his direction or control in connection with the carrying out of the duty.**

**(3) Regulations made by the Secretary of State may amend subsection (2) by—**

- (a) varying any of the paragraphs in that subsection;**
- (b) inserting any paragraph;**
- (c) repealing any paragraph.**

**(4) The Secretary of State must not make regulations under subsection (3) unless he first consults the Electoral Commission.**

### **9B Anonymous registration**

**(1) This section applies if an application for registration in a register of parliamentary electors or local government electors is made in accordance with the requirements prescribed for the purposes of section 10A(1)(a) below and is accompanied by—**

- (a) an application under this section made in accordance with prescribed requirements (an application for an anonymous entry),**
- (b) a declaration made in accordance with such requirements for the purposes of this section, and**
- (c) such evidence in support of the application for an anonymous entry as may be prescribed.**

- (2) If the registration officer determines that the person is entitled to be registered, he must also determine whether the safety test is satisfied**
- (3) If the registration officer determines that the safety test is satisfied**  
**(a) section 9(2) above does not apply in relation to the person; and**  
**(b) the person's entry in the register shall instead contain letters in the prescribed form, and his electoral number.**
- (4) An entry containing the matters mentioned in subsection (3)(b) above is referred to in this Act as an anonymous entry.**
- (5) If an anonymous entry is made in respect of a person, the registration officer shall remove any other entry in the register for that person.**
- (6) If the registration officer does not determine that the safety test is satisfied, no entry is to be made in respect of him in the register (whether an anonymous entry or otherwise).**
- (7) Subsection (6) above does not affect—**  
**(a) any other entry in the register for the person;**  
**(b) the determination of any further application for registration which is made by the person (including an application which is treated as having been made by him by virtue of section 10A(2) below).**
- (8) Any communication sent by a registration officer or the returning officer for any election to a person who has an anonymous entry (A) must be sent in an envelope or other form of covering so as not to disclose to any other person that A has an anonymous entry.**
- (9) Subsection (8) does not apply to a communication relating only to a local government election in Scotland**
- (10) The safety test is satisfied if the safety of the applicant for an anonymous entry or that of any other person of the same household would be at risk if the register contains the name of the applicant or his qualifying address.**
- (11) In this section, "determines" means determines in accordance with regulations.**

#### **9C Removal of anonymous entry**

- (1) If a person has an anonymous entry in a register, his entitlement to remain registered in pursuance of the application for registration mentioned in section 9B(1) terminates—**  
**(a) at the end of the period of 12 months beginning with the date when the entry in the register first takes effect, or**  
**(b) if the declaration made for the purposes of section 9B is cancelled at any time before the expiry of that 12 month period, at the time when the declaration is cancelled.**
- (2) Subsection (1) above does not affect the application of any other provision of this Act or of the Representation of the People Act 1985 which has the effect that the person's entitlement to registration terminates before the expiry of the 12 month period mentioned in subsection (1) or before the cancellation of the declaration made for the purposes of section 9B.**

**(3) If a person's entitlement to remain registered terminates by virtue of subsection (1) above, the registration officer concerned shall remove his entry from the register, unless he is entitled to remain registered with an anonymous entry in pursuance of a further application for registration accompanied by a further application under section 9B.**

#### **10 Maintenance of registers: annual canvass**

(1) Each registration officer shall conduct an annual canvass in relation to the area for which he acts for the purpose of ascertaining the persons who are for the time being entitled to be, or to remain, registered in his registers.

(2) The canvass for any year shall be conducted by reference to residence on 15th October in that year.

(3) A canvass shall not, however, be concerned with—

(a) the registration of persons in respect of residence in penal institutions (within the meaning of section 3 above) or mental hospitals (within the meaning of section 7 above) or other places at which persons to whom section 7A above applies may be detained; or

(b) the registration of persons in pursuance of—

(i) declarations of local connection,

(ii) service declarations, or

(iii) overseas electors' declarations; **or**

**(c) the registration of persons with anonymous entries in the register.**

(4) The form to be used for the purposes of a canvass shall be either a form prescribed for those purposes or a form to the same effect.

(4A) Subject to subsection (4B) below, the information to be obtained by the use of such a form for the purposes of a canvass in Northern Ireland shall include—(a) the signature of each of the persons in relation to whom the form is completed;(b) the date of birth of each such person; and

(c) in relation to each such person—

(i) his national insurance number or a statement that he does not have one,

(ii) a statement of whether or not he has been resident in Northern Ireland for the whole of the three-month period ending on the 15th October in the year in question, and

(iii) any address in the United Kingdom in respect of which he is or has applied to be registered (other than the address in respect of which the form is completed),

and the power in subsection (4) above to prescribe a form includes power to give effect to the requirements of this subsection.

(4B) The Chief Electoral Officer for Northern Ireland may dispense with the requirement mentioned in subsection (4A)(a) above in relation to any person if he is satisfied that it is not reasonably practicable for that person to sign in a consistent and distinctive way because of **blindness or any other disability** ~~any incapacity~~ of his or because he is unable to read.

(5) In connection with a canvass a registration officer may, for the purpose of—

(a) supplementing the information obtained by the use of any such form, or

(b) where any such form has not been returned, obtaining any information designed to be obtained by the use of the form,  
make such house to house inquiries as he thinks fit.

(6) On the conclusion of a canvass a registration officer shall make such alterations in his registers as fall to be made in accordance with section 10A below as a result of the canvass.

(7) In this section “residence” means residence for the purposes of section 4 above.

### **10A Maintenance of the registers: registration of electors.**

(1) A registration officer shall determine all applications for registration which are—

- (a) made to him in accordance with the prescribed requirements, or
- (b) treated as made to him by virtue of subsection (2) below.

(1A) Subject to subsection (1B) below, an application for registration in respect of an address in Northern Ireland shall include—

- (a) the signature of each of the persons to whom the application relates;
- (b) the date of birth of each such person; and
- (c) in relation to each such person—
  - (i) his national insurance number or a statement that he does not have one,
  - (ii) a statement of whether or not he has been resident in Northern Ireland for the whole of the three-month period ending on the date of the application, and
  - (iii) any other address in the United Kingdom in respect of which he is or has applied to be registered,

and the power in subsection (1) above to prescribe requirements includes power to give effect to the requirements of this subsection.

(1B) The Chief Electoral Officer for Northern Ireland may dispense with the requirement mentioned in subsection (1A)(a) above in relation to any person if he is satisfied that it is not reasonably practicable for that person to sign in a consistent and distinctive way because of **blindness or any other disability** ~~any incapacity~~ of his or because he is unable to read.

(2) Where—

- (a) in connection with a canvass under section 10 above, the form completed in respect of any address specifies any person as a person who is entitled to be registered in a register, and
- (b) that person is not for the time being registered in the register in respect of that address, he shall be treated as having made, on the 15th October in the year in question, an application for registration in the register in respect of that address.

(3) A registration officer shall also determine all objections to a person's registration made in accordance with the prescribed requirements by another person whose name appears in the register in question.

**(3A) Subsection (3) above applies to an objection to a person's registration whether the objection is made before or after the person is registered in the register.**

**(3B) No objection to a person's registration may be made if the person has an anonymous entry in the register.**

(4) Subsections (1) and (3) above apply to applications and objections asking—

- (a) for the omission, insertion or alteration of a date as that on which a person will become of voting age and entitled to registration, or
- (b) for the alteration of the qualifying address in respect of which a person is registered, as they apply to applications for registration and objections to a person's registration respectively.

(5) Subject to subsection (5A) below, where ~~the name of~~ a person (“the elector”) is ~~duly~~ entered in a register in respect of any address, the elector is entitled to remain registered in the register in respect of that address until such time as the registration officer concerned—

- (a) determines, on the conclusion of a canvass under section 10 above, that the elector was not resident at that address on the 15th October in question, or that because—
  - (i) the form mentioned in section 10(4) above was not returned in respect of that address, or
  - (ii) for any other reason, insufficient information was obtained as to whether the elector was resident at that address on that date, the registration officer is unable to satisfy himself that the elector was then so resident at that address, or
- (b) ~~determines, in any prescribed circumstances, that the elector has ceased to be resident at that address or has otherwise ceased to satisfy the conditions for registration set out in section 4 above.~~  
**determines that the elector was not entitled to be registered in respect of that address or that he has ceased to be resident at that address or has otherwise ceased to satisfy the conditions for registration set out in section 4 above.**

(5A) A person’s name is to be removed from the register in respect of any address if—

- (a) the form mentioned in section 10(4) above in respect of that address does not include all the information relating to him required by virtue of section 10(4A) above; or
- (b) the registration officer determines that he is not satisfied with the information relating to that person which was included in that form pursuant to that requirement.

**(5B) A registration officer may, for the purpose of obtaining any information relevant to a determination under subsection (5)(b) above, make such house to house inquiries as he thinks fit.**

(6) Where the entitlement of a person to remain registered in a register in respect of any address terminates by virtue of subsection (5) above, or his name is to be removed from it by virtue of subsection (5A) above, the registration officer concerned shall remove that person's entry from the register once the officer has satisfied any prescribed requirements applying in relation to the removal of that entry.

(7) Subsection (6) above does not apply if, or to the extent that, regulations so provide in relation to any prescribed circumstances; and regulations may, in particular, authorise a registration officer to retain entries in his registers for the prescribed period if he thinks fit in cases where the form mentioned in section 10(4) above has not been returned in respect of any address.

(8) Nothing in subsection (5) or (6) applies in relation to the registration of persons in pursuance of—

- (a) applications for registration made by virtue of section 7(2) or 7A(2) above; or
- (b) declarations falling within section 10(3)(b) above.

- (9) In this section–  
“determines” means determines in accordance with regulations;  
“resident” means resident for the purposes of section 4 above.

## **11, 12**

### **13 Publication of registers**

- (1) Following the conclusion of the canvass conducted by a registration officer for any year under section 10 above, the officer shall publish a revised version of both of his registers–  
(a) by 1st December in that year; or  
(b) by such later date as regulations may prescribe.
- (2) The revised versions of the registers shall incorporate–  
(a) all the alterations which are required to be made in them as mentioned in section 10(6) above; and  
(b) any alterations which are required to be made by virtue of section 13A(3) below.
- (3) A registration officer may in addition, if he thinks fit, publish a revised version of either of his registers at any time between–  
(a) the time when the register was last published in accordance with subsection (1) above, and  
(b) the time when it is due to be next so published;  
and a registration officer proposing to publish a revised version of a register in accordance with this subsection must publish notice of his intention to do so by such time and in such manner as may be prescribed.
- (4) When revising a register for publication under this section the registration officer shall make such changes affecting the electoral numbers of persons registered in the register as he considers necessary in order to comply with section 9(4) above.
- (5) Where a revised version of a register is published at any time under this section, the register has effect in the form in which it is so published as from that time until the time when–  
(a) a revised version is next so published, or  
(b) if earlier, any alteration to the register takes effect under section 13A or 13B below.
- (6) Any reference in this section or section 13A below to the publication of a revised version of the register is to its publication in accordance with regulations made in pursuance of paragraphs 10A and 10B(1)(a) of Schedule 2 to this Act.

### **13A Alteration of registers**

- (1) This section applies where, at any time (“the relevant time”) after the publication of a revised version of a register by a registration officer under section 13 above, the registration officer–  
(a) on an application for registration being made by any person in accordance with the prescribed requirements, determines that that person is entitled to be so registered;  
(b) is required, by virtue of any provision of this Part of this Act, to remove a person's entry from the register;  
(c) is notified of any decision on an appeal by virtue of section 56 below which requires any such alteration in the register as is mentioned in subsection (4) of that section; or



(d) determines that the register contains any clerical error.

(2) In such a case the registration officer shall (subject to subsection (3) below) issue, in the prescribed manner, a notice specifying the appropriate alteration in the register; and—

(a) the notice shall be so issued by him—

(i) on the first day of the month which follows that in which the relevant time falls, or

(ii) if that day is less than 14 days after that time, on the first day of the month immediately following that month; and

(b)(subject to section 13B(1) below) the alteration in question shall have effect as from the beginning of the day on which the notice is issued.

(2A) Subject to subsection (2B) below, an application for registration under subsection (1)(a) above in respect of an address in Northern Ireland shall include—

(a) the signature of each of the persons to whom the application relates;

(b) the date of birth of each such person; and

(c) in relation to each such person—

(i) his national insurance number or a statement that he does not have one,

(ii) a statement of whether or not he has been resident in Northern Ireland for the whole of the three-month period ending on the date of the application, and

(iii) any other address in the United Kingdom in respect of which he is or has applied to be registered,

and the power in subsection (1)(a) above to prescribe requirements includes power to give effect to the requirements of this subsection.

(2B) The Chief Electoral Officer for Northern Ireland may dispense with the requirement mentioned in subsection (2A)(a) above in relation to any person if he is satisfied that it is not reasonably practicable for that person to sign in a consistent and distinctive way because of any incapacity of his or because he is unable to read.

(3) Subsection (2) above does not require a registration officer to issue a notice under that subsection in a case where (apart from this subsection) that subsection would require the notice to be issued—

(a) at the beginning of the month containing the date on which a revised version of the register is next due to be published in accordance with section 13(1) or (3) above, or

(b) at the beginning of either of the two months preceding that containing the date on which a revised version of the register is next due to be published in accordance with section 13(1) above, and in such a case the alteration in question shall be made in that revised version of the register.

(4) Subsection (2) above also does not require a registration officer to issue a notice under that subsection in a case where section 13B(3), **(3B)** or **(3D)** requires him to issue a notice under that provision.

(5) No alteration affecting a published version of a register of electors shall be made otherwise than in accordance with this section and section 13B below.

(6) For the purposes of subsection (1) above “determines” means determines in accordance with regulations; and section 119 below shall apply for the purposes of subsection (2)(a) above as if it were contained in Part II of this Act.

### **13B Alteration of registers: pending elections**

~~(1) An alteration in a published version of a register of electors which takes effect under section 13A(2) above after the final nomination day in the case of an election to which this section applies shall not have effect for the purposes of that election unless the alteration—~~

~~(a) is made in consequence of a decision or determination falling within section 13A(1)(c) or (d) above; and~~

~~(b) takes effect on or before the fifth day before the date of the poll.~~

**(1) If, by virtue of section 13A(2) above, an alteration in a published version of a register is to take effect after the fifth day before the date of the poll for an election to which this section applies, the alteration does not have effect for the purposes of the election.**

~~(2) Subsection (3) below applies where—~~

~~(a) at any time before the appropriate publication date in the case of an election to which this section applies, section 13A above applies to a registration officer, by virtue of subsection (1) of that section, in connection with a decision or determination—~~

~~(i) falling within subsection (1)(c) or (d) of that section, and~~

~~(ii) in consequence of which a person's name falls to be entered in (or removed from) the register in respect of an address in the relevant election area; and~~

~~(b) no alteration made in consequence of that decision or determination—~~

~~(i) has already taken effect, or~~

~~(ii) is due to take effect,~~

~~under subsection (2) of that section on or before the fifth day before the date of the poll.~~

**(2) Subsection (3) below applies where—**

**(a) at any time before the appropriate publication date in the case of an election to which this section applies, section 13A above applies to a registration officer, by virtue of subsection (1) of that section, in connection with a determination, requirement or decision falling within any of paragraphs (a) to (d) of that subsection;**

**(b) in consequence of the determination, requirement or decision an entry relating to a person falls to be made in (or removed from) the register in respect of an address in the relevant election area; and**

**(c) no alteration made in consequence of the determination, requirement or decision—**

**(i) has already taken effect, or**

**(ii) is due to take effect,**

**under subsection (2) of that section on or before the fifth day before the date of the poll.**

(3) In such a case the registration officer shall issue, in the prescribed manner, a notice specifying the appropriate alteration in the register; and—

(a) the notice shall be so issued by him on the appropriate publication date; and

(b) the alteration shall take effect as from the beginning of that day.

**(3A) Subsection (3B) below applies where—**

**(a) at any time on or after the appropriate publication date in the case of an election to which this section applies but before the prescribed time on the day of the poll, section 13A above applies to a registration officer, by virtue of subsection (1) of that section, in connection with a notification mentioned in paragraph (c) of that subsection; and**  
**(b) in consequence of the notification—**

- (i) an entry relating to that person falls to be made in the register in respect of an address in the relevant election area, or**
- (ii) his entry in the register requires to be altered.**

**(3B) In such a case the registration officer shall issue, in the prescribed manner, a notice specifying the appropriate alteration in the register; and—**

- (a) the notice shall be so issued by him when he receives the notification; and**
- (b) the alteration shall take effect as from the beginning of the day on which the notice is issued.**

**(3C) Subsection (3D) below applies where—**

- (a) at any time on or after the appropriate publication date in the case of an election to which this section applies but before the prescribed time on the day of the poll, section 13A above applies to a registration officer, by virtue of subsection (1) of that section, in connection with a determination falling within paragraph (d) of that subsection;**
- (b) the determination was made following a representation made by or on behalf of a person to the registration officer; and**
- (c) in consequence of the determination –**
  - (i) an entry relating to that person falls to be made in the register in respect of an address in the relevant election area, or**
  - (ii) his entry in the register requires to be altered.**

**(3D) In such a case the registration officer shall issue, in the prescribed manner, a notice specifying the appropriate alteration in the register; and—**

- (a) the notice shall be so issued by him when he makes the determination; and**
- (b) the alteration shall take effect as from the beginning of the day on which the notice is issued.**

**(3E) In subsection (3C)(b) above, “representation” means a representation made in accordance with prescribed requirements to the effect that the register contains a clerical error.**

**(4) This section applies to the following elections—**

- (a) parliamentary elections,**
- (b) elections to the European Parliament,**
- (c) elections to the Scottish Parliament,**
- (d) elections to the National Assembly for Wales,**
- (e) elections to the Northern Ireland Assembly, and**
- (f) local government elections in England, Wales or Scotland.**

**(5) In this section—**

**“the appropriate publication date”, in relation to a registration officer and an election to which this section applies, means either the sixth or the fifth day before the date of the poll, as the registration officer may determine;**

**“the final nomination day”, in relation to such an election, means the last day on which nomination papers may be delivered to the returning officer for the purposes of the election;**

“the relevant election area”, in relation to a registration officer and such an election, means—

- (a) the area for which the registration officer acts, or
- (b) if the election is held in only part of that area, the part of that area in question.

(6) Section 119 below shall apply for the purposes of this section as if—

- (a) it were contained in Part II of this Act; and
- (b) each of the days referred to in this section were the day on which anything is required or permitted to be done by or in pursuance of that Part of this Act.

### **13C Electoral identity card: Northern Ireland**

(1) This section applies where a person makes an application in accordance with any prescribed requirements to the Chief Electoral Officer for Northern Ireland for an electoral identity card.

(2) Regulations may provide for—

- (a) the descriptions of person who may make such an application; and
- (b) the form in which such an application is to be made.

(3) The Chief Electoral Officer shall determine such an application and, if he is satisfied that the information given by the applicant is correct, he shall issue an electoral identity card to the applicant free of charge.

(4) The electoral identity card issued to an applicant shall—

- (a) state his full name and date of birth,
- (b) bear his photograph,
- (c) indicate when the card ceases to be current, and
- (d) include such other information and be in such form as the Chief Electoral Officer shall determine.

(5) For the purposes of subsection (4) above and rule 37(1E) in Schedule 1 to this Act (specified documents), an electoral identity card becomes current on the date of its issue and ceases to be so on the expiry of the period of 10 years beginning with that date.

(6) Any expenses properly incurred by the Chief Electoral Officer in the performance of his functions under this section shall be treated as registration expenses of his for the purposes of this Act.

(7) In this section “determine” means determine in accordance with regulations (if any).]

### **13D Provision of false information**

~~(1) A person who provides false information pursuant to any requirement of section 10(4A), 10A(1A) or 13A(2A) above—~~

- ~~(a) on a form mentioned in section 10(4) above and returned to the Chief Electoral Officer for Northern Ireland; or~~
- ~~(b) in an application made to him under section 10A or 13A above,~~

~~is guilty of an offence.~~

**(1) A person who for any purpose connected with the registration of electors provides to a registration officer any false information is guilty of an offence.**

**(1A) A person who provides false information in connection with an application (other than an application relating only to a local government election in Scotland) to which any of the following provisions of Schedule 4 to the Representation of the People Act 2000 applies (applications relating to absent voting) is guilty of an offence-**

- (a) paragraph 3(1) or (2);**
- (b) paragraph 4(1) or (2);**
- (c) paragraph 7(4).**

(2) A person who provides false information to the Chief Electoral Officer for Northern Ireland for the purpose of obtaining the dispensation referred to in section 10(4B), 10A(1B) or 13A(2B) above is guilty of an offence.

(3) In relation to a signature, “false information” for the purposes of subsection (1) **or (1A)** means a signature which—

- (a) is not the usual signature of; or
- (b) was written by a person other than,

the person whose signature it purports to be.

(4) A person does not commit an offence under subsection (1) **or (1A)** above if he did not know, and had no reason to suspect, that the information was false.

(5) Where sufficient evidence is adduced to raise an issue with respect to the defence under subsection (4) above, the court shall assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.

(6) A person guilty of an offence under this section shall be liable on summary conviction to—

- (a) imprisonment for a term not exceeding ~~six months~~ **51 weeks**; or
- (b) a fine not exceeding level 5 on the standard scale,

or to both.

**(7) In the application of subsection (6)(a) to Scotland and Northern Ireland, the reference to 51 weeks must be taken to be a reference to six months.**

**(8) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003, the reference in subsection (6)(a) to 51 weeks must be taken to be a reference to six months.**

### *Service qualifications and declarations for registration*

## **14 Service qualification**

(1) A person has a service qualification for the purposes of this Act who—

- (a) is a member of the forces,
- (b) (not being such a member) is employed in the service of the Crown in a post outside the United Kingdom of any prescribed class or description,
- (c) is employed by the British Council in a post outside the United Kingdom,
- (d) is the spouse or civil partner of a member of the forces,
- (e) is the spouse or civil partner of a person mentioned in paragraph (b) or paragraph (c) above and is residing outside the United Kingdom to be with his or her spouse or civil partner,

and where a person leaves the United Kingdom to take up employment or residence as mentioned above or returns to the United Kingdom at the end of such employment or residence, the employment or residence shall be deemed to begin from the time of leaving or to continue until the time of returning, as the case may be.

(2) For the purposes of section 4(2) above a person ceasing to have a service qualification shall be treated as if he were resident in Northern Ireland for the period during which he had a service qualification.

## **15 Service declaration**

(1) A service declaration shall be made only—

- (a) by a person who has a service qualification, or
- (b) subject to any prescribed conditions, by a person about to leave the United Kingdom in such circumstances as to acquire a service qualification.

and a service declaration may be made by such a person notwithstanding the fact that by reason of his age he is not yet entitled to vote.

(2) Where a person is registered in a register of electors in pursuance of a service declaration, the person is entitled to remain so registered until—

- (a) the end of the period of 12 months beginning with the date when the entry in the register first takes effect,
- (aa) the registration officer determines in accordance with regulations that the person was not entitled to be registered,**
- (b) the declaration is cancelled under subsection (7) below, or
- (c) another entry made in respect of him in any register of electors takes effect (whether or not in pursuance of a service declaration),

whichever first occurs.

(3) Where the entitlement of such a person to remain so registered terminates by virtue of subsection (2) above, the registration officer concerned shall remove that person's entry from the register, unless he is entitled to remain registered in pursuance of a further service declaration.

(5) No service declaration shall be specially made by a person for the purpose of local government elections, and any service declaration made for the purpose of parliamentary elections shall have effect also for the purpose of local government elections; but—

- (a) a service declaration may be made for the purpose of local government elections only by a person who is as a peer subject to a legal incapacity to vote at parliamentary elections, or by a relevant citizen of the Union; and
- (b) where so made, shall be marked to show that it is available for local government elections only, but shall in all other respects be the same as other service declarations.

(6) If a person—

- (a) makes a service declaration declaring to more than one address, or
- (b) makes more than one service declaration bearing the same date and declaring to different addresses,

the declaration or declarations shall be void.

(7) A service declaration may at any time be cancelled by the declarant and (subject to subsection (6) above) a service declaration bearing a later date shall without any express cancellation cancel a declaration bearing an earlier date unless the declarations are made with reference to different

qualifying dates.

(8) A service declaration shall be of no effect unless it is received by the registration officer concerned within the period of three months beginning with the date of the declaration.

**(9) The Secretary of State may by order provide that, in relation to the persons mentioned in section 14(1)(a) and (d), subsection (2)(a) above has effect as if for the period of 12 months there were substituted such other period (not exceeding five years) as he thinks appropriate.**

**(10) The power to make an order under subsection (9) is exercisable by statutory instrument, which may contain such incidental or consequential provision as the Secretary of State thinks appropriate.**

**(11) No order may be made under subsection (9) unless-**  
**(a) the Secretary of State first consults the Electoral Commission, and**  
**(b) a draft of the instrument containing the order is laid before, and approved by a resolution of, each House of Parliament.**

**(12) If the period substituted by an order under subsection (9) is longer than the period for the time being in force, the longer period has effect in relation to any person who immediately before the order was made was entitled to remain in a register by virtue of subsection (2).**

## **16 Contents of service declaration**

A service declaration shall state—

- (a) the date of the declaration,
- (b) that on that date the declarant is, or but for the circumstances entitling him to make the declaration would have been, residing in the United Kingdom,
- (d) the address where the declarant is or, as the case may be, would have been residing in the United Kingdom or, if he cannot give any such address, an address at which he has resided in the United Kingdom,
- (e) that on the date of the declaration the declarant is a Commonwealth citizen or a citizen of the Republic of Ireland or a relevant citizen of the Union,
- (f) whether the declarant had on the date of the declaration attained the age of 18 years, and, if he had not, the date of his birth, and
- (g) such particulars (if any) as may be prescribed of the declarant's identity and service qualifications,

and (except where the declarant is a member of the forces or the spouse or civil partner of such a member) shall be attested in the prescribed manner.

## **17 Effect of service declaration**

(1) Where a person's service declaration is in force when he applies for registration, he shall be regarded for the purposes of section 4 above as—

- (a) resident on the date of the declaration at the address specified in it in accordance with section 16(d) above;
- (b) for the purposes of registration in Northern Ireland as resident in Northern Ireland during the whole of the period of three months ending with that date; and
- (c) until the contrary is proved, as being a Commonwealth citizen or a citizen of the Republic of Ireland or a relevant citizen of the Union of the age appearing from the declaration and as not being subject to any legal incapacity except as so appearing.

(2) Where a service declaration appearing to be properly made out and (where required) attested is transmitted to the registration officer in the proper manner, the declarant shall, until the contrary is proved, be treated for the purposes of registration as having had from the date of the declaration or such later date, if any, as appears from it, and as continuing to have, a service qualification.

*Place and manner of voting at parliamentary elections*

**18 — Polling districts and places at parliamentary elections**

~~(1) Every constituency shall be divided into polling districts and subject to the provisions of this section there shall be a polling place designated for each polling district.~~

~~(2) In England it is the duty of the council of each district or London borough, and in Wales it is the duty of the council of each county or county borough to divide their area into polling districts for the purpose of parliamentary elections for so much of any constituency as is situated in their area, and to designate the polling places for those polling districts, and to keep the polling districts and polling places under review, in accordance with the following rules —~~

~~(a) the council shall exercise the powers conferred by this section with a view to giving all electors in so much of the constituency as falls within their area such reasonable facilities for voting as are practicable in the circumstances and, in particular, they shall, so far as is reasonable and practicable, designate as polling places only places which are accessible to electors who are disabled;~~

~~(b) , each parish or community shall in the absence of special circumstances be a separate polling district or districts;~~

~~(e) the polling place for any polling district shall be an area in that district, except where special circumstances make it desirable to designate an area wholly or partly outside the polling district, and shall be small enough to indicate to electors in different parts of the polling district how they will be able to reach the polling station;~~

~~(d) a polling place need not be designated for any polling district, if the size and other circumstances of the district are such that the situation of the polling stations does not materially affect the convenience of the electors or any body of them.~~

~~(3) In Scotland it is the duty of every local authority to divide their area into polling districts for the purpose of parliamentary elections for so much of any constituency as is situated in their area and to designate the polling places for those polling districts, and to keep the polling districts and polling places under review in accordance with the following rules —~~

~~(a) the local authority shall exercise the powers conferred by this section with a view to giving all electors in so much of the constituency as falls within their area such reasonable facilities for voting as are practicable in the circumstances and, in particular, the local authority shall, so far as is reasonable and practicable, designate as polling places only places which are accessible to electors who are disabled;~~

~~(b) each electoral ward, within the meaning of section 5 of the Local Government etc. (Scotland) Act 1994, which is wholly or partly within so much of any constituency as falls within their area, shall, in the absence of special circumstances, be a separate polling district or districts;~~

~~(c) the polling place for any polling district shall be an area in that district, except where special circumstances make it desirable to designate an area wholly or partly outside the polling district, and shall be small enough to indicate to electors in different parts of the polling district how they will be able to reach the polling station;~~



~~(d) a polling place need not be designated for any polling district, if the size and other circumstances of the district are such that the situation of the polling stations does not materially affect the convenience of the electors or any body of them.~~

~~(4) In the case of a polling district for which no polling place is designated the polling district shall be taken to be the polling place for the purposes of this Act.~~

~~(5) If any interested authority or not less than 30 electors in a constituency make a representation to the Electoral Commission that the powers conferred by this section have not been exercised so as to meet the reasonable requirements of the electors in the constituency or any body of those electors, the Electoral Commission shall consider the representation and may, if [they think fit]~~

~~(a) direct the council by whom the power are exercisable, to make any alterations which the Electoral Commission thinks necessary in the circumstances, and~~

~~(b) if the council fails to make those alterations within a month after the directions is given, himself make the alterations,~~

~~and any alterations made by the Electoral Commission under this subsection shall have effect as if they had been made by the council.~~

~~In this subsection the expression “interested authority”, in relation to any constituency, means—~~

~~(i) as respects England, the council or where there is no such council the parish meeting of a parish which is wholly or partly situated within the constituency;~~

~~(ii) as respects Wales, the council of a community which is so situated.~~

~~(6) On the exercise of any power given by this section, the council—~~

~~(a) shall publish in the constituency a notice showing the boundaries of any polling districts or polling places constituted as a result of the exercise of the power;~~

~~(7) Subsections (2) to (6) above do not apply to Northern Ireland, and in Northern Ireland the polling districts and polling places are those for the time being established under the law relating to local elections within the meaning of section 130 of the Electoral Law Act (Northern Ireland) 1962.~~

~~(8) Where any alteration of polling districts in an area is made under this section—~~

~~(a) the registration officer who acts for the area shall make such adaptations of his register of parliamentary electors as are necessary to take account of the alteration; and~~

~~(b) the alteration shall be effective on the date on which the registration officer publishes a notice stating that any such adaptations have been made by him.~~

~~(9) An election shall not be questioned by reason of—~~

~~(a) any non-compliance with the provisions of this section; or~~

~~(b) any informality relative to polling districts or polling places.~~

## **18A Polling districts at parliamentary elections**

**(1) Every constituency is to be divided into polling districts.**

**(2) A relevant authority must—**

**(a) divide its area into polling districts for the purpose of parliamentary elections for so much of any constituency as is situated in its area, and**

**(b) keep the polling districts under review.**

- (3) The following rules apply—**
- (a) the authority must seek to ensure that all electors in a constituency in its area have such reasonable facilities for voting as are practicable in the circumstances;**
  - (b) in England, each parish is to be a separate polling district;**
  - (c) in Wales, each community is to be a separate polling district;**
  - (d) in Scotland, each electoral ward (within the meaning of section 1 of the Local Governance (Scotland) Act 2004) is to be divided into two or more separate polling districts.**
- (4) Subsection (3)(b) to (d) does not apply if, in any case, there are special circumstances.**
- (5) If an alteration of polling districts in an area is made under this section—**
- (a) the registration officer who acts for the area must make such adaptations of his register of parliamentary electors as are necessary to take account of the alteration, and**
  - (b) the alteration is effective on the date on which the registration officer publishes a notice stating that the adaptations have been made by him.**

### **18B Polling places at parliamentary elections**

- (1) A polling place is to be designated for each polling district in a constituency.**
- (2) But subsection (1) does not apply if the size or other circumstances of a polling district are such that the situation of the polling stations does not materially affect the convenience of the electors or any body of them.**
- (3) A relevant authority must—**
- (a) designate the polling places for the polling districts in its area, and**
  - (b) keep the polling places in its area under review.**
- (4) The following rules apply—**
- (a) the authority must seek to ensure that all electors in a constituency in its area have such reasonable facilities for voting as are practicable in the circumstances;**
  - (b) the authority must seek to ensure that so far as is reasonable and practicable every polling place for which it is responsible is accessible to electors who are disabled;**
  - (c) the authority must have regard to the accessibility to disabled persons of potential polling stations in any place which it is considering designating as a polling place or the designation of which as a polling place it is reviewing;**
  - (d) the polling place for a polling district must be an area in the district, unless special circumstances make it desirable to designate an area wholly or partly outside the district;**
  - (e) the polling place for a polling district must be small enough to indicate to electors in different parts of the district how they will be able to reach the polling station.**
- (5) If no polling place is designated for a polling district the polling district is to be taken to be the polling place.**

### **18C Review of polling districts and places**

- (1) Each relevant authority must complete a review under sections 18A and 18B of all of the polling districts and polling places in its area before the end of the period of 12 months**

starting with the date on which section 16 of the Electoral Administration Act 2006 comes into force.

(2) Subsection (1) does not apply in the case of a polling district or polling place (as the case may be) which is designated for the first time during that period.

(3) In such a case, the first review of the polling district or polling place must be completed before the end of the period of four years starting with the date on which that designation is made.

(4) The authority must complete a further review of each polling district and polling place in its area before the end of the period of four years starting with the completion of the previous such review.

(5) Subsections (1) to (4) do not prevent a relevant authority carrying out at any time a review of a particular polling district or polling place.

(6) Schedule A1 has effect in relation to a review.

#### **18D Review of polling districts and places: representations to Electoral Commission**

(1) This section applies if in relation to a constituency in the area of a relevant authority a relevant representation is made to the Electoral Commission by—

- (a) an interested authority in England and Wales;
- (b) not less than 30 electors in the constituency;
- (c) a person (other than the returning officer) who has made representations under Schedule A1;
- (d) a person who is not an elector in a constituency in the authority's area but who the Commission think has sufficient interest in the accessibility of disabled persons to polling places in the area or has particular expertise in relation to the access to premises or facilities of disabled persons.

(2) A relevant representation is a representation that a review under section 18A or 18B has not been conducted by a relevant authority so as to—

- (a) meet the reasonable requirements of the electors in the constituency or any body of those electors, or
- (b) take sufficient account of the accessibility to disabled persons of polling stations within a designated polling place.

(3) The returning officer for the constituency may make observations on representations made under this section.

(4) The Electoral Commission must consider such representations and observations and may, if they think fit—

- (a) direct the relevant authority to make any alterations to the polling places designated by the review which the Commission think necessary in the circumstances;
- (b) if the authority fails to make the alterations before the end of the period of two months starting on the day the direction is given, make the alterations itself.

(5) Alterations made by the Electoral Commission under subsection (4) have effect as if they had been made by the relevant authority.

- (6) An interested authority in relation to a constituency in England and Wales is—**
- (a) in England, the council of the parish or where there is no such council the parish meeting of a parish which is wholly or partly situated within the constituency;**
  - (b) in Wales, the council of a community which is so situated.**

**(7) The reference in subsection (1)(b) to electors does not include persons who have an anonymous entry in the register of parliamentary electors or local government electors.**

#### **18E Sections 18A to 18D: supplemental**

**(1) This section applies for the purposes of sections 18A to 18D.**

**(2) No election is to be questioned by reason of—**

- (a) any non-compliance with the provisions of those sections, or**
- (b) any informality relative to polling districts or polling places.**

**(3) Each of the following is a relevant authority—**

- (a) in relation to England, the council of a district or London borough;**
- (b) in relation to Scotland, a local authority;**
- (c) in relation to Wales, the council of a county or county borough.**

**(4) The following do not apply to Northern Ireland—**

- (a) section 18A(2) to (5);**
- (b) section 18B(2) to (5);**
- (c) sections 18C and 18D,**

**and in Northern Ireland the polling districts and polling places are those for the time being established under the law relating to local elections within the meaning of section 130 of the Electoral Law Act (Northern Ireland) 1962.**

#### **19 to 22**

### *Conduct of parliamentary elections*

#### **23 Rules for parliamentary elections**

**(1) The proceedings at a parliamentary elections shall be conducted in accordance with the parliamentary elections rules in Schedule 1 to this Act.**

**(2) It is the returning officer's general duty at a parliamentary election to do all such acts and things as may be necessary for effectually conducting the election in the manner provided by those parliamentary elections rules.**

**(3) No parliamentary election shall be declared invalid by reason of any act or omission by the returning officer or any other person in breach of his official duty in connection with the election or otherwise of the parliamentary elections rules if it appears to the tribunal having cognizance of the question that—**

- (a) the election was so conducted as to be substantially in accordance with the law as to elections; and**

(b) the act or omission did not affect its result.

## **24 Returning officers: England and Wales**

- (1) In England and Wales, the returning officer for a parliamentary election is—
- (a) in the case of a county constituency in England which is coterminous with or wholly contained in a county, the sheriff of the county;
  - (aa) in the case of a county constituency in Wales which is coterminous with or wholly contained in a preserved county as defined by section 64 of the Local Government (Wales) Act 1994, the sheriff of the county;
  - (b) in the case of a borough constituency in England which is coterminous with or wholly contained in a district, the chairman of the district council;
  - (bb) in the case of a borough constituency in Wales which is coterminous with or wholly contained in a county or county borough, the chairman of the county or county borough council;
  - (c) in the case of any other constituency in England wholly outside Greater London, such sheriff or chairman of a district council as may be designated in an order by the Secretary of State made by statutory instrument;
  - (cc) in the case of any other constituency in Wales, such sheriff or chairman of a county or county borough council as may be designated in an order by the Secretary of State so made;
  - (d) in the case of a constituency which is coterminous with or wholly contained in a London borough, the mayor of the borough;
  - (dd) where a council of a London borough are operating executive arrangements which involve a mayor and cabinet executive or a mayor and council manager executive, paragraph (d) shall have effect as if for the words “the mayor” there were substituted “the chairman”
  - (e) in the case of a constituency wholly or partly in Greater London which is situated partly in one London borough and partly in a district or any other London borough, the mayor or the chairman of such London borough or the chairman of such district council as may be designated in an order by the Secretary of State made by statutory instrument.

The City, the Inner Temple and the Middle Temple shall be treated for the purposes of this section as if together they formed a London borough.

(1A) In subsection (1), “executive arrangements”, “mayor and cabinet executive” and “mayor and council manager executive” have the same meaning as in Part II of the Local Government Act 2000.

(2) A parliamentary election is not liable to be questioned by reason of a defect in the title, or want of title, of the person presiding at or conducting the election, if that person was then in actual possession of, or acting in, the office giving the right to preside at or conduct the election.

## **25 Returning officers: Scotland**

- (1) In Scotland, the returning officer for a parliamentary election is—
- (a) in the case of a constituency wholly situated in one local government area, the person under section 41 below who is, or who may discharge the functions of, the returning officer at elections of councillors for the local authority for that area;
  - (b) in the case of a constituency situated in more than one local government area, such person mentioned above as the Secretary of State may by order direct.

(2) Every local authority shall place at the disposal of the returning officer for a constituency wholly or partly situated in their area, for the purpose of assisting the returning officer in the discharge of any functions conferred on him in relation to a parliamentary election in that constituency, the services of officers employed by the authority.

## **26 Returning officer: Northern Ireland**

(1) In Northern Ireland, the Chief Electoral Officer for Northern Ireland is the returning officer for each constituency.

(2) Sections 14(5) and 14A(2) and (3) of the Electoral Law Act (Northern Ireland) 1962 (appointment of temporary deputy and delegation to assistant) shall have effect in relation to the Chief Electoral Officer in his capacity as returning officer.

## **27 Returning officers generally**

(1) It is for the returning officer as such to execute the writ for a parliamentary election, and the office of returning officer is a distinct office from that by virtue of which he becomes returning officer.

(2) Where a person takes any office by virtue of which he becomes returning officer, he (and not the outgoing holder of the office) shall complete the execution of any writ for a parliamentary election previously issued and not yet returned.

(3) A person is not subject to any incapacity to vote at a parliamentary election by reason of being or acting as returning officer at that election.

## **28 Discharge of returning officer's functions in England and Wales**

(1) In England and Wales the duties of the returning officer for a parliamentary election (except those mentioned in subsection (2) below) shall be discharged, as acting returning officer—

(a) in the case of a constituency in England for which the chairman of a district council or the mayor [ or the chairman ] 51 of a London borough is returning officer by virtue of section 24(1) above, by the registration officer appointed by that council;

(aa) in the case of a constituency in Wales for which the chairman of a county or county borough council is returning officer by virtue of that section, by the registration officer appointed by that council;

(b) in the case of any other constituency, by such registration officer as may be designated in an order made by statutory instrument by the Secretary of State.

(2) The duties excepted from subsection (1) above are—

(a) any duty imposed on a returning officer under rule 3 of the parliamentary elections rules; and

(b) any duty so imposed under rule 50 of those rules which the person (if any) who for the time being holds the office of returning officer reserves to himself and undertakes to perform in person.

(3) The returning officer shall give to the acting returning officer written notice of any duties which he reserves to himself under paragraph (b) of subsection (2) above, and that paragraph shall, in the case of any election, apply to the duties (if any) of which the notice is so given not later than the day following that on which the writ is received, and to no others.

(4) In the discharge of the duties imposed by subsection (1) an acting returning officer has all the powers, obligations, rights and liabilities of the returning officer under this Act, and this Act has effect accordingly.

(5) An acting returning officer has power to appoint deputies to discharge all or any of those duties, and a Welsh county council or county borough council or a district council or London borough council may assign officers to assist in carrying out all or any of those duties.

(6) Section 25 of the Sheriffs Act 1887 (death of sheriff) does not authorise the under-sheriff to discharge the duties of returning officer, and upon a sheriff's death the acting returning officer shall discharge all the sheriff's duties as returning officer until another sheriff is appointed and has made the declaration of office.

## **29 Payments by and to returning officer**

(1) No consideration shall be given by or to a returning officer for the making out, receipt, delivery or return of the writ for a parliamentary election or, subject to the following provisions of this section, otherwise in connection with its execution.

(2) Nothing in subsection (1) above shall be taken as applying to any inclusive salary payable to a returning officer in respect of the office by virtue of which he becomes returning officer.

~~(3) A returning officer shall be entitled to recover his charges in respect of services properly rendered, or expenses properly incurred, for or in connection with a parliamentary election if—~~  
~~(a) the services or expenses are of a kind specified in an order made by the Secretary of State; and~~  
~~(b) the charges are reasonable.~~

~~(4) In any order made under subsection (3) above the Secretary of State may specify a maximum recoverable amount for services or expenses of any specified description and, subject to subsection (4A) below, the returning officer may not recover more than that amount in respect of any such services or expenses.~~

~~(4A) The Secretary of State may, in a particular case, authorise the payment of more than the specified maximum amount for any specified services or expenses if satisfied—~~  
~~(a) that it was reasonable for the returning officer concerned to render the services or incur the expenses; and~~  
~~(b) that the charges in question are reasonable.~~

~~(4B) Any order under subsection (3) above which specifies a maximum amount for services or expenses of a particular description may—~~  
~~(a) provide for that amount to increase at prescribed dates, or after prescribed periods, by reference to such formula or other method of determination as may be specified in the order;~~  
~~and~~  
~~(c) make such transitional provision in connection with any such increase as the Secretary of State considers appropriate.~~

**(3) A returning officer shall be entitled to recover his charges in respect of services rendered, or expenses incurred, for or in connection with a parliamentary election if-**

- (a) the services were necessarily rendered, or the expenses were necessarily incurred, for the efficient and effective conduct of the election; and**
- (b) the total of his charges does not exceed the amount (“the overall maximum recoverable amount”) specified in, or determined in accordance with, an order made by the Secretary of State for the purposes of this subsection.**

**(3A) An order under subsection (3) may specify, or make provision for determining in accordance with the order, a maximum recoverable amount for services or expenses of any specified description and, subject to subsection (3B) below, the returning officer may not recover more than that amount in respect of any such services or expenses.**

**(3B) The Secretary of State may, in a particular case, authorise the payment of**

- (a) more than the overall maximum recoverable amount, or**
- (b) more than the specified maximum recoverable amount for any specified services or expenses,**

**if he is satisfied that the conditions in subsection (3C) are met.**

**(3C) The conditions referred to in subsection (3B) are—**

- (a) that it was reasonable for the returning officer concerned to render the services or incur the expenses; and**
- (b) that the charges in question are reasonable.**

**(When Schedule 21 to the 2000 Act is brought into force)**

**(3A) a returning officer shall be entitled to recover his charges in respect of services rendered, or expenses incurred, for or in connection with parliamentary election if-**

- (a) the services were necessarily rendered, or the expenses were necessarily incurred, for the efficient and effective conduct of the election; and**
- (b) the total of his charges does not exceed the amount (“the overall maximum recoverable amount”) specified in, or determined in accordance with, regulations made by the Commission, with the consent of the Treasury, for the purposes of this subsection.**

**(4) Regulations under subsection (3) may specify, or make provision for determining in accordance with the regulations, a maximum recoverable amount for services or expenses of any specified description and, subject to subsection (5) below, the returning officer may not recover more than that amount in respect of any such services or expenses.**

**(5) In a particular case the Commission may, with the consent of the Treasury, authorise the payment of-**

- (a) more than the overall maximum recoverable amount, or**
- (b) more than the specified maximum recoverable amount for any specified services or expenses,**

**if the Commission are satisfied that the conditions in subsection (6) are met.**

**(6) The conditions referred to in subsection (5) are-**

- (a) that it was reasonable for the returning officer concerned to render the services or incur the expenses, and**
- (b) that the charges in question are reasonable.**



- (4) The power to make orders under subsection (3) above shall be exercised by statutory instrument; and any such order may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the Secretary of State thinks fit.
- (5) The amount of any charges recoverable in accordance with this section shall be charged on and paid out of the Consolidated Fund on an account being submitted to the Treasury, but the Secretary of State, but the Secretary of State may if he thinks fit, before payment, apply for the account to be taxed under the provisions of section 30 below.
- (6) Where the superannuation contributions required to be paid by a local authority in respect of any person are increased by any fee paid under this section as part of a returning officer's charges at a parliamentary election, then on an account being submitted to the Secretary of State a sum equal to the increase shall be charged on and paid out of the Consolidated Fund to the authority.
- (7) On the returning officer's request for an advance on account of his charges, the Secretary of State may, on such terms as he thinks fit, make such an advance.
- (8) Regulations may make provision as to the time when and the manner and form in which accounts are to be rendered to the Secretary of State for the purposes of the payment of a returning officer's charges.
- (9) Any exercise by the Secretary of State of his functions under ~~subsections (3) and (4)~~ **subsection (3)** above shall require the consent of the Treasury.

### **30 Taxation of returning officer's account**

- (1) An application for a returning officer's account to be taxed shall be made—
- (a) where the account relates to an election in a constituency in England or Wales or in Northern Ireland, to the county court,
  - (b) where the account relates to an election in a constituency in Scotland, to the Auditor of the Court of Session,
- and in this section the expression “the court” means that court or Auditor.
- (2) On any such application the court has jurisdiction to tax the account in such manner and at such time and place as the court thinks fit, and finally to determine the amount payable to the returning officer.
- (3) On any such application the returning officer may apply to the court to examine any claim made by any person against him in respect of matters charged in the account; and the court, after notice given to the claimant and after giving him an opportunity to be heard and to tender any evidence, may allow or disallow or reduce the claim objected to with or without costs; and the determination of the court shall be final for all purposes and as against all persons.
- (4) Any reference in this section to the county court shall be taken, in relation to Northern Ireland, as a reference to the county court having jurisdiction at the place for the delivery of nomination papers at the election in question.

*Place and manner of voting at local government elections.*

**31 Polling districts and stations at local government elections**

(1) For elections of county councillors in England, the county council may divide an electoral division into polling districts, and may alter any polling district, and for elections of London borough or district councillors the London borough or district council may divide the London borough or district or any ward thereof into polling districts, and may alter any polling district.

(1A) For elections of county or county borough councillors in Wales, the county or county borough council may divide an electoral division into polling districts and may alter any polling district.

(1B) For any Authority elections, a London borough council or the Common Council may divide their area into polling districts and may alter any polling district.

For the purposes of this subsection the Inner Temple and the Middle Temple shall be treated as forming part of the City.

(2) In Scotland, for elections of local authority councillors the local authority may divide an electoral ward into polling districts and may alter any polling district, but in the absence of special circumstances those polling districts shall be those which were last designated for the purpose of parliamentary elections under ~~section 18~~ **section 18A** above.

(3) Any power to constitute polling districts for the purpose of local government elections shall be exercised so that electors from any parliamentary polling district wholly or partly within the electoral area can, in the absence of special circumstances, be allotted to a polling station within the parliamentary polling place for that district unless the parliamentary polling place is outside the electoral area.

*Conduct of local government elections in England and Wales*

**35 Returning officers: local elections in England and Wales.**

(1) In England every non-metropolitan county council shall appoint an officer of the council to be the returning officer for elections of councillors of the county and every district council shall appoint an officer of the council to be the returning officer for the elections of councillors of the district and an officer of the council to be the returning officer for elections of councillors of parishes within the district.

(1A) In Wales the council of every county or county borough shall appoint—  
(a) an officer of the council to be the returning officer for elections of councillors of the county or county borough; and  
(b) an officer of the council to be the returning officer for elections of councillors of communities within the county or county borough.

(2A) Subsections (2B) and (2C) below have effect in relation to the Greater London Authority.

(2B) The returning officer at an election of a constituency member of the London Assembly shall be such a person, or a person of such a description, as may be designated by the Secretary of State in an order made by statutory instrument.

- (2C) The returning officer—
- (a) at any election of the Mayor of London,
  - (b) at the election of the London members of the London Authority at an ordinary election, and
  - (c) for the purposes of section 11 of the 1999 Act (return of London members of the London Assembly otherwise than at an election),
- shall be the proper officer of the Greater London Authority.
- (3) The returning officer at an election of London borough councillors shall be the proper officer of the borough.
- (4) The returning officer at any election mentioned in subsections (1) to ((3)) above may by writing under his hand appoint one or more persons to discharge all or any of his functions.
- (5) A local government election in England and Wales is not liable to be questioned by reason of a defect in the title, or want of title, of the person presiding at or conducting the election, if that person was then in actual possession of, or acting in, the office giving the right to preside at or conduct the election.
- (6) The council for any London borough shall place the services of its officers at the disposal of any person acting as the returning officer at an Authority election for an electoral area situated wholly or partly in the borough.

### **36 Local elections in England and Wales**

- (1) Elections of councillors for local government areas in England and Wales shall be conducted in accordance with rules made by the Secretary of State.
- (2) Rules made under this section shall apply the parliamentary elections rules in Schedule 1 to this Act, subject to such adaptations, alterations and exceptions as seem appropriate to the Secretary of State.
- (2A) As regards the Greater London Authority—
- (a) Authority elections, and
  - (b) the return of London members of the London Assembly otherwise than at an election,
- shall be conducted in accordance with rules made under this subsection by the Secretary of State. Rules made under this subsection need not comply with the requirements of subsection (2) above.
- (2B) As regards lists of candidates submitted under paragraph 5 of Schedule 2 to the 1999 Act (election of London members), the provision that may be made by rules under subsection (2A) above includes provision for or in connection with any of the following—
- (a) the inclusion, withdrawal, addition or removal of persons;
  - (b) cases where a person included in such a list is or becomes, or seeks to become, an individual candidate to be a London member of the London Assembly.
- (3) Where the polls at—
- (a) the ordinary election of district councillors for any district ward or an election to fill a casual vacancy occurring in the office of such a councillor, and
  - (b) the ordinary election of parish councillors for any parish or an election to fill a casual vacancy occurring in the office of such a councillor,

are to be taken on the same day and the elections are for related electoral areas, the polls at those elections shall be taken together.

(3AB) Where the polls at—

(a) the ordinary election of councillors for any electoral division of a Welsh county or county borough or an election to fill a casual vacancy occurring in the office of such a councillor, and

(b) the ordinary election of community councillors for any community or an election to fill a casual vacancy occurring in the office of such a councillor,

are to be taken on the same day and the elections are for related electoral areas, the polls at those elections shall be taken together.

(3AC) Where the polls at—

(a) the ordinary election of councillors for any electoral division of a county in England in which there are no district councils or an election to fill a casual vacancy occurring in the office of such a councillor, and

(b) the ordinary election of parish councillors for any parish or an election to fill a casual vacancy occurring in the office of such a councillor,

are to be taken on the same day and the elections are for related electoral areas, the polls at those elections shall be taken together.

(3A) For the purposes of this section electoral areas are related if they are coterminous or if one is situated within the other.

(3B) Where the polls at any elections are combined under this section the cost of taking the combined polls (excluding any cost solely attributable to be one election) and any cost attributable to their combination shall be apportioned equally among the elections.

(3C) The Secretary of State may by regulations make such provision as he thinks fit in connection with the combining of polls at any elections under this section including provision modifying the Representation of the People Acts in relation to such elections.

(4) All expenditure properly incurred by a returning officer in relation to the holding of an election of a councillor for a principal area (that is, a county, a county borough, a district or a London borough) shall, in so far as it does not, in cases where there is a scale fixed for the purposes of this section by the council for that area, exceed that scale, be paid by that council.

(4B) All expenditure properly incurred by a returning officer in relation to the holding of an Authority election shall, in so far as it does not, in cases where there is a scale fixed for the purposes of this section by the Greater London Authority, exceed that scale, be paid by the Greater London Authority.

(5) All expenditure properly incurred by a returning officer in relation to the holding of an election of a parish councillor shall, in so far as it does not, in cases where there is a scale fixed for the purposes of this section by the council of the district in which the parish is situated, exceed that scale, be paid by the district council, but any expenditure so incurred shall, if the district council so require, be repaid to that council by the council of the parish for which the election is held.

(5A) All the expenditure properly incurred by a returning officer in relation to the holding of an election of a community councillor shall, in so far as it does not, in cases where there is a scale

fixed for the purposes of this section by the council of the county or county borough in which the community is situated (“the principal council”), exceed that scale, be paid by the principal council; and if the principal council so require, any expenditure so incurred shall be repaid to the by the community council.

(6) Before a poll is taken at an election of a councillor for any local government area in England and Wales the council of that area or, in the case of an election of a parish or community councillor, the council who appointed the returning officer shall, at the request of the returning officer or of any person acting as returning officer, advance to him such reasonable sum in respect of his expenses at the election as he may require.

(6A) Subsection (6) above shall apply in relation to an Authority election as it applies in relation to an election of a councillor for any local government area in England and Wales, but taking the reference to the council of the area as a reference to the Greater London Authority.

(7) Rules made under this section shall be—

- (a) made by statutory instrument;
- (b) subject to annulment in pursuance of a resolution of either House of Parliament.

### **37 Ordinary day of local elections in England and Wales.**

(1) In every year the ordinary day of election of councillors is the same for all local government areas in England and Wales and is—

- (a) the first Thursday in May;
- (b) such other day as may be fixed by the Secretary of State by order made not later than 1st February in the year preceding the year (or, in the case of an order affecting more than one year, the first year) in which the order is to take effect.

(2) As respects Authority elections, the power conferred by subsection (1)(b) above shall include power to make an order fixing a day other than the first Thursday in May as the day on which the poll is to be held at an ordinary election other than the first.

(3) The power to make an order under this section is exercisable by statutory instrument.

### **39 Local elections void etc. in England and Wales**

(1) If in England and Wales at a local government election, other than an election for the return of the London members of the London Assembly—

- (a) the poll is countermanded or abandoned for any reasons, or
- (b) no person is or remains, or an insufficient number of persons are or remain, validly nominated to fill the vacancy or vacancies in respect of which the election is held,

the returning officer shall order an election to fill any vacancy which remains unfilled to be held on a day appointed by him.

That day shall be within the period of 35 days (computed according to section 40 below) beginning with the day fixed as the day of election for the first-mentioned election.

(2) If for any other reasons an election to an office under the Local Government Act 1972 or the 1999 Act, other than that of chairman of a parish or community council or parish meeting or parish or community councillor, is not held on the appointed day or within the appointed time, or fails either wholly or in part or becomes void, the High Court may order an election to be held on a day

appointed by the court.

(3) The High Court may order that the costs incurred by any person in connection with proceedings under subsection (2) above shall be paid by the local authority concerned.

(4) In a case not falling within subsection (1) above—

- (a) if any difficulty arises with respect to an election of parish or community councillors or of an individual parish or community councillor, or to the first meeting of a parish or community council after an ordinary election of parish or community councillors, or
- (b) if a parish or community council is not properly constituted because an election is not held or is defective or for any other reason, the district council or Welsh county or county borough district—
  - (i) may by order make any appointment or do anything which appears to them necessary or expedient for the proper holding of such an election or meeting and properly constituting the council, and
  - (ii) may, if it appears to them necessary, direct the holding of an election or meeting and fix the date for it.

(5) Where an election is ordered to be held under this section—

- (a) rules under section 36 above relating to the notice to be given of an election and the manner in which an election is to be conducted apply in relation to the election so ordered to be held as they applied or would have applied in relation to the election which has not been duly held or has failed or become void;
- (b) no fresh nomination is necessary in the case of a candidate who remains validly nominated for that election.

(6) An order made—

- (a) under this section may include such modifications of the provisions of—
  - (i) this Part of this Act (and the rules under section 36), and
  - (ii) the Local Government Act 1972[ or the 1999 Act,as appear to the High Court, or, as the case may be, the district council or Welsh county or county borough council, necessary or expedient for carrying the order into effect;
- (b) by a council under subsection (4) above with respect to an election of parish or community councillors may modify the provisions of—
  - (i) this Act (and the rules with respect to such elections under section 36); and
  - (ii) any other enactment relating to such elections.

(7) In the case of a common parish council under which are grouped, by virtue of section 11(5) of the Local Government Act 1972 (grouping of parishes), parishes situated in different districts, references in subsections (4) and (6) above to the district council shall be construed as references to the council of the district in which there is the greater number of local government electors for the parishes in the group.

(9) If a municipal election in a London borough is not held on the appointed day or within the appointed time or becomes void, the municipal corporation shall not thereby be dissolved or be disabled from acting.

#### **40 Timing as to local elections in England and Wales**

(1) When the day on which anything is required to be done by section 37 or or section 16 of the Representation of the People Act 1985 or section 3 of the 1999 Act is a Saturday, Sunday,

Christmas Eve, Christmas Day, ~~Maundy Thursday~~, Good Friday, bank holiday or a day appointed for public thanksgiving or mourning, the requirement shall be deemed to relate to the first day thereafter which is not one of the days specified above.

(2) Where under subsection (1) above the day of election is postponed, the day to which it is postponed shall be treated for the purposes of this Act and the Local Government Act 1972[ and (in the case of an Authority election) the 1999 Act as the day of election.

(3) In computing any period of time for the purpose of any rules under section 36 above or for the purposes of section 39 any day specified in subsection (1) shall be disregarded; but where between the giving of a notice of election and the completion of the poll a day is declared to be a bank holiday or day of public thanksgiving or mourning, the foregoing provision, so far as it relates to any such rules, shall not operate to invalidate any act which would have been valid apart from that provision.

This subsection, so far as it relates to any such rules, has effect subject to the provisions of those rules.

### *Conduct of local government elections in Scotland*

#### **41 Returning officers: local elections in Scotland.**

(1) Every local authority in Scotland shall appoint an officer of the authority to be the returning officer for each election of councillors for the authority, and if the person so appointed dies, resigns or is for any other reason unable to act, the authority may appoint another person to be returning officer at that election.

(2) A returning officer in Scotland appointed under this Act may by writing under his hand appoint one or more persons to discharge all or any of his functions.

(3) A local government election in Scotland is not liable to be questioned by reason of a defect in the title, or want of title, of the person presiding at or conducting the election, if that person was then in actual possession of, or acting in, the office giving the right to preside at or conduct the election.

#### **42 Local elections in Scotland**

(1) Elections of councillors for local government areas in Scotland shall be conducted in accordance with rules made by the Secretary of State.

(2) Rules made under this section shall apply the parliamentary elections rules in Schedule 1 to this Act subject to such adaptations, alterations and exceptions as seem appropriate to the Secretary of State.

(3) Without prejudice to the generality of subsection (2) above, rules made under this section shall prescribe that the nomination paper of a candidate for election as a councillor for a local government area in Scotland shall contain a statement declaring that the candidate—

(a) consents to be nominated as a candidate;

(b) if elected, will accept office as a councillor and will faithfully perform the duties of the office;

(c) has attained the age of 21 years and is a **qualifying** Common wealth citizen or citizen of the Republic of Ireland [or a relevant citizen of the Union] and not subject to any legal incapacity, and

(d) is not subject to any of the disqualifications for office set out in section 31 of the Local Government (Scotland) Act 1973 (disqualifications for office as local authority member).

**(3A) In subsection (3)(c) “relevant citizen of the Union” has the same meaning as in section 29(1) of the Local Government (Scotland) Act 1973.**

(4) The statement mentioned in subsection (3) above shall also contain particulars of the candidate's qualification for office under paragraphs (a) to (d) of section 29(1) of that Act of 1973 (qualifications for office as local authority member), in such form as may be prescribed by rules made under this section.

(5) All expenditure properly incurred by a returning officer in relation to the holding of an election of a councillor to a local authority shall be paid by the council of that authority, but only (in cases where there is a scale fixed for the purposes of this section by that council) in so far as it does not exceed that scale.

(6) Before a poll is taken at an election for a councillor for a local government area in Scotland, the council for that area shall, at the request of the returning officer or of any person acting as returning officer, advance to him such reasonable sum in respect of his expenses at the election as he may require.

(7) Rules made under this section shall be—

- (a) made by statutory instrument;
- (b) subject to annulment in pursuance of a resolution of either House of Parliament.

**43 Day of ordinary local elections in Scotland, and other timing provisions**

(1) In every year in which ordinary elections of councillors for local government areas in Scotland are held, the day on which the poll is held at an election is—

- (a) the first Thursday in May; or
- (b) such other day as may be fixed by the Secretary of State by order made by statutory instrument not later than 1st February in the year preceding the year or, in the case of an order affecting more than one year, the first year in which the order is to take effect.

(1A) An order made under subsection (1)(b) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(1B) Despite subsection (1) above—

- (a) if the poll at an ordinary general election is, under section 2(5) of the Scotland Act 1998 (c.46) (“the 1998 Act”) (which enables the advancement or postponement, for up to a month, of the date of the poll at such an election), to be held on the day proposed by the Presiding Officer for the purposes of that provision; or
- (b) if an extraordinary general election is, under section 3(2) of that Act (which enables the holding of such an election), to be held on a day occurring within the relevant period, the Scottish Ministers may, by order, provide that the poll at the ordinary local election to be held that year shall be held on that day;

(1C) In subsection (1B) above—

- “extraordinary general election” means a general election for membership of the Scottish Parliament held under section 3 of the 1998 Act;
- “ordinary general election” means a general election for membership of the Scottish



Parliament held under section 2 of the 1998 Act;

“ordinary local election” means an ordinary election of councillors for local government areas in Scotland held in accordance with section 5 of the 1994 Act and this Act;

“relevant period” means the period beginning with 11th March in a year in which an ordinary local election falls to be held and ending with the day which immediately precedes the first Thursday in May in that year,

and references to the time when a local election falls or does not fall to be held are to be construed in accordance with section 5(3) of the 1994 Act.

(1D) An order under subsection (1B) above shall be made by statutory instrument.

(2) Where—

(a) the day or the last day on which anything is required or permitted to be done by any rules under section 42 above, or

(b) the day on which anything is required to be done under subsection (1) [or (1B)] above, or section 45(1) below,

is a Saturday, Sunday, Christmas Eve, Christmas Day, New Year's Day, Maundy Thursday, Good Friday, bank holiday, or a public holiday, or a day appointed for public thanksgiving or mourning, the requirement or permission shall be deemed to relate to the first day thereafter which is not one of the days before mentioned, but, save as aforesaid or as otherwise expressly provided in this Act or by the Local Government etc. (Scotland) Act 1994, in reckoning a number of days for the purposes of this Part of this Act in so far as it relates to the conduct of local government elections in Scotland, the days before specified shall not be excluded.

(3) Where the day on which the poll is held at an election is postponed under subsection (2) above, the day on which the poll is held shall be treated as the day of election for all purposes of this Act or that Act of 1994 relating to that election.

(4) Where a day is declared to be a bank holiday or day of public thanksgiving or mourning, nothing in subsection (3) above affects the validity of any act done in relation to an election before or on the date of the declaration.

**44**

## **45 Non-election of local authority etc., in Scotland**

(1) If in Scotland—

(a) for any reason a local authority or members of a local authority are not elected in accordance with the provisions of this Act and the [Local Government etc. (Scotland) Act 1994], and the case is not otherwise provided for, or

(b) there is for any reason no legally constituted local authority for any area, or

(c) the number of members of a local authority then in office is less than the quorum ascertained in accordance with the provisions of Schedule 7 to that Act of 1973 (meetings and proceedings of local authorities),

the Secretary of State may direct the holding of an election for filling such vacancies as exist, and the election shall be held as soon as practicable after that, on a date to be fixed by him.

(2) The Secretary of State may in that direction—

(a) make such provisions as appears to him expedient for authorising any person to act in place of a local authority pending the election of members of the authority by an election under subsection (1) above; and

(b) make such incidental, consequential, transitional or supplemental provisions as appears to him to be necessary or proper.

*Supplemental provisions as to local government elections*

**46 Further provisions as to local election voting.**

(1) At a local government election for any electoral area no person shall as an elector and no person shall as proxy for any one elector—

- (a) give more than one vote for any one candidate; or
- (b) give more votes in all than the total number of councillors to be elected for the electoral area.

[but this subsection does not apply in relation to Authority elections (where the votes allowed to be given are as specified in the applicable provisions of section 4, 10 or 16 of the 1999 Act).]

(2) No person is subject to any incapacity to vote at a local government election by reason of his being or acting as returning officer at that election.

**47 Loan of equipment for local elections**

(1) Any ballot boxes, fittings and compartments provided for parliamentary elections out of money provided by Parliament, may, on request, be lent to the returning officer at a local government election on such terms and conditions as the Secretary of State may determine.

- (2) Any ballot boxes, fittings and compartments provided by or belonging to—
- (a) a local authority within the meaning of the Local Government Act 1972, or
  - (b) a local authority within the meaning of the Local Government (Scotland) Act 1973,

as the case may be, shall, on request, and if not required for immediate use by that authority, be lent to the returning officer at an election held under those Acts on such terms and conditions as may be agreed.

**48 Validity of local elections, and legal costs.**

(1) No local government election shall be declared invalid by reason of any act or omission of the returning officer or any other person in breach of his official duty in connection with the election or otherwise of rules under section 36 or section 42 above if it appears to the tribunal having cognizance of the question that—

- (a) the election was so conducted as to be substantially in accordance with the law as to elections; and
- (b) the act or omission did not affect its result.

(2) A local government election, unless questioned by an election petition within the period fixed by law for those proceedings, shall be deemed to have been to all intents a good and valid election.

(3) The council which is required to pay the expenses properly incurred by a returning officer in relation to any local government election may treat those expenses as including all costs properly incurred by the returning officer in connection with or in contemplation of any legal proceedings arising out of the election (including any criminal proceedings against the returning officer), whether or not the proceedings are in fact instituted.

(3A) In the application of subsection (3) above in relation to an Authority election, the Greater London Authority shall be treated as the council which is required to pay the expenses properly incurred by the returning officer.

(4) In Scotland the election of a member of a local authority shall not be affected by reason only of any nullity or irregularity in the election of any other member of the authority.

*Supplemental provisions as to parliamentary and local government elections*

**49 Effect of registers**

(1)

(2)

(3)

(4) Any entry in the register of parliamentary or local government electors, if it gives a date as that on which the person named will attain voting age, shall for any purpose of this Part relating to him as elector be conclusive that until the date given in the entry he is not of voting age nor entitled to be treated as an elector except for the purposes of an election at which the day fixed for the poll is that or a later date.

**(4A) Subsection (4) applies to an entry in the record of anonymous entries as it applies to an entry in the register of parliamentary or local government electors.**

(5) A person registered as a parliamentary or local government elector, or entered in the list of proxies, shall not be excluded from voting on any of the following grounds: but this shall not prevent the rejection of the vote on a scrutiny, or affect his liability to any penalty for voting. The grounds are-

(a) that he is not of voting age;

(b) that he is not, or, on the relevant date or the date of his appointment (as the case may be), was not-

(i) a Commonwealth citizen;

(ii) a citizen of the Republic of Ireland;

(iii) in the case of a person registered as a parliamentary elector in pursuance of an overseas elector's declaration, a British citizen;

(iv) in the case of a person registered as a local government elector or entered in the list of proxies by virtue of being a relevant citizen of the Union, a relevant citizen of the Union;

(c) that he is, or, on the relevant date or the date of his appointment (as the case may be), was, otherwise subject to any other legal incapacity to vote.

(6) In subsection (5) above "the relevant date" means-

(a) in relation to a person registered in the register in question as published in accordance with section 13(1) above, the 15th October immediately preceding the date of publication of the register;

(b) in relation to any other person registered in the register in question, the relevant date for the purposes of section 4 above.

## **50 Effect of misdescription**

No misnomer or inaccurate description of any person or place named—

(a) in the register of parliamentary electors, or

(b) in the register of local government electors, or

(c) in any list, record, proxy paper, nomination paper, ballot paper, notice or other document required for the purposes of this Part of this Act, and the parliamentary elections rules,

affects the full operation of the document with respect to that person or place in any case where the description of the person or place is such as to be commonly understood.

## **51**

## **52 Discharge of registration duties**

(1) A registration officer shall comply with any general or special directions which may be given by the Secretary of State with respect to the arrangements to be made by the registration officer for carrying out his functions under this Act.

(1A) Without prejudice to the generality of subsection (1) above, the directions which may be given under subsection (1) include directions requiring a registration officer to maintain his registers in a specified electronic form; and any such directions may in particular specify—

(a) the software which is to be used in connection with the maintenance of the registers in that form;

(b) the standards in accordance with which that software is to be maintained and updated;

(c) how information required (by or under any enactment) to be included in the registers is to be recorded and stored in that form.

(2) Any of the duties and powers of a registration officer may be performed and exercised by any deputy for the time being approved, by the council which appointed the registration officer, and the provisions of this Act apply to any such deputy so far as respects any duties or powers to be performed or exercised by him as they apply to the registration officer.

(3) In England and Wales, any acts authorised or required to be done by or with respect to the registration officer may, in the event of his incapacity to act or of a vacancy, be done by or with respect to the proper officer of the council by whom the registration officer was appointed.

(4) It shall be the duty—

(a) in England, of a district council or London borough council,

(aa) in Wales, of a county or county borough council, and

(b) in Scotland, of every local authority,

to assign such officers to assist the registration officer as may be required for carrying out his functions under this Act.

(5) sections 14(5) and 14A(2) and (3) of the Electoral Law Act (Northern Ireland) 1962 (appointment of temporary deputy and delegation to assistants) shall have effect in relation to the Chief Electoral Officer for Northern Ireland in his capacity as registration officer.

## **53 Power to make regulations as to registration etc.**

- (1) Provision may be made by regulations—
- (a) with respect to the form of the register of electors and of any special lists or records required by this Act in connection with the register or with any election;
  - (b) with respect to—
    - (i) the procedure to be followed in the preparation of the register and the place and manner of its publication, and
    - (ii) the procedure to be followed in the preparation of any such special lists or records, and the time, place and manner of their publication; and
    - (iii) the supply of any such register, record or special list to such persons as are prescribed, and**
  - (c) generally with respect to any matters incidental to the provisions of this Act so far as those provisions relate to the registration of electors or to voting by post or proxy.
- (3) Without prejudice to the generality of subsection (1) above, regulations made with respect to the matters mentioned in that subsection may contain any such provisions as are mentioned in Schedule 2 to this Act.
- (4) Provision may also be made by regulations –**
- (a) for the supply of any such record or special list as is mentioned in subsection (1) above to such persons as are prescribed;**
  - (b) with respect to any conditions subject to which the supply is made;**
  - (c) making it an offence (punishable on summary conviction by a fine not exceeding level 5 on the standard scale) for a person to fail to comply with any such condition.**

#### **54 Payment of expenses of registration.**

- (1) Any expenses properly incurred by a registration officer in the performance of his functions under this Act (in this Act referred to as “registration expenses”) shall (except in Northern Ireland) be paid by the local authority by whom the registration officer was appointed.
- (2) The registration expenses of the Chief Electoral Officer for Northern Ireland shall be paid out of moneys provided by Parliament.
- (3) Any fees paid to the registration officer under this Act—
- (a) shall be accounted for by him and paid to the local authority by whom he was appointed;
  - (b) in the case of the Chief Electoral Officer for Northern Ireland, shall be accounted for by him to the Secretary of State and paid into the Consolidated Fund.
- (4) On the request of a registration officer for an advance on account of registration expenses—
- (a) the local authority by whom the registration officer was appointed may, if they think fit, make such an advance to him of such an amount and subject to such conditions as they may approve; or
  - (b) in the case of the Chief Electoral Officer for Northern Ireland, the Secretary of State may, if he thinks fit, make such an advance to him of such an amount and subject to such conditions as the Secretary of State may approve.
- (5) Any registration expenses or contributions to them paid by the Common Council shall be paid out of the general rate and any sums paid to the Common Council under this section shall be placed to the credit of that rate.

## 56 Registration appeals: England and Wales

(1) An appeal lies to the county court—

- (a) from any decision under this Act of the registration officer on any application for registration or objection to a person's registration made to and considered by him,
- (aa) from any decision under this Act of the registration officer (other than on an application for registration or objection to a person's registration) that a person registered in respect of any address was not entitled to be registered in respect of that address or that he has ceased to be resident at that address or has otherwise ceased to satisfy the conditions for registration set out in section 4 above,**
- (ab) from a determination of the registration officer under section 9B(2) above,**
- (b) from any decision under this Act of the registration officer disallowing a person's application to vote by proxy or by post as elector or to vote by post as proxy, in any case where the application is not made for a particular election only,

but an appeal does not lie where the person desiring to appeal has not availed himself of a prescribed right to be heard by or make representations to the registration officer on the matter which is the subject of the appeal, or has not given the prescribed notice of appeal within the prescribed time.

(2) No appeal lies from the decision of the Court of Appeal on appeal from a decision of the county court under this section.

(3) An appeal to the county court or Court of Appeal by virtue of this section which is pending when notice of an election is given shall not prejudice the operation as respects the election of the decision appealed against, and anything done in pursuance of the decision shall be as good as if no such appeal had been brought and shall not be affected by the decision of the appeal.

(4) Notice shall be sent to the registration officer in manner provided by rules of court of the decision of the county court or of the Court of Appeal on any appeal by virtue of this section, and the registration officer shall, in accordance with sections 13A and 13B above, make such alterations in the register as may be required to give effect to the decision.

(4A) Where, as a result of the decision on an appeal, an alteration in the register made in pursuance of subsection (4) above takes effect under section 13(5), 13A(2) or ~~13B(3) above on or before the last day on which nomination papers nominating candidates at an election may be delivered to the returning officer~~ **13B(3) or (3B) above on or before the date of the poll**, subsection (3) above does not apply to that appeal as respects that election.

(5) The registration officer shall undertake such duties in connection with appeals brought by virtue of this section as may be prescribed and shall on any such appeal be deemed to be a party to the proceedings, and the registration expenses payable to a registration officer shall include any expenses properly incurred by him by virtue of this subsection.

## 57 Registration appeals: Scotland

(1) Section 56 above applies to Scotland subject to the following modifications—

- (a) subsection (2) shall be omitted;

- (b) an appeal lies on any point of law from any decision of the sheriff under this section to the court of three judges constituted under subsection (2) below; and
- (c) for any reference to the Court of Appeal there shall be substituted a reference to that court of three judges.

(2) The court for hearing appeals under paragraph (b) of subsection (1) above shall consist of three judges of the Court of Session who shall be appointed by the Court of Session by act of sederunt and of whom one judge shall be appointed from each division of the Inner House and one from the Lords Ordinary in the Outer House; and the Principal Clerk of Session shall be the clerk of the court.

(3) The Court of Session may by act of sederunt fill any vacancy in the court of three judges, and regulate its sittings and forms of process so as to carry out the provision of this Act; and acts of sederunt under this section may be made, and the court of three judges may sit, either during the sitting of the Court of Session or in vacation or recess.

## **58 Registration appeals: Northern Ireland**

(1) Section 56 above, except **subsection (1)(aa) and (ab)**, subsection (2) and the words from the beginning to “and” in subsection (4), extends to Northern Ireland.

(2) Section 21(1) of the Interpretation Act (Northern Ireland) 1954 (rules regulating procedure of courts etc.) shall have effect as if the jurisdiction conferred by section 56(1) above were conferred by an enactment within the meaning of that Act.

## **59 Supplemental provisions as to members of forces and service voters**

(1) In this Part of this Act, the expression “member of the forces”—

(a) means a person serving on full pay as a member of any of the naval, military or air forces of the Crown raised in the United Kingdom; but

(b) does not include

(i) a person serving only as a member of a reserve or auxiliary force except in so far as regulations provide that it shall include persons so serving during a period of emergency, or

(ii) a member of the regular army whose terms of service are such that, except for the purpose of training, he is required to serve only in Northern Ireland

(2) Where a person—

(a) is not a member of the forces as defined by subsection (1) above, but (b) is, in the performance of his duty as a member of any of Her Majesty's reserve or auxiliary forces, absent on the relevant date for the purposes of section 4 above from an address at which he has been residing,

any question arising under section 5(3) above whether his residence at that address has been interrupted on that date by his absence in the performance of that duty shall be determined as if the performance of it did not prevent his resuming actual residence at any time after that date.

~~(3) Arrangements shall be made by the appropriate government department for securing that (so far as circumstances permit) every person having a service qualification by virtue of paragraph (a) or (b) of section 14(1) above shall—~~

~~(a) have an effective opportunity of exercising from time to time as occasion may require the rights conferred on him by this Act in relation to the making and cancellation of service declarations and of appointments of a proxy, and in relation to voting by post; and  
(b) receive such instructions as to the effect of this Act and any regulations made under it, and such other assistance, as may be reasonably sufficient in connection with the exercise by that person and any spouse or civil partner of that person of any rights conferred on them as mentioned above.~~

~~In this subsection “the appropriate government department” means, in relation to members of the forces, the Ministry of Defence, and in relation to any other person means the government department under which he is employed in the employment giving the service qualification.~~

**(3) Arrangements must be made by the appropriate government department for securing that every person having a service qualification by virtue of paragraph (a) or (b) of section 14(1) above has (so far as circumstances permit) an effective opportunity of exercising from time to time as occasion may require the rights conferred on him by this Act in relation to –**

- (a) registration in a register of electors (and in particular in relation to the making and cancellation of service declarations;**
- (b) the making and cancellation of appointments of a proxy;**
- (c) voting in person, by post or by proxy.**

**(3A) Arrangements must be made by the appropriate government department for securing that such person receives such instructions as to the effect of this Act and any regulations made under it, and such other assistance, as may be reasonably sufficient in connection with the exercise by that person and any spouse or civil partner of that person of any rights conferred on them as mentioned above.**

**(3B) In subsections (3) and (3A) “the appropriate government department” means, in relation to members of the forces, the Ministry of Defence, and in relation to any other person means the government department under which he is employed in the employment giving the service qualification.**

**(3C) The Ministry of Defence must maintain, in relation to each member of the forces who provides information relating to his registration as an elector, a record of such information.**

**(3D) The Ministry of Defence must make arrangements to enable each member of the forces to update annually the information recorded under subsection (3C).**

~~(4) In relation to persons having a service qualification by virtue of paragraph (c) of section 14(1), the British Council shall be under a corresponding obligation to that imposed by subsection (3)~~  
**subsections (3) and (3A) above on the appropriate government department.**

### *Offences*

#### **60 Personation**

**(1) A person shall be guilty of a corrupt practice if he commits, or aids, abets, counsels or procures the commission of, the offence of personation.**



(2) A person shall be deemed to be guilty of personation at a parliamentary or local government election if he—

(a) votes in person or by post as some other person, whether as an elector or as proxy, and whether that other person is living or dead or is a fictitious person; or

(b) votes in person or by post as proxy—

(i) for a person whom he knows or has reasonable grounds for supposing to be dead or to be a fictitious person; or

(ii) when he knows or has reasonable grounds for supposing that his appointment as proxy is no longer in force.

(3) For the purposes of this section, a person who has applied for a ballot paper for the purpose of voting in person or who has marked, whether validly or not, and returned a ballot paper issued for the purpose of voting by post, shall be deemed to have voted.

## **61 Other voting offences.**

(1) A person shall be guilty of an offence if—

(a) he votes in person or by post, whether as an elector or as proxy, or applies to vote by proxy or by post as elector, at a parliamentary or local government election, or at parliamentary or local government elections, knowing that he is subject to a legal incapacity to vote at the election or, as the case may be, at elections of that kind; or

(b) he applies for the appointment of a proxy to vote for him at any parliamentary or local government election or at parliamentary or local government elections knowing that he or the person to be appointed is subject to a legal incapacity to vote at the election or, as the case may be, at elections of that kind; or

(c) he votes, whether in person or by post, as proxy for some other person at a parliamentary or local government election, knowing that that person is subject to a legal incapacity to vote.

For the purposes of this subsection references to a person being subject to a legal incapacity to vote do not, in relation to things done before polling day at the election or first election at or for which they are done, include his being below voting age if he will be of voting age on that day.

(2) A person shall be guilty of an offence if—

(a) he votes as elector otherwise than by proxy either—

(i) more than once in the same constituency at any parliamentary election, or more than once in the same electoral area at any local government election; or

(ii) in more than one constituency at a general election, or in more than one electoral area at an ordinary election of councillors for a local government area which is not a single electoral area; or

(iii) in any constituency at a general election, or in any electoral area at such an ordinary election as mentioned above, when there is in force an appointment of a person to vote as his proxy at the election in some other constituency or electoral area; or

(b) he votes as elector in person at a parliamentary or local government election at which he is entitled to vote by post; or

(c) he votes as elector in person at a parliamentary or local government election, knowing that a person appointed to vote as his proxy at the election either has already voted in person at the election or is entitled to vote by post at the election; or

(d) he applies for a person to be appointed as his proxy to vote for him at parliamentary elections in any constituency without applying for the cancellation of a previous appointment of a third person then in force in respect of that or another constituency or

without withdrawing a pending application for such an appointment in respect of that or another constituency.

(2A) In the case of Authority elections, paragraph (a) of subsection (2) above shall not have effect; but a person shall be guilty of an offence under this subsection if he votes as an elector otherwise than by proxy—

- (a) more than once at the same election of the Mayor of London;
- (b) more than once at the same election of the London members of the London Assembly at an ordinary election;
- (c) more than once in the same Assembly constituency at the same election of a constituency member of the London Assembly;
- (d) in more than one Assembly constituency at the same ordinary election; or
- (e) in any Assembly constituency at an ordinary election, or an election of the Mayor of London held under section 16 of the 1999 Act, when there is in force an appointment of a person to vote as his proxy at the election in some other Assembly constituency.

(3) A person shall be guilty of an offence if—

- (a) he votes as proxy for the same elector either—
  - (i) more than once in the same constituency at any parliamentary election, or more than once in the same electoral area at any local government election; or
  - (ii) in more than one constituency at a general election, or in more than one electoral area at an ordinary election of councillors for a local government area which is not a single electoral area; or
- (b) he votes in person as proxy for an elector at a parliamentary or local government election at which he is entitled to vote by post as proxy for that elector; or
- (d) he votes in person as proxy for an elector at a parliamentary or local government election knowing that the elector has already voted in person at the election.

(3A) In the case of Authority elections, paragraph (a) of subsection (3) above shall not have effect; but a person shall be guilty of an offence under this subsection if he votes as proxy for the same elector—

- (a) more than once at the same election of the Mayor of London;
- (b) more than once at the same election of the London members of the London Assembly at an ordinary election;
- (c) more than once in the same Assembly constituency at the same election of a constituency member of the London Assembly; or
- (d) in more than one Assembly constituency at the same ordinary election.

(4) A person shall also be guilty of an offence if he votes at a parliamentary election in any constituency or at a local government election in any electoral area as proxy for more than two persons of whom he is not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild.

(5) A person shall also be guilty of an offence if he knowingly induces or procures some other person to do an act which is, or but for that other person's want of knowledge would be, an offence by that other person under the foregoing subsections of this section.

(6) For the purposes of this section a person who has applied for a ballot paper for the purpose of voting in person, or who has marked, whether validly or not, and returned a ballot paper issued for the purpose of voting by post, shall be deemed to have voted, but for the purpose of determining whether an application for a ballot paper constitutes an offence under subsection (4) above, a

previous application made in circumstances which entitle the applicant only to mark a tendered ballot paper shall, if he does not exercise that right, be disregarded.

**(6A) A person is not guilty of an offence under subsection (2)(b) or (3)(b) above only by reason of his having marked a tendered ballot paper in pursuance of rule 40(1ZC) or (1ZE) of the parliamentary elections rules.**

(7) An offence under this section shall be an illegal practice, but—

(a) the court before whom a person is convicted of any such offence may, if they think it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of section 173 below; and

(b) a candidate shall not be liable, nor shall his election be avoided, for an illegal practice under this section of any agent of his other than an offence under subsection (5) above.

## **62 Offences as to declarations**

(1) A person who—

(a) makes a declaration of local connection or a service declaration—

(i) when he is not authorised to do so by section 7B(1) or section 15(1) above, or

(ii) except as permitted by this Act, when he knows that he is subject to a legal incapacity to vote, or

(iii) when he knows that it contains a statement which is false, or

(b) attests a service declaration when he knows—

(i) that he is not authorised to do so, or

(ii) that it contains a false statement as to any particulars required by regulations under section 16 above,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

**(1A) A person who makes a declaration under section 9B(1)(b) above—**

**(a) except as permitted by this Act, when he knows that he is subject to a legal incapacity to vote, or**

**(b) when he knows that it contains a statement which is false,**

**shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.**

(2) Where the declaration is available only for local government elections ~~the reference in subsection (1) above to a legal incapacity to vote refers~~ **the references in subsections (1) and (1A) above to a legal incapacity to vote refer** to a legal incapacity to vote at local government elections.

## **62A Offences relating to applications for postal and proxy votes**

(1) A person commits an offence if he—

(a) engages in an act specified in subsection (2) at a parliamentary or local government election, and

(b) intends, by doing so, to deprive another of an opportunity to vote or to make for himself or another a gain of a vote to which he or the other is not otherwise entitled or a gain of money or property.

(2) These are the acts—

- (a) applying for a postal or proxy vote as some other person (whether that other person is living or dead or is a fictitious person);**
- (b) otherwise making a false statement in, or in connection with, an application for a postal or proxy vote;**
- (c) inducing the registration officer or returning officer to send a postal ballot paper or any communication relating to a postal or proxy vote to an address which has not been agreed to by the person entitled to the vote;**
- (d) causing a communication relating to a postal or proxy vote or containing a postal ballot paper not to be delivered to the intended recipient.**

**(3) In subsection (1)(b), property includes any description of property.**

**(4) In subsection (2) a reference to a postal vote or a postal ballot paper includes a reference to a proxy postal vote or a proxy postal ballot paper (as the case may be).**

**(5) A person who commits an offence under subsection (1) or who aids, abets, counsels or procures the commission of such an offence is guilty of a corrupt practice.**

**(6) This section does not apply to anything done at a local government election in Scotland.**

### **63 Breach of official duty**

(1) If a person to whom this section applies is, without reasonable cause, guilty of any act or omission in breach of his official duty, he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) No person to whom this section applies shall be liable for breach of his official duty to any penalty at common law and no action for damages shall lie in respect of the breach by such a person of his official duty.

(3) The persons to whom this section applies are—

- (a) the Clerk of the Crown (or, in Northern Ireland, the Clerk of the Crown for Northern Ireland),
- (b) any sheriff clerk, registration officer, returning officer or presiding officer,
- (ba) a CORE keeper (within the meaning of Part 1 of the Electoral Administration Act 2006),**
- (c) any other person whose duty it is to be responsible after a **parliamentary or** local government election for the used ballot papers and other documents (including returns and declarations as to expenses),
- (d) any official designated by a universal postal service provider, and
- (e) any deputy of a person mentioned in any of paragraphs (a) to (d) above or any person appointed to assist or in the course of his employment assisting a person so mentioned in connection with his official duties;

and “official duty” shall for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by the law relating to parliamentary or local government elections or the registration of parliamentary or local government electors.

**(4) Where—**

- (a) a returning officer for an election to which section 46 of the Electoral Administration Act 2006 applies is guilty of an act or omission in breach of his official duty, but**

**(b) he remedies that act or omission in full by taking steps under subsection (1) of that section,**

**he shall not be guilty of an offence under subsection (1) above.**

**(5) Subsection (4) does not affect any conviction which takes place, or any penalty which is imposed, before the date on which the act or omission is remedied in full.**

## **65 Tampering with nomination papers, ballot papers etc.**

(1) A person shall be guilty of an offence, if, at a parliamentary or local government election, he—

- (a) fraudulently defaces or fraudulently destroys any nomination paper; or
- (b) fraudulently defaces or fraudulently destroys any ballot paper, or the official mark on any ballot paper, or any **postal voting statement** or declaration of identity or official envelope used in connection with voting by post; or
- (c) without due authority supplies any ballot paper to any person; or
- (d) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorised by law to put in; or
- (e) fraudulently takes out of the polling station any ballot paper; or
- (f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election; or
- (g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts.

**(1A) A person is guilty of a corrupt practice if, in the case of any relevant election, he makes in any document in which he gives his consent to his nomination as a candidate—**

- (a) a statement of his date of birth,**
- (b) a statement as to his qualification for being elected at that election, or**
- (c) a statement that he has not been selected or authorised to stand in the name or on behalf of any registered party, organisation or other person,**

**which he knows to be false in any particular.**

**(1B) For the purposes of subsection (1A), a statement as to a candidate's qualification is a statement—**

- (a) that he is qualified for being elected,**
- (b) that he will be qualified for being elected, or**
- (c) that to the best of his knowledge and belief he is not disqualified for being elected.**

(2) In Scotland, a person shall be guilty of an offence if—

- (a) at a parliamentary or local government election, he forges any nomination paper, delivers to the returning officer any nomination paper knowing it to be forged, or forges or counterfeits any ballot paper or the official mark on any ballot paper; or
- (b) at a local government election, he signs any nomination paper as candidate or in any other capacity certifies the truth of any statement contained in it, knowing such statement to be false; or
- (c) he fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts.

(3) If a returning officer, a presiding officer or a clerk appointed to assist in taking the poll, counting the votes or assisting at the proceedings in connection with the issue or receipt of postal ballot papers is guilty of an offence under this section, he shall be liable—

- (a) on conviction on indictment to a fine, or to imprisonment for a term not exceeding 2 years, or to both;
- (b) on summary conviction, to a fine not exceeding the statutory maximum, or to imprisonment for a term not exceeding 6 months, or to both[123]

(4) If any other person is guilty of an offence under this section, he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale, or to imprisonment for a term not exceeding 6 months, or to both.

#### **65A False statements in nomination papers etc.**

(1) A person is guilty of a corrupt practice if, in the case of any relevant election, he causes or permits to be included in a document delivered or otherwise furnished to a returning officer for use in connection with the election—

- (a) a statement of the name or home address of a candidate at the election which he knows to be false in any particular; or
- (b) anything which purports to be the signature of an elector who proposes, seconds or assents to, the nomination of such a candidate but which he knows—
  - (i) was not written by the elector by whom it purports to have been written, or
  - (ii) if written by that elector, was not written by him for the purpose of signifying that he was proposing, seconding, or (as the case may be) assenting to, that candidate's nomination.

**(c) a certificate authorising for the purposes of rule 6A of the parliamentary elections rules the use by a candidate of a description if he knows that the candidate is standing at an election in another constituency in which the poll is to be held on the same day as the poll at the election to which the certificate relates.**

**(1A) A person is guilty of a corrupt practice if, in the case of any relevant election, he makes in any document in which he gives his consent to his nomination as a candidate—**

- (a) a statement of his date of birth,**
- (b) a statement as to his qualification for being elected at that election, or**
- (c) a statement that he is not a candidate at an election for any other constituency the poll for which is to be held on the same day as the poll at the election to which the consent relates,**

**which he knows to be false in any particular.**

**(1B) For the purposes of subsection (1A), a statement as to a candidate's qualification is a statement—**

- (a) that he is qualified for being elected,**
- (b) that he will be qualified for being elected, or**
- (c) that to the best of his knowledge and belief he is not disqualified for being elected.**

(2) In this section “relevant election” means—

- (a) any parliamentary election, or
- (b) **except for the purposes of subsections (1)(c) and (1A)(c), any local government election in England or Wales.**

#### **66 Requirement of secrecy**

(1) The following persons—

- (a) every returning officer and every presiding officer or clerk attending at a polling station,
- (b) every candidate or election agent or polling agent so attending,
- (c) **every person so attending by virtue of any of sections 6A to 6D of the Political Parties, Elections and Referendums Act 2000,**

shall maintain and aid in maintaining the secrecy of voting and shall not, except for some purpose authorised by law, communicate to any person before the poll is closed any information as to—

- (i) the name of any elector or proxy for an elector who has or has not applied for a ballot paper or voted at a polling station;
- (ii) the number on the register of electors of any elector who, or whose proxy, has or has not applied for a ballot paper or voted at a polling station; or
- (iii) the official mark.

(2) Every person attending at the counting of the votes shall maintain and aid in maintaining the secrecy of voting and shall not—

- (a) ascertain or attempt to ascertain at the counting of the votes the number **or other unique identifying mark** on the back on any ballot paper;
- (b) communicate any information obtained at the counting of the votes as to the candidate for whom any vote is given on any particular ballot paper.

(3) No person shall—

- (a) interfere with or attempt to interfere with a voter when recording his vote;
- (b) otherwise obtain or attempt to obtain in a polling station information as to the candidate for whom a voter in that station is about to vote or has voted;
- (c) communicate at any time to any person any information obtained in a polling station as to the candidate for whom a voter in that station is about to vote or has voted, or as to the number **or other unique identifying mark** on the back of the ballot paper given to a voter at that station;
- (d) directly or indirectly induce a voter to display his ballot paper after he has marked it so as to make known to any person the name of the candidate for whom he has or has not voted.

(4) Every person attending the proceedings in connection with the issue or the receipt of ballot papers for persons voting by post shall maintain and aid in maintaining the secrecy of the voting and shall not—

- (a) except for some purpose authorised by law, communicate, before the poll is closed, to any person any information obtained at those proceedings as to the official mark; or
- (b) except for some purpose authorised by law, communicate to any person at any time any information obtained at those proceedings as to the number **or other unique identifying mark** on the back of the ballot paper sent to any person; or
- (c) except for some purpose authorised by law, attempt to ascertain at the proceedings in connection with the receipt of ballot papers the number **or other unique identifying mark** on the back of any ballot paper; or
- (d) attempt to ascertain at the proceedings in connection with the receipt of the ballot papers the candidate for whom any vote is given in any particular ballot paper or communicate any information with respect thereto obtained at those proceedings.

(5) No person having undertaken to assist a blind voter to vote shall communicate at any time to any person any information as to the candidate for whom that voter intends to vote or has voted, or as to the number **or other unique identifying mark** on the back of the ballot paper given for the use of that voter.

(6) If a person acts in contravention of this section he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months.

(7) In their application in relation to an election of the London members of the London Assembly at an ordinary election, the preceding provisions of this section shall have effect with the insertion, after the words “the candidate for whom”, in each place where they occur, of “, or the registered political party towards the return of whose candidates,”

(8) In relation to an election of the London members of the London Assembly at an ordinary election, any reference in this section to the return of a registered political party's candidates is a reference to the return of candidates included in the list of candidates submitted by the registered political party for the purposes of the election.

### **66A Prohibition on publication of exit polls**

(1) No person shall, in the case of an election to which this section applies, publish before the poll is closed—

- (a) any statement relating to the way in which voters have voted at the election where that statement is (or might reasonably be taken to be) based on information given by voters after they have voted, or
- (b) any forecast as to the result of the election which is (or might reasonably be taken to be) based on information so given.

(2) This section applies to—

- (a) any parliamentary election; and
- (b) any local government election in England or Wales.

(3) If a person acts in contravention of subsection (1) above, he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding six months.

(4) In this section—

- “forecast” includes estimate;
- “publish” means make available to the public at large, or any section of the public, in whatever form and by whatever means;
- and any reference to the result of an election is a reference to the result of the election either as a whole or so far as any particular candidate or candidates at the election is or are concerned.

### **66B Failure to comply with conditions relating to supply etc. of certain documents**

**(1) A person is guilty of an offence—**

- (a) if he fails to comply with any conditions imposed in pursuance of regulations under rule 57 of the parliamentary elections rules, or**
- (b) if he is an appropriate supervisor of a person (P) who fails to comply with such a condition and he failed to take appropriate steps.**

**(2) But P is not guilty of an offence under subsection (1) if—**

- (a) he has an appropriate supervisor, and**



**(b) he has complied with all the requirements imposed on him by his appropriate supervisor.**

**(3) A person who is not P or an appropriate supervisor is not guilty of an offence under subsection (1) if he takes all reasonable steps to ensure that he complies with the conditions.**

**(4) In subsections (1)(b) and (2)—**

**(a) an appropriate supervisor is a person who is a director of a company or concerned in the management of an organisation in which P is employed or under whose direction or control P is;**

**(b) appropriate steps are such steps as it was reasonable for the appropriate supervisor to take to secure the operation of procedures designed to prevent, so far as reasonably practicable, the occurrence of a failure to comply with the conditions.**

**(5) A person guilty of an offence as mentioned in subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.**

## **PART II**

### **THE ELECTION CAMPAIGN**

#### *The election agent*

#### **67 Appointment of election agent**

(1) Not later than the latest time for the delivery of notices of withdrawals, for an election, a person shall be named by or on behalf of each candidate as the candidate's election agent, and the name and address of the candidate's election agent shall be declared in writing by the candidate or some other person on his behalf to the appropriate officer not later than that time.

(1A) Where a registered political party submits a list of candidates to be London members of the London Assembly at an ordinary election, the requirements of subsection (1) above in relation to those candidates are that not later than the time there mentioned—

(a) a person shall be named by or on behalf of the party as the election agent of all of those candidates; and

(b) the declaration required by that subsection shall be made by or on behalf of the party.

(2) A candidate may name himself as election agent, and upon doing so shall, so far as circumstances admit, be subject to the provisions, of this Act both as a candidate and as an election agent, and, except where the context otherwise requires, any reference in this Act to an election agent shall be construed to refer to the candidate acting in his capacity of election agent.

(2A) Where a registered political party submits a list of candidates to be London members of the London Assembly at an ordinary election, a candidate included in the list—

(a) must not under subsection (2) above name himself as his own election agent, but

(b) may be named by or on behalf of the party as the election agent of all the candidates included in the list,

and the provisions which have effect by virtue of subsection (2) above in relation to a candidate upon his naming himself as election agent shall also have effect in relation to a candidate upon his being named as election agent by virtue of paragraph (b) above.

(3) One election agent only shall be appointed for each candidate, but the appointment, whether the election agent appointed be the candidate himself or not, may be revoked.

(3A) Where a registered political party submits a list of candidates to be London members of the London Assembly at an ordinary election—

(a) the same person must be appointed as election agent for all the candidates included in the list; and

(b) any such appointment may only be revoked by or on behalf of the party and in respect of all the candidates.

(4) If whether before, during or after the election the appointment (or deemed appointment) of an election agent is revoked or an election agent dies, another election agent shall be appointed forthwith and his name and address declared in writing to the appropriate officer.

(5) The declaration as a candidate's election agent of a person other than the candidate shall be of no effect under this section unless it is made and signed by that person or is accompanied by a written declaration of acceptance signed by him.

(5A) Where a registered political party submits a list of candidates to be London members of the London Assembly at an ordinary election, subsection (5) above shall apply in relation to the candidates included in that list as if the reference to a person other than the candidate were a reference to a person other than the candidate whose name appears highest on the list.

(6) Upon the name and address of an election agent being declared to the appropriate officer, the appropriate officer shall forthwith give public notice of that name and address.

(7) In this Part of this Act the expression “appropriate officer” means—

(a) in relation to a parliamentary election, the returning officer;

(aa) in relation to an Authority election, the returning officer for that election (as determined under subsection (2B) of section 35 or, as the case may be, paragraph (a) or (b) of subsection (2C) of that section);

(b) in relation to any other local government election, the proper officer of the authority for which the election is held.

## **68 Nomination of sub-agent at parliamentary or Authority elections**

(1) In the case of

(a) a parliamentary election for a county constituency, or

(b) an Authority election

an election agent for a candidate may appoint to act in any part of the constituency or electoral area one, but not more than one, deputy election agent (in this Act referred to as a sub-agent).

(2) As regards matters in a part of the constituency or electoral area for which there is a sub-agent the election agent may act by the sub-agent and—

(a) anything done for the purposes of this Act by or to the sub-agent in his part of the constituency or electoral area shall be deemed to be done by or to the election agent; and

- (b) any act or default of a sub-agent which, if he were the election agent, would be an illegal practice or other offence against this Act shall be an illegal practice and offence against this Act committed by the sub-agent, and the sub-agent shall be liable to punishment accordingly; and
- (c) the candidate shall suffer the like incapacity as if that act or default had been the election agent's act or default.

(3) Not later than the second day before the day of the poll the election agent shall declare in writing the name and address of every sub-agent to the appropriate officer, and the appropriate officer shall forthwith give public notice of the name and address of every sub-agent so declared.

(4) The appointment of a sub-agent—

(a) shall not be vacated by the election agent who appointed him ceasing to be election agent, but

(b) may be revoked by whoever is for the time being the candidate's election agent, and in the event of the revocation of the appointment or of the death of a sub-agent another sub-agent may be appointed, and his name and address shall be forthwith declared in writing to the appropriate officer, who shall forthwith give public notice of the name and address so declared.

(4A) Where a registered political party submits a list of candidates to be London members of the London Assembly at an ordinary election—

(a) the election agent for those candidates must, if he appoints a sub-agent for any part of the electoral area in the case of any of those candidates, appoint the same person as sub-agent for that part of the electoral area in the case of all of the candidates; and

(b) any such appointment may only be revoked in respect of all of the candidates.

(5) The declaration to be made to the appropriate officer, and the notice to be given by him, under subsection (3) or subsection (4) above shall specify the part of the constituency or electoral area within which any sub-agent is appointed to act.

## **69 Office of election agent and sub-agent**

(1) Every election agent and every sub-agent shall have an office to which all claims, notices writs, summonses and documents may be sent, and the address of the office shall be—

(a) declared to the appropriate officer at the same time as the appointment of the agent is declared to him; and

(b) stated in the public notice of the name of the agent.

(2) The office—

(a) of the election agent for a parliamentary election shall be within the constituency or an adjoining constituency or in a Welsh county borough, or in a London borough or district, which is partly comprised in or adjoins the constituency, and that of a sub-agent shall be in the area within which he is appointed to act; and

(b) of an election agent for a local government election shall be within the local government area or in the constituency or one of the constituencies in which the area is comprised or in a Welsh county borough, or in a London borough or district, which adjoins it, and that of a sub-agent shall be in the area within which he is appointed to act.

(3) Any claim, notice, writ, summons or document delivered at the office of the election agent or sub-agent and addressed to him, shall be deemed to have been served on him and every election

agent or sub-agent may in respect of any matter connected with the election in which he is acting be sued in any court having jurisdiction at the place where his office is situated.

## **70 Effect of default in election agent's appointment**

(1) If no person's name and address is given as required by section 67 above as the election agent of a candidate who remains validly nominated at the latest time for delivery of notices of withdrawals, the candidate shall be deemed at that time to have named himself as election agent and to have revoked any appointment of another person as his election agent.

(2) If—

(a) the person whose name and address have been so given as those of the candidate's election agent (not being the candidate himself) dies, and

(b) a new appointment is not made on the day of the death or on the following day, the candidate shall be deemed to have appointed himself as from the time of death.

(3) If the appointment of a candidate's election agent is revoked without a new appointment being made, the candidate himself shall be deemed to have been appointed (or re-appointed) election agent.

(3A) The deemed appointment of a candidate as his own election agent may be revoked as if it were an actual appointment.

(4) Where a candidate is by virtue of this section to be treated as his own election agent, he shall be deemed to have his office—

(a) at his address as given in the statement as to persons nominated; or

(b) if that address is outside the permitted area for the office, at the qualifying address of the person (or first person) named in that statement as his proposer.

(5) Where in a local government election in Scotland a candidate is by virtue of this section to be treated as his own election agent, he shall be deemed to have his office—

(a) at his address as given in his nomination paper or papers, or

(b) if that address is outside the permitted area for the office, at the address of the person named as the proposer of the candidate in the nomination paper first delivered in which the address of the proposer is in the local government area.

(6) The appropriate officer on being satisfied that a candidate is by virtue of this section to be treated as his own election agent, shall forthwith proceed to publish the like notice as if the name and address of the candidate and the address of his office had been duly given to him under sections 67 and 69 above.

## **70A Application of s. 70 in relation to election of London members of the London Assembly**

(1) Where a registered political party submits a list of candidates to be London members of the London Assembly at an ordinary election—

(a) section 70 shall not apply in relation to those candidates; but

(b) the following provisions of this section shall have effect in place of that section.

(2) If no person's name and address is given as required by virtue of section 67(1A) as the election agent of all of the candidates included in the list who remain validly nominated at the latest time for delivery of notices of withdrawals—

- (a) the candidate whose name appears highest on the list shall be deemed at that time to have been named on behalf of the party as election agent for all of the candidates; and
- (b) any appointment of another person as election agent for those candidates shall be deemed to have been revoked.

(3) If—

- (a) the person whose name and address have been so given as those of the election agent for the candidates dies, and
  - (b) a new appointment is not made on the day of the death or on the following day,
- the candidate whose name appears highest on the list shall be deemed to have been named on behalf of the party as election agent for all of the candidates as from the time of death.

(4) If the appointment of the election agent for the candidates is revoked without a new appointment being made, the candidate whose name appears highest on the list shall be deemed to have been appointed (or re-appointed) election agent.

(5) The deemed appointment of a candidate as election agent may be revoked as if it were an actual appointment.

(6) Where a candidate included in the list is by virtue of this section to be treated as election agent, he shall be deemed to have his office—

- (a) at his address as given in the statement as to persons nominated; or
- (b) if that address is outside the permitted area for the office, at the qualifying address of the person (or first person) named in that statement as his proposer.

(7) The appropriate officer, on being satisfied that a candidate is by virtue of this section to be treated as election agent, shall forthwith proceed to publish the like notice as if the name and address of the candidate and the address of his office had been duly given to him under sections 67 and 69.

## **71 Elections where election agent not required**

A candidate—

- (a) at an election in England of parish councillors, or in Wales of community councillors,  
or
  - (b) at any election under the local government Act which is not a local government election,
- need not have an election agent, and accordingly the foregoing provisions of this Part of this Act do not apply to those elections.

### *Donations to candidates*

#### **71A Control of donations to candidates**

(1) In the case of any candidate at an election, any money or other property provided (whether as a gift or loan)—

- (a) by any person other than the candidate or his election agent, and
  - (c) for the purpose of meeting election expenses incurred by or on behalf of the candidate,
- must be provided to the candidate or his election agent.

(2) Subsection (1) above does not apply to any money or other property so provided for the purpose of meeting any such expenses which may be lawfully paid by a person other than the candidate, his election agent or any sub-agent (in the case of an election where sub-agents may be appointed).

(3) A person who provides any money or other property in contravention of subsection (1) above shall be guilty of an illegal practice.

(4) Schedule 2A to this Act shall have effect for the purpose of controlling donations to candidates.

(5) In this section and that Schedule “property” includes any description of property, and references to the provision of property accordingly include the supply of goods.

### *Election expenses*

## **72 Making of contracts through election agent**

(1) The election agent of a candidate shall appoint every polling agent, clerk and messenger employed for payment on behalf of the candidate at an election, and hire every committee room hired on behalf of the candidate.

(2) A contract by which any election expenses are incurred shall not be enforceable against a candidate at the election unless made by the candidate himself or by his election agent, but this subsection does not relieve the candidate from the consequences of any corrupt or illegal practice having been committed by his agent.

(3) The references in this section to an election agent shall, in relation to a parliamentary or Authority election where sub-agents are allowed, be taken as references to the election agent acting by himself or a sub-agent.

## **73 Payment of expenses through election agent**

(1) Subject to subsection (5) below, no payment (of whatever nature) shall be made by—  
(a) a candidate at an election, or  
(b) any other person, in respect of election expenses incurred by or on behalf of the candidate unless it is made by or through the candidate's election agent.

(2) Every payment made by an election agent in respect of any election expenses shall, except where less than £20, be vouched for by a bill stating the particulars [or by a receipt].

(3) The references in the foregoing provisions of this section to an election agent shall, in relation to a parliamentary or Authority election where sub-agents are allowed, be taken as references to the election agent acting by himself or a sub-agent.

(4)

(5) This section does not apply to—  
(a) any expenses which are, in accordance with section 74(1) or (1B), 78(5) or 79(2) below, paid by the candidate;  
(b) any expenses which are paid in accordance with section 74(3) below by a person authorised as mentioned in that provision;

- (c) any expenses included in a declaration made by the election agent under section 74A below; or
- (d) any expenses which are to be regarded as incurred by or on behalf of the candidate by virtue of ~~section 90A(5)(b)~~ **section 90ZA(5)** below.

(6) A person who makes any payment (of whatever nature) in contravention of subsection (1) above shall be guilty of an illegal practice.

#### **74 Expenses which may be paid otherwise than by election agent**

(1) The candidate at an election may pay any personal expenses incurred by him on account of or in connection with or incidental to the election, but

- (a) the amount which a candidate at a parliamentary election may pay shall not exceed £600,
- (b) the amount which a candidate at an election of the Mayor of London may pay shall not exceed £5,000,
- (c) the amount which a candidate at an election of a constituency member of the London Assembly may pay shall not exceed £600, and
- (d) the amount which a candidate to be a London member of the London Assembly at an ordinary election may pay shall not exceed £900,

and, where paragraph (a), (b), (c) or (d) above applies, any further personal expenses so incurred by him shall be paid by his election agent.

(1A) In the application of subsection (1) above in relation to a person who is a candidate in two or more Authority elections those elections shall be treated—

- (a) if one of them is an election of the Mayor of London, as if they together constituted a single election falling within paragraph (b) of that subsection, and
- (b) in any other case, as if they together constituted a single election falling within paragraph (d) of that subsection.

(1B) The candidate at an election may also pay any election expenses (other than expenses falling within subsection (1) above) which were incurred by him or on his behalf and in respect of which payment falls to be made before the date on which he appoints (or is deemed to have appointed) an election agent.

(2) The candidate shall send to his election agent within the time limited by this Act for sending in claims a written statement of the amount of expenses paid as mentioned in subsection (1) or (1B) above by the candidate.

(3) Any person may, if so authorised in writing by the candidate's election agent, pay any necessary expenses for stationery, postage, telegrams (or any similar means of communication) and other petty expenses, to a total amount not exceeding that named in the authority, but any excess above the total amount so named shall be paid by the election agent.

(4) A statement of the particulars of payments made by any person so authorised shall be sent to the election agent within the time limited by this Act for sending in claims, and shall be vouched for by a bill containing that person's receipt.

(5) Sections 78 and 79 below do not apply to expenses which, in accordance with any provision of this section, are paid otherwise than by the candidate's election agent.

## **74A Expenses incurred otherwise than for election purposes**

- (1) Neither section 73 above nor sections 78 and 79 below shall apply to election expenses—
- (a) which are incurred by or on behalf of a candidate otherwise than for the purposes of the candidate's election, but
  - (b) which by virtue of ~~section 90A(1)~~ **section 90ZA(1)** below fall to be regarded as election expenses by reason of the property, services or facilities in respect of which they were incurred being used for the purposes of the candidate's election.
- (2) The candidate's election agent shall make a declaration of the amount (~~determined in accordance with section 90B below~~) of any election expenses falling within subsection (1) above.
- (3) In this section “for the purposes of the candidate's election” has the same meaning as in ~~sections 90A to~~ **sections 90ZA and 90C** below.

## **75 Prohibition of expenses not authorised by election agent**

- (1) No expenses shall, with a view to promoting or procuring the election of a candidate (or, in the case of an election of the London members of the London Assembly at an ordinary election, a registered political party or candidates of that party) at an election, be incurred **after he becomes a candidate at that election** by any person other than the candidate, his election agent and persons authorised in writing by the election agent on account—
- (a) of holding public meetings or organising any public display; or
  - (b) of issuing advertisements, circulars or publications; or
  - (c) of otherwise presenting to the electors the candidate or his views or the extent or nature of his backing or disparaging another candidate, or
  - (d) in the case of an election of the London members of the London Assembly at an ordinary election, of otherwise presenting to the electors the candidate's registered political party (if any) or the views of that party or the extent or nature of that party's backing or disparaging any other registered political party

~~but paragraph (c) or (d) of this subsection shall not—~~

- ~~(i) restrict the publication of any matter relating to the election in a newspaper or other periodical or in a broadcast made by the British Broadcasting Corporation or or by Sianel Pedwar Cymru or in a programme included in any service licensed under Part I or III of the Broadcasting Act 1990 or Part I or II of the Broadcasting Act 1996;~~
- ~~(ii) apply to any expenses incurred by any person which do not exceed in the aggregate the permitted sum (and are not incurred by that person as part of a concerted plan of action), or to expenses incurred by any person in travelling or in living away from home or similar personal expenses.~~

**(1ZZA) Paragraph (c) or (d) of subsection (1) above does not restrict the publication of any matter relating to the election in—**

- (a) a newspaper or other periodical,**
- (b) a broadcast made by the British Broadcasting Corporation or by Sianel Pedwar Cymru, or**
- (c) a programme included in any service licensed under Part 1 or 3 of the Broadcasting Act 1990 or Part 1 or 2 of the Broadcasting Act 1996.**

**(1ZZB) Subsection (1) above does not apply to any expenses incurred by any person—**



- (a) which do not exceed in the aggregate the permitted sum (and are not incurred by that person as part of a concerted plan of action), or**  
**(b) in travelling or in living away from home or similar personal expenses.**

(1ZA) For the purposes of subsection ~~(1)(ii)~~ **subsection (1ZZB)(a)** above, “the permitted sum” means—

- (a) in respect of a candidate at a parliamentary election, £500;  
(b) in respect of a candidate at a local government election, £50 together with an additional 0.5p for every entry in the register of local government electors for the electoral area in question as it has effect on the last day for publication of notice of the election;

and expenses shall be regarded as incurred by a person “as part of a concerted plan of action” if they are incurred by that person in pursuance of any plan or other arrangement whereby that person and one or more other persons are to incur, with a view to promoting or procuring the election of the same candidate, expenses which (disregarding ~~subsection (1)(ii)~~ **subsection (1ZZB)(a)**) fall within subsection (1) above.

(1A) In the application of subsection (1) above in relation to an election of the London members of the London Assembly at an ordinary election, any reference to the candidate includes a reference to all or any of the candidates of a registered political party; and in the application of subsection (1ZA) above in relation to such an election the reference to the same candidate includes a reference to all or any of the candidates of the same registered political party.

(2) Where a person incurs any expenses required by this section to be authorised by the election agent—

- (a) that person shall within 21 days after the day on which the result of the election is declared deliver to the appropriate officer a return of the amount of those expenses, stating the election at which and the candidate in whose support they were incurred, and  
(b) the return shall be accompanied by a declaration made by that person (or in the case of an association or body of persons, by a director, general manager, secretary or other similar officer of the association or body) verifying the return and giving particulars of the matters for which the expenses were incurred,

but this subsection does not apply to any person engaged or employed for payment or promise of payment by the candidate or his election agent.

(3) The return and declaration under the foregoing provisions of this section shall be in the prescribed form, and the authority received from the election agent shall be annexed to and deemed to form part of the return.

~~(4) A copy of every return and declaration made under subsection (2) above in relation to a parliamentary election in England, Wales or Northern Ireland shall be sent to the Clerk of the Crown within 21 days after the day on which the result of the election is declared by the person making the return or declaration, and rule 57 of the parliamentary elections rules applies to any documents sent to the Clerk of the Crown under this subsection.~~

~~In this subsection references to the Clerk of the Crown in relation to an election in Northern Ireland are references to the Clerk of the Crown for Northern Ireland.~~

**(4) A copy of every return and declaration made under subsection (2) above in relation to a parliamentary election in England, Wales or Northern Ireland must be sent to the relevant officer within 21 days after the day on which the result of the declaration is declared by the person making the return or declaration.**

**(4A) The relevant officer is—**

- (a) in relation to England and Wales, the returning officer;**
- (b) in relation to Northern Ireland, the Clerk of the Crown for Northern Ireland.**

**(4B) The returning officer must forward to the relevant registration officer (within the meaning of rule 55 of the parliamentary elections rules) every document sent to him in pursuance of subsection (4) above.**

**(4C) Rule 57 of those rules applies to any documents sent under this section to—**

- (a) the relevant registration officer, or**
- (b) the Clerk of the Crown for Northern Ireland.**

**(5) If a person—**

- (a) incurs, or aids, abets, counsels or procures any other person to incur, any expenses in contravention of this section, or**
- (b) knowingly makes the declaration required by subsection (2) falsely,**

he shall be guilty of a corrupt practice; and if a person fails to deliver or send any declaration or return or a copy of it as required by this section he shall be guilty of an illegal practice, but—

**(i) the court before whom a person is convicted under this subsection may, if they think it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of section 173 below; and**

**(ii) a candidate shall not be liable, nor shall his election be avoided, for a corrupt or illegal practice under this subsection committed by an agent without his consent or connivance.**

**(6) Where any act or omission of an association or body of persons, corporate or unincorporate, is an offence declared to be a corrupt or illegal practice by this section, any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he proves—**

- (a) that the act or omission took place without his consent or connivance; and**
- (b) that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.**

**(7) For the purposes of this section, in the case of an election of the London members of the London Assembly at an ordinary election, a candidate's registered political party is the registered political party (if any) which submitted for the purposes of that election a list of candidates on which the candidate in question is included.**

**(8) For the purposes of subsection (1), expenditure incurred before the date when a person becomes a candidate at the election is to be treated as having been incurred after that date if it is incurred in connection with any thing which is used or takes place after that date.**

## **76 Limitation of election expenses**

**(1) The election expenses incurred by or on behalf of a candidate at an election must not in the aggregate exceed the maximum amount specified in subsection (2) below or, in the case of any of the Authority elections mentioned in subsection (2A)(a) to (c) below, the maximum amount prescribed by order under that subsection.**

(1A) Where a registered political party submits a list of candidates to be London members of the London Assembly at an ordinary election, any election expenses incurred by or on behalf of any of those candidates must not in the aggregate exceed the maximum amount prescribed by order under subsection (2A)(d).

(1B) Where any election expenses are incurred in excess of a maximum amount specified in subsection (2) ~~above~~ **below** or prescribed by order under subsection (2A) ~~above~~ **below** any candidate or election agent who—

(a) incurred, or authorised the incurring of, the election expenses, and  
(b) knew or ought reasonably to have known that the expenses would be incurred in excess of that maximum amount,  
shall be guilty of an illegal practice.

(2) That maximum amount is—

- (a) for a candidate at a parliamentary general election, being an election—
  - (i) in a county constituency, £7,150 together with an additional 7p for every entry in the register of electors; and
  - (ii) in a borough constituency, £7,150 together with an additional 5p for every entry in the register of electors;
- (aa) for a candidate at a parliamentary by-election, £100,000;
- (b) for a candidate at a local government election other than an Authority election—
  - (ii) at any other local government election, £600 together with an additional 5p for every entry in the register of electors.

(2A) As respects Authority elections, each of the following, that is to say—

- (a) the maximum amount for a candidate in an election of the Mayor of London,
  - (b) the maximum amount for a candidate in an election of a constituency member of the London Assembly,
  - (c) the maximum amount for an individual candidate in an election of the London members of the London Assembly at an ordinary election,
  - (d) the maximum amount for the purposes of subsection (1A) above,
- shall be such as the Secretary of State may prescribe in an order made by statutory instrument.

(2B) An order under subsection (2A) above shall not be made unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

(4) In subsection (2) above “the register of electors” means the register of parliamentary electors, or (as the case may be) local government electors, for the constituency or electoral area in question as it has effect on the last day for publication of notice of the election.

(5) The maximum amount mentioned above for a candidate at a parliamentary election or an Authority election (including the maximum amount for the purposes of subsection (1A) above) is not required to cover the candidate's personal expenses.

(6) Where at an election a poll is countermanded or abandoned by reason of a candidate's death, the maximum amount of election expenses shall, for any of the other candidates who then remain validly nominated, be twice or, if there has been a previous increase under this subsection, three times what it would have been but for any increase under this subsection; but the maximum amount shall not be affected for any candidate by the change in the timing of the election or of any step in the proceedings at the election.

## **76A Power to vary provisions about election expenses**

- (1) The Secretary of State may by order made by statutory instrument vary any of the sums to which this section applies—
- (a) where he considers that the variation is expedient in consequence of changes in the value of money, or
  - (b) in order to give effect to a recommendation of the Electoral Commission.
- (2) This section applies to any of the sums for the time being specified in—
- (a) section 73(2) above;
  - (b) section 74(1)(a), (b), (c) or (d) above;
  - (c) section 75(1ZA) above; or
  - (d) section 76(2) above.
- (3) An order under subsection (1)(b) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **77 Expenses limit for joint candidates at local election**

- (1) Where there are two or more joint candidates at a local government elections other than an Authority election the maximum amount mentioned in section 76 above shall, for each of those joint candidates, be reduced by a quarter or, if there are more than two joint candidates, by one-third.
- (2) Where two or more candidates appoint the same election agent, or by themselves or any agent or agents—
- (a) employ or use the services of the same clerks or messengers at the election, or
  - (b) hire or use the same committee rooms for the election, or
  - (c) publish a joint address, circular or notice at the election,
- those candidates shall for the purposes of this section be deemed to be joint candidates; but—
- (i) the employment and use of the same clerk, messenger or committee room, if accidental or casual, or of a trivial and unimportant character, shall not be deemed of itself to constitute persons joint candidates;
  - (ii) nothing in this subsection shall prevent candidates from ceasing to be joint candidates.
- (3) Where—
- (a) any excess of expenses above the maximum allowed for one of two or more joint candidates has arisen owing to his having ceased to be a joint candidate, or to his having become a joint candidate after having begun to conduct his election as a separate candidate,
  - (b) the change was made in good faith,
  - (c) the excess is not more than under the circumstances is reasonable, and
  - (d) the total election expenses of the candidate do not exceed the maximum amount allowed for a separate candidate,
- the excess shall be deemed to have arisen from a reasonable cause for the purposes of section 167 below.

## **78 Time for sending in and paying claims**

- (1) Every claim against a candidate or his election agent in respect of election expenses which is not sent in to the election agent within 21 days after the day on which the result of the election is declared shall be barred and not paid.

(2) All election expenses shall be paid within 28 days after that day.

(3) An election agent who pays a claim in contravention of subsection (1) or makes a payment in contravention of subsection (2) above shall be guilty of an illegal practice; but where the election court reports that it has been proved to the court by the candidate that any payment was made by an election agent without the sanction or connivance of the candidate—

(a) the candidate's election shall not be void, nor

(b) shall he be subject to any incapacity under this Act by reason only of that payment having been made in contravention of this section.

(4) The claimant or the candidate or his election agent may apply to the High Court or to a county court for leave to pay a claim for any election expenses, although sent in after that period of 21 days or although sent in to the candidate and not to the election agent, and the court on cause shown to their satisfaction may by order grant the leave.

In relation to an application in respect of expenses for a local government election in Scotland the reference in this subsection to the High Court shall be omitted.

(5) Any sum specified in the order of leave may be paid by the candidate or his election agent and when paid in pursuance of the leave shall not be deemed to be in contravention of subsection (2) above.

(6) Except in Scotland, the jurisdiction vested by subsection (4) above in the High Court in matters relating to parliamentary elections shall, subject to rules of court, be exercised by—

(a) one of the judges for the time being on the rote for the trial of parliamentary election petitions,

(b) in Northern Ireland, one of the judges of the High Court or the Court of Appeal for the time being selected under section 108 of the Judicature (Northern Ireland) Act 1978, sitting either in court or at chambers, or by a master of the Supreme Court in manner directed by and subject to an appeal to those judges.

(7) The jurisdiction vested by subsection (4) in a county court may, except in Northern Ireland, be exercised otherwise than in open court and, in Northern Ireland, shall be exercised in such manner as may be provided by rules of court.

An appeal lies to the High Court from any order of a county court made by virtue of subsection (4).

## **79 Disputed claims**

(1) If the election agent disputes any claim sent in to him within the period of 21 days mentioned in section 78 above or refuses or fails to pay the claim within the period of 28 days so mentioned, the claim shall be deemed to be a disputed claim.

(2) The claimant may, if he thinks fit, bring an action for a disputed claim in any competent court, and any sum paid by the candidate or his agent in pursuance of the judgment or order of the court shall not be deemed to be in contravention of section 73(1) above or of section 78(2).

(3) If the defendant in the action admits his liability but disputes the amount of the claim, that amount shall, unless the court on the plaintiff's application otherwise directs, be forthwith referred for taxation—

(a) to a Circuit judge nominated under subsection (1)(a) of section 68 of the Supreme Court Act 1981, or

(b) to the master, registrar or other proper officer of the court,

and the amount found due on the taxation shall be the amount to be recovered in the action in respect of the claim.

(4) Subsections (4) to (7) of section 78 apply in relation to a disputed claim as they apply in relation to a claim for election expenses sent in after that period of 21 days.

## **80 Election agent's claim**

So far as circumstances admit, this Act applies to an election agent's claim for his remuneration and to its payment in like manner as if he were any other creditor, and if any difference arises about the amount of the claim, the claim shall be a disputed claim within the meaning of this Act and be dealt with accordingly.

## **81 Return as to election expenses**

(1) Within 35 days after the day on which the result of the election is declared, the election agent of every candidate at the election shall deliver to the appropriate officer a true return containing as respects that candidate—

- (a) a statement of all election expenses incurred by or on behalf of the candidate; and
- (b) a statement of all payments made by the election agent together with all bills or receipts relating to the payments.

(1A) Subsection (1) above—

- (a) in its application in relation to an election of the Mayor of London, shall have effect with the substitution for “35 days” of “70 days”; and
- (b) in its application in relation to the election of the London members of the London Assembly at an ordinary election, shall have effect with the substitution for “35 days after the day on which the result of the election is declared” of “70 days after the day on which the last of the successful candidates at the election is declared to be returned.

(2) A return under this section must—

- (a) specify the poll by virtue of which the return is required;
- (b) specify the name of the candidate to whom the return relates and of the candidate's election agent; and
- (c) deal under a separate heading with any expenses in respect of which a return is required by virtue of section 75(2) above.

(3) ~~The return shall also contain as respects that candidate—~~

- ~~(a) a statement of all payments made—
  - (i) by the candidate in accordance with section 74(1) or (1B) above, or
  - (ii) by any other person in accordance with section 74(3) above;together with all bills or receipts relating to any such payments made in accordance with section 74(1B) or 74(3);~~
- ~~(b) a statement of all disputed claims of which the election agent is aware;~~
- ~~(c) a statement of all the unpaid claims, if any, of which the election agent is aware, in respect of which application has been or is about to be made to the High Court or county court;~~
- ~~(d) any declarations of value falling to be made by the candidate's election agent by virtue of section 74A(2) above or 90C(2) below;~~
- ~~(da) a declaration of the amount of expenses which are to be regarded as election expenses incurred by or on behalf of the candidate by virtue of section 90A(5)(b) below;~~

- ~~(e) a statement of donations made to the candidate or his election agent which complies with the requirements of paragraphs 11 and 12 of Schedule 2A to this Act; and~~
- ~~(e) a statement of the amount, if any, of money provided by the candidate from his own resources for the purpose of meeting election expenses incurred by him or on his behalf.~~

**(3A) The return shall also contain as respects that candidate—**

- (a) a statement relating to such other expenses in connection with which provision is made by this Part as the Electoral Commission provide in regulations;**
- (b) a statement relating to such claims (whether paid, unpaid or disputed) in connection with such election expenses or such other expenses mentioned in paragraph (a) as the Electoral Commission so provide;**
- (c) a statement relating to such other matters as is prescribed.**

(4)

(5) Where after the date at which the return as to election expenses is delivered, leave is given by the court under section 78(4) above for any claim to be paid, the candidate or his election agent shall, within seven days after its payment, deliver to the appropriate officer a return of the sums paid in pursuance of the leave, accompanied by a copy of the order of the court giving the leave, and in default he shall be deemed to have failed to comply with the requirements of this section without such authorised excuse as is mentioned in section 86 below.

(6) Where a registered political party submits a list of two or more candidates to be London members of the London Assembly at an ordinary election, the preceding provisions of this section shall have effect in relation to those candidates and their election agent with the following modifications.

(7) The return which the election agent is required to deliver under subsection (1) above—

- (a) shall be in respect of all those candidates
- (b) [...]

(8) If any payments made by the election agent were in respect of two or more candidates, the return shall deal under a separate heading or subsection with all such payments, and the expenses to which they relate, in respect of those candidates.

(9) The statements which the return is required to contain by virtue of ~~subsection (3)~~ **subsection (3A)** above in respect of the matters there mentioned shall be a separate statement ~~of each such matter~~ as respects each of the candidates in question.

(10) If and to the extent that any such matter is referable to two or more candidates together, the return shall contain a separate statement of that matter as respects those candidates.

(10A) The Electoral Commission may, by regulations, prescribe a form of return which may be used for the purposes of making any (or any description of) return required by this section.

(11)

## **82 Declarations as to election expenses**

(1) The return delivered under section 81(1) above shall be accompanied by a declaration made by the election agent in the appropriate form.

(2) At the same time that the election agent delivers that return, or within seven days afterwards, the candidate shall deliver to the appropriate officer a declaration made by him in the appropriate form.

(2A) For the purposes of subsections (1) and (2) above, “the appropriate form”—

(a) in the case of the election agent for the candidates on a list submitted under paragraph 5 of Schedule 2 to the 1999 Act (election of London members) by a registered political party, is the form set out for the purpose in rules under section 36(2A) above;

(b) in the case of any of the candidates included in such a list, is the form set out for the purpose in those rules; and

(c) in any other case, is the form in Schedule 3 to this Act.

(3) Where the candidate is out of the United Kingdom when the return is so delivered—

(a) the declaration required by subsection (2) above may be made by him within 14 days after his return to the United Kingdom, and

(b) in that case, the declaration shall be forthwith delivered to the appropriate officer, but the delay authorised by this provision in making the declaration shall not exonerate the election agent from complying with the provisions of this Act relating to the return and declaration as to election expenses.

(4) An election agent's or a candidate's declaration as to election expenses under this section may be made either before a justice of the peace or before any person who is—

(a) in England and Wales, the chairman or proper officer of , a county council, a county borough council or a district council, or the mayor or proper officer of a London borough or the proper officer of the Greater London Authority;

(b) in Scotland, the proper officer of a local authority;

(c) in Northern Ireland, the clerk of a district council.

(5) Where the candidate is his own election agent, the declaration by an election agent as to election expenses need not be made and the declaration by the candidate as to election expenses shall be modified as specified in the form in Schedule 3.

(5A) Where one of the candidates included in a list submitted under paragraph 5 of Schedule 2 to the 1999 Act (election of London members) by a registered political party is the election agent for those candidates, the declarations required by subsections (1) and (2) above shall instead be modified as specified in the form set out in the rules under section 36(2A) above.

(6) If a candidate or election agent knowingly makes the declaration required by this section falsely, he shall be guilty of a corrupt practice.

### **83 Where no return and declarations needed at parliamentary elections**

Notwithstanding anything in sections 81 and 82 above, no return or declaration as to election expenses shall be required in the case of a person—

(a) who is a candidate at a parliamentary election, but is so only because he has been declared by others to be a candidate; and

(b) who has not consented to the declaration or taken any part as a candidate in the election.



## **84 Penalty for failure as respects return or declarations**

Subject to the provisions of section 86 below, if a candidate or election agent fails to comply with the requirements of section 81 or section 82 above he shall be guilty of an illegal practice.

## **85 Penalty for sitting or voting where no return and declarations transmitted**

(1) If, in the case of any candidate, the return and declarations as to election expenses are not delivered before the expiry of the time limited for the purpose, that candidate shall not, after the expiry of that time, sit or vote in the House of Commons as member for the constituency for which the election was held until—

- (a) either that return and those declarations have been delivered, or
- (b) the date of the allowance of an authorised excuse for the failure to deliver that return and those declarations,

and if he sits or votes in contravention of this subsection he shall forfeit £100 for every day on which he so sits or votes.

(2) In the application of subsection (1) above to a candidate at a local government election—

- (a) the reference to sitting or voting in the House of Commons for the constituency for which the election was held shall be taken as a reference to sitting or voting in the council for the local government area for which the election was held; and
- (b) £50 shall be substituted for £100 and, instead of civil proceedings for a penalty, summary proceedings may be instituted under the Magistrates' Courts Act 1980, or, in Scotland, in the sheriff court, and the person charged shall be liable on conviction to a fine not exceeding the amount of the penalty which would be recoverable in civil proceedings.

(2A) As respects Authority elections—

- (a) subsections (1) and (2) above shall not apply in relation to a candidate in an election of the Mayor of London (for which separate provision is made by section 85A below);
- (b) in the case of any other Authority election, the reference in subsection (2)(a) above to the council for the local government area for which the election was held shall be taken as a reference to the London Assembly; and
- (c) in the case of a candidate included in a list submitted under paragraph 5 of Schedule 2 to the 1999 Act (election of London members) by a registered political party, the references in subsection (1) above to the returns and declarations in respect of election expenses shall be taken as references to the declaration as to election expenses by the candidate.

(3) Civil proceedings for a penalty under this section shall be commenced within the period of one year beginning with the day in respect of which the penalty is alleged to have been incurred.

(4) For the purposes of subsection (3) above—

- (a) where the service or execution of the writ or other process on or against the alleged offender is prevented by the absconding or concealment or act of the alleged offender, the issue of a writ or other process shall be deemed to be a commencement of a proceeding; but,
- (b) where paragraph (a) does not apply, the service or execution of the writ or other process on or against the alleged offender, and not its issue, shall be deemed to be the commencement of the proceeding.

(5) Subsections (3) and (4) above do not apply in Scotland.

## **85A Disqualification where no return and declarations transmitted after election of Mayor of London**

- (1) If, in the case of any candidate at an election of the Mayor of London, the return and declarations as to election expenses are not delivered before the expiry of the time limited for the purpose, the candidate shall, as respects that election, be disqualified from being elected or being the Mayor of London.
- (2) Any application under section 86 below by such a candidate for relief in respect of a failure to deliver the return and declarations as to election expenses must be made within the period of 6 weeks following the day on which the time limited for their delivery expires.
- (3) A disqualification under subsection (1) above shall not take effect unless or until—
  - (a) the period specified in subsection (2) above for making an application for relief under section 86 below expires without such an application having been made; or
  - (b) if such an application is made, the application—
    - (i) is finally disposed of without relief being granted; or
    - (ii) is abandoned or fails by reason of non-prosecution.

## **86 Authorised excuses for failures as to return and declarations**

- (1) A candidate or his election agent may apply for relief under this section to—
  - (a) the High Court, except in relation to a local government election in Scotland;
  - (b) an election court; or
  - (c) a county court.
- (1A) Where a person makes an application under this section he shall notify the Director of Public Prosecutions of the application and the Director or his assistant or any barrister, advocate or solicitor duly appointed as the Director's representative may attend the hearing of the application and make representations at the hearing in respect of it.
- (2) Relief under this section may be granted—
  - (a) to a candidate, in respect of any failure to deliver the return and declarations as to election expenses, or any part of them, or in respect of any error or false statement in them; or
  - (b) to an election agent, in respect of the failure to deliver the return and declarations which he was required to deliver, or any part of them, or in respect of any error or false statement in them.
- (3) The application for relief may be made on the ground that the failure, error or false statement arose—
  - (a) by reason of the applicant's illness; or
  - (b) where the applicant is the candidate, by reason of the absence, death, illness or misconduct of his election agent or sub-agent or of any clerk or officer of such agent; or
  - (c) where the applicant is the election agent, by reason of the death or illness of any prior election agent of the candidate, or of the absence, death, illness or misconduct of any sub-agent, clerk or officer of any election agent of the candidate; or
  - (d) by reason of inadvertence or any reasonable cause of a like nature,and not by reason of any want of good faith on the applicant's part.
- (4) The court may—

- (a) after such notice of the application in the constituency or local government area, as the case may be, as it considers fit, and
- (b) on production of such evidence of the grounds stated in the application and of the good faith of the application, and otherwise, as it considers fit, make such order for allowing an authorised excuse for the failure, error or false statement as it considers just.

(5) Where it is proved to the court by the candidate—

- (a) that any act or omission of the election agent in relation to the return and declarations was without the sanction or connivance of the candidate, and
- (b) that the candidate took all reasonable means for preventing the act or omission,

the court shall relieve the candidate from the consequences of the act or omission of his election agent.

(6) An order under subsection (4) above may make the allowance conditional on the making of the return and declaration in a modified form or within an extended time, and upon the compliance with such other terms as to the court seem best calculated for carrying into effect the objects of this Part of this Act.

(7) An order under subsection (4) shall relieve the applicant for the order from any liability or consequences under this Act in respect of the matter excused by the order.

(8) The date of the order, or if conditions and terms are to be complied with, the date at which the applicant fully complies with them, is referred to in this Act as the date of the allowance of the excuse.

(9) Except in Scotland, the jurisdiction vested by the foregoing provisions of this section in the High Court in matters relating to parliamentary elections shall, subject to rules of court, be exercised by—

(a) one of the judges for the time being on the rota for the trial of parliamentary election petitions,

(b) in Northern Ireland, one of the judges of the High Court or the Court of Appeal for the time being selected under section 108 of the Judicature (Northern Ireland) Act 1978, sitting either in court or at chambers, but shall not be exercisable by a master.

(10) The jurisdiction vested by this section in a county court may, except in Northern Ireland, be exercised otherwise than in open court and, in Northern Ireland, shall be exercised in such manner as may be provided by rules of court.

(11) An appeal lies to the High Court from any order of a county court made by virtue of this section.

## **87 Court's power to require information from election agent or sub-agent**

(1) Where on an application under section 86 above it appears to the court that any person who is or has been an election agent or sub-agent has refused or failed to make such return, or to supply such particulars, as will enable the candidate and his election agent respectively to comply with the provisions of this Act as to the return or declarations as to election expenses, the court, before making an order under that section, shall order that person to attend before the court.

(2) The court shall on the attendance of that person, unless he shows cause to the contrary, order him—

(a) to make the return and declaration, or  
(b) to deliver a statement of the particulars required to be contained in the return,  
as the court considers just, within such time, to such person and in such manner as it may direct, or may order him to be examined with respect to the particulars.

(3) If a person fails to comply with any order of the court under this section, the court may order him to pay a fine not exceeding the amount of the maximum fine to which he would be liable if at the time the order is made he were convicted of a summary offence on conviction of which he was liable to a fine of level 5 on the standard scale.

### **87A Duty of appropriate officer to forward returns and declarations to Electoral Commission**

(1) Where the appropriate officer receives any return or declaration under section 75, 81 or 82 above in respect of—

- (a) a parliamentary election, or
- (b) an election of the Mayor of London,

he shall as soon as reasonably practicable after receiving the return or declaration deliver a copy of it to the Electoral Commission and, if so requested by the Commission, he shall also deliver to them a copy of any accompanying documents.

(2) Where the appropriate officer receives any return or declaration under section 75, 81 or 82 in respect of any election other than one mentioned in subsection (1) above, he shall, if so requested by the Electoral Commission, deliver to them a copy of the return and any accompanying documents.

### **88 Publication of time and place for inspection of returns and declarations**

At a parliamentary election or an Authority election—

- (a) the returning officer shall, within 10 days after the end of the time allowed for delivering to him returns as to election expenses, publish in not less than two newspapers circulating in the constituency [or electoral area ] for which the election was held, and shall send to each of the election agents, a notice of the time and place at which the returns and declarations (including the accompanying documents) can be inspected; but
- (b) if any return or declaration has not been received by the returning officer before the notice is despatched for publication, the notice shall so state, and a like notice about that return or declaration, if afterwards received, shall within 10 days after the receipt be published in like manner and sent to each of the election agents other than the agent who is in default or is agent for the candidate in default.

### **89 Inspection of returns and declarations**

(1) Where the appropriate officer receives any return or declaration under section 75, 81 or 82 above he shall—

- (a) as soon as reasonably practicable after receiving the return or declaration make a copy of it, and any accompanying documents, available for public inspection at his office, or some other convenient place chosen by him, for a period of two years beginning with the date when the return is received by him;
- (b) if requested to do so by any person, and on payment of the prescribed fee, supply that person with a copy of the return or declaration and any accompanying documents.

(1A) If any such return contains a statement of donations in accordance with ~~section 81(3)(e) above~~ **paragraph 10 of Schedule 2A to this Act**, the appropriate officer shall secure that the copy of the statement made available for public inspection under subsection (1)(a) above or (as the case may be) supplied under subsection (1)(b) above does not include, in the case of any donation by an individual, the donor's address.

(2) After the expiry of those two years the appropriate officer—

(a) may cause those returns and declarations (including the accompanying documents) to be destroyed, or

(b) if the candidate or his election agent so require, shall return them to the candidate.

(3) Any returns or declarations delivered under section 75 shall be returned not to the candidate (if he or his election agent so require) but to the person sending them, if he so requires.

## **90 Election expenses at elections where election agent not required**

(1) In relation to an election of parish councillors in England or of community councillors in Wales—

(a) section 76(1B) above and ~~sections 90A(5)~~ **sections 90ZA(4)** and 90C below have effect as if for the references to an election agent there were substituted references to any agent of the candidate;

(b) sections 72 to 75 and 78 to 89 above do not apply, and instead the provisions of Schedule 4 to this Act have effect but the form of declaration as to election expenses shall be that prescribed by rules under section 36 above relating to the election of parish or, as the case may be, community councillors, or a form to the like effect.

(c) section 76A(1) has effect as if for the reference to the sum specified in section 73(2), 74(1) or 75(1) above there were substituted a reference to the sum specified in paragraph 3 of Schedule 4 to this Act

(2) At an election under the local government Act which is not a local government election, sections 72 to 89 do not apply, and if a candidate at that election or any person on behalf of a candidate at that election knowingly pays any sum or incurs any expense, whether before, during or after that election, on account of or in respect of the conduct or management of the election he shall be guilty of an illegal practice.

### **90ZA Meaning of “election expenses”**

**(1) In this Part of this Act “election expenses” in relation to a candidate at an election means (subject to subsection (3) below and section 90C below) any expenses incurred at any time in respect of any matter specified in Part 1 of Schedule 4A which is used for the purposes of the candidate’s election after the date when he becomes a candidate at the election.**

**(2) No election expenses are to be regarded as incurred by virtue of subsection (1) above or section 90C below in respect of any matter specified in Part 2 of Schedule 4A.**

**(3) In this section and in section 90C below, “for the purposes of the candidate’s election” means with a view to, or otherwise in connection with, promoting or procuring the candidate’s election at the election.**

**(4) For the purposes of this Part of this Act, election expenses are incurred by or on behalf of a candidate at an election if they are incurred —**

- (a) by the candidate or his election agent, or
- (b) by any person authorised by the candidate or his election agent to incur expenses.

(5) In this Part of this Act, any reference to election expenses incurred by or on behalf of a candidate at an election includes expenses—

- (a) which are incurred as mentioned in subsection (1) above before the date when he becomes a candidate at the election, but
- (b) which by virtue of that subsection fall to be regarded as election expenses.

(6) In this Part and in Part 3 of this Act, any reference (in whatever terms) to promoting or procuring a candidate's election at an election includes doing so by prejudicing the electoral prospects of another candidate at the election.

(7) Schedule 4A has effect.

(8) This section does not apply to a local government election in Scotland.

#### **90A—Meaning of “election expenses”.**

(1) In this Part of this Act “election expenses”, in relation to a candidate at an election, means (subject to subsections (2) and (3) and sections 90B and 90C below) any expenses incurred in respect of—

- (a) the acquisition or use of any property, or
- (b) the provision by any person of any goods, services or facilities,

which is or are used for the purposes of the candidate's election after the date when he becomes a candidate at the election.

(2) Subsection (1) above applies whether the expenses are incurred before or after that date.

(3) No election expenses shall be regarded as incurred, by virtue of subsection (1) or (2) above or sections 90B and 90C below, in respect of—

- (a) the payment of any deposit required by rule 9 of Schedule 1 to this Act;
- (b) the publication of any matter, other than an advertisement, relating to the election in—
  - (i) a newspaper or periodical,
  - (ii) a broadcast made by the British Broadcasting Corporation or by Sianel Pedwar Cymru, or
  - (iii) a programme included in any service licensed under Part I or III of the Broadcasting Act 1990 or Part I or II of the Broadcasting Act 1996;
- (c) the provision of any facilities provided in pursuance of any right conferred on candidates at an election by this Act other than facilities in respect of which expenses fall to be defrayed by virtue of sections 95(4) and 96(4) below;
- (d) the provision by any individual of his own services which he provides voluntarily in his own time and free of charge.

(4) In this section and in sections 90B and 90C below “for the purposes of the candidate's election” means with a view to, or otherwise in connection with, promoting or procuring the candidate's election at the election.

(5) For the purposes of this Part of this Act—

~~(a) election expenses are incurred by or on behalf of a candidate at an election if they are incurred—~~

~~(i) by the candidate or his election agent, or~~

~~(ii) by any person authorised by the candidate or his election agent to incur the expenses; and~~

~~(b) any reference to election expenses incurred by or on behalf of a candidate at an election includes expenses which are incurred as mentioned in paragraph (a)(i) or (ii) above before the date when he becomes a candidate at the election but which by virtue of subsection (1) and (2) above fall to be regarded as election expenses.~~

~~(6) In this Part, and in Part III of this Act, any reference (in whatever terms) to promoting or procuring a candidate's election at an election includes doing so by prejudicing the electoral prospects of another candidate at the election.~~

### **90B — Incurring of election expenses for purposes of section 90A**

~~(1) The election expenses which are to be regarded as incurred for the purposes of section 90A(1) above shall (subject to subsection (2) and section 90C below) be the actual expenses incurred in respect of the acquisition or use of the property, or (as the case may be) the provision of the goods, services or facilities mentioned in section 90A(1).~~

~~(2) Where the property, goods, services or facilities mentioned in subsection (1) above is or are not used exclusively for the purposes of the candidate's election, the election expenses to be regarded as incurred for the purposes of section 90A(1) shall be such proportion of the expenses incurred in respect of their acquisition, use or provision (as the case may be) as is reasonably attributable to the use of the property or (as the case may be) the goods, services or facilities for the purposes of the candidate's election.~~

### **90C.— Property, goods, services etc. provided free of charge or at a discount.**

(1) This section applies where, in the case of a candidate at an election—

(a) either—

(i) property or goods is or are transferred to the candidate or his election agent free of charge or at a discount of more than 10 per cent. of the market value of the property or goods, or

(ii) property, goods, services or facilities is or are provided for the use or benefit of the candidate free of charge or at a discount of more than 10 per cent. of the commercial rate for the use of the property or for the provision of the goods, services or facilities, and

(b) the property, goods, services or facilities is or are made use of by or on behalf of the candidate in circumstances such that, if any expenses were to be (or are) actually incurred by or on behalf of the candidate in respect of that use, they would be (or are) election expenses incurred by or on behalf of the candidate.

(2) Where this section applies—

(a) an amount of election expenses determined in accordance with this section (“the appropriate amount”) shall be treated, for the purposes of this Part of this Act, as incurred by the candidate, and

(b) the candidate's election agent shall make a declaration of that amount, unless that amount is not more than £50.

This subsection has effect subject to ~~section 90A(3) above~~ **Part 2 of Schedule 4A to this Act.**

(3) Where subsection (1)(a)(i) above applies, the appropriate amount is such proportion of either—  
(a) the market value of the property or goods (where the property or goods is or are transferred free of charge), or  
(b) the difference between the market value of the property or goods and the amount of expenses actually incurred by or on behalf of the candidate in respect of the property or goods (where the property or goods is or are transferred at a discount),  
as is reasonably attributable to the use made of the property or goods as mentioned in subsection (1)(b) above.

(4) Where subsection (1)(a)(ii) above applies, the appropriate amount is such proportion of either—  
(a) the commercial rate for the use of the property or the provision of the goods, services or facilities (where the property, goods, services or facilities is or are provided free of charge), or  
(b) the difference between that commercial rate and the amount of expenses actually incurred by or on behalf of the candidate in respect of the use of the property or the provision of the services or facilities (where the property, goods, services or facilities is or are provided at a discount),  
as is reasonably attributable to the use made of the property, goods, services or facilities as mentioned in subsection (1)(b) above.

(5) Where the services of an employee are made available by his employer for the use or benefit of a candidate, then for the purposes of this section the commercial rate for the provision of those services shall be the amount of the remuneration and allowances payable to the employee by his employer in respect of the period for which his services are so made available (but shall not include any amount in respect of any contributions or other payments for which the employer is liable in respect of the employee).

(6) In this section “market value”, in relation to any property or goods, means the price which might reasonably be expected to be paid for the property or goods on a sale in the open market; and paragraph 2(6)(a) of Schedule 2A to this Act shall apply with any necessary modifications for the purpose of determining, for the purposes of subsection (1) above, whether property or goods is or are transferred to a candidate or his election agent.

#### **90D Modification of ~~sections 90A to~~ sections 90ZA and 90C in relation to election of London members of the London Assembly.**

(1) ~~Sections 90A to~~ **Sections 90ZA and 90C** above shall have effect, in their application in relation to candidates at an election of London members of the London Assembly at an ordinary election, subject to the following modifications.

(2) In relation to any such candidates included in a list of candidates submitted by a registered political party in connection with the election—  
(a) references to anything done by or on behalf of, or in relation to, a candidate at the election shall be construed as a reference to any such thing done by or on behalf of, or in relation to, all or any of the candidates on the list; and  
(b) “for the purposes of the candidate's election” shall (instead of having the meaning given by ~~section 90A(4)~~ **section 90ZA(3)**) be construed as meaning with a view to, or otherwise in connection with promoting or procuring electoral success for the party, that is to say, the return at the election of all or any of the candidates on the list.



**(3) ~~Section 90A~~ Section 90ZA above shall have effect with the substitution of the following subsection for ~~subsection (5)~~ subsection (6) “~~(5)–(9)~~ In this Part, and in Part III of this Act, any reference (in whatever form) to promoting or procuring a candidate's election at an election, or to promoting or procuring electoral success for a party, includes doing so by prejudicing the electoral prospects of other candidates or parties at the election.”**

*Publicity at parliamentary elections*

**91 Candidate's right to send election address post free.**

(1) A candidate at a parliamentary election is, subject to such reasonable terms and conditions as the universal service provider concerned may specify, entitled to send free of any charge for postage which would otherwise be made by a universal service provider either—

- (a) one unaddressed postal communication, containing matter relating to the election only and not exceeding 60 grammes in weight, to each place in the constituency which, in accordance with those terms and conditions, constitutes a delivery point for the purposes of this subsection; or
- (b) one such postal communication addressed to each elector.

(2) He is also, subject as mentioned above, entitled to send free of any such charge for postage as mentioned above to each person entered in the list of proxies for the election one such communication as mentioned above for each appointment in respect of which that person is so entered.

**(2A) The candidate may require the returning officer to make arrangements with the universal service provider for communications under subsection (1)(b) to be sent to persons who have anonymous entries in the register.**

**(2B) Arrangements under subsection (2A) shall be such as to ensure that it is not disclosed to any other person that the addressee of such a communication has an anonymous entry.**

(3) A person shall not be deemed to be a candidate for the purposes of this section unless he is shown as standing nominated in the statement of persons nominated, but until the publication of that statement any person who declares himself to be a candidate shall be entitled to exercise the right of free postage conferred by this section if he gives such security as may be required by the universal service provider concerned for the payment of postage should he not be shown as standing nominated as mentioned above.

(4) For the purposes of this section “elector”—

- (a) means a person who is registered in the register of parliamentary electors for the constituency on the last day for publication of notice of the election; and
- (b) includes a person then shown in that register **(or, in the case of a person who has an anonymous entry in the register, in the record of anonymous entries)** as below voting age if (but only if) it appears from the register **(or from the record)** that he will be of voting age on the day fixed for the poll.

(5) In this section “universal service provider” has the same meaning as in the Postal Services Act 2000.

## **92 Broadcasting from outside United Kingdom**

(1) No person shall, with intent to influence persons to give or refrain from giving their votes at a parliamentary or local government election, include, or aid, abet, counsel or procure the inclusion of, any matter relating to the election in any programme service (within the meaning of the Broadcasting Act 1990) provided from a place outside the United Kingdom otherwise than in pursuance of arrangements made with:—

- (a) the British Broadcasting Corporation;
- (b) Sianel Pedwar Cymru; or
- (c) the holder of any licence granted by [the Office of Communications], for the reception and re-transmission of that matter by that body or the holder of that licence.

or in pursuance of arrangements made with—

- (i) the Independent Television Commission or the Radio Authority, or
- (ii) any programme contractor whose contract continues in force by virtue of Part II or IV of Schedule 11 to the Broadcasting Act 1990,

for the matter to be received by that body or contractor and re-transmitted by that body in the provision of any broadcasting service in accordance with the said Schedule 11.

(2) An offence under this section shall be an illegal practice, but the court before whom a person is convicted of an offence under this section may, if they think it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of section 173 below.

(3) Where any act or omission of an association or body of persons, corporate or unincorporate, is an illegal practice under this section, any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or was purporting to act in any such capacity, shall be deemed to be guilty of the illegal practice, unless he proves—

- (a) that the act or omission took place without his consent or connivance; and
- (b) that he exercised all such diligence to prevent the commission of the illegal practice as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

## **93 Broadcasting of local items during election period**

(1) Each broadcasting authority shall adopt a code of practice with respect to the participation of candidates at a parliamentary or local government election in items about the constituency or electoral area in question which are included in relevant services during the election period.

(2) The code for the time being adopted by a broadcasting authority under this section shall be either—

- (a) a code drawn up by that authority, whether on their own or jointly with one or more other broadcasting authorities, or
- (b) a code drawn up by one or more other such authorities;

and a broadcasting authority shall from time to time consider whether the code for the time being so adopted by them should be replaced by a further code falling within paragraph (a) or (b).

(3) Before drawing up a code under this section a broadcasting authority shall have regard to any views expressed by the Electoral Commission for the purposes of this subsection; and any such code may make different provision for different cases.

(4) The Office of Communications shall do all that they can to secure that the code for the time being adopted by them under this section is observed in the provision of relevant services; and the British Broadcasting Corporation and Sianel Pedwar Cymru shall each observe in the provision of relevant services the code so adopted by them.

(5) For the purposes of subsection (1) “the election period”, in relation to an election, means the period beginning—

(a) (if a parliamentary general election) with the date of the dissolution of Parliament or any earlier time at which Her Majesty's intention to dissolve Parliament is announced,

(b) (if a parliamentary by-election) with the date of the issue of the writ for the election or any earlier date on which a certificate of the vacancy is notified in the London Gazette in accordance with the Recess Elections Act 1975, or

(c) (if a local government election) with the last date for publication of notice of the election,

and ending with the close of the poll.

(6) In this section—

“broadcasting authority” means the British Broadcasting Corporation, the Office of Communications or Sianel Pedwar Cymru;

“candidate”, in relation to an election, means a candidate standing nominated at the election or included in a list of candidates submitted in connection with it;

“relevant services”—

(a) in relation to the British Broadcasting Corporation or Sianel Pedwar Cymru, means services broadcast by that body;

[ (b) in relation to the Office of Communications, means services licensed under Part 1 or 3 of the Broadcasting Act 1990 or Part 1 or 2 of the Broadcasting Act 1996.

#### **94 Imitation poll cards**

No person shall for the purpose of promoting or procuring the election of any candidate at a parliamentary election [or a local government election to which this section applies] issue any poll card or document so closely resembling an official poll card as to be calculated to deceive, and subsections (2) and (3) of section 92 above apply as if an offence under this section were an offence under that section.

(2) This section applies to any local government election in relation to which rules made under section 36 or, in Scotland, section 42 above require an official poll card to be sent to electors in a form prescribed by the rules.

### *Election meetings*

#### **95 Schools and rooms for parliamentary election meetings**

(1) Subject to the provisions of this Section, a candidate at a parliamentary election is entitled for the purposes of holding public meetings in furtherance of his candidature to the use free of charge at reasonable times between the receipt of the writ and the day preceding the date of the poll of—

(a) a suitable room in the premises of a school to which this section applies;

(b) any meeting room to which this section applies.

(2) This section applies—

(a) in England and Wales, to community, foundation and voluntary schools of which the premises are situated in the constituency or an adjoining constituency, and

(b) in Scotland, to any school of which the premises are so situated, not being an independent school within the meaning of the Education (Scotland) Act 1980,

but a candidate is not entitled under this section to the use of a room in school premises outside the constituency if there is a suitable room in other premises in the constituency which are reasonably accessible from the same parts of the constituency as those outside and are premises of a school to which this section applies.

(3) This section applies to meeting rooms situated in the constituency, the expense of maintaining which is payable wholly or mainly out of public funds or out of any rate, or by a body whose expenses are so payable.

(4) Where a room is used for a meeting in pursuance of the rights conferred by this section, the person by whom or on whose behalf the meeting is convened—

(a) shall defray any expenses incurred in preparing, warming, lighting and cleaning the room and providing attendance for the meeting and restoring the room to its usual condition after the meeting; and

(b) shall defray any damage done to the room or the premises in which it is situated, or to the furniture, fittings or apparatus in the room or premises.

(5) A candidate is not entitled to exercise the rights conferred by this section except on reasonable notice; and this section does not authorise any interference with the hours during which a room in school premises is used for educational purposes, or any interference with the use of a meeting room either for the purposes of the person maintaining it or under a prior agreement for its letting for any purpose.

(6) The provisions of Schedule 5 of this Act have effect with respect to the rights conferred by this section and the arrangements to be made for their exercise.

(7) For the purposes of this section (except those of paragraph (b) of subsection (4) above), the premises of a school shall not be taken to include any private dwelling, and in this section—

(a) the expression “meeting room” means any room which it is the practice to let for public meetings; and

(b) the expression “room” includes a hall, gallery or gymnasium.

(8) This section does not apply to Northern Ireland.

## **96 Schools and rooms for local election meetings**

(1) Subject to the provisions of this section, a candidate at a local government election is entitled for the purpose of holding public meetings in furtherance of his candidature to promote or procure the giving of votes at that election—

(i) for himself, or

(ii) if he is a candidate included in a list of candidates submitted by a registered political party at an election of the London members of the London Assembly at an ordinary election, towards the return of candidates on that list,

the use free of charge at reasonable times between the last day on which notice of the election may be published in accordance with rules made under section 36 or, in Scotland, section 42 above and the day preceding the day of election of—

(a) a suitable room in the premises of a school to which this section applies; or

(b) a meeting room to which this section applies.

(2) This section applies—

(a) in England and Wales, to a community, foundation or voluntary school situated in the electoral area for which the candidate is standing (or, if there is no such school in the area, in any such school in an adjacent electoral area) or in a parish or community, as the case may be, in part comprised in that electoral area; and

(b) in Scotland, to any school (not being an independent school within the meaning of the Education (Scotland) Act 1980) situated in the electoral area for which the candidate is standing (or, if there is no such school in the area, in any such school in an adjacent electoral area).

(3) This section applies—

(a) in England and Wales, to any meeting room situated in the electoral area for which the candidate is standing or in a parish or community, as the case may be, in part comprised in that electoral area, the expense of maintaining which is payable wholly or mainly out of public funds or out of any rate, or by a body whose expenses are so payable;

(b) in Scotland, to any meeting room the expense of maintaining which is payable by a local authority.

(4) Subsections (4), (5) and (7) of section 95 above and paragraph 1(1) of Schedule 5 to this Act shall apply for the purposes of this section as they apply for the purposes of that section, and any person stating himself to be, or to be authorised by, a candidate at a local government election in respect of an electoral area which falls (or partly falls) within a constituency, or his election agent, shall be entitled to inspect the lists prepared under Schedule 5 to this Act in relation to the constituency or a copy of them at all reasonable hours during the period beginning with the day on which notice of the election is published and ending with the day preceding the day of election.

## **97 Disturbances at election meetings**

(1) A person who at a lawful public meeting to which this section applies acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together shall be guilty of an illegal practice.

(2) This section applies to—

(a) a political meeting held in any constituency between the date of the issue of a writ for the return of a member of Parliament for the constituency and the date at which a return to the writ is made;

(b) a meeting held with reference to a local government, election in the electoral area for that election [in the period beginning with the last date on which notice of the election may be published in accordance with rules made under section 36 or, in Scotland, section 42 above and ending with], the day of election.

(3) If a constable reasonably suspects any person of committing an offence under subsection (1) above, he may if requested so to do by the chairman of the meeting require that person to declare to him immediately his name and address and, if that person refuses or fails so to declare his name and address or gives a false name and address, he shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

This subsection does not apply in Northern Ireland.

**98.** [...]

*Agency by election officials and canvassing by police officers*

**99 Officials not to act for candidates**

(1) If—

- (a) any returning officer at a parliamentary or local government election, or
- (b) any officer or clerk appointed under the parliamentary elections rules, or the rules under section 36 or section 42 above, as the case may be, or
- (c) any partner or clerk of any such person,

acts as a candidate's agent in the conduct or management of the election, he shall be guilty of an offence, but nothing in this subsection prevents a candidate from acting as his own election agent.

(2) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

**100 Illegal canvassing by police officers**

(1) No member of a police force shall by word, message, writing or in any other manner, endeavour to persuade any person to give, or dissuade any person from giving, his vote, whether as an elector or as proxy—

- (a) at any parliamentary election for a constituency, or
- (b) at any local government election for any electoral area,

wholly or partly within the police area.

(2) A person acting in contravention of subsection (1) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale, but nothing in that subsection shall subject a member of a police force to any penalty for anything done in the discharge of his duty as a member of the force.

(3) In this section references to a member of a police force and to a police area are to be taken in relation to Northern Ireland as references to a member of the Royal Ulster Constabulary and to Northern Ireland.

*Conveyance of voters to and from poll*

**101 No hiring of vehicles to convey voters**

(1) A person shall not let, lend, or employ any public vehicle for the purpose of the conveyance of electors or their proxies to or from the poll at an election, and if he does so knowing that the public vehicle is intended to be used for that purpose he shall be guilty of an illegal hiring.

(2) A person shall not hire, borrow or use for the purpose of the conveyance of electors or their proxies to or from the poll at an election any public vehicle the owner of which he knows to be prohibited by subsection (1) above from letting, lending or employing for that purpose, and if he does so he shall be guilty of an illegal hiring.

(3) In this section “public vehicle” means any public stage or hackney carriage or any carriage kept or used for the purpose of letting out for hiring.

## **102 No payments for conveyance of voters**

If any payment or contract for payment is knowingly made, either before, during or after an election, for the purpose of promoting or procuring the election of a candidate on account of the conveyances of electors or their proxies to or from the poll, whether for the hire of carriages, or for railway fares, or otherwise—

- (a) the person making the payment or contract, and
- (b) if he knew it to be in contravention of this Act, any person receiving the payment or being a party to the contract,

shall be guilty of an illegal practice.

## **103 Provisions supplemental to ss. 101 and 102**

(1) Nothing in sections 101 and 102 above prevents a carriage being let, hired, employed or used by an elector or his proxy or several electors or their proxies at their joint cost, for the purpose of being conveyed to or from the poll.

## **104 “Carriage” in ss. 101 to 103**

In sections 101 to 103 above—

- (a) “carriage” includes for the purposes of those sections—
  - (i) any mechanically propelled vehicle intended or adapted for use on roads, and
  - (ii) any vehicle drawn by such a vehicle, and any such vehicle as so describedshall be deemed to be a public vehicle for the purposes of section 101 if used as such; and
- (b) the provisions of those sections, except section 103(2), apply in relation to horses or other animals as they apply in relation to carriages, and any reference in section 101 to a public vehicle includes a reference to horses or other animals kept or used for drawing such vehicles.

## **105 Access to polling place by sea**

(1) Where the nature of a county constituency is such that any electors or proxies for electors resident there are unable at a parliamentary election for that constituency to reach their polling place without crossing the sea or a branch or arm of the sea, nothing in this Act prevents the provision of means for conveying those electors or proxies by sea to their polling place.

(2) The amount of any payment for such means of conveyance as are mentioned in subsection (1) above may be in addition to the maximum amount of expenses allowed by this Act.

(3) No restriction on the expenses to be incurred by a returning officer shall prevent a returning officer employing special steamers or boats for the purposes of a parliamentary election in any constituency in Scotland having a polling place or polling places so situated as not to be accessible except by sea, but the expenses so incurred shall be included in the returning officer's account, and shall be subject to taxation.

*Other illegal practices, payments, employments or hirings*

## **106 False statements as to candidates**

- (1) A person who, or any director of any body or association corporate which—  
    (a) before or during an election,  
    (b) for the purpose of affecting the return of any candidate at the election,  
makes or publishes any false statement of fact in relation to the candidate's personal character or conduct shall be guilty of an illegal practice, unless he can show that he had reasonable grounds for believing, and did believe, the statement to be true.
- (2) A candidate shall not be liable nor shall his election be avoided for any illegal practice under subsection (1) above committed by his agent other than his election agent unless—  
    (a) it can be shown that the candidate or his election agent has authorised or consented to the committing of the illegal practice by the other agent or has paid for the circulation of the false statement constituting the illegal practice; or  
    (b) an election court find and report that the election of the candidate was procured or materially assisted in consequence of the making or publishing of such false statements.
- (3) A person making or publishing any false statement of fact as mentioned above may be restrained by interim or perpetual injunction by the High Court or the county court from any repetition of that false statement or of a similar character in relation to the candidate and, for the purpose of granting an interim injunction, prima facie proof of the falsity of the statement shall be sufficient.
- (5) Any person who, before or during an election, knowingly publishes a false statement of a candidate's withdrawal at the election for the purpose of promoting or procuring the election of another candidate shall be guilty of an illegal practice.
- (6) A candidate shall not be liable, nor shall his election be avoided, for any illegal practice under subsection (5) above committed by his agent other than his election agent.
- (7) In the application of this section to an election where a candidate is not required to have an election agent, references to an election agent shall be omitted and the reference in subsection (6) above to an illegal practice committed by an agent of the candidate shall be taken as a reference to an illegal practice committed without the candidate's knowledge and consent.
- (8) Except in Scotland, the jurisdiction vested by subsection (3) above in the High Court in matters relating to parliamentary elections shall, subject to rules of court, be exercised by—  
    (a) one of the judges for the time being on the rota for the trial of parliamentary election petitions,  
    (b) in Northern Ireland, one of the judges of the High Court or the Court of Appeal for the time being selected under section 108 of the Judicature (Northern Ireland) Act 1978,  
sitting either in court or at chambers, or by a master of the Supreme Court in manner directed by and subject to an appeal to those judges.
- (9) The jurisdiction vested by subsection (3) in a county court may, except in Northern Ireland, be exercised otherwise than in open court, and, in Northern Ireland, shall be exercised in accordance with rules of court.  
An appeal lies to the High Court from any order of a county court made by virtue of subsection (3).

## **107    Corrupt withdrawal from candidature**



Any person who corruptly induces or procures any other person to withdraw from being a candidate at an election, in consideration of any payment or promise of payment, and any person withdrawing in pursuance of the inducement or procurement, shall be guilty of an illegal payment.

### **108 Premises not to be used as committee rooms**

(1) If a person—

- (a) hires or uses any premises to which this section applies, or any part of them, for a committee room for the purpose of promoting or procuring the election of a candidate, or
- (b) lets any premises to which this section applies or any part of them knowing that it was intended to use them or that part as a committee room,

he shall be guilty of an illegal hiring.

(2) Where the election is an election under the local government Act, the reference in subsection (1) above to letting any premises or part of premises includes a reference to permitting the use of any premises or part of premises.

(4) This section applies—

- (a) in England and Wales, to the premises of all schools maintained or assisted by a local education authority and all other schools in respect of which grants are made out of moneys provided by Parliament to the person or body of persons responsible for the management of the school;
- (b) in Scotland, to the premises of all schools other than independent schools within the meaning of the Education (Scotland) Act 1980; and
- (c) in Northern Ireland, to the premises of all schools other than independent schools within the meaning of the Education and Libraries (Northern Ireland) Order 1972.

For the purposes of this section, the premises of a school shall be taken to include any dwelling which forms part of the school and is occupied by a person employed for the purposes of the school.

### **109 Payments for exhibition of election notices**

(1) No payment or contract for payment shall for the purposes of promoting or procuring the election of a candidate at an election be made to an elector or his proxy on account of the exhibition of, or the use of any house, land, building or premises for the exhibition of, any address, bill or notice, unless—

- (a) it is the ordinary business of the elector or proxy as an advertising agent to exhibit for payment bills and advertisements; and
- (b) the payment or contract is made in the ordinary course of that business.

(2) If any payment or contract for payment is knowingly made in contravention of this section either before during or after an election—

- (a) the person making the payment or contract, and
- (b) if he knew it to be in contravention of this Act, any person receiving the payment or being a party to the contract, shall be guilty of an illegal practice.

### **110 Printer's name and address on election publications**

(1) A person shall not—

- (a) print or publish, or cause to be printed or published, any bill, placard or poster having reference to an election or any printed document distributed for the purposes of promoting or procuring the election of a candidate, or
- (b) post or cause to be posted any such bill, placard or poster as mentioned above, or
- (c) distribute or cause to be distributed any printed document for that purpose, unless the bill, placard, poster or document bears upon its face the name and address of the printer and publisher.

(2) For the purposes of this section, any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printing and the expression “printer” shall be construed accordingly.

(3) A candidate or election agent acting in contravention of this section shall be guilty of an illegal practice, and any other person so acting shall on summary conviction be liable to a fine not exceeding level 5 on the standard scale.

In relation to an election where candidates are not required to have election agents the reference to an election agent shall be omitted and the reference to any person other than the candidate shall be construed accordingly.

### **111 Prohibition of paid canvassers**

If a person is, either before, during or after an election, engaged or employed for payment or promise of payment as a canvasser for the purpose of promoting or procuring a candidate's election—

- (a) the person so engaging or employing him, and
- (b) the person so engaged or employed,

shall be guilty of illegal employment.

### **112 Providing money for illegal purposes.**

Where a person knowingly provides money—

- (a) for any payment which is contrary to the provisions of this Act, or
- (b) for any expenses incurred in excess of the maximum amount allowed by this Act, or
- (c) for replacing any money expended in any such payment or expenses,

except where the payment or the incurring of the expenses may have been previously allowed in pursuance of section 167 below to be an exception, that person shall be guilty of an illegal payment.

## *Bribery, treating and undue influence*

### **113 Bribery**

(1) A person shall be guilty of a corrupt practice if he is guilty of bribery.

(2) A person shall be guilty of bribery if he, directly or indirectly, by himself or by any other person on his behalf—

- (a) gives any money or procures any office to or for any voter or to or for any other person on behalf of any voter or to or for any other person in order to induce any voter to vote or refrain from voting, or
- (b) corruptly does any such act as mentioned above on account of any voter having voted or refrained from voting, or

(c) makes any such gift or procurement as mentioned above to or for any person in order to induce that person to procure, or endeavour to procure, the return of any person at an election or the vote of any voter,

or if upon or in consequence of any such gift or procurement as mentioned above he procures or engages, promises or endeavours to procure the return of any person at an election or the vote of any voter.

For the purposes of this subsection—

(i) references to giving money include references to giving, lending, agreeing to give or lend, offering, promising, or promising to procure or endeavour to procure any money or valuable consideration; and

(ii) references to procuring any officer include references to giving, procuring, agreeing to give or procure, offering, promising, or promising to procure or to endeavour to procure any office, place or employment; and

(iii) references to procuring the return of any person at an election include, in the case of an election of the London members of the London Assembly at an ordinary election, references to procuring the return of candidates on a list of candidates submitted by a registered political party for the purposes of that election

(3) A person shall be guilty of bribery if he advances or pays or causes to be paid any money to or for the use of any other person with the intent that that money or any part of it shall be expended in bribery at any election or knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election.

(4) The foregoing provisions of this section shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses incurred in good faith at or concerning an election.

(5) A voter shall be guilty of bribery if before or during an election he directly or indirectly by himself or by any other person on his behalf receives, agrees, or contracts for any money, gift, loan or valuable consideration, office, place or employment for himself or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting.

(6) A person shall be guilty of bribery if after an election he directly or indirectly by himself or by any other person on his behalf receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting.

(7) In this section the expression “voter” includes any person who has or claims to have a right to vote.

## **114 Treating**

(1) A person shall be guilty of a corrupt practice if he is guilty of treating.

(2) A person shall be guilty of treating if he corruptly, by himself or by any other person, either before, during or after an election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing, any meat, drink, entertainment or provision to or for any person—

(a) for the purpose of corruptly influencing that person or any other person to vote or refrain from voting; or

(c) on account of that person or any other person having voted or refrained from voting,

or being about to vote or refrain from voting.

(3) Every elector or his proxy who corruptly accepts or takes any such meat, drink, entertainment or provision shall also be guilty of treating.

### **115 Undue influence**

(1) A person shall be guilty of a corrupt practice if he is guilty of undue influence.

(2) A person shall be guilty of undue influence—

(a) if he, directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of any force, violence or restraint, or inflicts or threatens to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm or loss upon or against any person in order to induce or compel that person to vote or refrain from voting, or on account of that person having voted or refrained from voting; or

(b) if, by abduction, duress or any fraudulent device or contrivance, he impedes or prevents **or intends to impede or prevent** the free exercise of the franchise of an elector or proxy for an elector, or so compels, induces or prevails upon **or intends so to compel, induce or prevail upon** an elector or proxy for any elector either to vote or to refrain from voting.

## *Supplemental*

### **116 Rights of creditors**

The provisions of this Part of this Act prohibiting—

(a) payments and contracts for payments,

(b) the payment or incurring of election expenses in excess of the maximum amount allowed by this Act; or

(c) the incurring of expenses not authorised by the election agent,

do not affect the right of any creditor, who when the contract was made or the expense was incurred, was ignorant of that contract or expense being in contravention of this Act.

### **117 Savings as to parliamentary elections**

(1) Where a person has been declared by others to be a candidate at a parliamentary election without his consent, nothing in this Part of this Act shall be construed to impose any liability on that person, unless he has afterwards given his assent to the declaration or has been nominated.

(2) Nothing in this Part makes it illegal for an employer to permit parliamentary electors or their proxies to absent themselves from his employment for a reasonable time for the purposes of voting at the poll at a parliamentary election without having any deduction from their salaries or wages on account of their absence, if the permission—

- (a) is (so far as practicable without injury to the employer's business) given equally to all persons alike who are at the time in his employment, and
- (b) is not given with a view to inducing any person to record his vote for any particular candidate at the election, and
- (c) is not refused to any person for the purpose of preventing him from recording his vote for any particular candidate at the election,

but this subsection shall not be construed as making illegal any act which would not be illegal apart from this subsection.

## **118 Interpretation of Part II**

In this Part of this Act, unless the context otherwise requires—

“appropriate officer” has the meaning given by section 67(7) above;

“candidate” shall be construed in accordance with section 118A below;

“committee room” does not include any house or room occupied by a candidate as a dwelling, by reason only of the candidate transacting business there with his agents in relation to the election, and no room or building shall be deemed to be a committee room by reason only of the candidate or any agent of the candidate addressing in it electors, committee members or others;

“date of the allowance of an authorised excuse” has the meaning given by section 86(8) above, or paragraph 7 of Schedule 4 to this Act, as the case may be;

“declaration as to election expenses” means a declaration made under section 82 above, or, as the case may be paragraph 3 of Schedule 4 to this Act;

“disputed claim” has the meaning given by section 79(1) above as extended by section 80 above;

“election expenses”, in relation to an election, shall be construed in accordance with ~~sections 90A~~ **sections 90ZA** to 90D above;

“money” and “pecuniary reward” shall (except in sections 71A, 113 and 114 above and Schedule 2A to this Act) be deemed to include—

- (a) any office, place or employment, and
- (b) any valuable security or other equivalent of money, and
- (c) any valuable consideration,

and expressions referring to money shall be construed accordingly;

“payment” includes any pecuniary or other reward;

“personal expenses” as used with respect to the expenditure of any candidate in relation to any election includes the reasonable travelling expenses of the candidate, and the reasonable expenses of his living at hotels or elsewhere for the purposes of and in relation to the election;

“return as to election expenses” means a return (including the bills and receipts to be delivered with it) to be made under section 81(1) above, or, as the case may be, paragraph 3 of Schedule 4 to this Act.

### **118A Meaning of candidate**

(1) References to a candidate in this Part of this Act shall be construed in accordance with this section (except where the context otherwise requires).

(2) A person becomes a candidate at a parliamentary election—

- (a) on the date of—
  - (i) the dissolution of Parliament, or
  - (ii) in the case of a by-election, the occurrence of the vacancy,

in consequence of which the writ for the election is issued if on or before that date he is declared by himself or by others to be a candidate at the election, and

(b) otherwise, on the day on which he is so declared by himself or by others or on which he is nominated as a candidate at the election (whichever is the earlier).

(3) A person becomes a candidate at an election under the local government Act—

(a) on the last day for publication of notice of the election if on or before that day he is declared by himself or by others to be a candidate at the election, and

(b) otherwise, on the day on which he is so declared by himself or by others or on which he is nominated as a candidate at the election (whichever is the earlier),

or, in the case of a person included in a list of candidates submitted by a registered political party in connection with an election of the London members of the London Assembly at an ordinary election, on the day on which the list is submitted by the party.

## **119 Computation of time for purposes of Part II**

(1) Where the day or last day on which anything is required or permitted to be done by or in pursuance of this Part of this Act is any of the days mentioned in subsection (2) below—

(a) the requirement or permission shall be deemed to relate to the first day thereafter which is not one of those days; and

(b) in computing any period of not more than 7 days for the purposes of this Part any of the days so mentioned shall be disregarded.

(2) The days referred to in subsection (1) above are Saturday, Sunday, Christmas Eve, Christmas Day, ~~Maundy Thursday~~, Good Friday, a bank holiday or a day appointed for public thanksgiving or mourning.

(3) In this section 'bank holiday', in relation to any election, means a day which is a bank holiday in the part of the United Kingdom in which the constituency or, as the case may be, electoral area is situated.

## **PART III**

### **LEGAL PROCEEDINGS**

#### *Questioning of a parliamentary election*

## **120 Method of questioning parliamentary election**

(1) No parliamentary election and no return to Parliament shall be questioned except by a petition complaining of an undue election or undue return ("a parliamentary election petition") presented in accordance with this Part of this Act.

(2) A petition complaining of no return shall be deemed to be a parliamentary election petition and the High Court—

(a) may make such order on the petition as they think expedient for compelling a return to be made; or

(b) may allow the petition to be heard by an election court as provided with respect to ordinary election petitions.

## **121 Presentation and service of parliamentary election petition**

- (1) A parliamentary election petition may be presented by one or more of the following persons—
- (a) a person who voted as an elector at the election or who had a right so to vote; or
  - (b) a person claiming to have had a right to be elected or returned at the election; or
  - (c) a person alleging himself to have been a candidate at the election.

**(1A) The reference in subsection (1)(a) to a person who voted as an elector at an election or who had the right so to vote does not include a person who had an anonymous entry in the register of electors.**

(2) The member whose election or return is complained of is hereinafter referred to as the respondent, but if the petition complains of the conduct of a returning officer, the returning officer shall for the purposes of this Part of this Act be deemed to be a respondent.

(3) The petition shall be in the prescribed form, state the prescribed matters and be signed by the petitioner, or all the petitioners if more than one, and shall be presented to the High Court, or to the Court of Session, or to the High Court of Northern Ireland, depending on whether the constituency to which it relates is in England and Wales, or Scotland or Northern Ireland.

(4) The petition shall be presented by delivering it to the prescribed officer or otherwise dealing with it in the prescribed manner; and the prescribed officer shall send a copy of it to the returning officer of the constituency to which the petition relates, who shall forthwith publish it in that constituency.

(5) The petition shall be served in such manner as may be prescribed.

## **122 Time for presentation or amendments of parliamentary election petition**

(1) Subject to the provisions of this section, a parliamentary election petition shall be presented within 21 days after the return has been made to the Clerk of the Crown, or to the Clerk of the Crown for Northern Ireland, as the case may be, of the member to whose election the petition relates.

(2) If the petition questions the election or return upon an allegation of corrupt practices and specifically alleges a payment of money or other reward to have been made by the member or on his account or with his privity since the time of that return in pursuance or in furtherance of the alleged corrupt practice, it may be presented within 28 days after the date of the payment.

(3) A petition questioning the election or return upon an allegation of an illegal practice may, so far as respects that illegal practice, be presented—

- (a) within 21 days after the day specified in subsection (4) below; or
- (b) if specifically alleging a payment of money or some other act to have been made or done since the day so specified by the member to whose election the petition relates or an agent of his, or with the privity of that member or his election agent, in pursuance or in furtherance of the alleged illegal practice, within 28 days after the date of the payment or other act.

- (4) The day referred to in subsection (3) above is the tenth day after the end of the time allowed for delivering to the returning officer returns as to election expenses at the election or, if later—
- (a) that on which the returning officer receives the return and declarations as to election expenses by that member and his election agent; or
  - (b) where the return and declarations are received on different days, the last of those days; or
  - (c) where there is an authorised excuse for failing to make the return and declarations, the date of the allowance of the excuse, or if there was a failure as regards two or more of them, and the excuse was allowed at different times, the date of the allowance of the last excuse.
- (5) An election petition presented within the time limited by subsection (1) or subsection (2) above may, for the purpose of questioning the election or return upon an allegation of an illegal practice, be amended with the leave of the High Court within the time within which a petition questioning the election upon the allegation of that illegal practice could be presented under subsection (3).
- (6) Subsections (3), (4) and (5) above apply—
- (a) notwithstanding that the act constituting the alleged illegal practice amounted to a corrupt practice; and
  - (b) to a corrupt practice under section 75 above, as if it were an illegal practice.
- (7) For the purposes of this section, an allegation that an election is avoided under section 164 below shall be deemed to be an allegation of corrupt practices, notwithstanding that the offences alleged are or include offences other than corrupt practices.
- (8)

### **123 Constitution of election court and place of trial**

- (1) A parliamentary election petition shall be tried by—
- (a) two judges on the rota for the trial of parliamentary election petitions, and the judges for the time being on that rota shall, unless they otherwise agree, try the election petitions standing for trial according to their seniority.
  - (b) in Northern Ireland, the two judges of the High Court or the Court of Appeal for the time being selected under section 108 of the Judicature (Northern Ireland) Act 1978, and the judges presiding at the trial of a parliamentary election petition are hereinafter referred to as the election court.
- (2) The election court has, subject to the provisions of this Act, the same powers, jurisdiction and authority as a judge of the High Court (or, in Scotland, a judge of the Court of Session presiding at the trial of a civil cause without a jury) and shall be a court of record.
- (3) The place of trial shall be within the constituency for which the election was held, but—
- (a) the High Court may, on being satisfied that special circumstances exist rendering it desirable that the petition should be tried elsewhere, appoint some other convenient place for the trial; and
  - (b) if that constituency is wholly or partly in Greater London, the petition may be heard at such place within Greater London as the High Court may appoint.
- (4) The election court may adjourn the trial from one place to another within the constituency.

### **124 Judges' expenses and reception: England and Wales and Northern Ireland**



In relation to the trial of a parliamentary election petition—

- (a) in England and Wales and Northern Ireland, the **travelling** and other expenses of the judges and all expenses properly incurred in providing them with necessary accommodation and with a proper court shall be defrayed by the Treasury out of moneys provided by Parliament;

### **125 Judges' expenses and reception: Scotland**

In relation to the trial of a parliamentary election petition in Scotland—

- (a) ...
- (b) the travelling and other expenses of the judges, and of the officer or officers in attendance on them, and all expenses properly incurred in providing the judges with a proper court shall be defrayed by the Treasury out of moneys provided by Parliament.

### **126 Attendance of House of Commons shorthand writer**

- (1) The shorthand writer of the House of Commons or his deputy shall attend the trial and shall be sworn by one of the judges of the election court faithfully and truly to take down the evidence given at the trial and from time to time as occasion requires to transcribe that evidence or cause it to be transcribed.
- (2) The shorthand writer shall take down the evidence and from time to time transcribe it or cause it to be transcribed and a copy of the evidence shall accompany the certificate given by the election court to the Speaker.
- (3) In Scotland the expenses of the shorthand writer shall be deemed to be part of the expenses incurred under section 125 above.

### *Questioning of a local election*

### **127. Method of questioning local election**

An election under the local government Act may be questioned on the ground that the person whose election is questioned—

- (a) was at the time of the election disqualified, or
- (b) was not duly elected,

or on the ground that the election was avoided by corrupt or illegal practices or on the grounds provided by section 164 or section 165 below, and shall not be questioned on any of those grounds except by an election petition.

### **128.— Presentation of petition questioning local election**

(1) A petition questioning an election under the local government Act may be presented either by four or more persons who voted as electors at the election or had a right so to vote, or by a person alleging himself to have been a candidate at the election.

**(1A) The reference in subsection (1) to a person who voted as an elector at an election or who had the right so to vote does not include a person who had an anonymous entry in the register of electors.**

**(1B) Subsection (1A) does not apply to a local government election in Scotland.**

(2) A person whose election is questioned by the petition, and any returning officer of whose conduct the petition complains, may be made a respondent to the petition.

(3) The petition shall be in the prescribed form signed by the petitioner and shall be presented in the prescribed manner—

(a) in England and Wales, to the High Court;

(b) in Scotland, to the sheriff principal of the sheriffdom in which the election took place or, where the election was in respect of a local authority whose area is situated within more than one sheriffdom, to the sheriffs principal of the sheriffdoms in which the area of the authority is situated.

(4) In England and Wales the prescribed officer shall send a copy of the petition to the proper officer of the authority for which the election was held, who shall forthwith publish it in the area of that authority.

**129.— Time for presentation or amendment of petition questioning local election**

(1) Subject to the provisions of this section, a petition questioning an election under the local government Act shall be presented within 21 days after the day on which the election was held.

(2) If the petition complains of the election—

(a) on the ground of a corrupt practice, and

(b) specifically alleges that a payment of money or other reward has been made or promised since the election by a candidate elected at the election, or on his account or with his privity, in pursuance or furtherance of that corrupt practice,

it may be presented at any time within 28 days after the date of the alleged payment or promise, whether or not any other petition against that person has been previously presented or tried.

(3) If the petition complains of the election—

(a) on the ground of an illegal practice, and

(b) specifically alleges a payment of money or other act made or done since the election by the candidate elected at the election, or by an agent of the candidate or with the privity of the candidate or his election agent, in pursuance or in furtherance of that illegal practice,

it may be presented at any time within 28 days after the date of that payment or act, whether or not any other petition against that person has been previously presented or tried.

(4) If the petition complains of an election where election expenses are allowed on the ground of an illegal practice, it may be presented at any time within 14 days after the day specified in subsection (5) below.

(5) The day referred to in subsection (4) above is—

(a) that on which the appropriate officer receives the return and declarations as to election expenses by that candidate and his election agent; or

(b) where the return and declarations are received on different days, the last of those days; or

(c) where there is an authorised excuse for failing to make the return and declarations, the date of the allowance of the excuse, or if there was a failure as regards two or more of them and the excuse was allowed at different times, the date of the allowance of the last excuse.

(6) An election petition presented within the time limited by subsection (1) or subsection (2) above may for the purpose of complaining of the election upon an allegation of an illegal practice, be amended with the leave of the High Court within the time within which a petition complaining of the election on the ground of that illegal practice could, under this section, be presented.

In the application of this subsection to an election of councillors in Scotland, the reference in this subsection to subsection (2) above shall be omitted and for the reference to the High Court there shall be substituted a reference to the election court or the sheriff.

(7) Subsections (3), (4), (5) and (6) above apply—

(a) notwithstanding that the act constituting the alleged illegal practice amounted to a corrupt practice; and

(b) to a corrupt practice under section 75 above as if it were an illegal practice.

(8) For the purposes of this section, an allegation that an election is avoided under section 164 below shall be deemed to be an allegation of corrupt practices, notwithstanding that the offences alleged are or include offences other than corrupt practices.

(9) In relation to an election where candidates are not required to have election agents there shall be omitted—

(a) the references in subsection (3) and paragraph (a) of subsection (5) above to an election agent; and

(b) paragraphs (b) and (c) of subsection (5).

### **130 Election court for local election in England and Wales, and place of trial**

(1) A petition questioning an election in England and Wales under the local government Act shall be tried by an election court consisting of a person qualified and appointed as provided by this section.

(2) A person shall not be qualified to constitute an election court—

(a) unless he has a 10 year High Court qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990; or

(b) if the court is for the trial of an election petition relating to any local government area in which he resides.

(3) The judges for the time being on the rota for the trial of parliamentary election petitions, or any two of those judges—

(a) may annually appoint as many qualified persons, not exceeding five, as they may think necessary as commissioners for the trial of petitions questioning elections in England and Wales under the local government Act; and

(b) shall from time to time assign the petitions to be tried by each commissioner.

(4) If the commissioner to whom the trial of a petition is assigned dies, or declines to act or becomes incapable of acting, those judges or two of them may assign the trial to be conducted or continued by any other of the commissioners appointed under this section.

(5) The election court has for the purposes of the trial the same powers and privileges as a judge on the trial of a parliamentary election petition.

(6) The place of trial shall be within the area of the authority for which the election was held, except that the High Court may, on being satisfied that special circumstances exist rendering it

desirable that the petition should be tried elsewhere, appoint some other convenient place for the trial.

(7) The election court may in its discretion adjourn the trial from one place to another within the local government area or place where it is held.

### **131.— Accommodation of and attendance on court.**

(1) The proper officer of the authority for which the election was held shall provide suitable accommodation for holding the election court constituted under section 130 above and any expenses incurred by him for the purposes of this section and section 132 below shall be paid by that authority.

(2) The election court so constituted may employ officers and clerks as prescribed, and all constables and bailiffs shall give their assistance to the court in the execution of its duties.

(3) A shorthand writer (whose expenses, according to a prescribed scale, shall be treated as part of the expenses incurred in receiving the election court) shall attend the trial before that court, and—

(a) shall be sworn by the court faithfully and truly to take down the evidence given at the trial, and

(b) shall take down such evidence at length,

and a transcript of the notes of the evidence taken down by him shall, if the election court so directs, accompany the court's certificate.

### **132.— Remuneration and allowances.**

(1) The remuneration and allowances to be paid to the commissioner for this services in respect of that trial and to any officers, clerks or shorthand writers employed under section 131 above in relation to that trial shall be fixed by a scale made and varied by the judges on the rota for the trial of parliamentary election petitions, with the Treasury's approval.

(2) The remuneration and allowances shall be paid in the first instance by the Treasury and shall be repaid to the Treasury on their certificate by the authority for which the election was held.

### **133.— Repayments under ss. 131 and 132.**

(1) The election court constituted under section 130 above may in its discretion order that—

(a) the expenses referred to in section 131 above, incurred by the proper officer of the authority for receiving the court, or

(b) the remuneration and allowances referred to in section 132 above, shall be repaid, wholly or in part, to the proper officer of the authority or to the Treasury, as the case may be—

(i) when, in the opinion of the election court, the petition is frivolous and vexatious, by the petitioner;

(ii) when, in the opinion of the election court, the respondent has been personally guilty of corrupt practices at the election, by that respondent.

(2) The order so made for the repayment of any sum by a petitioner or respondent may be enforced as an order for payment of costs, but a deposit made or a security given under this Part of this Act shall not be applied for any such repayment until all costs and expenses payable by the petitioner or respondent to any party to the petition have been satisfied.

### **134 Election court for local election in Scotland, and place of trial**

(1) An election petition questioning an election of councillors in Scotland, and all proceedings incidental to and consequent on it, except as otherwise provided, shall be tried—

(a) by the sheriff principal of the sheriffdom within which the challenged election took place; or

(b) where the election was in respect of a local authority whose area is situated within more than one sheriffdom, by the sheriffs principal of the sheriffdoms in which the area of the authority is situated; and where in such a case the sheriffs principal are unable to reach a unanimous decision, they shall state a case for the Court of Session and the Court may pronounce any deliverance which it would have been competent for the sheriffs principal to make.

(2) The election court has for the purposes of the trial the same powers and privileges as a judge on the trial of a parliamentary election petition, except that any fine or order of committal unless imposed or made by the Court of Session in consequence of a case stated under subsection (1) above may, on summary application by the person aggrieved, be discharged or varied by the Court of Session, or in vacation by the judge acting as vacation judge on such terms, if any, as the Court of Session or judge may think fit.

(3) The place of trial shall be such place within the sheriffdom or sheriffdoms in which the area of the local authority is situated as the election court may determine.

(4) The election court may in its discretion adjourn the trial from one place to another within that sheriffdom or those sheriffdoms.

(5) The travelling and other expenses of the sheriff principal incurred by him in the execution of his duties under this Part of this Act shall be paid by the authority for which the election was held, but the election court may order repayment of those expenses to that authority by the parties to the petition or any of them, in such proportion as shall to the court seem proper.

(6) A shorthand writer shall attend at the trial of the petition, and shall be sworn by the election court faithfully and truly to take down the evidence given at the trial, and he shall take down the evidence at length.

### **135 Consequences of local election declared void**

(1) Where on a petition questioning an election under the local government Act—

(a) the election of any person has been declared void, and

(b) no other person has been declared elected in his place,

a new election shall be held to fill the vacancy in the same manner as on a casual vacancy.

(1A) Subsection (1) above shall not apply in the case of an election of the London members of the London Assembly at an ordinary election (for which separate provision is made by section 135A below).

(2) For the purposes of that election any duties to be performed by any officer shall, if he has been declared not elected, be performed by a deputy or other person who might have acted for him if he had been incapacitated by illness.

(3) This section does not apply to Scotland.

### **135A Consequences of election or return of London members being declared void**

(1) This section applies where the election court has made a determination under section 145 below at the conclusion of the trial of a petition questioning the election of the London members of the London Assembly at an ordinary election.

(2) Where, pursuant to section 145(6) below, the proper officer of the Greater London Authority receives the copy of the certificate of the election court's determination in relation to the election which was questioned, he shall send notice of the determination to the Greater London returning officer.

(3) If the election is not declared void but—

(a) the return of a candidate at the election is declared void, and

(b) no other person has been declared returned in his place,

the vacancy shall be filled (or, as the case may be, remain unfilled) as if it were a casual vacancy (see section 11 of the Greater London Authority Act 1999).

(4) If the election is declared void, a new election shall be held in the same manner as at an ordinary election.

(5) The date of the poll at the new election shall be fixed by the Greater London returning officer.

(6) The date fixed shall be no later than three months after the receipt by the Greater London returning officer of the notice under subsection (2) above.

(7) A new election shall not be held if the latest date which may be fixed for the poll falls within the period of three months preceding an ordinary election.

(8) If the determination of the election court is that the election is void, the Greater London returning officer shall inform the returning officer for each Assembly constituency of—

(a) the contents of the notice under subsection (2) above; and

(b) the date fixed for the poll at the new election.

(9) The results of the elections of the constituency members of the London Assembly at the last ordinary election shall have effect for the purposes of ascertaining the results of the new election.

### *Procedure on all election petitions*

### **136 Security for costs**

(1) At the time of presenting an election petition or within three days afterwards the petitioner shall give security for all cost which may become payable by him to any witness summoned on his behalf or to any respondent.

(2) The security shall be—

(a) in the case of a parliamentary election petition, such amount not exceeding £5,000 as the High Court or a judge of the High Court, on summons, directs; and

(b) in the case of a petition questioning an election under the local government Act, such amount not exceeding £2,500 as the High Court, or a judge of the High Court, on summons, directs,

and shall be given in the prescribed manner by recognisance entered into by any number of sureties not exceeding four or by a deposit of money, or partly in one way and partly in the other; but in Scotland—

- (i) the amount mentioned in paragraph (a) above shall be such amount not exceeding £5,000 as the Court of Session or a judge of the Court of Session directs and the amount mentioned in paragraph (b) above shall be such amount not exceeding £2,500 as the election court or the sheriff directs; and
- (ii) the persons finding caution for that amount may exceed four. [ [296] ]297

(3) Within the prescribed time after giving the security the petitioner shall serve on the respondent in the prescribed manner—

- (a) a notice of the presentation of the petition and of the amount and nature of the security, and
- (b) a copy of the petition.

(4) Within a further prescribed time, , the respondent may object in writing to any recognisance on the ground that any surety is insufficient or is dead or cannot be found or ascertained for want of a sufficient description in the recognisance, or that a person named in the recognisance has not duly acknowledged the recognisance.

(6) An objection to a recognisance shall be decided in the prescribed manner.

(7) If the objection is allowed, the petitioner may within a further prescribed time , remove it by a deposit in the prescribed manner of such sum of money as will, in the opinion of the court or officer having cognisance of the matter, make the security sufficient.

(8) If no security is given as required by this section or any objection is allowed and not removed as mentioned above, no further proceedings shall be had on the petition.

### **137 Petition at issue**

The petition shall be at issue—

- (a) on the expiry of the time limited for objections; or
- (b) if an objection is made, on that objection being disallowed or removed, whichever happens last.

### **138.— List of petitions**

(1) The prescribed officer shall—

- (a) as soon as may be, make out a list of all election petitions at issue presented to the court of which he is officer, placing them in the order in which they were presented, and
- (b) keep at his office a copy of the list, open to inspection in the prescribed manner,

and the petitions questioning elections under the local government Act shall be in a separate list, a copy of which shall be sent to each of the judges for the time being on the rota for the trial of parliamentary election petitions.

(2) The petitions shall, so far as convenient, be tried in the order in which they stand in the list.

(3) In the case of a petition questioning an election under the local government Act, two or more candidates may be made respondents to the same petition, and their cases may be tried at the same time, but for the purposes of this Part of this Act the petition shall be deemed to be a separate petition against each respondent.

(4) Where more petitions than one are presented relating to the same election or to elections under the local government Act held at the same time for more than one electoral area in the same local government area, all those petitions shall be bracketed together in the election list and shall be dealt with as one petition, standing, unless the High Court otherwise direct, in the election list in the place where the last of them would have stood if it had been the only petition presented.

(5) Subsections (1), (2) and (4) above do not apply in relation to petitions questioning an election of councillors in Scotland but where two or more of those petitions are presented relating to the same election they shall be tried together.

### **139 Trial of petition.**

(1) An election petition shall be tried in open court, without a jury, and notice of the time and place of trial shall be given in the prescribed manner, not less than, in the case of a parliamentary election petition, 14 days and in any other case, seven days, before the day of trial.

(2) The election court may in its discretion adjourn the trial from time to time, but the trial shall, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day on every lawful day until its conclusion.

(3) The trial of a parliamentary election petition shall be proceeded with notwithstanding the acceptance by the respondent of an office vacating his seat in Parliament and notwithstanding the prorogation of Parliament; and the trial of a petition questioning an election under the local government Act shall be proceeded with notwithstanding that the respondent has ceased to hold the office his election to which is questioned by the petition.

(4) On the trial of a petition, unless the court otherwise directs, any charge of a corrupt practice may be gone into, and evidence in relation to it received, before any proof has been given of agency on behalf of any candidate in respect of the corrupt practice.  
In relation to an election in England and Wales under the local government Act, this subsection applies as if corrupt practices included illegal practices.

(5) On the trial of a petition complaining of an undue election and claiming the seat or office for some person, the respondent may give evidence to prove that that person was not duly elected, in the same manner as if he had presented a petition against the election of that person.

(6) If the petition relates to an election conducted under the parliamentary elections rules or the rules under section 36 or section 42 above and it appears that there is an equality of votes between any candidates at the election, and that the addition of a vote would entitle any of those candidates to be declared elected then—

(a) any decision under the provisions as to equality of votes in the parliamentary elections rules or the rules under section 36 or section 42, as the case may be, shall in so far as it determines the question between those candidates, be effective also for the purposes of the petition; and



(b) in so far as that question is not determined by such a decision, the court shall decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote.

#### **140.— Witnesses**

(1) Witnesses shall be summoned and sworn in the same manner as nearly as circumstances admit as in an action tried in the High Court, but this subsection does not apply to Scotland in relation to an election of councillors.

(2) On the trial a member of the election court may, by order signed by him, require any person who appears to him to have been concerned in the election to attend as a witness, and any person refusing to obey the order shall be guilty of contempt of court.

(3) The election court may examine any person so required to attend or who is in court although he is not called and examined by any party to the petition.

(4) A witness may, after his examination by the court, be cross examined by or on behalf of the petitioner and respondent, or either of them.

(5) [...]

(6) The Director of Public Prosecutions shall without any direction from the court cause any person appearing to him to be able to give material evidence as to the subject of the trial to attend the trial and shall, with the leave of the court, examine him as a witness.

(7) [Subsection (6) above does]not apply to Scotland, and in Scotland one of the deposes of the Lord Advocate or the procurator-fiscal of the district [may, if the Lord Advocate so decides, and shall, if the election court so requests] attend the trial of the petition as part of his official duty.

#### **141 Duty to answer relevant questions**

(1) A person called as a witness respecting an election before any election court shall not be excused from answering any question relating to any offence at or connected with the election—

(a) on the ground that the answer to it may incriminate or tend to incriminate—

(i) that person or that person's spouse or civil partner, or

(ii) in Scotland, that person; or

(b) on the ground of privilege.

(2) An answer by a person to a question put by or before any election court shall not, except in the case of any criminal proceedings for perjury in respect of the evidence, be in any proceedings, civil or criminal, admissible in evidence against—

(a) that person or that person's spouse or civil partner; or

(b) in Scotland, that person.

(3), (4) [...]

#### **142**

#### **143 Expenses of witnesses**

(1) The reasonable expenses incurred by any person in appearing to give evidence at the trial of an election petition, according to the scale allowed to witnesses on the trial of civil actions, may be allowed to him by a certificate of the election court or of the prescribed officer.

(2) If the witness was called and examined by virtue of section 140(2) above, the expenses referred to in subsection (1) above shall be deemed part of the expenses of providing a court, but otherwise they shall be deemed costs of the petition.

This subsection does not apply to Scotland in relation to an election of councillors.

#### **144 Conclusion of trial of parliamentary election petition**

(1) At the conclusion of the trial of a parliamentary election petition, the election court shall determine whether the member whose election or return is complained of, or any and what other person, was duly returned or elected or whether the election was void, and the determination so certified shall be final to all intents as to the matters at issue on the petition.

(2) The election court shall forthwith certify in writing the determination to the Speaker.

(3) If the judges constituting the election court—

(a) differ as to whether the member whose election or return is complained of was duly elected or returned, they shall certify that difference and the member shall be deemed to be duly elected or returned;

(b) determine that the member was not duly elected or returned but differ as to the rest of the determination, they shall certify that difference and the election shall be deemed to be void.

(4) Where any charge is made in the petition of any corrupt or illegal practice having been committed at the election the court shall, in addition to giving a certificate, and at the same time, make a report to the Speaker as required by sections 158 and 160 below and also stating whether corrupt or illegal practices have, or whether there is reason to believe that corrupt or illegal practices have, extensively prevailed at the election.

(5) The election court may at the same time make a special report to the Speaker as to matters arising in the course of the trial an account of which in the judgment of the court ought to be submitted to the House of Commons.

(6) Every report sent to the Speaker under this section shall be signed by both judges of the election court and if the judges differ as to the subject of the report, they shall certify that difference and make no report on the subject on which they so differ.

(7) The House of Commons, on being informed by the Speaker of a certificate and any report of an election court, shall order the certificate and report (if any) to be entered in their journals and shall give the necessary direction—

(a) for confirming or altering the return, or

(b) for issuing a writ for a new election, or

(d) for carrying the determination into execution as the circumstances may require,

and where the court make a special report, the House of Commons may make such order in respect of that report as they think proper.

#### **145.— Conclusion of trial of local election petition.**

(1) At the conclusion of the trial of a petition questioning an election under the local government Act, the election court shall determine whether the person whose election is complained of, or any and what other person, was duly elected, or whether the election was void, and the determination so certified shall be final to all intents as to the matters at issue on the petition.

(1A) In the application of subsection (1) above in relation to an election of the London members of the London Assembly at an ordinary election, for the words from “shall determine” to “void,” there shall be substituted

“shall determine whether—

- (a) the person or persons whose return is complained of were duly returned,
- (b) some other person or persons should have been declared to be returned, or
- (c) the election was void,

(2) The election court shall forthwith certify in writing the determination to the High Court.

(3) Where a charge is made in the petition of any corrupt or illegal practice having been committed at the election the court shall, in addition to giving a certificate, and at the same time, make a report in writing to the High Court as required by sections 158 and 160 below and also stating whether any corrupt practices have, or whether there is reason to believe that any corrupt practices have, extensively prevailed at the election in the area of the authority for which the election was held or in any electoral area of that authority's area.

(4) The election court may at the same time make a special report to the High Court as to matters arising in the course of the trial an account of which in the judgment of the court ought to be submitted to the High Court.

(5) A copy of any certificate or report made to the High Court shall be sent by the High Court to the Secretary of State.

(6) The High Court shall by the signatures of two or more of its judges certify a copy of the certificate mentioned in subsection (5) above to the proper officer of the authority for which the election was held.

(7) The foregoing provisions of this section, except subsection (1) above, do not apply to Scotland, but where in a petition questioning an election of councillors in Scotland a charge is made of any corrupt or illegal practice having been committed at the election, the court—

- (a) shall determine the matters mentioned in sections 158 and 160 below; and
- (b) shall also determine whether any corrupt practices have, or whether there is reason to believe that any corrupt practices have, extensively prevailed at the election and whether illegal practices, payments, employments or hirings committed in reference to the election for the purpose of promoting the election of a candidate at the election have or have not so extensively prevailed that they may be reasonably supposed to have affected the result of the election.

#### **145A Determination in respect of election of Mayor of London or constituency member of London Assembly**

(1) This section applies where the election court makes a determination under section 145 above in respect of—

(a) the election of the Mayor of London, or  
(b) the election of a constituency member of the London Assembly,  
and the conditions in subsections (2) and (3) below are satisfied.

(2) The first condition is that the determination of the election court is—  
(a) that the person whose election is complained of was not duly elected; or  
(b) that the election was void.

(3) The second condition is that the return of that person at that election was taken into account for the purpose of deciding which persons were to be returned as London members of the London Assembly.

(4) Where this section applies, the validity of the return of the London members of the London Assembly shall not be affected by—  
(a) the determination of the election court; or  
(b) in a case falling within subsection (1)(b) above, the subsequent return of a person as the constituency member for the Assembly constituency concerned.

#### **146 Special case for determination of High Court**

(1) If, on the application of any party to a petition made in the prescribed manner to the High Court, it appears to the High Court that the case raised by the petition can be conveniently stated as a special case, the High Court may direct it to be stated accordingly and the special case shall be heard before the High Court.

(2) In the case of a parliamentary election petition, the High Court shall certify to the Speaker its decision on the special case.

(3) In the case of a petition questioning an election in England and Wales under the local government Act, a statement of the decision on the special case shall be sent by the High Court to the Secretary of State and the High Court shall by the signatures of two or more of its judges also certify that statement to the proper officer of the authority for which the election was held.

(4) If it appears to the election court on the trial of an election petition that any question of law as to the admissibility of evidence or otherwise requires further consideration by the High Court, the election court may postpone the granting of a certificate until the question has been determined by the High Court, and for this purpose may reserve the question by stating a case for the decision of the High Court.

In the application of this subsection to Northern Ireland the references to the High Court are to the Court of Appeal.

(5) In Scotland the decision of the Court of Session on a special case under subsection (1) above shall be final and in the case of a petition questioning an election of councillors in Scotland, the application under subsection (1) for a direction for the statement of a case for the Court of Session shall be made to the election court.

#### **147 Withdrawal of petition**

(1) A petitioner shall not withdraw an election petition without the leave of the election court or High Court on special application, made in the prescribed manner and at the prescribed time and place.

In the application of this subsection to a petition questioning an election of councillors in Scotland there shall be omitted the reference to the High Court.

(2) The application shall not be made until the prescribed notice of the intention to make it has been given in the constituency or local government area to which the petition relates.

(3) Where there are more petitioners than one, the application shall not be made except with the consent of all the petitioners.

(4) If a petition is withdrawn the petitioner shall be liable to pay the costs of the respondent.

## **148 to 153**

### **154 Costs of petition**

(1) All costs of and incidental to the presentation of an election petition and the proceedings consequent on it, except such as are by this Act otherwise provided for, shall be defrayed by the parties to the petition in such manner and in such proportions as the election court or High Court may determine.

(2) In particular—

(a) any costs which in the opinion of the election court or High Court have been caused by vexatious conduct, unfounded allegations or unfounded objections on the part either of the petitioner or of the respondent, and

(b) any needless expense incurred or caused on the part of the petitioner or respondent, may be ordered to be defrayed by the parties by whom it has been incurred or caused whether or not they are on the whole successful.

(3) In the application of this section to Scotland, references to the High Court shall be omitted in relation to an election of councillors.

### **155 Neglect or refusal to pay costs**

(1) Subsection (2) below applies if a petitioner neglects or refuses—

(a) in the case of a parliamentary election petition, for six months after demand, and

(b) in the case of a petition questioning an election under the local government Act, for three months after demand,

to pay to any person summoned as a witness on his behalf or to the respondent any sum certified to be due to that person or the respondent for his costs, and the neglect or refusal is, within one year after the demand, proved to the satisfaction of the High Court, or, in Scotland, the election court.

(2) Where subsection (1) above applies, every person who under this Act entered into a recognisance relating to that petition shall be held to be in default of the recognisance, and—

(a) the prescribed officer shall thereupon certify the recognisance to be forfeited, and

(b) it shall be dealt with as if forfeited by the Crown Court, or, in Northern Ireland, under the Fines Act (Ireland) 1851, as the case may be,

but in Scotland the prescribed officer shall, where otherwise competent under the provisions of this subsection—

(i) certify that the conditions contained in the bond of caution have not been fulfilled; and

(ii) it shall then be competent for the party or parties interested to register that bond, and do diligence upon it as accords of law.

### **156 Further provision as to costs**

(1) Where upon the trial of an election petition it appears to the election court—

(a) that a corrupt practice has not been proved to have been committed in reference to the election by or with the knowledge and consent of the respondent to the petition, and

(b) that the respondent took all reasonable means to prevent corrupt practices being committed on his behalf,

the court may, subject to the provisions of subsection (5) below, make such order with respect to the whole or part of the costs of the petition as is mentioned in that subsection.

(2)

(3)

(4)

(5) If it appears to the court that any person or persons is or are proved, whether by providing money or otherwise, to have been extensively engaged in corrupt practices, or to have encouraged or promoted extensive corrupt practices in reference to the election, the court may, after giving that person or those persons an opportunity of being heard by counsel or solicitor and examining and cross-examining witnesses to show cause why the order should not be made—

(a) order the whole or part of the costs to be paid by that person, or those persons or any of them, and

(b) order that if the costs cannot be recovered from one or more of those persons they shall be paid by some other of those persons or by either of the parties to the petition.

(6) Where any person appears to the court to have been guilty of a corrupt or illegal practice, the court may, after giving that person an opportunity of making a statement to show why the order should not be made, order the whole or any part of the costs of or incidental to any proceedings before the court in relation to that offence or to that person to be paid by that person to such person or persons as the court may direct.

### **157.— Appeals and jurisdiction.**

(1) No appeal lies without the special leave of the High Court from the decision of the High Court on any question of law, whether on appeal or otherwise, under the foregoing provisions of this Part of this Act, and if leave to appeal is granted the decision of the Court of Appeal in the case shall be final and conclusive.

(2) Subject to the provisions of this Act and of the rules made under it, the principles, practice and rules on which committees of the House of Commons used to act in dealing with election petitions shall be observed, so far as may be, by the High Court and election court in the case of election petitions, and in particular the principles and rules with regard to—

(a) agency,

(b) evidence,

(c) a scrutiny, and

(d) declaring any person elected in place of any other person declared not to have been duly elected,

shall be observed, as far as may be, in the case of a petition questioning an election under the local government Act as in the case of a parliamentary election petition.

(3) The High Court has, subject to the provisions of this Act, the same powers, jurisdiction and authority with respect to an election petition and the proceedings on it as if the petition were an ordinary action within its jurisdiction.

(4) The duties to be performed in relation to parliamentary elections by the prescribed officer under this Part shall be performed by such one or more of the masters of the Supreme Court (Queen's Bench Division) as the Lord Chief Justice may determine.

(5)

(6) The duties to be performed in relation to elections under the local government Act by the prescribed officer under this Part shall be performed by the prescribed officer of the High Court.

(7) In the application of this section to Scotland, subsections (1) and (4) to (6) above and, in relation to elections of councillors, subsection (3) above, shall be omitted, but the duties to be performed in relation to parliamentary elections by the prescribed officer under this Part shall be performed by the Principal Clerk of Session.

(8) Subsection (1) above does not apply in Northern Ireland and, in the application of subsections (4) and (5) to Northern Ireland, the references to the Lord Chief Justice are references to the Lord Chief Justice of Northern Ireland and the reference to any master of the Supreme Court (Queen's Bench Division) is a reference to an officer of the Supreme Court of Judicature of Northern Ireland.

#### *Consequences of finding by election court of corrupt or illegal practice*

### **158 Report as to candidate guilty of a corrupt or illegal practice**

(1) The report of an election court under section 144 or section 145 above shall state whether any corrupt or illegal practice has or has not been proved to have been committed by or with the knowledge and consent of any candidate at the election, and the nature of the corrupt or illegal practice.

(2) For the purposes of sections 159 and 160 below—

(a) if it is reported that a corrupt practice other than treating or undue influence was committed with the knowledge and consent of a candidate, he shall be treated as having been reported personally guilty of that corrupt practice, and

(b) if it is reported that an illegal practice was committed with the knowledge and consent of a candidate at a parliamentary election, he shall be treated as having been reported personally guilty of that illegal practice.

(3) The report shall also state whether any of the candidates has been guilty by his agents of any corrupt or illegal practice in reference to the election; but if a candidate is reported guilty by his agents of treating, undue influence or any illegal practice, and the court further reports that the candidate has proved to the court—

(a) that no corrupt or illegal practice was committed at the election by the candidate or his election agent and the offences mentioned in the report were committed contrary to the orders and without the sanction or connivance of the candidate or his election agent, and

(b) that the candidate and his election agent took all reasonable means for preventing the commission of corrupt and illegal practices at the election, and

(c) that the offences mentioned in the report were of a trivial, unimportant and limited character, and

(d) that in all other respects the election was free from any corrupt or illegal practice on the part of the candidate and of his agents,

then the candidate shall not be treated for the purposes of section 159 as having been reported guilty by his agents of the offences mentioned in the report.

In relation to an election where candidates are not required to have election agents, for paragraphs (a) and (b) above the following paragraphs shall be substituted—

“(a) that no corrupt or illegal practice was committed at the election by the candidate or with his knowledge or consent and the offences mentioned in the report were committed without the sanction or connivance of the candidate, and

(b) that all reasonable means for preventing the commission of corrupt and illegal practices at the election were taken by and on behalf of the candidate.”

### **159 Candidate reported guilty of corrupt or illegal practice**

(1) If a candidate who has been elected is reported by an election court personally guilty or guilty by his agents of any corrupt or illegal practice his election shall be void.

(3) A candidate at a local government election in Scotland who is reported personally guilty or guilty by his agents of any corrupt or illegal practice shall also be incapable from the date of the report of holding the office of councillor of any local authority in Scotland—

(a) for ten years, if reported personally guilty of a corrupt practice,

(b) for three years, if reported guilty by his agents of a corrupt practice, or

(c) during the period for which the candidate was elected to serve or for which if elected he might have served, if reported personally guilty or guilty by his agents of an illegal practice, and if at the date of the report he holds any such office, then the office shall be vacated as from that date.

(4) The provisions of this section as to the consequences of the report that a candidate was guilty by his agents of a corrupt or illegal practice have effect subject to the express provisions of this Act relating to particular acts which are declared to be corrupt or illegal practices.

### **160 Persons reported personally guilty of corrupt or illegal practices**

(1) The report of the election court under section 144 or section 145 above shall state the names of all persons (if any) who have been proved at the trial to have been guilty of any corrupt or illegal practice, but in the case of someone—

(a) who is not a party to the petition, or

(b) who is not a candidate on behalf of whom the seat or office is claimed by the petition, the election court shall first cause notice to be given to him, and if he appears in pursuance of the notice shall give him an opportunity of being heard by himself and of calling evidence in his defence to show why he should not be so reported.

(3) The report shall be laid before the Director of Public Prosecutions.

(4) Subject to the provisions of subsection (4A) and section 174 below, a candidate or other person reported by an election court personally guilty of a corrupt or illegal practice—

(a) shall during the relevant period specified in subsection (5) below be incapable of—



- (i) being registered as an elector or voting at any parliamentary election in the United Kingdom or at any local government election in Great Britain,
  - (ii) being elected to the House of Commons, or
  - (iii) holding any elective office; and
- (b) if already elected to a seat in the House of Commons, or holding any such office, shall vacate the seat or office as from the date of the report.

(4A) The incapacity imposed by subsection (4)(a)(i) above applies only to a candidate or other person reported personally guilty of a corrupt practice under section 60 **or 62A** above or of an illegal practice under section 61 above.

(5) For the purposes of subsection (4) above the relevant period is the period beginning with the date of the report and ending—

- (a) in the case of a person reported personally guilty of a corrupt practice, five years after that date, or
- (b) in the case of a person reported personally guilty of an illegal practice, three years after that date.

(5A) Subject **to subsection (5B) below and** to the provisions of section 174 but in addition to any incapacity arising by virtue of subsection (4) above, a candidate or other person reported by an election court personally guilty of a corrupt practice—

- (a) shall for the period of five years beginning with the date of the report, be incapable of holding any public or judicial office in Scotland, and
- (b) if already holding such an office, shall vacate it as from that date.

**(5B) Subsection (5A) above, in its application to a candidate or other person reported personally guilty of a corrupt practice under section 62A above, has effect as if the references in it to public office did not include references to the office of councillor for a local government area in Scotland.**

(6) Without prejudice to the generality of the provisions of section 205(2) below, nothing in subsection (4) or subsection (5) above affects matters relating to the Northern Ireland Assembly or local elections or holding office in Northern Ireland.

(7) The provisions of this section as to the consequences of the report that a candidate was guilty by his agents of a corrupt or illegal practice have effect subject to the express provisions of this Act relating to particular acts which are declared to be corrupt or illegal practices.

*Director of Public Prosecutions' duty to report corrupt practice*

**161 Justice of the Peace**

Where a justice of the peace is reported by an election court to have been guilty of any corrupt practice in reference to an election, [the court shall ] report the case to the Lord Chancellor[or, in the case of a justice of the peace for any area in Scotland, the Secretary of State] with such evidence as may have been given of the corrupt practice.

**162 Member of legal and certain other professions**

Where a barrister, advocate, solicitor or any person who belongs to any profession the admission to which is regulated by law is reported by an election court to have been guilty of any corrupt practice in reference to an election, [

(a) [the court shall] bring the matter before the Inn of Court,[Faculty of Advocates] High Court or tribunal having power to take cognizance of any misconduct of the person in his profession; and

(b) the Inn of Court,[Faculty of Advocates] High Court or tribunal may deal with him as if the corrupt practice were misconduct by him in his profession.

### **163 Holder of licence or certificate under Licensing Acts**

(1) If it appears to an election court that a person holding a licence or certificate under the Licensing Acts has knowingly permitted any bribery or treating in reference to any election to take place upon his licensed premises—

(a) the court shall, after affording him such rights as are conferred on those about to be reported under section 160(1) above, report the fact; and

(b) [the court shall ] bring the report before the licensing authority from whom, or on whose certificate, that person obtained his licence, and the licensing authority shall cause the report to be entered in the proper register of licences.

(2) The entry of the report in that register shall be taken into consideration by the licensing authority in determining whether they will or will not grant a renewal of the licence or certificate of the person reported and may be a ground, if the authority think fit, for refusing renewal.

#### *Further provision as to avoidance of elections and striking off votes*

### **164 Avoidance of election for general corruption etc.**

(1) Where on an election petition, it is shown that corrupt or illegal practices or illegal payments, employments or hirings committed in reference to the election for the purpose of promoting or procuring the election of any person at that election have so extensively prevailed that they may be reasonably supposed to have affected the result—

(a) his election, if he has been elected, shall be void, and

(b) he shall be incapable of being elected to fill the vacancy or any of the vacancies for which the election was held.

(2) An election shall not be liable to be avoided otherwise than under this section by reason of general corruption, bribery, treating or intimidation.

(3) An election under the local government Act may be questioned on the ground that it is avoided under this section.

### **165 Avoidance of election for employing corrupt agent**

(1) If at a parliamentary or local government election a candidate or his election agent personally engages as a canvasser or agent for the conduct or management of the election any person whom he knows or has reasonable grounds for supposing to be subject to an incapacity to vote at the election by reason—

(a) of his having been convicted or reported of any corrupt or illegal practice within the meaning of this Act or of the law relating to elections for the Northern Ireland Assembly, or

(b) of his having been convicted more than once of an offence under the Public Bodies Corrupt Practices Act 1889,

the candidate shall be incapable of being elected to fill the vacancy or any of the vacancies for which the election is held.

(2) A local government election may be questioned on the ground that the person whose election is questioned was, at the time of the election, by virtue of this section incapable of being elected.

(3) A vote given for a person who, at the time of the election, was by virtue of this section incapable of being elected shall not, by reason of that incapacity, be deemed to be thrown away so as to entitle another candidate to be declared elected, unless given at a poll consequent on the decision of an election court that he was so incapable.

(4) In the case of an election of the Mayor of London, a vote deemed in accordance with subsection (3) above to be thrown away shall be so deemed only to the extent that it is a vote given so as to indicate that the person who was under the incapacity is the voter's first or second preference from among the candidates.

#### **166 Votes to be struck off for corrupt or illegal practices**

(1) Where, on a parliamentary election petition claiming the seat for any person, a candidate is proved to have been guilty by himself, or by any person on his behalf, of bribery, treated or undue influence in respect of any person who voted at the election there shall, on a scrutiny, be struck off from the number of votes appearing to have been given to the candidate one vote for every person who voted at the election and is proved to have been so bribed, treated or unduly influenced.

(2) If any person who is guilty of a corrupt or illegal practice or of illegal payment, employment or hiring at an election votes at the election, his vote shall be void.

(3) If any person who is subject under any enactment relating to corrupt or illegal practices to an incapacity to vote at a parliamentary election or an election to any elective office or to any public office in Scotland votes at that election, his vote shall be void.

*Power to except innocent act from being illegal practice, payment, employment or hiring*

#### **167.— Application for relief.**

(1) An application for relief under this section may be made to the High Court or an election court or else, if in respect of a payment made in contravention of section 78(1) or (2) above, or of paragraph 1 of Schedule 4 to this Act, to a county court.

(1A) Where a person makes an application under this section he shall notify the Director of Public Prosecutions of the application and the Director or his assistant or representative may attend the hearing of the application and make representations at the hearing in respect of it.

(2) If it is shown to the court by such evidence as to the court seems sufficient—

- (a) that any act or omission of any person would apart from this section by reason of being in contravention of this Act be an illegal practice, payment, employment or hiring,
  - (b) that the act or omission arose from inadvertence or from accidental miscalculation or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith, and
  - (c) that such notice of the application has been given in the constituency or, as the case may be, the area of the authority for which the election was held, as to the court seems fit,
- and under the circumstances it seems to the court to be just that either that or any other person should not be subject to any of the consequences under this Act of the act or omission, the court may make an order allowing the act or omission to be an exception from the provisions of this Act making it an illegal practice, payment, employment or hiring and upon the making of the order no person shall be subject to any of the consequences under this Act of that act or omission.
- (3) In relation to an election of councillors in Scotland, the references in subsection (1) to applications to the High Court or a county court shall be omitted.
- (4)
- (5) Article 60 of the County Courts (Northern Ireland) Order 1980 (appeals from county courts) shall apply in relation to any order of a county court in Northern Ireland made by virtue of this section as it applies in relation to any such decree of a county court as is mentioned in paragraph (1) of that Article.

*Prosecutions for corrupt or illegal practices*

**168 Prosecutions for corrupt practices**

- (1) A person who is guilty of a corrupt practice shall be liable—
- (a) on conviction on indictment—
    - (i) in the case of a corrupt practice under section 60 or 62A above, to imprisonment for a term not exceeding two years, or to a fine, or to both,
    - (ii) in any other case, to imprisonment for a term not exceeding one year, or to a fine, or to both;
  - (b) on summary conviction, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding the statutory maximum, or to both.
- (5) [...]
- (6) [...]
- (7) If it appears to the court by which any person holding a licence or certificate under the Licensing Acts is convicted of the offence of bribery or treating that the offence was committed on his licensed premises—
- (a) the court shall direct the conviction to be entered in the proper register of licences, and
  - (b) the entry shall be taken into consideration by the licensing authority in determining whether they will or will not grant a renewal of the licence or certificate, and may be a ground, if the authority think fit, for refusing its renewal.

**169 Prosecutions for illegal practices**

A person guilty of an illegal practice shall on summary conviction be liable to a fine not exceeding level 5 on the standard scale; and on a prosecution for an illegal practice it shall be sufficient to allege that the person charged was guilty of an illegal practice.

**170 Conviction of illegal practice on charge of corrupt practice etc.**

A person charged with a corrupt practice may, if the circumstances warrant such finding, be found guilty of an illegal practice (which offence shall for that purpose be an indictable offence), and a person charged with an illegal practice may be found guilty of that offence notwithstanding that the act constituting the offence amounted to a corrupt practice.

171 [...]

172

**173 Incapacities on conviction of corrupt or illegal practice**

(1) Subject to subsection (2) below, a person convicted of a corrupt or illegal practice—  
(a) shall, during the relevant period specified in subsection (3) below, be incapable of—  
(i) being registered as an elector or voting at any parliamentary election in the United Kingdom or at any local government election in Great Britain, or  
(ii) being elected to the House of Commons, or  
(iii) holding any elective office; and  
(b) if already elected to a seat in the House of Commons or holding any such office, shall vacate the seat or office subject to and in accordance with subsections (4) and (5) below.

(2) The incapacity imposed by subsection (1)(a)(i) above applies only to a person convicted of a corrupt practice under section 60 or 62A above or of an illegal practice under section 61 above.

(3) For the purposes of subsection (1)(a) above the relevant period is the period beginning with the date of the conviction and ending—  
(a) in the case of a person convicted of a corrupt practice, five years after that date, or  
(b) in the case of a person convicted of an illegal practice, three years after that date,  
except that if (at any time within that period of five or three years) a court determines on an appeal by that person against the conviction that it should not be upheld, the relevant period shall end at that time instead.

(4) Where subsection (1)(b) applies to any person, he shall (subject to subsection (5) below) vacate the seat or office in question at the appropriate time for the purposes of this section, namely—  
(a) the end of the period which is the period prescribed by law within which notice of appeal may be given, or an application for leave to appeal may be made, by him in respect of the conviction, or  
(b) if (at any time within that period) that period is extended—  
(i) the end of the period as so extended, or  
(ii) the end of the period of three months beginning with the date of the conviction,  
whichever is the earlier.

(5) If (before the appropriate time mentioned in subsection (4) above) notice of appeal is given, or an application for leave to appeal is made, by such a person in respect of the conviction, he shall vacate the seat or office in question at the end of the period of three months beginning with the date of the conviction unless—

- (a) such an appeal is dismissed or abandoned at any earlier time (in which case he shall vacate the seat or office at that time), or
- (b) at any time within that period of three months the court determines on such an appeal that the conviction should not be upheld (in which case the seat or office shall not be vacated by him).

(6) Where such a person vacates a seat or office in accordance with subsection (4) or (5) above, no subsequent determination of a court that his conviction should not be upheld shall entitle him to resume the seat or office.

(7) If a person convicted of a corrupt or illegal practice has already been elected to a seat in the House of Commons or to any elective office, he shall (in addition to being subject to the incapacities mentioned in subsection (1)(a) above) be suspended from performing any of his functions as a Member of Parliament, or (as the case may be) any of the functions of that office, during the period of suspension specified in subsection (8) below.

(8) For the purposes of subsection (7) above the period of suspension is the period beginning with the date of the conviction and ending with—

- (a) the date on which the seat or office is vacated in accordance with subsection (4) or (5) above, or
- (b) where subsection (5)(b) above applies, the date on which the court determines that the conviction should not be upheld.

(9) Any incapacities or other requirement applying to a person by virtue of subsection (1) or (7) above applies in addition to any punishment imposed under section 168 or 169 above; but each of those subsections has effect subject to section 174 below.

(10) Without prejudice to the generality of section 205(2) below, nothing in this section affects matters relating to the Northern Ireland Assembly or local elections or holding office in Northern Ireland.

### **173A Incapacity to hold public or judicial office in Scotland**

(1) Subject to **subsection (3) and** to section 174 below, a person convicted of a corrupt practice—

- (a) shall for the period of five years beginning with the date of his conviction, be incapable of holding any public or judicial office in Scotland, and
- (b) if already holding such an office, shall vacate it as from that date.

(2) Subsection (1) above applies in addition to—

- (a) any incapacity or other requirement applying to the person by virtue of section 173 above, and
- (b) any punishment imposed on him under section 168 above.

**(3) Subsection (1) above, in its application to a person convicted of a corrupt practice under section 62A above, has effect as if the references in it to public office did not include references to the office of councillor for a local government area in Scotland.**

### *Mitigation and remission of incapacities*

### **174 Mitigation and remission etc.**

- (1) Where—  
    (a) any person is subject to any incapacity by virtue of the report of an election court, and  
    (b) he or some other person in respect of whose acts the incapacity was imposed is one a prosecution acquitted of any of the matters in respect of which the incapacity was imposed, the court may order that the incapacity shall thenceforth cease so far as it is imposed in respect of those matters.
- (2) Where any person who is subject to any incapacity as mentioned above is on a prosecution convicted of any such matters as are mentioned above, no further incapacity shall be taken to be imposed by reason of the conviction, and the court shall have the like power (if any) to mitigate or remit for the future the incapacity so far as it is imposed by section 160 above in respect of the matters of which he is convicted, as if the incapacity had been imposed by reason of the conviction.
- (3) A court exercising any of the powers conferred by subsections (1) and (2) above shall make an order declaring how far, if at all, the incapacities imposed by virtue of the relevant report remain unaffected by the exercise of that power, and that order shall be conclusive for all purposes.
- (4) Where a person convicted of a corrupt or illegal practice is subsequently reported to have been guilty of that practice by an election court, no further incapacity shall be imposed on him under section 160 by reason of the report.
- (5) Where any person is subject to any incapacity by virtue of a conviction or of the report of an election court, and any witness who gave evidence against that person upon the proceeding for the conviction or report is convicted of perjury in respect of that evidence, the incapacitated person may apply to the High Court, and the court, if satisfied that the conviction or report so far as respects that person was based upon perjury, may order that the incapacity shall thenceforth cease.
- (6)

*Illegal payments, employments or hirings*

**175   Illegal payments etc.**

- (1) A person guilty of an offence of illegal payment or employment shall, on summary conviction, be liable to a fine not exceeding level 5 on the standard scale; and on a prosecution for such an offence it shall be sufficient to allege that the person charged was guilty of an illegal payment or employment as the case may be.
- (2) A candidate or election agent who is personally guilty of an offence of illegal payment or employment shall be guilty of an illegal practice, and if an offence of illegal payment or employment is committed with the candidate's knowledge and consent at an election where candidates are not required to have election agents, the candidate shall be guilty of an illegal practice.
- (3) Any person charged with an offence of illegal payment or employment may be found guilty of that offence, notwithstanding that the act constituting the offence amounted to a corrupt or illegal practice.

**176 Time limit for prosecutions**

(1) A proceeding against a person in respect of any offence under any provision contained in or made under this Act shall be commenced within one year after the offence was committed, and the time so limited by this section shall, in the case of any proceedings under the Magistrates' Courts Act 1980 (or, in Northern Ireland, the Magistrates' Courts (Northern Ireland) Order 1981) for any such offence [...] be substituted for any limitation of time contained in that Act or Order.

(2) For the purposes of this section—

- (a) in England and Wales, the laying of an information;
  - (b) in Scotland, the granting of a warrant to apprehend or cite the accused (if, in relation to an offence alleged to have been committed within the United Kingdom, such warrant is executed without delay); and
  - (c) in Northern Ireland, the making of a complaint,
- shall be deemed to be the commencement of a proceeding.

**(2A) A magistrates' court in England and Wales may act under subsection (2B) if it is satisfied on an application by a constable or Crown Prosecutor—**

- (a) that there are exceptional circumstances which justify the granting of the application, and**
- (b) that there has been no undue delay in the investigation of the offence to which the application relates.**

**(2B) The magistrates' court may extend the time within which proceedings must be commenced in pursuance of subsection (1) above to not more than 24 months after the offence was committed.**

**(2C) If the magistrates' court acts under subsection (2B), it may also make an order under subsection (2D) if it is satisfied, on an application by a constable or Crown Prosecutor, that documents retained by the relevant registration officer in pursuance of rule 57 of the parliamentary elections rules may provide evidence relating to the offence.**

**(2D) An order under this subsection is an order—**

- (a) directing the relevant registration officer not to cause the documents to be destroyed at the expiry of the period of one year mentioned in rule 57, and**
- (b) extending the period for which he is required to retain them under that rule by such further period not exceeding 12 months as is specified in the order.**

**(2E) The making of an order under subsection (2D) does not affect any other power to require the retention of the documents.**

**(2F) An application under this section must be made not more than one year after the offence was committed.**

**(2G) Any party to –**

- (a) an application under subsection (2A), or**
- (b) an application under subsection (2C),**



**who is aggrieved by the refusal of the magistrates' court to act under subsection (2B) or to make an order under subsection (2D) (as the case may be) may appeal to the Crown Court.**

(3) [...]

### **177 Local election offence punishable summarily**

(1) A prosecution for any offence punishable summarily committed in reference to an election under the local government Act—

- (a) may be instituted before any magistrates' court in the county in which the local government area for which the election was held is situated or which it adjoins; and
- (b) the offence shall be deemed for all purposes to have been committed within the jurisdiction of that court.

This section does not apply in Scotland.

### **178 Prosecution of offences committed outside the United Kingdom**

Proceedings in respect of an offence under this Act alleged to have been committed outside the United Kingdom by a Commonwealth citizen or citizen of the Republic of Ireland may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the United Kingdom.

### **179 Offences by associations**

Where—

- (a) any corrupt or illegal practice or any illegal payment, employment or hiring, or
- (b) any offence under section 110 above,

is committed by any association or body of persons, corporate or unincorporate, the members of the association or body who have taken part in the commission of the offence shall be liable to any fine or punishment imposed for that offence by this Act.

### **180 Evidence by certificate of holding of elections**

On—

- (a) any prosecution for a corrupt or illegal practice or for any illegal payment, employment or hiring, and
- (b) any proceedings for a penalty under section 85 above or paragraph 4 of Schedule 4 to this Act,

the certificate of the returning officer at an election—

- (i) that the election mentioned in the certificate was duly held, and
- (ii) that the person named in the certificate was a candidate at the election,

shall be sufficient evidence of the facts stated in it.

### **180A Evidence by certificate of electoral registration**

The certificate of a registration officer that any person is or is not, or was or was not at any particular time, duly registered in one of the officer's registers in respect of any address shall be sufficient evidence of the facts stated in it; and a document purporting to be such a certificate shall be received in evidence and presumed to be such a certificate unless the contrary is proved.

### **181 Director of Public Prosecutions**

(1) Where information is given to the Director of Public Prosecutions that any [offence under this Act has been committed], it is his duty to make such inquiries and instituted such prosecutions as the circumstances of the case appear to him to require.

(2) The Director by himself or by his assistant or by his representative appointed under subsection (3) below may and, if the election court so requests him, shall attend the trial of every election petition.

(3) The Director may nominate, a barrister or solicitor to be his representative for the purposes of this Part of this Act

(4)

(5) There shall be allowed to the Director and his assistant or representative for the purposes of this Part (other than his general duties under subsection (1) above) such allowances for expenses as the Treasury may approve.

(6) The costs incurred in defraying the expenses of the Director incurred for those purposes (including the remuneration of his representative) shall, in the first instance, be paid by the Treasury, and shall be deemed to be expenses of the election court; but if for any reasonable cause it seems just to the court so to do, the court shall order all or part of those costs to be repaid to the Treasury by the parties to the petition, or such of them as the court may direct.

(7) In the application of this section to Scotland, subsections (2) to (6) shall be omitted.

(8)

### *Supplemental*

#### **182 Rules of procedure**

(1) The authority having for the time being power to make rules of court for the Supreme Court may make rules for the purposes of Part II and this Part of this Act.

(2) In relation to the power conferred by subsection (1) above to make rules—

(a) that power shall be exercisable by statutory instrument, and be treated for the purposes of the Statutory Instruments Act 1946 as if conferred on a Minister of the Crown; and

(b) a statutory instrument containing rules under subsection (1) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) This section does not apply to Scotland, but the Court of Session has power to make acts of sederunt for the purposes of Part II and this Part.

(4) This section does not apply to Northern Ireland.

#### **183 Costs**

(1) The rules of the Supreme Court with respect to costs to be allowed in actions, causes and matters in the High Court shall in principle and so far as practicable apply to the costs of petition and other proceedings under Part II or this Part of this Act, and the taxing officer shall not allow

any costs higher than would be allowed in any action, cause or matter in the High Court on a common fund basis.

(2) Where any costs or other sums are, under the order of an election court or otherwise under this Part, to be paid by any person, those costs or sums shall be due from that person to the person or persons to whom they are to be paid and, if payable to the Treasury, shall be a debt due to Her Majesty and in either case may be recovered accordingly.

(3) The above provisions of this section do not apply to Scotland, but those costs shall, subject to any regulations which the Court of Session may make by act of sederunt, be taxed as nearly as possible according to the same principles as expenses between solicitor and client are taxed in a cause in the Court of Session, or, when incurred in relation to an election of councillors, the sheriff court.

#### **184 Service of notices**

(1) Any summons, notice or document required to be served on any person with reference to any proceeding respecting an election for the purpose of causing him to appear before the High Court, the county court, or any election court, or otherwise or of giving him an opportunity of making a statement, or showing cause, or being heard by himself before any court for any purpose of this Part of this Act may be served—

(a) by delivering it to that person, or by leaving it at, or sending it by post by a registered letter or by the recorded delivery service, to his last known place of abode in the constituency or, as the case may be, the area of the authority for which the election was held; or

(b) if the proceeding is before any court in such other manner as the court may direct.

(2) In proving service by post under this section it shall be sufficient to prove that the letter was prepaid, properly addressed, and registered or recorded with [the postal operator (within the meaning of the Postal Services Act 2000) concerned].

#### **185 Interpretation of Part III**

In this Part of this Act, unless the context otherwise requires—

“appropriate officer” has the same meaning as in section 67(7) above;

“candidate” has the same meaning as in Part II of this Act and the saving in section 117(1) above applies in relation to this Part as in relation to Part II;

“costs” includes charges and expenses;

“date of the allowance of an authorised excuse” has the meaning assigned to it by section 86(8) above or paragraph 7 of Schedule 4 to this Act, as the case may be;

“declaration as to election expenses” means a declaration made under section 82 above or, as the case may be, paragraph 3 of Schedule 4 to this Act;

“elective office” means any office to which a local government election is held in England or Wales;

“judicial office” includes the office of justice of the peace;

“Licensing Acts” means the Licensing Act 1964 and the Acts amending that Act, or the corresponding enactments forming part of the law of Scotland or Northern Ireland;

“money” and “pecuniary reward” shall be deemed to include—

(a) any office, place or employment, and

(b) any valuable security or other equivalent of money, and

(c) any valuable consideration,

and expressions referring to money shall be construed accordingly;

“payment” includes any pecuniary or other reward;

“prescribed” means prescribed by rules of court, or, in Northern Ireland, such rules under section 55 of the Judicature (Northern Ireland) Act 1978;

“public office” in relation to Scotland means any office held in Scotland—

- (a) under the Crown, or
- (b) under the charter of a city or borough, or
- (c) under the Acts relating to local government or public health or public education, whether the office is that—
  - (i) of mayor, provost, chief magistrate, chairman, alderman, councillor, member of a board, commission or other local authority in any local government or other area; or
  - (ii) of proper officer or other officer under a council, board, commission or other authority; or
  - (iii) of any other office to which a person is elected or appointed under any such charter or enactment as is mentioned above, including any other municipal or parochial office;

“return as to election expenses” means a return made under section 81 above or, as the case may be, paragraph 3 of Schedule 4 to this Act;

“Speaker” includes Deputy Speaker and, where the office of Speaker is vacant, Clerk of the House of Commons, or any other officer for the time being performing the duties of Clerk of the House of Commons.

### **186 Computation of time for purposes of Part III**

Section 119 above applies in computing any period of time for the purposes of this Part of this Act as for the purposes of Part II of this Act.

## **PART IV**

### **SPECIAL PROVISIONS AS TO OTHER LOCAL ELECTIONS**

*England and Wales, and Scotland*

### **187 Application of Act to certain local elections**

(1) The following provisions of this Act—

- (a) in Part I, sections 60, **62A** and 66,
- (b) Parts II and III,
- (c) in this Part, section 189,

so far as they apply to an election in England and Wales of—

- (i) parish or community councillors, or
- (ii) the chairman of a parish or community council or a parish meeting,

have effect subject to such adaptations, modifications and exceptions as may be made by rules under section 36 above, but nothing in this subsection affects the operation of section 96 or section 100 above.

(2) Sections 48(1) and (2) and 63 above have effect as if any reference in them to a local government election included a reference to any other election under the local Government Act or the Local Government (Scotland) Act 1973.

## **188 Parts II and III as to local elections in Scotland**

Except in the phrase “election to any public office” wherever it is used, references in Parts II and III and section 189 of this Act to elections or to elections under the local government Act do not include references to elections under the [Local Government etc. (Scotland) Act 1994] other than elections of councillors.

## **189 Voting offences at certain local elections**

(1) If a person—

- (a) votes, or induces or procures any person to vote, at an election under the local government Act which is not a local government election,
- (b) knowing that he or that person is prohibited by any enactment from voting at that election,

he shall be guilty of an illegal practice.

(2) A candidate shall not be liable nor shall his election be avoided for any illegal practice under subsection (1) above committed without his knowledge or consent.

## **190**

## **189A**

### *The City*

## **191 Municipal elections in the City**

(1) For the purposes of—

- (a) sections 60 ~~and 61~~, **61 and 62A** in Part I of this Act,
- (b) the whole of Part II of this Act except sections 96 and 99,
- (c) the whole of Part III of this Act,
- (d) section 189 above and sections 192 to 198 below, and
- (e) the whole of Part V of this Act,

“local government election” and “election under the local government Act” include a municipal election in the City (that is, an election to the office of mayor, alderman, common councilman or sheriff and also the election of any officer elected by the mayor, aldermen and liverymen in common hall),

“corporate office” includes each of those offices,

“local government area” includes the City,

“clerk of the authority” means in relation to the City, the town clerk of the City,

“electoral area” means in relation to a ward election, the ward, and in relation to any other municipal election in the City, the City.

In relation to municipal elections in the City those enactments have effect subject to the modifications mentioned in sections 193 to 196 below.

(2) Schedule 6 to this Act has effect as regards the operation of Part II (ward elections) of the City of London (Various Powers) Act 1957[ and the City of London (Ward Elections) Act 2002].

## **192 [...]**

## **193 Personation and other voting offences**

In relation to municipal elections in the City—

- (a) in sections 60 ~~and 61~~, **61 and 62A** above “vote” does not include voting otherwise than on a poll; and
- (b) in section 61(2), paragraph (a)(ii) does not apply.

#### **194 Broadcasting.**

In relation to municipal elections in the City—

- (a) neither section 92 nor section 93 above apply by virtue of section 191 above to municipal elections in the City other than ward elections; and
- (b) for the purposes of section 93(1) a ward election shall be deemed to be pending during the period beginning—
  - (i) in the case of an annual election three weeks before the day fixed for the election, and
  - (ii) in other cases with the day on which the precept is issued,and ending in all cases with the day of the poll (or, if no poll is taken, with the day fixed for the election).

#### **195 Disturbances at meetings**

In relation to municipal elections in the City—

- (a) in section 97 above the reference to the day of election shall be taken as a reference to the day fixed for the election and (where a poll is taken) any day after that up to and including the day of the poll; but
- (b) in relation to a meeting held with reference to an election other than an annual election that section does not apply to an offence committed on or before the day on which the precept is issued.

#### **196 Costs or expenses**

In relation to municipal elections in the City, any costs or expenses directed to be paid under section 132 above by the authority for which the election was held shall—

- (a) if incurred in respect of a ward election, be paid out of the general rate; and
- (b) in any other case, be paid by the chamberlain of the City out of the City's cash.

#### **197 Candidate's expenses: ward, and liverymen in common hall, elections**

(1) For a candidate at a ward election in the City the maximum amount of election expenses is £266 together with an additional 5.2p for every elector (taken according to the enumeration of the ward list to be used at the election); but the provision made by section 76(6) above for increasing the maximum amount of election expenses in the event of a candidate's death applies to the maximum amount under this subsection.

(2) A candidate at an election by liverymen in common hall need not have an election agent, his maximum amount of election expenses is [28.3p]for every elector on the common hall register to be used at the election, and section 90 above and Schedule 4 to this Act apply at such an election as they apply to an election of parish councillors, but the form of declaration as to election expenses shall be such as may be prescribed by Act of Common Council and in this subsection 'common hall register' means the list prepared under section 4 of the City of London Ballot Act 1887.

(3) The Secretary of State may by order vary a maximum amount of the candidate's election expenses specified in subsection (1) or subsection (2) above where in his opinion there has been a change in the value of money since the last occasion on which that amount was fixed (whether by such an order or otherwise), and the variation shall be such as in this opinion is justified by that

change.

~~An order under this subsection shall not be made unless a draft of the order has been laid before, and approved by resolution of, each House of Parliament; and the power to make the order is exercisable by statutory instrument.~~

**The power to make an order under this subsection is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament**

### **198. Effect of avoidance of election to corporate office**

In relation to the City, where a candidate who has been elected to a corporate office is—

- (a) by a certificate of an election court, or
- (b) by a decision of the High Court,

declared not to have been duly elected, acts done by him in execution of the office before the time when the certificate or decision is certified to the clerk of the authority for which the election was held shall not be invalidated by reason of that declaration.

## **PART V GENERAL AND SUPPLEMENTAL**

### *Supplemental*

**199** [...]

**199A** [...]

### **199B Translations etc. of certain documents**

**(1) Subsections (2) and (3) below apply to any document which under or by virtue of this Act is required or authorised to be given to voters or displayed in any place for the purposes of a parliamentary or local government election.**

**(2) The person who is required or authorised to give or display the document must, as he thinks appropriate, give or display or otherwise make available in such form as he thinks appropriate—**

- (a) the document in Braille;**
- (b) the document in languages other than English;**
- (c) graphical representations of the information contained in the document;**
- (d) other means of making the information contained in the document accessible to persons who might not otherwise have reasonable access to the information.**

**(3) The person required or authorised to give or display the document must also, as he thinks appropriate, make available the information contained in the document in such audible form as he thinks appropriate.**

**(4) Subsections (2) and (3) above do not apply to—**

- (a) the nomination paper;
- (b) the ballot paper.

**(5) The returning officer at a parliamentary election or a local government election may cause to be displayed at every polling station in the election an enlarged sample copy of the ballot paper.**

**(6) The sample copy mentioned in subsection (5) above—**

- (a) in the case of a parliamentary election or a local government election where only one candidate is to be elected, must have printed the words “VOTE FOR ONE CANDIDATE ONLY” both at the top and immediately below the list of candidates,
- (b) in the case of a local government election where more than one candidate is to be elected, must have printed the words “VOTE FOR NO MORE THAN [*here insert the maximum number of candidates to be elected*] CANDIDATES” both at the top and immediately below the list of candidates, and
- (c) in each case, below the second occurrence of those words may include a translation of those words into such other languages as the returning officer thinks appropriate.

**(7) The returning officer at a parliamentary election or a local government election must provide at every polling station in the election an enlarged hand-held sample copy of the ballot paper for the assistance of voters who are partially sighted.**

**(8) The sample copy mentioned in subsection (7) above must be clearly marked as a specimen provided only for the guidance of voters.**

**(9) In the application of subsection (2)(b) to Northern Ireland any question as to whether a person is to give or display or otherwise make available a document in a language other than English is to be decided by the returning officer.**

**(10) This section does not apply to a local government election in Scotland.**

## **200 Public notices, and declarations**

(1) A public notice required by or under this Act to be given by a returning officer for a parliamentary election shall be given by posting the notice in some conspicuous place or places in the constituency and may also be given in such other manner as he thinks desirable for publicising it.

(1A) A public notice required by or under this Act to be given by a local returning officer shall be given by posting the notice in some conspicuous place or places in the parliamentary constituency wholly or partly contained in an electoral region and may also be given in such other manner as he thinks fit.

(2) Any person before whom a declaration is authorised to be made under this Act may take the declaration.

### **200A.— Remuneration for free postal services provided under Act.**

(1) This section applies where any postal services are provided without charge by a universal service provider in pursuance of this Act.



(2) The universal service provider shall be entitled to be remunerated for having provided the services at the rate fixed in relation to them by virtue of a scheme under section 89 of the Postal Services Act 2000.

(3) A sum which a universal service provider is entitled to receive by virtue of this section shall be charged on, and issued out of, the Consolidated Fund.

(4) In this section “postal services” and “universal service provider” have the same meanings as in the Postal Services Act 2000.

## **201 Regulations**

(1) Any power conferred by this Act to make regulations shall, except where this Act otherwise provides, be a power exercisable by the Secretary of State and except in the case of regulations under section 29(8) by statutory instrument.

(2) No regulations shall be made under this Act by the Secretary of State otherwise than under section 29(8) above or section 203(4) below unless a draft of the regulations has been laid before and approved by a resolution of each House of Parliament.

(2A) Any regulations under section 110(7) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) Any regulations under this Act may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the Secretary of State, or the Electoral Commission (in the case of any regulations made by them), thinks fit.

### *Interpretation*

## **202 General provisions as to interpretation**

- (1) In this Act, unless the context otherwise requires—
- “~~the absent voters list~~” means, in relation to any election, ~~the list kept under paragraph 5 of Schedule 4 to the Representation of the People Act 2000 or, as respects Northern Ireland, under section 7 of the Representation of the People Act 1985 for that election;~~ **“anonymous entry”, in relation to a register of electors, shall be construed in accordance with section 9B above and “the record of anonymous entries” means the record prepared in pursuance of regulations made by virtue of paragraph 8A of Schedule 2 to this Act;**
  - “citizen of the Union” shall be construed in accordance with Article 8.1 of the Treaty establishing the European Community (as amended by Title II of the Treaty on European Union, and “relevant citizen of the Union” means such a citizen who is not a Commonwealth citizen or a citizen of the Republic of Ireland;
  - “the City” means the City of London;
  - “Clerk of the Crown” means Clerk of the Crown in Chancery[393] ;
  - “Common Council” means the Common Council of the City;
  - “disability”, in relation to doing a thing, includes a short term inability to do it;**
  - “dwelling” includes any part of a building where that part is occupied separately as a dwelling;

“election” means a parliamentary election, an Authority election or an election under the local government Act.

“election court” means —

- (a) in relation to a parliamentary election petition, the judges presiding at the trial;
- (b) in relation to a petition questioning an Authority election or an election under the local government Act, the court constituted under this Act for the trial of that petition;

“election petition” means a petition presented in pursuance of Part III of this Act;

“elector” in relation to an election, means any person ~~whose name is for the time being who~~ **has for the time being an entry** on the register to be used at that election, but does not include those shown in the register **(or, in the case of a person who has an anonymous entry in the register, in the record of anonymous entries)** as below voting age on the day fixed for the poll;

“legal incapacity” includes (in addition, **where applicable**, to any incapacity by virtue of any subsisting provision of the common law) any disqualification imposed by this Act or any other Act; “the list of proxies” has, in relation to any election, the meaning given by paragraph 5(3) of Schedule 4 to the Representation of the People Act 2000 or, as respects Northern Ireland, by section 7 of the Representation of the People Act 1985

“parliamentary election petition” means an election petition questioning a parliamentary election or return;

“**the postal voters list**” means

- (a) in relation to England and Wales and Scotland, the list of persons kept in pursuance of paragraph 5(2) of Schedule 4 to the Representation of the People Act 2000 (persons whose applications to vote by post have been granted);**
- (b) in relation to Northern Ireland, the list of persons kept in pursuance of section 7(4)(a) of the Representation of the People Act 1985 (persons whose applications to vote by post have been granted);**

“**the proxy postal voters list**” means –

- (a) in relation to England and Wales and Scotland, the list of persons kept in pursuance of paragraph 7(8) of Schedule 4 to the Representation of the People Act 2000 (persons whose applications to vote by post as proxy have been granted);**
- (b) in relation to Northern Ireland, the list of persons kept in pursuance of section 9(9) of the Representation of the People Act 1985 (persons whose applications to vote by post as proxy have been granted).**

“overseas elector's declaration” has the meaning given by section 2 of the Representation of the People Act 1985;

“parliamentary elections rules” means the parliamentary elections rules in Schedule 1 to this Act;

“person” includes (without prejudice to the provisions of the Interpretation Act 1978) an association corporate or unincorporate;

“prescribed” except in Part III of this Act means prescribed by regulations;

“proper officer”—

- (a) in relation to the Greater London Authority, has the same meaning as in the 1999 Act (see section 424(2) of that Act);
- (b) except as provided by paragraph (a) above, in England and Wales means a proper officer within the meaning of section 270(3) and (4) of the Local Government Act 1972;

“qualifying address” shall be construed in accordance with section 9(8) above;

“registered political party” means a party registered under Part II of the Political Parties, Elections and Referendums Act 2000;

“service voter” means a person who has made a service declaration and is registered or entitled to be registered in pursuance of it;

“sub-agent” has the meaning given by section 68(1) above;

“universal postal service provider” means a universal service provider (within the meaning of the Postal Services Act 2000);

“voter” means a person voting at an election and includes a person voting as proxy and, except in the parliamentary elections rules, and the rules under section 36 and 42 above, a person voting by proxy, and “vote” (whether noun or verb) shall be construed accordingly, except that in those rules any reference to an elector voting or an elector's vote shall include a reference to an elector voting by proxy or an elector's vote given by proxy.

(2) For the purposes of the Representation of the People Acts a person shall be deemed not to have attained a given age until the commencement of the relevant anniversary of the day of his birth.

### **203 Local government provisions as to England and Wales**

(1) In this Act, unless the context otherwise requires, in relation to England and Wales—

“the 1999 Act” means the Greater London Authority Act 1999;

“Assembly constituency” has the same meaning as in the 1999 Act (see section 2(4) and (5) of that Act);

“Authority election” means—

- (a) any election of the Mayor of London;
- (b) any election of a constituency member of the London Assembly; or
- (c) the election of the London members of the London Assembly at an ordinary election;

“constituency member”, in relation to the London Assembly, has the same meaning as in the 1999 Act;

“election of a constituency member of the London Assembly” means—

- (a) any such election at an ordinary election; or
- (b) an election under section 10 of the 1999 Act (election to fill a vacancy in an Assembly constituency);

“election of the Mayor of London” means—

- (a) any such election at an ordinary election; or
- (b) an election under section 16 of the 1999 Act (election to fill a vacancy in the office of Mayor of London);

‘electoral area’ means

- (a) any electoral division or ward or, in the case of a parish or community in which there are no wards, the parish or community, for which the election of councillors is held under the local government Act
- (b) Greater London, in the case of—
  - (i) any election of the Mayor of London; or
  - (ii) the election of the London members of the London Assembly at an ordinary election;
- (c) any Assembly constituency for which the election of a constituency member of the London Assembly is held;

“local authority” means the Greater London Authority, a county council, a county borough council, a district council, a London borough council or a parish or community council;

“local government Act” means the Local Government Act 1972;

“local government area” means Greater London, a county, county borough, London borough, district, parish or community;

“local government election” means

- (a) the election of councillors for any electoral area; or
- (b) any Authority election;

“London member”, in relation to the London Assembly, has the same meaning as in the 1999 Act.

(1A) In the application of this Act in relation to England and Wales, unless the context otherwise requires, any reference to—

- (a) a local government election, or
- (b) an election under the local government Act, shall be taken to include a reference to an Authority election.

(1B) Any reference in this Act to a registered political party submitting a list of candidates to be London members of the London Assembly at an ordinary election shall be construed in accordance with section 4(5)(a) of, and Part II of Schedule 2 to, the 1999 Act; and related expressions shall be construed accordingly.

(2) The following provisions of this Act, namely—

- (a) Part I, so far as it has effect for the purposes of parliamentary elections, and
- (b) Parts I to III, so far as they have effect for the purposes of Authority elections,

shall (subject to any express provision contained in the Part or Parts in question) apply in relation to the City as if the City were a London borough and the Common Council were a London borough council.

For the purposes of this subsection the Inner Temple and the Middle Temple shall be treated as forming part of the City.

(3) The modifications made by subsection (2) above do not affect section 52(4) above.

(4) This Act applies in relation to the Isles of Scilly as if those isles were a county and as if the council of those isles were a county council, except that—

- (a) the council shall appoint an officer of the council to be registration officer for the isles and paragraph 1(1) of Schedule 2 shall apply as if the isles were a district and the council were a district council;
- (b) the provisions of Part I relating to the conduct of local government elections shall have effect in relation to those isles subject to such adaptations as the Secretary of State may by regulations prescribe.

(5) For the purposes of section 265 of the Local Government Act 1972 (application to Isles of Scilly) the provisions of this Act as to rules made by the Secretary of State under section 36 above shall be deemed to be contained in a public general Act relating to local government.

### *Scotland and Northern Ireland*

## **204 General application to Scotland**

(1) This section has (in addition to any express application elsewhere in this Act) effect for the general application of this Act to Scotland, and accordingly—

“electoral area”, in relation to a local government election, means the electoral ward for which the election is held;

“local authority” means a council constituted under section 2 of the Local Government etc.(Scotland) Act 1994

“local government Act” means the Local Government etc. Scotland Act 1994;  
“local government area” means the area of a local authority;]  
“local government election” means an election of councillors by local government electors for an electoral area.

- (2) For a reference to a borough constituency substitute a reference to a burgh constituency.
- (3) For a reference to the High Court substitute a reference to the Court of Session and for a reference to the county court or a judge of that court substitute a reference to the sheriff.
- (4) The power conferred by section 57 above on the Court of Session to make acts of sederunt for the appointment of judges to hear appeals under that section or to fill any vacancy among the judges so appointed is not required to be exercisable by statutory instrument.
- (5) A reference to the Director of Public Prosecutions or the Attorney General refers to the Lord Advocate.
- (6) For a reference to a plaintiff or defendant substitute respectively a reference to a pursuer or defender, for a reference to a recognisance substitute a reference to a bond of caution and for a reference to an injunction substitute a reference to an interdict.
- (7) Any reference to the report of an election court shall, in relation to an election court trying a petition questioning an election of councillors in Scotland, be construed as a reference to a finding of the court, and the expression “reported of a corrupt or illegal practice” shall be construed accordingly.
- (8) For a reference to the register of licences substitute a reference to the register kept in pursuance of section 20 of the Licensing (Scotland) Act 1976.
- (9) Section 231 of the Local Government (Scotland) Act 1973 (application to sheriff in cases of difficulty) applies to the provisions of sections 41 to 45 above as that section applied to those provisions immediately before their repeal and re-enactment by this Act.
- (10) Notwithstanding the repeal by this Act of sections 19 and 43 of the Representation of the People Act 1918, those sections shall continue to have such effect as they had immediately before that repeal in relation to regulation 16 of section 2 of the Universities Elections Amendment (Scotland) Act 1881.

## **205 General application to Northern Ireland**

- (1) This section has (in addition to any express application elsewhere in the Act) effect for the general application of this Act to Northern Ireland, and accordingly—
  - (a) a reference to the Attorney General refers to the Attorney General for Northern Ireland;
  - (aa) a reference to the Director of Public Prosecutions refers to the Director of Public Prosecutions for Northern Ireland;
  - (b) subject to subsection (2) below, a reference to any enactment shall be construed as a reference to that enactment as it applies in Northern Ireland.
- (2) Nothing in this Act affects the law relating to local government in Northern Ireland.

*Operation*

**206 Transitional and saving provisions, amendments and repeals**

In Schedule 7 to this Act—

(a) Part I has effect as to its transitional and saving provisions, and

(b) Part II has effect as to its provisions relating to the interpretation of other Acts,

and subject to that Schedule—

(i) the enactments and order specified in Schedule 8 to this Act have effect subject to the amendments consequent on this Act specified in that Schedule; and

(ii) the enactments and orders specified in Schedule 9 to this Act (of which those in Part I are obsolete) are repealed or revoked to the extent specified in the third column of that Schedule.

**207 Citation and commencement**

(1) This Act may be cited as the Representation of the People Act 1983, and is included among the Acts which may be cited as the Representation of the People Acts.

(2) This Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint

**SCHEDULE A1**

**Section 18C**

**REVIEW OF POLLING DISTRICTS AND POLLING PLACES**

- 1 The relevant authority must publish notice of the holding of a review.**
- 2 The authority must consult the returning officer for every parliamentary election held in a constituency which is wholly or partly in its area.**
- 3 (1) Every such returning officer must make representations to the authority.**
  - (2) The representations must include information as to the location of polling stations (existing or proposed) within polling places (existing or proposed).**
  - (3) The representations must be published in such manner as is prescribed.**
- 4 (1) The authority must seek representations from such persons as it thinks have particular expertise in relation to access to premises or facilities for persons who have different forms of disability.**
  - (2) Such persons must have an opportunity—**
    - (a) to make representations;**
    - (b) to comment on the returning officer's representations.**
- 5 Any elector in a constituency situated in whole or in part in the authority's area may make representations.**
- 6 Representations made by any person in connection with a review of polling places may include proposals for specified alternative polling places.**
- 7 On completion of a review the authority must—**
  - (a) give reasons for its decisions in the review;**
  - (b) publish such other information as is prescribed.**

**SCHEDULE 1**

**Section 23**

**PARLIAMENTARY ELECTIONS RULES**

**PART I  
PROVISIONS AS TO TIME**

*Timetable*

- 1 The proceedings at the election shall be conducted in accordance with the following Table.**

**TIMETABLE**

## Proceeding

## Time

Issue of writ	In the case of a general election, as soon as practicable after the issue of the proclamation summoning the new Parliament.	In the case of a by-election, as soon as practicable after the issue of the warrant for the writ.
Publication of notice of election.	In the case of a general election or by-election, not later than 4 in the afternoon on the second day after that on which the writ is received.	
Delivery of nomination papers.	In the case of a general election, between the hours of 10 in the morning and 4 in the afternoon on any day after the date of publication of the notice of election, but not later than the sixth day after the date of the proclamation summoning the new Parliament.	In the case of a by-election, the same as in the case of a general election, except that the last day shall be a day fixed by the returning officer and shall be not earlier than the third day after the date of publication of the notice of election nor later than the seventh day after that on which the writ is received.
Delivery of notices of withdrawals of candidature	Within the time for the delivery of nomination papers at the election.	
The making of objections to nomination papers.	In the case of a general election or a by-election, during the hours allowed for delivery of nomination papers on the last day for their delivery and the hour following; but— (a) no objection may be made in the afternoon of that last day except to a nomination paper delivered within 24 hours of the last time for its delivery, and in the case of a nomination paper so delivered no objection may be so made to the sufficiency or nature of the particulars of the candidate unless made at or immediately after the time of the delivery of the nomination paper; and (b) the foregoing provisions do not apply to objections made in pursuance of rule 15(2)	
Publication of statement of persons nominated.	In the case of a general election or a by-election, <del>at the close of the time for making objections to nomination papers or as soon afterwards as any objections are disposed of.</del> <b>(a) if no objections to nomination papers are made, at the close of the time for doing so, or</b> <b>(b) if any such objections are made, not before they are disposed of but not later than 24 hours after the last time for delivery of nomination papers.</b>	
Polling	In the case of a general election, between the hours of 7 in the morning and 10 at night on the eleventh day after the last day for delivery of nomination papers.	In the case of a by-election, between the hours of 7 in the morning and 10 at night on the day fixed by the returning officer, which shall not be earlier than the ninth nor later than the eleventh day after the last day for delivery of nomination papers.

### *Computation of time*

2 (1) In computing any period of time for the purposes of the Timetable—

- (a) a Saturday or Sunday,
- (b) Christmas Eve, Christmas Day, ~~Maundy Thursday~~, Good Friday or a bank holiday



(c) a day appointed for public thanksgiving or mourning, shall be disregarded, and any such day shall not be treated as a day for the purpose of any proceedings up to the completion of the poll nor shall the returning officer be obliged to proceed with the counting of the votes on such a day.

(2) In this rule “bank holiday” means —

(a) in relation to a general election, a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom,

(b) in relation to a by-election, a day which is a bank holiday under that Act in that part of the United Kingdom in which the constituency is situated,

but at a general election sub-paragraph (b) and not sub-paragraph (a) of this paragraph applies in relation to any proceedings—

(i) commenced afresh by reason of a candidate's death; and

(ii) extending, by reason of riot or open violence, beyond the time laid down by the Timetable.

## **PART II**

### **STAGES COMMON TO CONTESTED AND UNCONTESTED ELECTIONS**

#### **ISSUE OF WRIT AND NOTICE OF ELECTION**

##### *Issue of writ*

3. (1) Writs for parliamentary elections shall continue to be sealed and issued in accordance with the existing practice of the office of the Clerk of the Crown.

(2) Each writ shall be in the form in the Appendix and shall be directed to the returning officer by the title of his office as returning officer (and not by his name) and conveyed to him.

(3) Her Majesty may by Order in Council—

(a) specify the manner in which writs are to be conveyed, whether by post, by an officer appointed by the Lord Chancellor or, as regards Northern Ireland, the Secretary of State, or otherwise, and make different provision for different classes of writs; and

(b) provide for the giving of receipts for writs by persons to whom they are delivered or who may receive them in the course of their conveyance.

(4) Delivery of the writ to a person for the time being authorised by law to act as deputy for the officer who by virtue of his office is returning officer shall be as good as delivery to the returning officer.

(5) An Order in Council under this rule—

(a) may require a returning officer to provide an address to which writs are to be conveyed and any change of that address; and

(b) may provide for recording those addresses; and

(c) may provide that the delivery of a writ to a person found in and for the time being in charge of a place so recorded as the office of a returning officer shall be as good as delivery to that returning officer.

(6) The person to whom the writ is delivered shall endorse the date of receipt on the writ in the

form shown in the Appendix.

(7) A draft of an Order in Council under this rule shall be laid before Parliament, and any such Order may provide for any incidental or supplemental matter.

*Conveyance of writ to acting returning officer*

4 (1) For an election in a constituency in England and Wales the writ shall (notwithstanding anything in rule 3 above) be conveyed to the acting returning officer if the returning officer—  
(a) has so requested by notice in the form prescribed by an Order in Council under rule 3 and received by the Clerk of the Crown one month or more before the issue of the writ; and  
(b) has not revoked it by a further notice in the form so prescribed and received within such time as is mentioned above.

(2) A notice under this rule has effect in relation to all constituencies—  
(a) of which the person giving it is returning officer at the time of giving it; or  
(b) of which he or a successor in office becomes returning officer by virtue of that office.

(3) Where by virtue of this rule writs are conveyed to the acting returning officer paragraph (5) of rule 3 applies in relation to him as it applies in relation to a returning officer.

*Notice of election*

5 (1) The returning officer shall publish notice of the election, stating—  
(a) the place and times at which nomination papers are to be delivered, and  
(b) the date of the poll in the event of a contest,  
and the notice shall state that forms of nomination paper may be obtained at that place and those times.

**(1A) The notice of election must also state the arrangements which apply for the payment of the deposit required by rule 9 below to be made by means of the electronic transfer of funds.**

(2) The notice of election shall state the date by which (except in such circumstances as may be prescribed)  
(a) applications to vote by post or by proxy, and  
(b) other applications and notices about postal or proxy voting, must reach the registration officer in order that they may be effective for the election.

NOMINATION

*Nomination of candidates*

6.— (1) Each candidate shall be nominated by a separate nomination paper, in the form in the Appendix delivered—

- (a) by the candidate himself, or
- (b) by his proposer or seconder,

to the returning officer at the place fixed for the purpose, but the paper may be so delivered on the candidate's behalf by his election agent if the agent's name and address have been previously given to the returning officer as required by section 67 of this Act or are so given at the time the paper is delivered.

(2) The nomination paper shall state the candidate's—  
(a) full names,  
(b) home address in full, and  
(c) if desired, description,  
and the surname shall be placed first in the list of his names.

**(2A) If a candidate commonly uses-**  
**(a) a surname which is different from any other surname he has, or**  
**(b) a forename which is different from any other forename he has,**  
**the nomination paper may state the commonly used surname or forename in addition to the other name.**

(3) The description, if any, must consist of either—  
(a) a description (~~of not more than 6 words in length~~) which is authorised as mentioned in rule 6A(1) **or (1B)** below; or  
(b) the word “Independent” or, where the candidate is the Speaker of the House of Commons seeking re-election, the words “The Speaker seeking re-election”.

~~one of the following—~~

- ~~(a) a description which is authorised as mentioned in rule 6A(1) or (1B) below;~~
- ~~(b) a description permitted under rule 6B(1) below;~~
- ~~(c) if the candidate is the Speaker of the House of Commons seeking re-election, the words “The Speaker seeking re-election.”—~~

*Nomination papers: name of registered political party*

**6A (1)** A nomination paper may not include a description of a candidate which is likely to lead voters ~~electors~~ to associate the candidate with a registered political party unless the party is a qualifying party in relation to the constituency and the description is authorised by a certificate—  
(a) issued by or on behalf of the registered nominating officer of the party, and  
(b) received by the returning officer at some time during the period for delivery of nomination papers set out in the Table in rule 1.

**(1A)** In paragraph (1) above an authorised description may be either—  
(a) the name of the party registered under section 28 of the Political Parties, Elections and Referendums Act 2000, or  
(b) a description of the party registered under section 28A of that Act.

**(1B)** A nomination paper may not include a description of a candidate which is likely to lead electors to associate the candidate with two or more registered political parties unless the parties are each qualifying parties in relation to the constituency and the description is a registered description authorised by a certificate—  
(a) issued by or on behalf of the registered nominating officer of each of the parties, and  
(b) received by the returning officer at some time during the period for delivery of nomination papers set out in the Table in rule 1.

**(1C)** For the purposes of paragraph (1B), a description is a registered description if it is a description registered for use by the parties under section 28B of the Political Parties, Elections and Referendums Act 2000.

(2) A person shall be guilty of a corrupt practice if he fraudulently purports to be authorised to issue a certificate under paragraph (1) **or (1B)** on behalf of a registered political party's nominating officer.

(3) For the purposes of the application of this rule in relation to an election—

(a) “registered political party” means a party which was registered under Part II of the Political Parties, Elections and Referendums Act 2000 ~~at the time by which the notice of the election is required to be published by virtue of rule 1 (“the relevant time”)~~ **on the day (“the relevant day”) which is two days before the last day for the delivery of nomination papers at that election;**

(b) a registered political party is a qualifying party in relation to a constituency if—

(i) the constituency is in England, Scotland or Wales and the party was ~~at the relevant time~~ **on the relevant day** registered in respect of that part of Great Britain in the Great Britain register maintained under that Part of that Act, or

(ii) the constituency is in Northern Ireland and the party was ~~at the relevant time~~ **on the relevant day** registered in the Northern Ireland register maintained under that Part of that Act.

**(4) For the purposes of paragraph (3)(a) any day falling within rule 2(1) shall be disregarded.**

*Nomination papers: description of independent candidates*

~~6B (1) A nomination paper for a candidate (other than the Speaker seeking re-election) whose description is not authorised as mentioned in rule 6A(1) or (1B) above may not include a description of the candidate unless it falls within paragraph (2) or (3).~~

~~(2) A description falls within this paragraph if—~~

~~(a) in relation to a candidate standing in an election in England, Scotland or Northern Ireland, it consists of the word “Independent”;~~

~~(b) in relation to a candidate standing in an election in Wales, it consists of the word “Independent” or the word “Annibynnwr”.~~

~~(3) A description falls within this paragraph if it is not more than six words in length and in the opinion of the returning officer—~~

~~(a) it is not the same as a registered description or the description of another candidate,~~

~~(b) it is not so similar to a registered description or the description of another candidate as to be likely to confuse an elector,~~

~~(c) it is not likely to lead electors to associate the candidate with a registered political party,~~

~~(d) it is not obscene or offensive,~~

~~(e) it is not of such a character that its publication would be likely to lead to the commission of an offence,~~

~~(f) it does not include any word or expression prohibited by virtue of an order made by the Secretary of State,~~

~~(g) it would not be likely, were it to appear on a ballot paper issued at an election—~~

~~(i) to result in an elector being misled as to the effect of his vote, or~~

~~(ii) to contradict, or hinder an elector’s understanding of, any directions for his guidance in voting given on the ballot paper or elsewhere,~~

~~(h) it does not contain any script other than Roman script, and~~

~~(i) it conforms to such other requirements as to descriptions falling within this paragraph as are prescribed.~~

(4) For the purposes of the exercise of his functions under paragraph (3), a returning officer must have regard to any guidance issued by the Electoral Commission.

(5) The Secretary of State must not make an order under paragraph (3)(f) unless he first consults the Electoral Commission.

(6) An order under paragraph (3)(f) may except the use of a word or expression from the prohibition in specified circumstances.

(7) The power to make an order under paragraph (3)(f) is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(8) In the application of paragraph (3) to a candidate standing in an election in Wales, for “it is not more than six words in length” substitute “its length does not exceed six words in either English or Welsh or, if the description is also expressed in the other of those languages, six words in that other language”.

(9) In paragraph (3) —

“registered description” means a description registered for use by a party in pursuance of section 28A or 28B of the Political Parties, Elections and Referendums Act 2000;

“registered political party” means a party which was registered under Part 2 of the Political Parties, Elections and Referendums Act 2000 at the time by which the notice of the election is required to be published by virtue of rule 1.

#### *Subscription of nomination paper*

7 (1) The nomination paper shall be subscribed by two electors as proposer and seconder, and by eight other electors as assenting to the nomination.

(2) Where a nomination paper bears the signatures of more than the required number of persons as proposing, seconding or assenting to the nomination of a candidate, the signature or signatures (up to the required number) appearing first on the paper in each category shall be taken into account to the exclusion of any others in that category.

(3) The nomination paper shall give the electoral number of each person subscribing it.

(4) The returning officer—

(a) shall supply any elector with a form of nomination paper at the place and during the time for delivery of nomination papers, and

(b) shall at any elector's request prepare a nomination paper for signature, but it is not necessary for a nomination to be on a form supplied by the returning officer.

(5) A person shall not subscribe more than one nomination paper at the same election and, if he does, his signature shall be inoperative on any paper other than the one first delivered, but he shall not be prevented from subscribing a nomination paper by reason only of his having subscribed that of a candidate who has died or withdrawn before delivery of the first mentioned paper.

(6) In this rule “elector”—

(a) means a person who is registered in the register of parliamentary electors for the constituency on the last day for publication of notice of the election; and

(b) includes a person then shown in that register as below voting age if (but only if) it appears from the register that he will be of voting age on the day fixed for the poll.

**(7) But, in this rule, “elector” does not include a person who has an anonymous entry in the register.**

#### *Consent to nomination*

**8** (1) A person shall not be validly nominated unless his consent to nomination—  
(a) is given in writing on or within one month before the day fixed as the last day for the delivery of nomination papers,  
(b) is attested by one witness, and  
(c) is delivered at the place and within the time for the delivery of nomination papers, subject to paragraph (2) below.

(2) If the returning officer is satisfied that owing to the absence of a person from the United Kingdom it has not been reasonably practicable for his consent in writing to be given as mentioned above, a telegram (or any similar means of communication) consenting to his nomination and purporting to have been sent by him shall be deemed for the purposes of this rule to be consent in writing given by him on the day on which it purports to have been sent, and attestation of his consent shall not be required.

(3) A candidate's consent given under this rule—  
(a) shall state the day, month and year of his birth; and  
(b) shall state—  
(i) that he is aware of the provisions of the House of Commons Disqualification Act 1975; and  
(ii) that to the best of his knowledge and belief he is not disqualified for membership of the House of Commons,  
**(c) shall state that he is not a candidate at an election for any other constituency the poll for which is to be held on the same day as that for the election to which the consent relates, and**

~~(e) shall, if the candidate is neither—  
(i) the subject of a party's authorisation under rule 6A(1) or (1B), nor  
(ii) the Speaker seeking re-election,  
state that he has not been selected or authorised to stand in the name or on behalf of any registered party, organisation or other person.~~

#### *Deposit*

**9.** (1) A person shall not be validly nominated unless the sum of £500 is deposited by him or on his behalf with the returning officer at the place and during the time for delivery of nomination papers.

(2) The deposit may be made either—  
(a) by the deposit of any legal tender, or  
(b) by means of a banker's draft, or  
(c) with the returning officer's consent, in any other manner **(including by means of a debit or credit card or the electronic transfer of funds),**

but the returning officer may refuse to accept a deposit sought to be made by means of a banker's draft if he does not know that the drawer carries on business as a banker in the United Kingdom.

(3) Where the deposits in made on behalf of the candidate, the person making the deposit shall at the time he makes it give his name and address to the returning officer (unless they have previously been given to him under section 67 of this Act or rule 6(1) above).

*Place for delivery of nomination papers*

**10.** (1) The returning officer shall fix the place at which nomination papers are to be delivered to him, and shall attend there during the time for their delivery and for the making of objections to them.

(2) Except in Scotland, the place shall be in—

- (a) the constituency; or
- (b) the registration area which includes the constituency; or
- (c) unless the constituency is a borough constituency, in a district or Welsh county or county borough adjoining the constituency or registration area.

For the purposes of paragraph (b) above “registration area” means—

- (i) in England and Wales, the area of two or more constituencies which have the same registration officer;
- (ii) in Northern Ireland, the county borough of Belfast and each county.

(3) In Scotland the place shall be in—

- (a) the constituency; or
- (b) the local government area or (if more than one) any of the local government areas in which the constituency is situated; or
- (c) any local government area adjoining the local government area or local government areas (as the case may be) in which the constituency is situated.

*Right to attend nomination*

**11** (1) Except for the purpose of delivering a nomination paper or of assisting the returning officer, and subject to paragraph (4) below, no person is entitled to attend the proceedings during the time for delivery of nomination papers or for making objections to them unless he is—

- (a) a person standing nominated as a candidate, or
- (b) the election agent, proposer or seconder of such a person, **or**
- (c) **a person who is entitled to attend by virtue of section 6A or 6B of the Political Parties, Elections and Referendums Act 2000,**

but where a candidate acts as his own election agent he may name one other person who shall be entitled to attend in place of his election agent.

(2) Where a person stands nominated by more than one nomination paper, only the persons subscribing as proposer and seconder—

- (a) to such one of those papers as he may select, or
  - (b) in default of such a selection, to that one of those papers which is first delivered,
- shall be entitled to attend as his proposer and seconder.

(3) The right to attend conferred by this rule includes the right—

- (a) to inspect, and
  - (b) to object to the validity of,
- any nomination paper.

**(3A) Paragraph (3) does not apply to a person mentioned in paragraph (1)(c).**

(4) ~~A candidate's spouse or civil partner~~ **One other person chosen by the candidate** is entitled to be present at the delivery of the candidate's nomination, and may afterwards, so long as the candidate stands nominated, attend the proceedings referred to in paragraph (1) above, but without any such right as is conferred by paragraph (3) above.

*Decisions as to validity of nomination papers*

**12** (1) Where a nomination paper and the candidate's consent to it are delivered and a deposit is made in accordance with these rules, the candidate shall be deemed to stand nominated unless and until—

- (a) the returning officer decides that the nomination paper is invalid; or
- (b) proof is given to the returning officer's satisfaction of the candidate's death; or
- (c) the candidate withdraws.

(2) The returning officer is entitled to hold a nomination paper invalid only on one of the following grounds—

- (a) that the particulars of the candidate or the persons subscribing the paper are not as required by law;
- (b) that the paper is not subscribed as so required; and
- (c) that the candidate is disqualified by the Representation of the People Act 1981.

(3) Subject to paragraph (3A), the returning officer shall give his decision on any objection to a nomination paper ~~as soon as practicable after it is made.~~

- (a) as soon as practicable after it is made, and**
- (b) in any event, before the end of the period of 24 hours starting with the close of the period for delivery of nomination papers set out in the Table in rule 1.**

(3A) If in the returning officer's opinion a nomination paper breaks rule 6A(1) ~~or (1B)~~, he shall give a decision to that effect ~~as soon as practicable after the close of the period for delivery of nomination papers set out in the table in rule 1.~~

- (a) as soon as practicable after the delivery of the nomination paper, and**
- (b) in any event, before the end of the period of 24 hours starting with the close of the period for delivery of nomination papers set out in the Table in rule 1.**

~~(3B) If the returning officer thinks that the description on the nomination paper of a candidate whose description is not authorised as mentioned in rule 6A(1) or (1B) (candidate A) is misleadingly similar to the description of another such candidate (candidate B) whose nomination he received first he must, as soon as practicable after the receipt of the second nomination, give his decision on its validity.~~

~~(3C) For the purposes of paragraph (3B) a description is misleadingly similar if it is so similar to another description as to be likely to result in an elector confusing candidate A with candidate B.~~

(4) Where the returning officer decides that a nomination paper is invalid, he shall endorse and sign on the paper the fact and the reasons for his decision.

(5) The returning officer's decision that a nomination paper is valid shall be final and shall not be questioned in any proceeding whatsoever.



(6) Subject to paragraph (5) above nothing in this rule prevents the validity of a nomination being questioned on an election petition.

*Withdrawal of candidates*

**13** (1) A candidate may withdraw his candidature by notice of withdrawal—

- (a) signed by him and attested by one witness, and
- (b) delivered to the returning officer at the place for delivery of nomination papers.

(2) Where a candidate is outside the United Kingdom, a notice of withdrawal signed by his proposer and accompanied by a written declaration also so signed of the candidate's absence from the United Kingdom shall be of the same effect as a notice of withdrawal signed by the candidate; but where the candidate stands nominated by more than one nomination paper a notice of withdrawal under this paragraph shall be effective if, and only if—

- (a) it and the accompanying declaration are signed by all the proposers except any who is, and is stated in that declaration to be, outside the United Kingdom; or
- (b) it is accompanied, in addition to that declaration, by a written statement signed by the candidate that the proposer giving the notice is authorised to do so on the candidate's behalf during his absence from the United Kingdom.

*Publication of statement of persons nominated*

**14** (1) The returning officer shall prepare and publish a statement showing the persons who have been and stand nominated and any other persons who have been nominated, with the reason why they no longer stand nominated.

(2) The statement shall show the names, addresses and descriptions of the persons nominated as given in their nomination papers, together with the names of the persons subscribing those papers.

**(2A) If a person's nomination paper gives a commonly used surname or forename in addition to another name, the statement shall show the person's commonly used surname or forename (as the case may be) instead of any other name.**

**(2B) Paragraph (2A) above does not apply if the returning officer thinks—**

- (a) that the use of the person's commonly used name may be likely to mislead or confuse electors, or**
- (b) that the commonly used name is obscene or offensive.**

**(2C) If paragraph (2B) above applies, the returning officer must give notice in writing to the candidate of his reasons for refusing to allow the use of a commonly used name.**

(3) The statement shall show the persons standing nominated arranged alphabetically in the order of their surnames, and, if there are two or more of them with the same surname, of their other names.

(4) In the case of a person nominated by more than one nomination paper, the returning officer shall take the particulars required by the foregoing provisions of this rule from such one of the papers as the candidate (or the returning officer in default of the candidate) may select, but if the election is contested a candidate standing nominated may require the returning officer to include in the statement the names of the persons subscribing a second and third nomination.

- (5) The returning officer shall send to the Electoral Commission—
- (a) a copy of the statement; and
  - (b) in the case of each candidate standing nominated in respect of whom a certificate has been received by the returning officer in accordance with rule 6A(1) or (1B) above, a copy of that certificate as well.

*Correction of minor errors*

**14A (1) A returning officer may, if he thinks fit, at any time before the publication under rule 14 above of the statement of persons nominated, correct minor errors in a nomination paper.**

- (2) **Errors which may be corrected include—**
- (a) **errors as to a person’s electoral number;**
  - (b) **obvious errors of spelling in relation to the details of a candidate.**

**(3) Anything done by a returning officer in pursuance of this rule must not be questioned in any proceedings other than proceedings on an election petition.**

**(4) A returning officer must have regard to any guidance issued by the Electoral Commission for the purposes of this rule.**

*Disqualification by Representation of the People Act 1981*

**15 (1)** If it appears to the returning officer that any of the persons nominated might be disqualified by the Representation of the People Act 1981 he shall, as soon as practicable after the expiry of the time allowed for the delivery of nomination papers, prepare and publish a draft of the statement required under rule 14 above.

(2) The draft shall be headed “Draft statement of persons nominated” and shall omit the names of the persons subscribing the papers but shall contain a notice stating that any person who wishes to object to the nomination of any candidate on the ground that he is disqualified for nomination under the Representation of the People Act 1981 may do so between the hours of 10 in the morning and 4 in the afternoon on the day and at the place specified in the notice; and the day so specified shall be the day next after the last day for the delivery of nomination papers.

*Adjournment of nomination proceedings in case of riot*

**16 (1)** Where the proceedings for or in connection with nomination are on any day interrupted or obstructed by riot or open violence—

- (a) the proceedings shall be abandoned for that day, and
  - (b) if that day is the last day for the delivery of nomination papers, the proceedings shall be continued on the next day as if that were the last day of such delivery,
- and that day shall be treated for the purposes of these rules as being the last day for such delivery (subject to any further application of this rule in the event of interruption or obstruction on that day).

- (2) Where proceedings are abandoned by virtue of this rule nothing—
- (a) may be done after they are continued if the time for doing it had passed at the time of the abandonment;
  - (b) done before the abandonment shall be invalidated by reason of the abandonment.

*Method of election*

**17** (1) If the statement of persons nominated shows more than one person standing nominated, a poll shall be taken in accordance with Part III of these rules.

(2) If the statement of persons nominated shows only one person standing nominated, that person shall be declared to be elected in accordance with Part IV of these rules.

**PART III**

**CONTESTED ELECTIONS**

**GENERAL PROVISIONS**

*Poll to be taken by ballot*

**18** The votes at the poll shall be given by ballot, the result shall be ascertained by counting the votes given to each candidate and the candidate to whom the majority of votes have been given shall be declared to have been elected.

*The ballot papers*

**19** (1) The ballot of every voter shall consist of a ballot paper, and the persons shown in the statement of persons nominated as standing nominated, and no others, shall be entitled to have their names inserted in the ballot paper.

(2) Every ballot paper shall be in the form in the Appendix, and shall be printed in accordance with the directions in that Appendix, and—

- (a) shall contain the names and other particulars of the candidates as shown in the statement of persons nominated;
- (b) shall be capable of being folded up;
- (c) shall have a number **and other unique identifying mark** printed on the back;
- ~~(d) shall have attached a counterfoil with the same number printed on it.~~

(2A) If a candidate who is the subject of a party's authorisation under rule 6A(1) so requests, the ballot paper shall contain, against the candidate's particulars, the party's registered emblem (or, as the case may be, one of the party's registered emblems).

(2B) The request must—

- (a) be made in writing to the returning officer, and
- (b) be received by him during the period for delivery of nomination papers set out in the Table in rule 1.

~~(2C) — In the case of a candidate who is neither—~~

- ~~(a) the subject of a party's nomination under rule 6A(1) or (1B), nor~~
- ~~(b) the Speaker seeking re-election;~~

~~the emblem for an independent candidate must be printed against the candidate's particulars.~~

~~(2D) In paragraph (2C) the emblem for an independent candidate is—~~

- (a) in relation to an election in England, Scotland or Northern Ireland, “IND”;
- (b) in relation to an election in Wales, “IND/ANNIB” or, if the candidate so requests, “ANNIB/IND”.

**(2E) The candidate’s request under paragraph (2D)(b) must –**

- (a) be made in writing to the returning officer, and**
- (b) be received by him during the period for delivery of nomination papers set out in the Table in rule 1.**

(3) The order of the names in the ballot paper shall be the same as in the statement of persons nominated.

**(4) The Secretary of State may in regulations—**

- (a) prescribe a different form of ballot paper from that in the Appendix;**
- (b) amend or replace the directions as to printing the ballot paper in the Appendix;**
- (c) in consequence of anything done for the purposes of paragraph (a) or (b), amend or replace the Form of directions for the guidance of the voters in voting in the Appendix.**

#### *Corresponding number list*

**19A (1) The returning officer must prepare a list containing the numbers and other unique identifying marks of all the ballot papers to be issued by him in pursuance of rule 24(1) or provided by him in pursuance of rule 29(1).**

**(2) The list shall be in such form as the Secretary of State in regulations prescribes.**

#### *The official mark*

~~20. (1) Every ballot paper shall be marked with an official mark, which shall perforate the ballot paper.~~

**(1) Every ballot paper must contain an appropriate security marking (the official mark).**

(2) The official mark shall be kept secret, and an interval of not less than seven years shall intervene between the use of the same official mark at elections for the same constituency.

~~(3) The official mark used for ballot papers issued for the purpose of voting by post shall not be used at the same election for ballot papers issued for the purpose of voting in person.~~

**(3) The returning officer may use a different official mark for different purposes at the same election.**

#### *Prohibition of disclosure of vote*

**21. No person who has voted at the election shall, in any legal proceeding to question the election or return, be required to state for whom he voted.**

#### *Use of schools and public rooms*

- 22** (1) The returning officer may use, free of charge, for the purpose of taking the poll—
- (a) a room in a school to which this rule applies;
  - (b) a room the expense of maintaining which is payable out of any rate.

This rule applies—

- (i) in England and Wales, to a school maintained or assisted by a local education authority or a school in respect of which grants are made out of moneys provided by Parliament to the person or body of persons responsible for the management of the school;
- (ii) in Scotland, to a school other than an independent school within the meaning of the Education (Scotland) Act 1980;
- (iii) in Northern Ireland, to a school in receipt of a grant out of moneys appropriated by Measures of the Northern Ireland Assembly.

(2) The returning officer shall make good any damage done to, and defray any expense incurred by the persons having control over, any such room as mentioned above by reason of its being used for the purpose of taking the poll.

(4) In Northern Ireland this rule does not apply to any school adjoining or adjacent to any church or other place of worship nor to any school connected with a nunnery or other religious establishment.

#### ACTION TO BE TAKEN BEFORE THE POLL

##### *Notice of poll*

**23** (1) The returning officer shall in the statement of persons nominated include a notice of the poll, stating the day on which and hours during which the poll will be taken.

(2) The returning officer shall also give public notice (which may be combined with the statement of persons nominated) of—

- (a) the situation of each polling station;
- (b) the description of voters entitled to vote there;

and he shall as soon as practicable after giving such a notice give a copy of it to each of the election agents.

##### *Postal ballot papers*

~~**24** The returning officer shall, in accordance with regulations, issue to those entitled to vote by post a ballot paper and a declaration of identity in the prescribed form, together with such envelopes for their return (whether free of charge or otherwise) as may be prescribed.]~~

**24** (1) **The returning officer shall, in accordance with regulations, issue to those entitled to vote by post –**

- (a) a ballot paper;**
  - (b) at an election held in England and Wales or Scotland, a postal voting statement in the prescribed form;**
  - (c) at an election held in Northern Ireland, a declaration of identity in the prescribed form;**
- together with such envelopes for their return (whether free of charge or otherwise) as may be prescribed.**

**(2) The returning officer must also issue to those entitled to vote by post such information as he thinks appropriate about how to obtain—**

- (a) translations into languages other than English of any directions to or guidance for voters sent with the ballot paper;**
- (b) a translation into Braille of such directions or guidance;**
- (c) graphical representations of such directions or guidance.**
- (d) the directions or guidance in any other form (including any audible form).**

**(3) The prescribed form shall include provision for the form to be signed and for stating the date of birth of the elector or proxy (as the case may be).**

**(4) In the case of a ballot paper issued to a person resident in the United Kingdom, the returning officer must ensure that the return of the ballot paper and postal voting statement or declaration of identity is free of charge to the voter.**

**(5) In any other case, regulations may provide that the returning officer must so ensure.**

#### *Provisions of polling stations*

**25** (1) The returning officer shall provide a sufficient number of polling stations and, subject to the following provisions of this rule, shall allot the electors to the polling stations in such manner as he thinks most convenient.

(2) One or more polling stations may be provided in the same room.

(3) The polling station allotted to electors from any polling district shall be in the polling place for that district.

(4) In a constituency in Scotland comprising the whole or any part of more local government area than one, there shall be at least one polling station in each of those local government areas.

(5) The returning officer shall provide each polling station with such number of compartments as may be necessary in which the voters can mark their votes screened from observation.

#### *Appointment of presiding officers and clerks*

**26** (1) The returning officer shall appoint and pay a presiding officer to attend at each polling station and such clerks as may be necessary for the purposes of the election, but he shall not appoint any person who has been employed by or on behalf of a candidate in or about the election.

(2) The returning officer may, if he thinks fit, preside at a polling station and the provisions of these rules relating to a presiding officer shall apply to a returning officer so presiding with the necessary modifications as to things to be done by the returning officer to the presiding officer or by the presiding officer to the returning officer.

(3) A presiding officer may do, by the clerks appointed to assist him, any act (including the asking of questions) which he is required or authorised by these rules to do at a polling station except order the arrest, exclusion or removal of any person from the polling station.

*Issue of official poll cards*

**28**

~~(1) The returning officer shall as soon as practicable send to electors and their proxies an official poll card, but a card need not be sent to any person—~~

~~(a) as an elector if he is placed on the absent voters list for the election; or~~

~~(b) as a proxy if he is entitled to vote by post as proxy at the election.~~

~~and a card shall not be sent to any person registered, or to be registered, in pursuance of an overseas elector's declaration~~

**(1) The returning officer shall as soon as practicable after the publication of notice of the election send to electors and their proxies an official poll card.**

**(1A) An official poll card shall not be sent to a person registered, or to be registered, in pursuance of an overseas elector's declaration.**

(2) An elector's official poll card shall be sent or delivered to his qualifying address, and a proxy's to his address as shown in the list of proxies.

(3) The official poll card shall be in the prescribed form and shall set out—

(a) the name of the constituency;

(b) the elector's name, qualifying address and number on the register;

(c) the date and hours of the poll and the situation of the elector's polling station.

**(d) such other information as is prescribed;**

**(e) such other information as the returning officer thinks appropriate, and different information may be provided in pursuance of sub-paragraph (d) and (e) to different electors or descriptions of elector.**

**(3A) In the case of an elector with an anonymous entry, instead of containing the matter mentioned in paragraph (3)(b) above the polling card shall contain such matter as is prescribed.**

(4) Paragraph (6) of rule 7 above applies for the interpretation of this rule.

*Equipment of polling stations*

**29** (1) The returning officer shall provide each presiding officer with such number of ballot boxes and ballot papers as in the returning officer's opinion may be necessary.

(2) Every ballot box shall be so constructed that the ballot papers can be put in it, but cannot be withdrawn from it, without the box being unlocked.

(3) The returning officer shall provide each polling station with—

(a) materials to enable voters to mark the ballot papers;

~~(b) instruments for stamping on them the official mark;~~

(c) copies of the register of electors or such part of it as contains the ~~names of~~ **entries relating to** the electors allotted to the station;

(d) the parts of any special lists prepared for the election corresponding to the register of electors or the part of it provided under sub-paragraph (c) above.

**(e) a list consisting of that part of the list prepared under rule 19A which contains the numbers (but not the other unique identifying marks) corresponding to those on the ballot papers provided to the presiding officer of the polling station.**

(3A) The returning officer shall also provide each polling station with—  
(a) at least one large version of the ballot paper which shall be displayed inside the polling station for the assistance of voters who are partially-sighted; and  
(b) a device of such description as may be prescribed for enabling voters who are blind or partially-sighted to vote without any need for assistance from the presiding officer or any companion (within the meaning of rule 39(1)).

(4) A notice in the form in the Appendix, giving directions for the guidance of the voters in voting, shall be printed in conspicuous characters and exhibited inside and outside every polling station.

(5) In every compartment of every polling station there shall be exhibited the notice “Vote for the one candidate only. Put no other mark on the ballot paper, or your vote may not be counted.”

**(6) The reference in paragraph (3)(c) to the copies of the registers of electors includes a reference to copies of any notices issued under section 13B(3B) or (3D) of this Act in respect of alterations to the register.**

#### *Appointment of polling and counting agents*

**30** (1) Each candidate may, before the commencement of the poll, appoint—  
(a) polling agents to attend at polling stations for the purpose of detecting personation; and  
(b) counting agents to attend at the counting of the votes.

(2) The returning officer may limit the number of counting agents, so however that—  
(a) the number shall be the same in the case of each candidate; and  
(b) the number allowed to a candidate shall not (except in special circumstances) be less than the number obtained by dividing the number of clerks employed on the counting by the number of candidates.

(3) Notice in writing of the appointment, stating the names and addresses of the persons appointed, shall be given by the candidate to the returning officer and shall be so given not later than the second day (computed like any period of time in the Timetable) before the day of the poll.

(4) If an agent dies, or becomes incapable of acting, the candidate may appoint another agent in his place, and shall forthwith give to the returning officer notice in writing of the name and address of the agent appointed.

(5) [Any] appointment authorised by this rule may be made and the notice of appointment given to the returning officer by the candidate's election agent, instead of by the candidate.

(6) In the following provisions of these rules references to polling and counting agents shall be taken as references to agents—

- (a) whose appointments have been duly made and notified; and
- (b) where the number of agents is restricted, who are within the permitted number.

(7) Any notice required to be given to a counting agent by the returning officer may be delivered at or sent by post to the address stated in the notice of appointment.



(8) A candidate may himself do any act or thing which any polling or counting agent of his, if appointed, would have been authorised to do, or may assist his agent in doing any such act or thing.

(9) A candidate's election agent may do or assist in doing anything which a polling or counting agent of his is authorised to do; and anything required or authorised by these rules to be done in the presence of the polling or counting agents may be done in the presence of a candidate's election agent instead of his polling agent or counting agents.

(10) Where by these rules any act or thing is required or authorised to be done in the presence of the polling or counting agents, the non-attendance of any agents or agent at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

#### *Notification of requirement of secrecy*

- 31** The returning officer shall make such arrangements as he thinks fit to ensure that—
- (a) every person attending at a polling station (otherwise than for the purpose of voting or assisting a blind voter to vote or as a constable on duty there) has been given a copy in writing of the provisions of subsections (1), (3) and (6) of section 66 of this Act; and
  - (b) every person attending at the counting of the votes (other than any constable on duty at the counting) has been given a copy in writing of the provisions of subsections (2) and (6) of that section.

#### *Return of postal ballot papers*

**31A (1) Where**

- (a) a postal vote has been returned in respect of a person who is entered on the postal voters list, or**
  - (b) a proxy postal vote has been returned in respect of a proxy who is entered on the proxy postal voters list,**
- the returning officer must mark the list in the prescribed manner.**

**(2) For the purposes of paragraph (1) above, regulations may prescribe the circumstances in which a postal vote or a proxy postal vote (as the case may be) is or is not to be treated as having been returned.**

**(3) Rule 45(1B) and (2) below does not apply for the purpose of determining whether, for the purposes of this rule, a postal vote or a proxy postal vote is returned.**

### THE POLL

#### *Admission to polling station*

- 32 (1) The presiding officer shall regulate the number of voters to be admitted to the polling station at the same time, and shall exclude all other persons except—**
- (a) the candidates and their election agents;**
  - (b) the polling agents appointed to attend at the polling station;**
  - (c) the clerks appointed to attend at the polling station;**
  - (d) the constables on duty; and**

~~(e) the companions of [voters with disabilities].~~

**(1) The presiding officer shall exclude all persons from the polling station except—**

- (a) voters;**
- (b) persons under the age of 18 who accompany voters to the polling station;**
- (c) the candidates and their election agents;**
- (d) the polling agents appointed to attend at the polling station;**
- (e) the clerks appointed to attend at the polling station;**
- (f) persons who are entitled to attend by virtue of any of sections 6A to 6D of the Political Parties, Elections and Referendums Act 2000;**
- (g) the constables on duty; and**
- (h) the companions of voters with disabilities.**

**(1A) The presiding officer shall regulate the total number of voters and persons under the age of 18 who accompany them to be admitted to the polling station at the same time.**

(2) Not more than one polling agent shall be admitted at the same time to a polling station on behalf of the same candidate.

(3) A constable or person employed by a returning officer shall not be admitted to vote in person elsewhere than at his own polling station under the relevant provision of this Act, except on production and surrender of a certificate as to his employment, which shall be in the prescribed form and signed by the prescribed officer of police or by the returning officer, as the case may be.

(4) Any certificate surrendered under this rule shall forthwith be cancelled.

#### *Keeping of order in station*

**33. (1) It is the presiding officer's duty to keep order at his polling station.**

(2) If a person misconducts himself in a polling station, or fails to obey the presiding officer's lawful orders, he may immediately, by the presiding officer's order, be removed from the polling station—

- (a) by a constable in or near that station, or
  - (b) by any other person authorised in writing by the returning officer to remove him,
- and the person so removed shall not, without the presiding officer's permission, again enter the polling station during the day.

(3) Any person so removed may, if charged with the commission in the polling station of an offence, be dealt with as a person taken into custody by a constable for an offence without a warrant.

(4) The powers conferred by this rule shall not be exercised so as to prevent a voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

#### *Sealing of ballot boxes*

**34** Immediately before the commencement of the poll, the presiding officer shall show the ballot box empty to such persons, if any, as are present in the polling station, so that they may see that it is empty, and shall then lock it up and place his seal on it in such a manner as to prevent its being

opened without breaking the seal, and shall place it in his view for the receipt of ballot papers, and keep it so locked and sealed.

*Questions to be put to voters*

~~35 (1) The presiding officer may, and if required by a candidate or his election or polling agent shall, put to any person applying for a ballot paper at the time of his application, but not afterwards, the following questions, or either of them—~~

~~(a) in the case of a person applying as an elector—~~

~~(i) “Are you the person registered in the register of parliamentary electors for this election as follows?” (read the whole entry from the register.)~~

~~(ii) “Have you already voted, here or elsewhere, at this by election [general election], otherwise than as proxy for some other person?”~~

~~(b) in the case of a person applying as proxy—~~

~~(i) “Are you the person whose name appears as A.B. in the list of proxies for this election as entitled to vote as proxy on behalf of C.D.?”~~

~~(ii) “Have you already voted here or elsewhere at this by election [general election as proxy on behalf of C.D.?”~~

~~(1A) In the case of a person applying as an elector, the presiding officer may put the following additional question—~~

~~“What is your date of birth?”~~

~~(2) In the case of a person applying as proxy, the presiding officer may, and if required as mentioned above shall, put the following additional question—~~

~~“Are you the spouse, civil partner, parent, grandparent, brother [sister], child or grandchild of C.D.?”~~

~~and if that question is not answered in the affirmative the following question—~~

~~“Have you at this election already voted in this constituency on behalf of two persons of whom you are not the spouse, civil partner, parent, grandparent, brother [sister], child or grandchild?”~~

~~(3) A ballot paper shall not be delivered to any person required to answer the above questions or any of them unless he has answered the questions or question satisfactorily.~~

~~(4) Save as by this rule authorised, no inquiry shall be permitted as to the right of any person to vote.~~

**35 (1) At the time of the application (but not afterwards), the questions specified in the second column of the following table—**

**(a) may be put by the presiding officer to a person who is mentioned in the first column, and**

**(b) shall be put if the letter “R” appears after the question and the candidate or his election or polling agent requires the question to be put:**

	<i>Person applying for ballot paper</i>	<i>Question</i>
<u>1</u>	A person applying as an elector	(a) “Are you the person registered in the register of parliamentary electors for this election as follows (read the whole entry from the register)?” [R] (b) “Have you already voted, here or

		elsewhere, at this election otherwise than as proxy for some other person?" [R] (c) At an election held in Northern Ireland, "What is your date of birth?"
<u>2</u>	A person applying as proxy	(a) "Are you the person whose name appears as A.B. in the list of proxies for this election as entitled to vote as proxy on behalf of C.D.?" [R] (b) "Have you already voted here or elsewhere at this election , as proxy on behalf of C.D.?" [R] (c) "Are you the spouse, civil partner, parent, grandparent, brother/ sister, child or grandchild of C.D.?" [R]
<u>3</u>	A person applying as proxy for an elector with an anonymous entry (instead of the questions at entry 2 above)	(a) "Are you the person entitled to vote as proxy on behalf of the elector whose number on the register of electors is ( <i>read out the number from the register</i> )?" [R] (b) "Have you already voted here or elsewhere as proxy on behalf of the elector whose number on the register of electors is ( <i>read out the number from the register</i> )?" [R] (c) "Are you the spouse, civil partner, parent, grandparent, brother/ sister, child or grandchild of the person whose number on the register of electors is ( <i>read out the number from the register</i> )?" [R]
<u>4</u>	Person applying as proxy if the question at entry 2(c) or 3(c) is not answered in the affirmative	"Have you at this election already voted in this constituency on behalf of two persons of whom you are not the spouse, civil partner, parent, grandparent, brother/ sister, child or grandchild?" [R]
<u>5</u>	A Person applying as an elector in relation to whom there is an entry in the postal voters list	(a) "Did you apply to vote by post?" (b) "Why have you not voted by post?"
<u>6</u>	A person applying as proxy who is named in the proxy postal voters list	(a) "Did you apply to vote by post as proxy?" (b) "Why have you not voted by post as proxy?"

(2) In the case of an elector in respect of whom a notice has been issued under section 13B(3B) or (3D) of this Act, the references in the questions at entries 1(a) and 3(a), (b) and (c) to reading from the register must be taken as references to reading from the notice issued under section 13B(3B) or (3D).

(3) A ballot paper shall not be delivered to any person required to answer any of the above questions unless he has answered each question satisfactorily.

**(4) Except as authorised by this rule, no inquiry shall be permitted as to the right of any person to vote.**

*Challenge of voter*

**36 (1) If at the time a person applies for a ballot paper for the purpose of voting in person, or after he has applied for a ballot paper for that purpose and before he has left the polling station, a candidate or his election or polling agent—**

**(a) declares to the presiding officer that he has reasonable cause to believe that the applicant has committed an offence of personation, and**

**(b) undertakes to substantiate the charge in a court of law;**

**the presiding officer may order a constable to arrest the applicant, and the order of the presiding officer shall be sufficient authority for the constable so to do.**

**(2) A person against whom a declaration is made under this rule shall not by reason of it be prevented from voting.**

**(3) A person arrested under the provisions of this rule shall be dealt with as a person taken into custody by a constable for an offence without a warrant.**

**36 A person shall not be prevented from voting by reason only that—**

**(a) a candidate or his election or polling agent declares that he has reasonable cause to believe that the person has committed an offence of personation, or**

**(b) the person is arrested on the grounds that he is suspected of committing or of being about to commit such an offence.**

*Voting procedure*

**37 (1) A ballot paper shall be delivered to a voter who applies for one, and immediately before delivery—**

**(a) the number and (unless paragraph (2) applies) name of the elector as stated in the copy of the register of electors shall be called out;**

**(b) the number of the elector shall be marked on the list mentioned in rule 29(3)(e) beside the number of the ballot paper to be issued to him;**

**(c) a mark shall be placed in the register of electors against the number of the elector to note that a ballot paper has been received but without showing the particular ballot paper which has been received;**

**(d) the voter shall sign the list mentioned in rule 29(3)(e) beside the number of the elector marked on the list in accordance with sub-paragraph (b) above; and**

**(e) in the case of a person applying for a ballot paper as proxy, a mark shall also be placed against his name in the list of proxies.**

**(2) In the case of an elector who has an anonymous entry, he must show the presiding officer his official poll card and only his number shall be called out in pursuance of paragraph (1)(a).**

**(3) In the case of an elector who is added to the register in pursuance of a notice issued under section 13B(3B) or (3D), paragraph (1) above is modified as follows—**

**(a) in sub-paragraph (a), for “copy of the register of electors” substitute “copy of the notice issued under section 13B(3B) or (3D) of this Act”;**

**(b) in sub-paragraph (c), for “in the register of electors” substitute “on the copy of the notice issued under section 13B(3B) or (3D) of this Act”.**

**(4) Paragraph (1)(d) above does not apply to a voter to whom rule 38 or 39 applies.**

**(5) The voter, on receiving the ballot paper, shall forthwith proceed into one of the compartments in the polling station and there secretly mark his paper and fold it up so as to conceal his vote, and shall then show to the presiding officer the back of the paper, so as to disclose the number and other unique identifying mark, and put the ballot paper so folded up into the ballot box in the presiding officer's presence.**

**(6) The voter shall vote without undue delay, and shall leave the polling station as soon as he has put his ballot paper into the ballot box.**

*[Northern Ireland only:]*

(1) Subject to paragraphs (1A) to (1G) below, a ballot paper shall be delivered to a voter who applies for one, and immediately before delivery—

~~(a) the ballot paper shall be stamped with the official mark;~~

(b) the number and name of the elector as stated in the copy of the register of electors shall be called out;

(c) the number of the elector shall be marked on **the list mentioned in rule 29(3)(e) beside the number of the ballot paper to be issued to him;**

(d) a mark shall be placed in the register of electors against the number of the elector to denote that a ballot paper has been received but without showing the particular ballot paper which has been received; and

(e) in the case of a person applying for a ballot paper as proxy, a mark shall also be placed against his name in the list of proxies.

(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

(a) the document; or

(b) the apparent age of the voter as compared with his age according to the date supplied as the date of his birth pursuant to section 10(4A)(b), 10A(1A)(b) or 13A(2A)(b) of this Act,

raises a reasonable doubt as to whether the voter is the elector or proxy he represents himself to be].

(1C) Where in such a case it is a presiding officer who so decides, he shall refuse to deliver a ballot paper to the voter.

(1D) Where in such a case it is a clerk who so decides, he shall refer the matter and produce the document to the presiding officer, who shall proceed as if it had been to him that the voter had presented himself and produced the document 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:—

(a) a current licence to drive a motor vehicle if the licence bears the photograph of the person to whom it is issued;

(b) a current passport issued by the Government of the United Kingdom or by the Government of the Republic of Ireland;

(c) to (g).....

(h) a current electoral identity card issued under section 13C of this Act;

(i) a Senior SmartPass issued under the Northern Ireland Concessionary Fares Scheme for use from 1st May 2002;

In sub-paragraph (a) a licence to drive a motor vehicle is a licence granted under Part 3 of the Road Traffic Act 1972 or Part 3 of the Road Traffic Act 1988 (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.

(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.

(2) The voter, on receiving the ballot paper, shall forthwith proceed into one of the compartments in the polling station and there secretly mark his paper and fold it up so as to conceal his vote, and shall then show to the presiding officer the back of the paper, so as to disclose ~~the official mark~~ **the number and other unique identifying mark** and put the ballot paper so folded up into the ballot box in the presiding officer's presence.

(3) The voter shall vote without undue delay, and shall leave the polling station as soon as he has put his ballot paper into the ballot box.

#### *Votes marked by presiding officer*

**38** (1) The presiding officer, on the application of a voter—

- (a) who is incapacitated by blindness or other ~~physical cause~~ **disability** from voting in manner directed by these rules, or
- (b) who declares orally that he is unable to read,

shall, in the presence of the polling agents, cause the voter's vote to be marked on a ballot paper in manner directed by the voter, and the ballot paper to be placed in the ballot box.

(2) The name and number on the register of electors of every voter whose vote is marked in pursuance of this rule, and the reason why it is so marked, shall be entered on a list (in these rules called “the list of votes marked by the presiding officer”).

In the case of a person voting as proxy for an elector, the number to be entered together with the voter's name shall be the elector's number.

**(3) In the case of a person in respect of whom a notice has been issued under section 13B(3B) or (3D) of this Act, paragraph (2) above applies as if for “on the register of electors of every voter” there were substituted “relating to every voter in respect of whom a notice has been issued under section 13B(3B) or (3D)”.**

#### *Voting by persons with disabilities*

**39** (1) If a voter makes an application to the presiding officer to be allowed, on the ground of—

- (a) blindness or other **disability** ~~physical incapacity~~, or
- (b) inability to read,

to vote with the assistance of another person by whom he is accompanied (in these rules referred to as “the companion”), the presiding officer shall require the voter to declare, orally or in writing, whether he is so incapacitated by his blindness or **other disability** ~~other incapacity~~, or by his inability to read, as to be unable to vote without assistance.

(2) If the presiding officer—  
    (a) is satisfied that the voter is so incapacitated, and  
    (b) is also satisfied by a written declaration made by the companion (in these rules referred to as “the declaration made by the companion of a voter with disabilities”) that the companion—  
        (i) is a qualified person within the meaning of this rule, and  
        (ii) has not previously assisted more than one voter with disabilities to vote at the election,  
the presiding officer shall grant the application, and then anything which is by these rules required to be done to or by that voter in connection with the giving of his vote may be done to, or with the assistance of, the companion.

(3) For the purposes of these rules, a person is a voter with disabilities if he has made such a declaration as is mentioned in paragraph (1) above, and a person shall be qualified to assist a voter with disabilities to vote if that person—  
    (a) is a person who is entitled to vote as an elector at the election; or  
    (b) is the father, mother, brother, sister, spouse, civil partner, son or daughter of the voter and has attained the age of 18 years.

(4) The name and number in the register of electors of every voter whose vote is given in accordance with this rule and the name and address of the companion shall be entered on a list (in these rules referred to as “the list of voters with disabilities assisted by companions”). In the case of a person voting as proxy for an elector, the number to be entered together with the voter's name shall be the elector's number.

**(4A) In the case of a person in respect of whom a notice has been issued under section 13B(3B) or (3D) of this Act, paragraph (4) above applies as if for “in the register of electors of every voter” there were substituted “relating to every voter in respect of whom a notice has been issued under section 13B(3B) or (3D)”.**

(5) The declaration made by the companion—  
    (a) shall be in the form in the Appendix; and  
    (b) shall be made before the presiding officer at the time when the voter applies to vote with the assistance of a companion and shall forthwith be given to the presiding officer who shall attest and retain it.

(6) No fee or other payment shall be charged in respect of the declaration.

#### *Tendered ballot papers*

**40** (1) If a person, representing himself to be—  
    (a) a particular elector named on the register and not named in the absent voters list, or  
    (b) a particular person named in the list of proxies as proxy for an elector and not entitled to vote by post as proxy,  
applies for a ballot paper after another person has voted in person either as the elector or his proxy, the applicant shall, on satisfactorily answering the questions permitted by law to be asked at the poll, be entitled, subject to the following provisions of this rule, to make a ballot paper (in these rules referred to as “a tendered ballot paper”) in the same manner as any other voter.

**(1ZA) Paragraph (1ZC) applies if —**



- (a) a person applies for a ballot paper representing himself to be a particular elector named on the register,**
- (b) he is also named in the postal voters list, and**
- (c) he claims that he did not make an application to vote by post at the election.**

**(1ZB) Paragraph (1ZC) also applies if—**

- (a) a person applies for a ballot paper representing himself to be a particular person named as a proxy in the list of proxies,**
- (b) he is also named in proxy postal voters list, and**
- (c) he claims that he did not make an application to vote by post as proxy.**

**(1ZC) The person shall, on satisfactorily answering the questions permitted by law to be asked at the poll, 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.**

**(1ZD) Paragraph (1ZE) applies if before the close of the poll but after the last time at which a person may apply for a replacement postal ballot paper, a person represents himself to be—**

- (a) a particular elector named on the register who is also named in the postal voters list, or**
- (b) a particular person named as a proxy in the list of proxies and who is also named in the proxy postal voters list,**

**and claims that he has lost or has not received his postal ballot paper.**

**(1ZE) The person shall, on satisfactorily answering the questions permitted by law to be asked at the poll, 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.**

**(1ZF) A person to whom a ballot paper is not delivered under paragraph (2) of rule 35 following his unsatisfactory answer to the question at entry 1(c) in the table in paragraph (1) of that rule shall, if he satisfactorily answers any other 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.**

**(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) under paragraph (3) of rule 35 a ballot paper is not delivered to a person following his unsatisfactory answer to the question in paragraph (1A) of that rule; or**
- (b) 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.**

**(2) A tendered ballot paper shall—**

- (a) be of a colour differing from the other ballot papers;
- (b) instead of being put into the ballot box, be given to the presiding officer and endorsed by him with the name of the voter and his number in the register of electors, and set aside in a separate packet.

(3) The name of the voter and his number on the register of electors shall be entered on a list (in these rules referred to as the “tendered votes list”) **and the voter must sign the list opposite the entry relating to him.**

(4) In the case of a person voting as proxy for an elector, the number to be endorsed or entered together with the voter's name shall be the number of that elector.

**(4A) This rule applies to an elector who has an anonymous entry subject to the following modifications—**

**(a) in paragraphs (2)(b) and (3) the references to the name of the voter must be ignored;**

**(b) otherwise, a reference to a person named on a register or list must be construed as a reference to a person whose number appears on the register or list (as the case may be).**

**(4B) This rule applies in the case of a person in respect of whom a notice has been issued under section 13B(3B) or (3D) as if—**

**(a) in paragraphs (1)(a), (1ZA)(a) and (1ZD)(a) for “named on the register” there were substituted “in respect of whom a notice under section 13B(3B) or (3D) of this Act has been issued”;**

**(b) in paragraph (2)(b) for “his number in the register of electors” there were substituted “the number relating to him on a notice issued under section 13B(3B) or (3D) of this Act”;**

**(c) in paragraph (3) for “his number on the register of electors” there were substituted “the number relating to him on a notice issued under section 13B(3B) or (3D) of this Act”.**

(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.

**(7) In this rule “the postal voters list” and “the proxy postal voters list” have the same meanings as in rule 35.**

#### *Refusal to deliver ballot paper*

**40A (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.

#### *Spoilt ballot papers*

**41** A voter who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper may, on delivering it to the presiding officer and proving to his satisfaction the fact of the inadvertence, obtain another ballot paper in the place of the ballot paper so delivered (in these rules referred to as “a spoilt ballot paper”), and the spoilt ballot paper shall be immediately cancelled.

*Correction of errors on day of poll*

**41A** The presiding officer shall keep a list of persons to whom ballot papers are delivered in consequence of an alteration to the register made by virtue of section 13B(3B) or (3D) of this Act which takes effect on the day of the poll.

*Adjournment of poll in case of riot*

**42** (1) Where the proceedings at any polling station are interrupted or obstructed by riot or open violence, the presiding officer shall adjourn the proceedings till the following day and shall forthwith give notice to the returning officer.

(2) Where the poll is adjourned at any polling station—

- (a) the hours of polling on the day to which it is adjourned shall be the same as for the original day; and
- (b) references in this Act to the close of the poll shall be construed accordingly.

*Procedure on close of poll*

**43** (1) As soon as practicable after the close of the poll, the presiding officer shall, in the presence of the polling agents, make up into separate packets, sealed with his own seal and the seals of such polling agents as desire to affix their seals—

- (a) each ballot box in use at the station, sealed so as to prevent the introduction of additional ballot papers and unopened, but with the key attached.
- (b) the unused and spoilt ballot papers placed together,
- (c) the tendered ballot papers,
- (d) the marked copies of the register of electors (**including any marked copy notices issued under section 13B(3B) or (3D) of this Act**) and of the list of proxies,

**(da) the lists prepared under rule 19A, including the parts which were completed in accordance with rule 37(1)(b) and (d) (together referred to in these rules as “the completed corresponding number lists”;**

(e) ~~the counterfoils of the used ballot papers and the certificates as to employment on duty on the day of the poll,~~

(f) the tendered votes list, the list of [voters with disabilities] assisted by companions, the list of votes marked by the presiding officer, a statement of the number of voters whose votes are so marked by the presiding officer under the heads “~~physical incapacity~~ **disability**” and “unable to read,” **the list maintained under rule 41A,** and the declarations made by the companions of voters with disabilities,

and shall deliver the packets or cause them to be delivered to the returning officer to be taken charge of by him; but if the packets are not delivered by the presiding officer personally to the returning officer, the arrangements for their delivery shall require the returning officer's approval.

(2) The marked copies of the register of electors and of the list of proxies shall be in one packet but shall not be in the same packet as ~~the counterfoils of the used ballot papers and~~ **completed corresponding number lists** or the certificates as to employment on duty on the day of the poll.

(3) The packets shall be accompanied by a statement (in these rules referred to as “the ballot paper account”) made by the presiding officer showing the number of ballot papers entrusted to him, and accounting for them under the heads of ballot papers issued and not otherwise accounted for, unused, spoilt and tendered ballot papers.

## COUNTING OF VOTES

### *Attendance at counting of votes*

**44** (1) The returning officer shall make arrangements for counting the votes in the presence of the counting agents as soon as practicable after the close of the poll, and shall give to the counting agents notice in writing of the time and place at which he will begin to count the votes.

(2) No person other than—

- (a) the returning officer and his clerks,
- (b) the candidates and one other person chose by each of them,
- (c) the election agents,
- (d) the counting agents,
- (e) persons who are entitled to attend by virtue of any of sections 6A to 6D of the Political Parties, Elections and Referendums Act 2000.**

may be present at the counting of the votes, unless permitted by the returning officer to attend.

(3) A person not entitled to attend at the counting of the votes shall not be permitted to do so by the returning officer unless he—

- (a) is satisfied that the efficient counting of the votes will not be impeded; and
- (b) has either consulted the election agents or thought it impracticable to do so.

(4) The returning officer shall give the counting agents all such reasonable facilities for overseeing the proceedings, and all such information with respect to them, as he can give them consistently with the orderly conduct of the proceedings and the discharge of his duties in connection with them.

(5) In particular, where the votes are counted by sorting the ballot papers according to the candidate for whom the vote is given and then counting the number of ballot papers for each candidate, the counting agents shall be entitled to satisfy themselves that the ballot papers are correctly sorted.

### *The Count*

**45** (1) The returning officer shall—

- (a) in the presence of the counting agents open each ballot box and count and record the number of ballot papers in it;
- (b) in the presence of the election agents verify each ballot paper account; and
- (c) count such of the postal ballot papers as have been duly returned and record the number counted.

(1A) The returning officer shall not count the votes given on any ballot papers until—

- (a) in the case of postal ballot papers, they have been mixed with the ballot papers from at least one ballot box, and
- (b) in the case of ballot papers from a ballot box, they have been mixed with the ballot papers from at least one other ballot box.

(1B) A postal ballot paper shall not, in England, Wales or Scotland, be taken to be duly returned unless—

- (a) it is returned in the prescribed manner and reaches the returning officer or a polling station in the constituency before the close of the poll, ~~and~~
  - (b) ~~the declaration of identity~~ **the postal voting statement**, duly signed ~~and authenticated~~, is also returned in the prescribed manner and reaches him or such a polling station before that time.
  - (c) **the postal voting statement also states the date of birth of the elector or proxy (as the case may be), and**
  - (d) **in a case where steps for verifying the date of birth and signature of an elector or proxy have been prescribed, the returning officer (having taken such steps) verifies the date of birth and signature of the elector or proxy (as the case may be).**
- (2) A postal ballot paper shall not, in Northern Ireland, be deemed to be duly returned unless—
- (a) it is returned in the proper envelope so as to reach the returning officer before the close of the poll and is accompanied by the declaration of identity duly signed and authenticated, and
  - (b) in the case of an elector, that declaration of identity states the date of birth of the elector and the returning officer is satisfied that the date stated corresponds with the date supplied as the date of the elector's birth pursuant to section 10(4A)(b), 10A(1A)(b) or 13A(2A)(b) of this Act.

(2A) In the case of an elector, unless section 10(4B), 10A(1B) or 13A(2B) of this Act applies, the declaration of identity referred to in paragraph (2) shall be taken not to be duly signed unless the returning officer is satisfied that the signature on the declaration corresponds with the signature supplied as the elector's signature pursuant to section 10(4A)(a), 10A(1A)(a) or 13A(2A)(a) of this Act.

(3) The returning officer shall not count any tendered ballot paper.

(4) The returning officer, while counting and recording the number of ballot papers and counting the votes, shall keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers **or other unique identifying marks** printed on the back of the papers.

(5) The returning officer shall verify each ballot paper account by comparing it with the number of ballot papers recorded by him, and the unused and spoilt ballot papers in his possession and the tendered votes list (opening and resealing the packets containing the unused and spoilt ballot papers and the tendered votes list) and shall draw up a statement as to the result of the verification, which any election agent may copy.

(6) The returning officer shall so far as practicable proceed continuously with counting the votes, allowing only time for refreshment, except that he may, in so far as he and the agents agree, exclude the hours between 7 in the evening and 9 on the following morning. For the purposes of this exception the agreement of a candidate or his election agent shall be as effective as the agreement of his counting agents.

- (7) During the time so excluded the returning officer shall—
- (a) place the ballot papers and other documents relating to the election under his own seal and the seals of such of the counting agents as desire to affix their seals; and
  - (b) otherwise take proper precautions for the security of the papers and documents.

#### *Re-count*

**46.**— (1) A candidate or his election agent may, if present when the counting or any re-count of the votes is completed, require the returning officer to have the votes re-counted or again re-counted but the returning officer may refuse to do so if in his opinion the request is unreasonable.

(2) No step shall be taken on the completion of the counting or any re-count of votes until the candidates and election agents present at its completion have been given a reasonable opportunity to exercise the right conferred by this rule.

#### *Rejected ballot papers*

**47.**— (1) Any ballot paper—

- (a) which does not bear the official mark, or
- (b) on which votes are given for more than one candidate, or
- (c) on which anything is written or marked by which the voter can be identified except the printed number **and other unique identifying mark** on the back, or
- (d) which is unmarked or void for uncertainty,

shall, subject to the provisions of the next following paragraph, be void and not counted.

(2) A ballot paper on which the vote is marked—

- (a) elsewhere than in the proper place, or
- (b) otherwise than by means of a cross, or
- (c) by more than one mark,

shall not for such reason be deemed to be void if an intention that the vote shall be for one or other of the candidates clearly appears, and the way the paper is marked does not itself identify the voter and it is not shown that he can be identified by it.

(3) The returning officer shall endorse the word “rejected” on any ballot paper which under this rule is not to be counted, and shall add to the endorsement the words “rejection objected to” if an objection is made by a counting agent to his decision.

(4) The returning officer shall draw up a statement showing the number of ballot papers rejected under the several heads of—

- (a) want of official mark;
- (b) voting for more than one candidate;
- (c) writing or mark by which voter could be identified;
- (d) unmarked or void for uncertainty.

#### *Decisions on ballot papers*

**48.** The decision of the returning officer on any question arising in respect of a ballot paper shall be final, but shall be subject to review on an election petition.

#### *Equality of votes*

**49** Where, after the counting of the votes (including any re-count) is completed, an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the returning officer shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

**PART IV**  
**FINAL PROCEEDINGS IN CONTESTED AND UNCONTESTED ELECTIONS**

*Declaration of result*

**50** (1) In a contested election, when the result of the poll has been ascertained, the returning officer shall forthwith—

- (a) declare to be elected the candidate to whom the majority of votes has been given;
- (b) return his name to the Clerk of the Crown; and
- (c) give public notice of his name and of the total number of votes given for each candidate together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers.

(2) In an uncontested election, the statement of persons nominated, in addition to showing the person standing nominated, shall also declare that person elected, and the returning officer shall forthwith return his name to the Clerk of the Crown.

*Return to the writ*

**51** (1) The returning officer shall return the name of the member elected by endorsing on the writ a certificate in the form in the Appendix.

(2) Any rule of law or enactment as to the effect of, or manner of dealing with, the return of a member to serve in Parliament applies to the certificate.

(3) The returning officer may, on receiving a receipt, deliver the writ with the certificate endorsed on it to the postmaster of the principal post office of the place of election or an official designated for that purpose by a universal postal service provider who is providing a universal postal service (within the meaning of the Postal Services Act 2000) for the area in which the election is being held or to his deputy, provided that the official or deputy is at that time within the area concerned.

(4) The designated official or his deputy shall send the writ so endorsed by the first post, free of charge, under cover to the Clerk of the Crown with the words “Election Writ and Return” endorsed on it.

(5) Any reference in the foregoing provisions of this Part of these rules to the Clerk of the Crown shall be taken, in relation to an election for a constituency in Northern Ireland, as a reference to the Clerk of the Crown for Northern Ireland, but any writ returned to the Clerk of the Crown for Northern Ireland shall be transmitted by him to the Clerk of the Crown in England and the return shall be certified to the House of Commons in the same manner as returns for elections for constituencies in Great Britain.

(6) A copy of each writ returned to the Clerk of the Crown for Northern Ireland and of the Certificate endorsed on it shall be attested by the Secretary of State, shall be kept in the office of the Clerk of the Crown for Northern Ireland and may be given in evidence if the originals are lost.

*Record of returns at Crown Office*

**52** (1) The Clerk of the Crown shall from the certificate on each writ returned to him enter the name of the member returned in a book to be kept by him at the Crown Office.

(2) The Clerk of the Crown shall also enter in the book any alteration or amendment made by him in the certificate endorsed on any writ.

(3) The book shall be open to public inspection at reasonable times and any person may, on payment of a reasonable fee, take copies from the book.

*Return or forfeiture of candidate's deposit*

**53** (1) The deposit made under rule 9 of these rules shall either be returned to the person making it or his personal representatives or be forfeited to Her Majesty.

(2) Except in the cases mentioned below in this rule, the deposit shall be returned not later than the next day after that on which the result of the election is declared.

(2A) For the purposes of paragraph (2) above—

(a) a day shall be disregarded if it would be disregarded under rule 2 above in computing any period of time for the purposes of the timetable for an election of the kind in question; and

(b) the deposit shall be treated as being returned on a day if a cheque for the amount of the deposit is posted on that day.

(3) If the candidate is not shown as standing nominated in the statement of persons nominated, or if the poll is countermanded or abandoned by reason of his death, the deposit shall be returned as soon as practicable after the publication of the statement or after his death, as the case may be.

(4) Subject to paragraph (3) above the deposit shall be forfeited if a poll is taken and, after the counting of the votes by the returning officer (including any re-count) is completed, the candidate is found not to have polled more than one twentieth ~~one-fiftieth~~ of the total number of votes polled by all the candidates.

(5) Notwithstanding anything in paragraphs (2) to (4) above, if at a general election a candidate is shown as standing nominated in more than one constituency in the statements of persons nominated, not more than one of the deposits shall be returned and, if necessary, the Treasury shall direct which it is to be.

**PART V**

**DISPOSAL OF DOCUMENTS**

*Sealing up of ballot papers*



**54** (1) On the completion of the counting at a contested election the returning officer shall seal up in separate packets the counted and rejected ballot papers.

~~(2) The returning officer shall not open the sealed packets of tendered ballot papers or of counterfoils and certificates as to employment on duty on the day of the poll, or of marked copies of the register of electors and lists of proxies.~~

- (2) The returning officer shall not open the sealed packets of—**
- (a) tendered ballot papers,**
  - (b) the completed corresponding number lists,**
  - (c) certificates as to employment on duty on the day of the poll, or**
  - (d) marked copies of the register of electors (including any marked copy notices issued under section 13B(3B) or (3D) of this Act) and lists of proxies.**

*Delivery of documents to Clerk of the Crown registration officer*

**55** (1) The returning officer shall then forward to the ~~Clerk of the Crown~~ **relevant registration officer** the following documents—

- (a) the packets of ballot papers in his possession,
- (b) the ballot paper accounts and the statements of rejected ballot papers and of the result of the verification of the ballot paper accounts,
- (c) the tendered votes lists, the lists of voters with disabilities assisted by companions, the lists of votes marked by the presiding officer and the related statements, **the lists maintained under rule 41A**, and the declarations made by the companions of voters with disabilities,
- (ca) the packets of the completed corresponding number lists,**
- (d) the packets of ~~counterfoils and~~ certificates as to employment on duty on the day of the poll,
- (e) the packets containing marked copies of registers **(including any marked copy notices issued under section 13B(3B) or (3D) of this Act)**, ~~and of lists of proxies,~~ **of the postal voters list, of lists of proxies, and of the postal voters list**
- (f) such other documents relating to elections as are prescribed,**

endorsing on each packet a description of its contents, the date of the election to which they relate and the name, of the constituency for which the election was held.

**(1A) In this rule and in rules 56 and 57 references to the relevant registration officer are to—**

- (a) the registration officer of the local authority in whose area the constituency is situated, or**
- (b) if the constituency comprises any part of the area of more than one local authority, the registration officer of the local authority in whose area the greater or greatest (as the case may be) number of electors is registered.**

**(1B) Paragraph (1)(e) does not apply to an election for a constituency in Northern Ireland, but the returning officer shall endorse on each packet containing-**

- (a) marked copies of the registers,**
- (b) the postal voters list,**
- (c) the proxy postal voters list, and**
- (d) lists of proxies,**

**a description of its contents, the date of the election to which it relates and the name of the constituency for which the election was held.**

~~(2) The returning officer may forward the documents either by delivering them by himself or his agent to the Clerk of the Crown or his deputy or by sending them by post in like manner as he may send the writ by post; but if he sends them by post—~~

~~(a) he shall send a letter to the Clerk of the Crown by the same post, specifying the number and description of the documents so sent;~~

~~(b) a copy of the receipt given him by the official designated by the universal postal service provider or the deputy of that official shall be signed by him and retained by [the official or deputy.~~

~~(3) The Clerk of the Crown shall on receiving the documents give a receipt to the person delivering them, and shall register them in books of the Crown Office specifying the date and time of receipt.~~

~~(4) Any receipt to be given for the documents shall show the date and time of their receipt.~~

### *Orders for production of documents*

**56** (1) An order—

(a) for the inspection or production of any rejected ballot papers in the custody of the ~~Clerk of the Crown~~ **relevant registration officer**, or

(b) for the opening of a sealed packet of ~~counterfoils and the completed corresponding number lists or of~~ certificates as to employment on duty on the day of the poll or the inspection of any counted ballot papers in his custody,

may be made—

(i) by the House of Commons; or

(ii) if satisfied by evidence on oath that the order is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of an election petition, by the High Court or a county court.

(2) An order for the opening of a sealed packet of ~~counterfoils and the completed corresponding number lists) or of~~ certifications or for the inspection of any counted ballot papers in the ~~Clerk of the Crown's~~ **relevant registration officer's** custody may be made by an election court.

(3) An order under this rule may be made subject to such conditions as to—

(a) persons,

(b) time,

(c) place and mode of inspection,

(d) production or opening,

as the House of Commons or court making the order may think expedient; but in making and carrying into effect an order for the opening of a packet of ~~counterfoils and the completed corresponding number lists or of~~ certificates or for the inspection of counted ballot papers, care shall be taken that the way in which the vote of any particular elector has been given shall not be disclosed until it has been proved—

(i) that his vote was given; and

(ii) that the vote has been declared by a competent court to be invalid.

(4) An appeal lies to the High Court from any order of a county court under this rule.

(5) Any power given under this rule—

(a) to the High Court or, except in Northern Ireland, to a county court, may be exercised by any judge of the court otherwise than in open court; and

(b) in Northern Ireland to a county court, may be exercised in such manner as may be provided by rules of court.

(6) Where an order is made for the production by the ~~Clerk of the Crown~~ **relevant registration officer** of any document in his possession relating to any specified election—

(a) the production by him or his agent of the document ordered in such manner as may be directed by that order shall be conclusive evidence that the document relates to the specified election; and

(b) any endorsement on any packet of ballot papers so produced shall be prima facie evidence that the ballot papers are what they are stated to be by the endorsement.

~~(7) The production from proper custody of a ballot paper purporting to have been used at any election, and of a counterfoil marked with the same printed number and having a number marked on it in writing, shall be prima facie evidence that the elector whose vote was given by that ballot paper was the person who at the time of the election had affixed to his name in the register of electors the same number as the number written on the counterfoil.~~

**(7) The production from proper custody of-**

**(a) a ballot paper purporting to have been used at any election, and**

**(b) a completed corresponding number list with a number marked in writing beside the number of the ballot paper,**

**shall be prima facie evidence that the elector whose vote was given by that ballot paper was the person whose entry in the register of electors (or on a notice issued under section 13(B)(3B) or (3D) of this Act) at the time of the election contained the same number as the number written as mentioned in sub-paragraph (b).**

(8) Save as by this rule provided, no person shall be allowed to inspect any rejected or counted ballot papers in the possession of the ~~Clerk of the Crown~~ **relevant registration officer** or to open any sealed packets of ~~counterfoils~~ **and the completed corresponding number lists or of certificates.**

#### *Retention and public inspection of documents*

**57** (1) The ~~Clerk of the Crown~~ **relevant registration officer** shall retain for a year all documents relating to an election forwarded to him in pursuance of these rules by a returning officer, and then, unless otherwise directed by order of the House of Commons, ~~or the High Court~~ **the High Court, the Crown Court or a magistrates' court**, shall cause them to be destroyed.

**(1A) The Chief Electoral Officer for Northern Ireland shall retain for a year the documents mentioned in rule 55(1B), and then, unless otherwise directed by order of the House of Commons or the High Court, shall cause them to be destroyed.**

~~(2) Those documents, except ballot papers, counterfoils and certificates as to employment on duty on the day of the poll, shall be open to public inspection at such time and subject to such conditions as may be prescribed by the Clerk of the Crown with the consent of the Speaker of the House of Commons.~~

**(2) The documents mentioned in paragraphs (1) and (1A) except—**

**(a) ballot papers,**

**(b) the completed corresponding number lists,**

**(c) certificates as to employment on duty on the day of the poll, shall be open to public inspection.**

~~(3) The Clerk of the Crown shall, on request, supply copies of or extracts from the documents open to public inspection on payment of such fees and subject to such conditions as may be sanctioned by the Treasury.~~

**(3) The relevant registration officer or the Chief Electoral Officer for Northern Ireland (as the case may be) must, on request, supply to any person copies of or extracts from such description of the documents open to public inspection as is prescribed by regulations.**

**(4) Each of the following must, on request, be supplied with a copy of the marked copies of the register, the postal voters list, the list of proxies and the proxy postal voters list—**

- (a) a registered party within the meaning of Part 2 of the Political Parties, Elections and Referendums Act 2000;**
- (b) a person who was a candidate at the election in relation to the constituency for which he was a candidate.**

**(5) Regulations may impose conditions in relation to—**

- (a) the inspection of any document in pursuance of paragraph (2);**
- (b) the supply of any document or part of a document in pursuance of paragraph (3);**
- (c) the supply of any document or part of a document in pursuance of paragraph (4).**

**(6) Regulations may also make provision—**

- (a) as to the form in which any such document or part is supplied;**
- (b) for the payment of a fee in respect of the supply of a document or part.**

**(7) Conditions which may be imposed for the purposes of paragraph (5)(a) or (b) include conditions as to—**

- (a) whether a person may take any copy of a document he is permitted to inspect;**
- (b) the manner in which any such copy is to be taken;**
- (c) the purposes for which information contained in any document or part of a document which is inspected or supplied in pursuance of paragraph (2) or (3) may be used..**

**(8) Conditions which may be imposed for the purposes of paragraph (5)(b) or (c) include conditions as to the extent to which a person to whom a document or part of a document has been supplied may—**

- (a) supply that document or part to any other person;**
- (b) disclose to any other person any information contained in the document or part;**
- (c) use any such information for a purpose other than that for which the document or part was supplied to him.**

**(9) Regulations may also impose conditions corresponding to those mentioned in paragraph (8) in respect of persons who have obtained a document or part of a document mentioned in paragraph (4)—**

- (a) which was supplied to another person in pursuance of paragraph (4), or**
- (b) otherwise than in accordance with regulations under this section.**

~~58~~ In Scotland, the documents mentioned in sub-paragraphs (a) to (e) of paragraph (1) of rule 55 of these rules shall, instead of being forwarded to the Clerk of the Crown—

- ~~(a) be kept by the sheriff clerk of the sheriff court district comprising the constituency, or~~
- ~~(b) if the constituency comprises the whole or part of more sheriff court districts than one, the sheriff clerk of such one of those sheriff court districts as the Secretary of State may by order appoint,~~

~~and the provisions of rules 56 and 57 of these rules apply to those documents with the substitution of that sheriff clerk for the Clerk of the Crown.~~

**58 (1) In the application of rules 55 to 57 to elections in Scotland, the references to the relevant registration officer shall be taken to be references to the relevant sheriff clerk.**

**(2) For the purposes of rule 55 as it applies to elections in Scotland—**

**(a) the documents to be forwarded in accordance with that rule may be forwarded by being—**

- (i) delivered to the relevant sheriff clerk by the returning officer or his agent, or**
- (ii) sent to the relevant sheriff clerk by recorded delivery post,**
- (b) on forwarding the documents, the returning officer must deliver or send to the relevant sheriff clerk along with the documents a letter specifying the number and descriptions of the documents forwarded, and**

**(c) where the documents are forwarded by delivery under sub-paragraph (a)(i) above, the relevant sheriff clerk must, on receipt of the documents, provide the person delivering them with a signed receipt showing the date and time of receipt.**

**(3) In this rule, “relevant sheriff clerk” means—**

- (a) the sheriff clerk of the sheriff court district in which the constituency is situated, or**
- (b) if the constituency comprises any part of the area of more than one sheriff court district, the sheriff clerk of such one of those districts as the Secretary of State may by order appoint.**

#### *Disposal of documents in Northern Ireland*

~~59~~ In relation to an election for a constituency in Northern Ireland, any reference in this Part of these rules to the Clerk of the Crown shall be taken as a reference to the Clerk of the Crown for Northern Ireland.

**59** In the application of rules 55 to 57 to elections for a constituency in Northern Ireland, the references to the relevant registration officer shall be taken to be references to the Clerk of the Crown for Northern Ireland.

## **PART VI**

### **DEATH OF CANDIDATE**

#### *Countermand or abandonment of poll on death of candidate Independent candidate*

**60 (1) This rule applies if at a contested election proof is given to the returning officer’s satisfaction before the result of the election is declared that one of the persons named or to be named in the ballot papers as an independent candidate has died.**

**(2) Subject to this rule and rules 61 and 62, these rules apply to the election as if the candidate had not died.**

**(3) The following provisions of these rules do not apply in relation to the deceased candidate –**

**(a) rule 32(1)(c) and (d) (admission to polling station);**

**(b) rule 44(2)(b) to (d) (attendance at count);**

**(c) rule 53(4) (forfeiture of deposit)**

**(4) If only two persons are shown as standing nominated in the statement of persons nominated the returning officer must -**

**(a) if polling has not begun, countermand the notice of poll;**

**(b) if polling has begun, direct that the poll is abandoned;**

**(c) subject to rule 65, treat the election as an uncontested election.**

**(5) For the purposes of this rule a person is named or to be named on the ballot papers as an independent candidate if the description (if any) on his nomination paper is not authorised as mentioned in rule 6A(1) or (1B).**

*Deceased independent candidate wins*

**61 (1) This rule applies if at an election mentioned in rule 60(1) the majority of votes is given to the deceased candidate.**

**(2) Rule 50(1) (declaration of result) does not apply but the returning officer must -**

**(a) declare that the majority of votes has been given to the deceased candidate,**

**(b) declare that no member is returned, and**

**(c) give public notice of the total number of votes given for each candidate together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers.**

**(3) Rule 53 (return or forfeiture of candidate's deposit) does not apply in relation to the remaining candidates.**

**(4) The returning officer must not return the writ and the proceedings with reference to the election must be commenced afresh subject to the following provisions of this rule.**

**(5) The writ for the election must be taken to have been received on the first working day after the end of the period of seven days starting on the day of the election mentioned in rule 60(1).**

**(6) No fresh nomination is necessary in the case of a person shown in the statement of persons nominated as standing nominated, and no other nomination may be made.**

**(7) The last day on which a notice of withdrawal of candidature by a person who stands nominated by virtue of paragraph (6) may be delivered is the seventh working day after the day on which the writ is taken to be received.**

**(8) Rule 9 (deposit) does not apply.**

**(9) The poll must be held on a day in the period which starts 15 working days after the day on which the writ is taken to have been received and ends 19 working days after that day.**

**(10) For the purposes of this rule a working day is a day which is not a day specified in rule 2(1)(a) to (c).**

*Deceased independent candidate with equality of votes*

**62 In an election mentioned in rule 60(1), if -**

- (a) rule 49 applies (equality of votes), and**
- (b) any of the candidates to whom that rule applies is a deceased candidate, the deceased candidate must be ignored.**

*Party candidate*

**63 (1) This rule applies if.**

- (a) at a contested election proof is given to the returning officer's satisfaction before the result of the election is declared that one of the persons named or to be named as a candidate in the ballot paper has died, and**
- (b) that person is standing in the name of a registered political party.**

**(2) The returning officer must-**

- (a) countermand notice of the poll, or**
- (b) if polling has begun, direct that the poll be abandoned.**

**(3) The proceedings with reference to the election must be commenced afresh subject to the following provisions of this rule.**

**(4) The writ for the election must be taken to have been received on the first working day after the end of the period of seven days starting on the day the proof is given to the returning officer.**

**(5) No fresh nomination is necessary in the case of a person shown in the statement of persons nominated as standing nominated.**

**(6) No other nomination may be made except for a person standing in the name of the same registered political party in whose name the deceased candidate was standing.**

**(7) The last day on which a nomination mentioned in paragraph (6) may be delivered is the seventh working day after the day on which the writ is taken to be received.**

**(8) The last day on which a notice of withdrawal of candidature by a person who stands nominated by virtue of paragraph (5) or in pursuance of paragraph (6) may be delivered is the seventh working day after the day on which the writ is taken to be received.**

**(9) The poll must be held on a day in the period which starts 15 working days after the day on which the writ is taken to have been received and ends 19 working days after that day.**

**(10) For the purposes of this rule-**

- (a) a person stands in the name of a registered political party if his nomination paper contains a description which is authorised as mentioned in rule 6A(1) or (1B);**

- (b) a registered political party is a party which is registered under Part 2 of the Political Parties, Elections and Referendums Act 2000;**
- (c) a working day is a day which is not a day specified in rule 2(1)(a) to (c).**

*Speaker of the House of Commons seeking re-election*

**64 (1) This rule applies if at a contested election -**

- (a) one of the candidates is the Speaker of the House of Commons seeking re-election, and**
- (b) proof is given to the returning officer's satisfaction before the result of the election is declared that that candidate has died.**

**(2) The returning officer must -**

- (a) countermand notice of the poll, or**
- b) if polling has begun, direct that the poll be abandoned.**

**(3) The proceedings with reference to the election must be commenced afresh subject to the following provisions of this rule.**

**(4) The writ for the election must be taken to have been received on the first working day after the end of the period of seven days starting on the day the proof is given to the returning officer.**

**(5) The last day on which -**

- (a) nominations, or**
- (b) notice of withdrawal of candidature,**

**may be delivered is the seventh working day after the day on which the writ is taken to be received.**

**(6) The poll must be held on a day in the period which starts 15 working days after the day on which the writ is taken to have been received and ends 19 working days after that day.**

**(7) For the purposes of this rule a working day is a day which is not a day specified in rule 2(1)(a) to (c).**

*Abandoned poll*

**65 (1) This rule applies to -**

- (a) a poll which is abandoned in pursuance of rule 60(4)(b) as if it were a poll at a contested election;**
- (b) a poll which is abandoned in pursuance of rule 63(2)(b) or 64(2)(b).**

**(2) The presiding officer at a polling station must take the like steps (so far as not already taken) for the delivery to the returning officer of ballot boxes and of ballot papers and other documents as he is required to take on the close of the poll.**

**(3) The returning officer must dispose of ballot papers and other documents in his possession as is he required to do on the completion of the counting of the votes.**

**(4) It is not necessary for a ballot paper account to be prepared or verified.**



**(5) No step or further step is to be taken for the counting of the ballot papers or of the votes.**

**(6) The returning officer must seal up all the ballot papers (whether the votes on them have been counted or not) and it is not necessary to seal up counted and rejected ballot papers in separate packets.**

**(7) The provisions of these rules as to the inspection, production, retention and destruction of ballot papers and other documents relating to a poll at an election apply subject to paragraphs (8) and (9).**

**(8) Ballot papers on which the votes were neither counted nor rejected must be treated as counted ballot papers.**

**(9) No order is to be made for-**

**(a) the production or inspection of any ballot papers, or**

**(b) the opening of a sealed packet of the completed corresponding number lists or of certificates as to employment on the day of the poll,**

**unless the order is made by a court with reference to a prosecution.**

## **APPENDIX OF FORMS**

Note.—The forms contained in this Appendix may be adapted so far as circumstances require.

*Form of writ*

[ Not reproduced ]

*Form of notice of election*

[Not reproduced]

*Form of nomination paper*

[Not reproduced]

*Form of Front of Ballot Paper*

[Not reproduced]

*Form of Back of Ballot Paper*

[Not reproduced]

### *Directions as to printing the ballot paper*

**1** Nothing is to be printed on the ballot paper except in accordance with these directions.

**2** So far as practicable, the following arrangements shall be observed in the printing of the ballot paper—

(a) no word shall be printed on the face except the direction to vote for one candidate only [, the particulars of the candidates and words forming part of emblems];

(b) no rule shall be printed on the face except the horizontal rule separating the direction mentioned in paragraph (a) above from the particulars of the candidates and the horizontal rules separating the particulars of the candidates from one another and the vertical rules separating those particulars from the numbers on the left-hand side and the spaces on the right where the vote is to be marked;

(c) the whole space between the top and bottom of the paper shall be equally divided between the direction mentioned in paragraph (a) above and each of the candidates by the horizontal rules mentioned in paragraph (b) above.

**2A** The direction mentioned in paragraph 2 (2)(a) above shall be printed in large capitals.

**2B** **Nothing in paragraph 2 prohibits the face of the ballot paper containing more than one column of numbers, candidates particulars and spaces where the vote is to be marked if the returning officer thinks it is appropriate for the ballot paper to be printed with more than one column, but in such a case each column must be separated by a double vertical rule.**

**3** The surname of each candidate shall in all cases be printed by itself in large capitals, and his full particulars shall be set out below it and shall be printed in ordinary type except that small capitals shall be used—

(a) if his surname is the same as another candidate's, for his other names; and

(b) if his other names are also the same as the other candidate's, either for his home address or for his description unless each of them is the same of that of another candidate with the same surname and other names.

**3A** Where an emblem is to be printed against a candidate's particulars—

(a) it shall be printed between the candidate's particulars and the vertical rule separating the candidates' particulars from the spaces where the vote is to be marked, and

(c) its size as printed shall not exceed two centimetres square.

~~4~~—The number on the back of the ballot paper shall be printed in small characters.

**4** **The number and other unique identifying mark may be printed close to each other on the back of the ballot paper**

*Form of directions for the guidance of the voters in voting*

~~1~~ When you are given a ballot paper make sure it is stamped with the official mark.}]

~~2~~ Go to one of the compartments. Mark a cross (X) in the box on the right hand side of the ballot paper opposite the name of the candidate you are voting for.

~~3~~ Fold the ballot paper in two. Show the official mark to the presiding officer, but do not let anyone see your vote. Put the ballot paper in the ballot box and leave the polling station.}]

~~4~~ Vote for one candidate only. Put no other mark on the ballot paper, or your vote may not be counted.

~~5~~ If by mistake you spoil a ballot paper, show it to the presiding officer and ask for another one.

*Form of directions for the guidance of the voters in voting*

## GUIDANCE FOR VOTERS

- 1 When you are given a ballot paper go to one of the compartments. Mark a cross (X) in the box on the right hand side of the ballot paper opposite the name of the candidate you are voting for.**
- 2 Vote for one candidate only. Put no other mark on the ballot paper, or your vote may not be counted. Do not let anyone see your vote.**
- 3 Fold the ballot paper in two. Show the back of the ballot paper to the presiding officer so as to disclose the number and other unique identifying mark. Put the ballot paper in the ballot box and leave the polling station.**
- 4 If by mistake you spoil a ballot paper, show it to the presiding officer and ask for another one.**

*Form of declaration to be made by the companion of a blind voter*  
[ Form not available in online format. Please see original printed copy. ]

## SCHEDULE 2

### Section 53

#### PROVISIONS WHICH MAY BE CONTAINED IN REGULATIONS AS TO REGISTRATION ETC.

1. (1) Provisions prescribing the arrangements to be made for the carrying out of his registration duties by a registration officer for part of a constituency, where the constituency is not coterminous with or wholly situated in a district, Welsh county or county borough or London borough.
- (2) Provisions authorising a registration officer to require persons to give information required for the purpose of his registration duties or to make declarations of any prescribed description as to matters relevant to their entitlement to be registered.
- (3) Provisions authorising a registration officer, where—
  - (a) he has so required any person registered in one of his registers to give him information, or to make any declaration, for the purpose of enabling him to determine whether the person is entitled to be so registered, and
  - (b) the person has not within the prescribed period complied with that requirement in a manner which the officer considers satisfactory (or at all),to remove the person's ~~name~~ **entry** from the register.
- (4) Provisions authorising a registration officer to inspect, for the purpose of his registration duties, records kept (in whatever form) by—
  - (a) any local or public authority of any prescribed description, or
  - (b) any person providing services to, or authorised to exercise any function of, any such authority,

and to make copies of information contained in such records.

(5) Provisions made under sub-paragraph (4) above shall have effect despite any statutory or other restriction on the disclosure of information.

**2** Provisions imposing on registration officers the duty of requiring persons to give information required for the purpose of the officer's duty under section 3(1) of the Juries Act 1974

**2A** Provisions requiring registration officers to remind persons registered in pursuance of [declarations or applications of any prescribed description of the need to make fresh declarations or applications in order for them to remain registered.

**2B Provisions requiring registration officers to remind persons with anonymous entries in registers of the need to make a fresh application and declaration in order for them to remain so registered.**

**3** Provisions laying down a timetable for the preparation of the register and other matters, and providing that notices and other documents received by the registration officer out of time may be or shall be disregarded either altogether or for the purposes of a particular register or election.

**3A.** Provisions as to the form and contents of applications for registration, including provisions as to any declarations to be made in connection with them.

**3B Provisions as to the form and content of applications for an anonymous entry and declarations to be made in connection with such applications.**

**4** Provisions as to the manner in which service declarations, and applications and notices from service voters, are to be transmitted to the registration officer.

(2) Provisions as to the manner in which overseas electors' declarations and applications from persons making such declarations, are to be transmitted to the registration officer.

**5.** (1) Provisions as to the evidence which shall or may be required, or be deemed sufficient or conclusive evidence, of a person's service declaration having ceased to be in force.

(1A) Provisions as to the evidence which shall or may be required, or be deemed sufficient or conclusive evidence, of a person satisfying any of the requirements for qualifying as an overseas elector in respect of any constituency.

**(1B) Provisions as to the evidence which shall or may be deemed sufficient or conclusive evidence that a person's safety would be at risk as mentioned in section 9B(10) of this Act.**

(2) Provisions as to the evidence of age or nationality which may be required in connection with a person's registration otherwise than as a service voter or with his appointment as a proxy.

(3) Provisions requiring any fee payable in connection with the making for the purpose of the regulations of any statutory declaration to be paid by the registration officer.

(4) [...]

**5A** (1) Provision requiring applications under paragraph 3 or 4 of Schedule 4 to the Representation

of the People Act 2000 or section 6 or 7 of the Representation of the People Act 1985 to be attested and limiting the number of such applications that a person may attest.

(2) Provisions requiring a person applying under paragraph 4 of Schedule 4 to the Representation of the People Act 2000 or section 7 of the Representation of the People Act 1985 to do so in person, producing a document of a prescribed description.

(3) Provision as to the evidence which shall or may be required, or be deemed sufficient or conclusive evidence, in connection with a person's application to vote by proxy or to vote by post as elector or as proxy.

(4) Provision authorising or requiring registration offers—

(a) to make inquiries of persons included in the record kept under paragraph 3(4) of Schedule 4 to the Representation of the People Act 2000 or section 6(3) of the Representation of the People Act 1985 for the purposes of determining whether there has been a material change of circumstances; and

(b) to treat failure to respond to such inquiries as sufficient evidence of such a change

**6** Provisions as to the cases in which an application or objection may be determined by the registration officer without a hearing, and as to a person's right in any such cases to make written representations to him.

**7** Provisions authorising a registration officer to require any person's evidence at a hearing before him to be given on oath and to administer oaths for the purpose.

**8** Provisions requiring the registration officer to prepare a special list of those persons entitled to be registered whose addresses are not required to be shown in the register or of any class of such persons, showing the addresses of the person concerned.

**8A Provisions requiring the registration officer to prepare a record of those persons with anonymous entries in the register showing, in relation to each such person, such information as is prescribed.**

**9** [...]

**10.** (1) Provisions requiring a registration officer to prepare, in addition to the version of the register which he is required to prepare by virtue of the other provisions of this Act (“the full register”), a version of the register which omits the names and addresses of registered electors by or on behalf of whom requests have been made to have their names and addresses excluded from that version of it (“the edited register”).

**(1A) The edited version shall also omit anonymous entries.**

(2) Provisions specifying a form of words to be used by a registration officer for the purpose of—  
(a) explaining to persons registered or applying to be registered, or persons acting on behalf of such persons, the purposes for which the full register and the edited register may each be used, and  
(b) ascertaining whether the exclusion of their names and addresses from the edited register is requested by or on behalf of such persons.

**10A.** Provisions requiring copies of the full register and other documents, or prescribed parts of them, to be available for inspection by the public at such places as may be prescribed.

**10B** (1) Provisions authorising or requiring a registration officer–

(a) to supply to such persons as may be prescribed copies of the full register and other documents, or prescribed parts of them, whether free of charge or on payment of a prescribed fee;

(b) to supply to any persons copies of the edited register, or any prescribed part of it, on payment of a prescribed fee.

(2) Provisions specifying, in relation to any description of persons prescribed by regulations made in pursuance of sub-paragraph (1)(a) above, the purposes for which copies supplied to such persons under such regulations, or information contained in them, may be used whether by such persons or by employees or other persons authorised by them in accordance with regulations to have access to such copies or information contained in them.

(3) Without prejudice to the generality of sub-paragraph (1) above or paragraph 11A below, regulations made in pursuance of sub-paragraph (1) may contain any such provisions as are authorised by paragraph 11A.

**11.** (1) Provisions imposing prohibitions or restrictions relating to the extent (if any) to which–

(a) persons inspecting the full register in accordance with regulations made in pursuance of paragraph 10A above may make copies of the register;

(b) persons to whom copies of the full register are supplied (whether in accordance with regulations made in pursuance of paragraph 10B above or in accordance with any other provision made by or under an Act) may–

(i) supply those copies, or otherwise disclose any information contained in them, to other persons, or

(ii) make use of any such information otherwise than for any purposes specified in such regulations or (as the case may be) for which the copies have been supplied in accordance with any such provision.

(2) Provisions imposing, in relation to persons–

(a) to whom copies of the full register have been supplied, or information contained in such copies has been disclosed, in accordance with regulations made in pursuance of this paragraph, or

(b) who otherwise have access to such copies or information,

prohibitions or restrictions corresponding to those which may be imposed by virtue of sub-paragraph (1) above.

(3) Provisions imposing, in relation to persons involved in the preparation of the full register, prohibitions with respect to supplying copies of the full register and disclosing information contained in it.

(4) In this paragraph any reference to the full register includes a reference to any part of it.

**11A** (1) Provisions authorising or requiring registration officers who are data users to supply data, or documents containing information extracted from data and in such form as may be prescribed, to such persons as may be prescribed on payment of a prescribed fee.

(2) In this paragraph 'data controller' and 'data' have the same meanings as in section 1 of the

Data Protection Act 1998.

**12** Provisions as to the arrangements to be made in relation to the issue and receipt of, and for subsequently dealing with, ballot papers for postal voting, including provisions—

(a) authorising replacement ballot papers to be issued in any prescribed circumstances;

**(aa) authorising the cancellation or removal of ballot papers in any prescribed circumstances;**

(b) as to the proceedings in connection with the issue and receipt of ballot papers and, in particular—

(i) the persons who are to be entitled, or may be allowed, to attend, and

(ii) the rights and obligations of persons attending;

(c) as to the steps to be taken to ensure the secrecy of the voting and the safe custody (before and after the count) of the ballot papers returned and other documents.

**13** (1) Provisions making it an offence (punishable on summary conviction by a fine not exceeding level 3 on the standard scale) for a person—

(a) to have failed to comply with, or given false information in pursuance of, any such requisition of the registration officer as is mentioned in paragraph 1 or paragraph 2 above.

(b) to have, without lawful authority, destroyed, mutilated, defaced or removed any notice published by the registration officer in connection with his registration duties, or any copies of a document which have been made available for inspection in pursuance of those duties.

(1A) Provisions making it an offence (punishable on summary conviction by a fine not exceeding level 5 on the standard scale)—

(a) for a person to contravene any regulations made in pursuance of paragraph 11 above or to do so in any prescribed circumstances, or

(b) where such a contravention has occurred on the part of a person in the employment, or otherwise under the direction or control, of a company or other organisation, for—

(i) a director of the company, or

(ii) a person concerned with the management of the organisation,

to have failed to take such steps as it was reasonable for him to take to secure the operation of procedures designed to prevent, so far as reasonably practicable, the occurrence of such contraventions on the part of such persons.

(2) Any other provisions incidental or supplemental to those mentioned in the foregoing paragraphs of this Schedule.

## **SCHEDULE 2A**

### **CONTROL OF DONATIONS TO CANDIDATES**

#### **PART I**

#### **INTRODUCTORY**

##### *Operation and interpretation of Schedule*

**1** (1) This Schedule has effect for controlling donations to candidates at an election.

(2) The following provisions have effect for the purposes of this Schedule.

(3) “Relevant donation”, in relation to a candidate at an election, means a donation to the candidate or his election agent for the purpose of meeting election expenses incurred by or on behalf of the candidate.

(4) In sub-paragraph (3) above the reference to a donation for the purpose of meeting election expenses incurred by or on behalf of a candidate includes a reference to a donation for the purpose of securing that any such expenses are not so incurred; and a donation shall be taken to be a donation for either of those purposes if, having regard to all the circumstances, it must be reasonably assumed to be such a donation.

(5) “Donation” shall be construed in accordance with paragraphs 2 to 4 below.

(6) “The 2000 Act” means the Political Parties, Elections and Referendums Act 2000.

(7) Where—

(a) at a time when any order is in force under section 70(1) of the 2000 Act a donation is received by a candidate at an election in Great Britain, and

(b) the order provides for this sub-paragraph to apply to any such donation, references to a permissible donor falling within section 54(2) of that Act shall be construed, in relation to the donation, as not including a registered party which is registered in the Northern Ireland register maintained by the Commission under Part II of that Act.

(8) “The Commission” means the Electoral Commission established by section 1 of that Act.

(9) Any reference to a donation received by a candidate when he is (or is deemed to be) his own election agent includes a reference to a donation received by a candidate on a list of candidates to be London members of the London Assembly at an ordinary election who is, or is deemed to be, the election agent of all the candidates on the list.

(10) Any donation which is received by a candidate as mentioned in sub-paragraph (9) above shall be regarded as received by him in his capacity as election agent.

#### *Donations: general rules*

2. (1) “Donation”, in relation to a candidate at an election, means (subject to paragraph 4 below)—

(a) any gift to the candidate or his election agent of money or other property;

(b) any sponsorship provided in relation to the candidate (as defined by paragraph 3 below);

(c) any money spent (otherwise than by the candidate, his election agent or any sub-agent) in paying any election expenses incurred by or on behalf of the candidate;

(d) any money lent to the candidate or his election agent otherwise than on commercial terms;

(e) the provision otherwise than on commercial terms of any property, services or facilities for the use or benefit of the candidate (including the services of any person).

(2) Where—

(a) any money or other property is transferred to a candidate or his election agent pursuant to any transaction or arrangement involving the provision by or on behalf of the candidate of any property, services or facilities or other consideration of monetary value, and

(b) the total value in monetary terms of the consideration so provided by or on behalf of the candidate is less than the value of the money or (as the case may be) the market value



of the property transferred,  
the transfer of the money or property shall (subject to sub-paragraph (4) below) constitute a gift to the candidate or (as the case may be) his election agent for the purposes of sub-paragraph (1)(a) above.

(3) In determining—

(a) for the purposes of sub-paragraph (1)(d) above, whether any money lent to a candidate or his election agent is so lent otherwise than on commercial terms, or

(b) for the purposes of sub-paragraph (1)(e) above, whether any property, services or facilities provided for the use or benefit of a candidate is or are so provided otherwise than on such terms,

regard shall be had to the total value in monetary terms of the consideration provided by or on behalf of the candidate in respect of the loan or the provision of the property, services or facilities.

(4) Where (apart from this sub-paragraph) anything would be a donation both by virtue of sub-paragraph (1)(b) above and by virtue of any other provision of this paragraph, sub-paragraph (1)(b) (together with paragraph 3 below) shall apply in relation to it to the exclusion of the other provision of this paragraph.

(5) The reference in sub-paragraph (1)(c) above to money spent as mentioned in that provision is a reference to money so spent by a person, other than the candidate, his election agent or any sub-agent, out of his own resources (with no right to reimbursement out of the resources of any such other person); and where, by virtue of sub-paragraph (1)(c) above, money so spent constitutes a donation to the candidate, the candidate shall be treated as receiving an equivalent amount on the date on which the money is paid to the creditor in respect of the expenses in question.

(6) In this paragraph—

(a) any reference to anything being given or transferred to a candidate or his election agent includes a reference to its being given or transferred either directly or indirectly through any third person;

(b) “gift” includes a bequest or any other form of testamentary disposition.

### *Sponsorship*

3. (1) For the purposes of this Schedule sponsorship is provided in relation to a candidate if—

(a) any money or other property is transferred to the candidate or to any person for the benefit of the candidate, and

(b) the purpose (or one of the purposes) of the transfer is (or must, having regard to all the circumstances, reasonably be assumed to be)—

(i) to help the candidate with meeting, or to meet, to any extent any defined expenses

incurred or to be incurred by or on behalf of the candidate, or

(ii) to secure that to any extent any such expenses are not so incurred.

(2) In sub-paragraph (1) above “defined expenses” means expenses in connection with—

(a) any conference, meeting or other event organised by or on behalf of the candidate,

(b) the preparation, production or dissemination of any publication by or on behalf of the candidate, or

(c) any study or research organised by or on behalf of the candidate.

(3) The following do not, however, constitute sponsorship by virtue of sub-paragraph (1) above—

- (a) the making of any payment in respect of—
  - (i) any charge for admission to any conference, meeting or other event, or
  - (ii) the purchase price of, or any other charge for access to, any publication;
- (b) the making of any payment in respect of the inclusion of an advertisement in any publication where the payment is made at the commercial rate payable for the inclusion of such an advertisement in any such publication.

(4) The Secretary of State may by order made on the recommendation of the Commission amend sub-paragraph (2) or (3) above.

(5) Any order under sub-paragraph (4) above shall be made by statutory instrument; but no such order shall be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.

(6) In this paragraph “publication” means a publication made available in whatever form and by whatever means (whether or not to the public at large or any section of the public).

*Payments etc. not to be regarded as donations*

- 4** (1) None of the following shall be regarded as a donation—
- (a) the provision of any facilities provided in pursuance of any right conferred on a candidate at an election by this Act;
  - (b) the provision by an individual of his own services which he provides voluntarily in his own time and free of charge;
  - (c) any interest accruing to a candidate or his election agent in respect of any donation which is dealt with by the candidate or (as the case may be) his election agent in accordance with section 56(2)(a) or (b) of the 2000 Act (as applied by paragraph 7 below).
- (2) There shall also be disregarded any donation whose value (determined in accordance with paragraph 5 below) is not more than £50

*Value of donations*

- 5** (1) The value of any donation falling within paragraph 2(1)(a) above (other than money) shall be taken to be the market value of the property in question.
- (2) Where, however, paragraph 2(1)(a) above applies by virtue of paragraph 2(2) above, the value of the donation shall be taken to be the difference between—
- (a) the value of the money, or the market value of the property, in question, and
  - (b) the total value in monetary terms of the consideration provided by or on behalf of the candidate or his election agent.
- (3) The value of any donation falling within paragraph 2(1)(b) above shall be taken to be the value of the money, or (as the case may be) the market value of the property, transferred as mentioned in paragraph 3(1) above; and accordingly any value in monetary terms of any benefit conferred on the person providing the sponsorship in question shall be disregarded.
- (4) The value of any donation falling within paragraph 2(1)(d) or (e) above shall be taken to be the amount representing the difference between—

- (a) the total value in monetary terms of the consideration that would have had to be provided by or on behalf of the candidate or his election agent in respect of the loan or the provision of the property, services or facilities if—
  - (i) the loan had been made, or
  - (ii) the property, services or facilities had been provided,
 on commercial terms, and
  - (b) the total value in monetary terms of the consideration (if any) actually so provided by or on behalf of the candidate or his election agent.
  
- (5) Where a donation such as is mentioned in sub-paragraph (4) above confers an enduring benefit on the donee over a particular period, the value of the donation—
  - (a) shall be determined at the time when it is made, but
  - (b) shall be so determined by reference to the total benefit accruing to the donee over that period.
  
- (6) In this paragraph “market value” in relation to any property, means the price which might reasonably be expected to be paid for the property on a sale in the open market.

## PART II

### CONTROLS ON DONATIONS

#### *Prohibition on accepting donations from impermissible donors*

- 6 (1) A relevant donation received by a candidate or his election agent must not be accepted if—
  - (a) the person by whom the donation would be made is not, at the time of its receipt by the candidate or (as the case may be) his election agent, a permissible donor falling within section 54(2) of the 2000 Act; or
  - (b) **where the person is not such a permissible donor**, the candidate or (as the case may be) his election agent is (whether because the donation is given anonymously or by reason of any deception or concealment or otherwise) unable to ascertain the identity of the person offering the donation.
  
- (2) For the purposes of this Schedule any relevant donation received by a candidate or his election agent which is an exempt trust donation shall be regarded as a relevant donation received by the candidate or his election agent from a permissible donor; and section 162 of the 2000 Act (interpretation: exempt trust donations) shall apply for the purposes of this Schedule as it applies for the purposes of that Act.
  
- (3) But, for the purposes of this Schedule, any relevant donation received by a candidate or his election agent from a trustee of any property (in his capacity as such) which is not—
  - (a) an exempt trust donation, or
  - (b) a relevant donation transmitted by the trustee to the candidate or his election agent on behalf of beneficiaries under the trust who are—
    - (i) persons who at the time of its receipt by the candidate or his election agent are permissible donors falling within section 54(2) of the 2000 Act, or
    - (ii) the members of an unincorporated association which at that time is such a permissible donor,
 shall be regarded as a relevant donation received by the candidate or his election agent from a person who is not such a permissible donor.

(4) Where any person (“the principal donor”) causes an amount (“the principal donation”) to be received by a candidate or his election agent by way of a relevant donation—

- (a) on behalf of himself and one or more other persons, or
- (b) on behalf of two or more other persons,

then for the purposes of this Part each individual contribution by a person falling within paragraph (a) or (b) of more than £50 shall be treated as if it were a separate donation received from that person.

(5) In relation to each such separate donation, the principal donor must ensure that, at the time when the principal donation is received by the candidate or his election agent, the candidate or (as the case may be) his election agent is given—

- (a) (except in the case of a donation which the principal donor is treated as making) all such details in respect of the person treated as making the donation as are required by virtue of paragraph 11(c) below; and
- (b) (in any case) all such details in respect of the donation as are required by virtue of paragraph 11(a) below.

(6) Where-

- (a) any person (“the agent”) causes an amount to be received by a candidate or his election agent by way of a donation on behalf of another person (“the donor”), and
- (b) the amount of the donation is more than £50,

the agent must ensure that, at the time when the donation is received by the candidate or his election agent, the candidate or (as the case may be) his election agent is given all such details in respect of the donor as are required by virtue of paragraph 11(c) below.

(7) A person commits an offence if, without reasonable excuse, he fails to comply with sub-paragraph (5) or (6) above.

(8) A person guilty of an offence under sub-paragraph (7) shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum or to a term of imprisonment not exceeding 6 months (or both);
- (b) on conviction on indictment, to a fine or to a term of imprisonment not exceeding one year (or both).

#### *Acceptance or return of donations*

7. (1) Sections 56 to 60 of the 2000 Act shall apply for the purposes of this Schedule in relation to—

- (a) a relevant donation received by a candidate or his election agent, and
- (b) the candidate or (as the case may be) the election agent,

as they apply in relation to a donation received by a registered party and the registered party.

(2) In the application of sections 56 to 60 of that Act in accordance with sub-paragraph (1)—

- (a) section 56(1) shall have effect as if the reference to the particulars relating to a donor which would be required to be included in a donation report by virtue of paragraph 2 of Schedule 6 (if the donation were a recordable donation within the meaning of that Schedule) were construed as a reference to the particulars which are required to be included in a return by virtue of paragraph 11(c) below;
- (b) section 56(3) shall have effect as if the reference to the party were omitted and the reference to the treasurer of the party were construed as a reference to the candidate or (as

the case may be) his election agent; and  
(c) section 56(4) shall have effect as if the reference to the treasurer of the party were construed as a reference to the candidate or (as the case may be) his election agent.

*Transfer of donations received by candidate to election agent*

**8** (1) Sub-paragraph (2) below applies in relation to any relevant donation received by a candidate after the deadline for appointing an election agent (unless the candidate is, or is deemed to be, his own election agent at the time of receipt of the donation).

(2) The candidate shall, on receipt of any such donation as is mentioned in sub-paragraph (1) above, forthwith deliver to his election agent—

- (a) the donation,
- (b) where paragraph 6(5) or (6) above applies in relation to the donation, the information provided to the candidate in pursuance of that provision, and
- (c) any other information which the candidate has about the donation and its donor which might reasonably be expected to assist the election agent in the discharge of any duties imposed on him, in relation to the donation, under this Part or Part III of this Schedule.

(3) Where a donation is delivered to an election agent in accordance with sub-paragraph (2) above, the donation shall be treated for the purposes of paragraph 6(1) to (4) above and the provisions applied by paragraph 7 above as if it had been—

- (a) originally received by the election agent, and
- (b) so received by him on the date on which it was received by the candidate.

(4) Where a candidate receives a relevant donation before the deadline for appointing an election agent but at a time when an appointment of a person (other than the candidate himself) as election agent is in force he shall either—

- (a) forthwith deliver the donation and the information mentioned in sub-paragraph (2)(b) and (c) above to the agent, or
- (b) (if he fails to do so) deal with the donation in accordance with section 56 of the 2000 Act.

(5) Sub-paragraph (3) above shall have effect in relation to any relevant donation delivered to an election agent in accordance with sub-paragraph (4)(a) above as it has effect in relation to a donation delivered to him in accordance with sub-paragraph (2) above.

(6) Sub-paragraph (7) below applies where—

- (a) a relevant donation received by a candidate before the deadline for appointing an election agent has been dealt with by the candidate in accordance with section 56 of the 2000 Act either because—
  - (i) it was received by him at a time when no appointment of another person as his election agent was in force, or
  - (ii) although such an appointment was in force, he was by virtue of sub-paragraph (4)(b) required to deal with the donation; and
- (b) an appointment of a person (other than the candidate himself) as election agent is in force at, or at any time after—
  - (i) the deadline for appointing an election agent, or
  - (ii) if later, the time when the candidate has dealt with the donation in accordance with section 56 of the 2000 Act.

- (7) Subject to sub-paragraph (9) below, the candidate shall, as soon as reasonably practicable after the relevant time, deliver to the election agent—
- (a) the donation (if it has been accepted by him), and
  - (b) any information which he has about the donation and the donor which might reasonably be expected to assist the election agent in the discharge of any duties imposed on him, in relation to the donation, under Part III of this Schedule.
- (8) The relevant time for the purposes of sub-paragraph (7) above is—
- (a) the time mentioned in sub-paragraph (6)(b)(i) or (ii) (as the case may be) if the appointment of another person as election agent is in force at that time, or
  - (b) otherwise, the time when any such appointment subsequently comes into force.
- (9) The duty imposed on a candidate by sub-paragraph (7)(a) above does not apply to any relevant donation to the extent to which it has been lawfully used by the candidate for the purpose of paying election expenses.
- (10) In this paragraph—
- (a) any reference to the deadline for appointing an election agent is a reference to the latest time by which an election agent may in accordance with section 67(1) or (1A) of this Act be named as election agent—
    - (i) by the candidate, or
    - (ii) in the case of a candidate on a list of candidates submitted by a registered political party to be London members of the London Assembly at an ordinary election, by the party; and
  - (b) any reference to any provision of section 56 of the 2000 Act is a reference to that provision as applied by paragraph 7 above.

*Evasion of restrictions on donations*

- 9** Section 61 of the 2000 Act shall apply for the purposes of this Schedule as if—
- (a) any reference to donations were to relevant donations;
  - (b) any reference to a registered party were, in relation to a relevant donation, a reference to a candidate or (as the case may be) his election agent; and
  - (c) any reference in subsection (2) to the treasurer of a registered party were, in relation to a relevant donation, a reference to either the candidate or his election agent (or both)

**PART III**

**REPORTING OF DONATIONS**

*Statement of relevant donations*

**10 (1) The candidate's election agent must include in any return required to be delivered under section 81 of this Act a statement of relevant donations which complies with paragraphs 11 and 12 below.**

**(2) If the statement states that the candidate's election agent has seen evidence of such description as is prescribed by the Secretary of State in regulations that an individual donor has an anonymous entry in an electoral register, the statement must be accompanied by a copy of the evidence.**

**(3) Sub-paragraph (2) does not apply to local government elections in Scotland.**

*Donations from permissible donors*

**11** The statement must record, in relation to each relevant donation accepted by the candidate or his election agent—

- (a) the amount of the donation (if a donation of money, in cash or otherwise) or (in any other case) the nature of the donation and its value as determined in accordance with paragraph 5 above;
- (b) the date when the donation was accepted by the candidate or his election agent;
- (c) the information about the donor which is, in connection with recordable donations to registered parties, required to be recorded in donation reports by virtue of paragraph 2 of Schedule 6 to the 2000 Act; and
- (d) such other information as may be required by regulations made by the Commission.

*Donations from impermissible donors*

**12** (1) This paragraph applies to relevant donations falling within paragraph 6(1)(a) or (b) above.

(2) Where paragraph 6(1)(a) above applies, the statement must record—

- (a) the name and address of the donor;
- (b) the amount of the donation (if a donation of money, in cash or otherwise) or (in any other case) the nature of the donation and its value as determined in accordance with paragraph 5 above;
- (c) the date when the donation was received, and the date when, and the manner in which, it was dealt with in accordance with section 56(2)(a) of the 2000 Act; and
- (d) such other information as is required by regulations made by the Commission.

(3) Where paragraph 6(1)(b) above applies, the statement must record—

- (a) details of the manner in which the donation was made;
- (b) the amount of the donation (if a donation of money, in cash or otherwise) or (in any other case) the nature of the donation and its value as determined in accordance with paragraph 5 above;
- (c) the date when the donation was received, and the date when, and the manner in which, it was dealt with in accordance with section 56(2)(b) of the 2000 Act; and
- (d) such other information as is required by regulations made by the Commission.

(4) In this paragraph any reference to any provision of section 56 of the 2000 Act is a reference to that provision as applied by paragraph 7 above.

**SCHEDULE 3**

**Sections 81 and 82**

**RETURN AND DECLARATIONS AS TO ELECTION EXPENSES**

## FORM OF RETURN

## FORM OF DECLARATIONS

[ Forms not available in online format. Please see original printed copy. ]

### SCHEDULE 4

### Sections 90 and 197

#### **ELECTION EXPENSES AT CERTAIN LOCAL ELECTIONS IN ENGLAND AND WALES**

**1** (1) Any claim against any person in respect of any election expenses incurred by or on behalf of a candidate which is not sent in within 14 days after the day of election shall be barred and not paid, and all election expenses incurred as mentioned above shall be paid within 21 days after the day of election and not otherwise.

(2) If any person makes a payment in contravention of this paragraph he shall be guilty of an illegal practice, but a candidate shall not be liable, nor shall his election be avoided, for any illegal practice committed under this sub-paragraph without his consent or connivance.

**2** Every agent of a candidate at the election shall, within 23 days after the day of election, make a true return to the candidate in writing of all election expenses incurred by the agent and if he fails so to do he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

**3** Within 28 days after the day of election every candidate shall deliver to the proper officer of the authority for which the election is held a return of all election expenses incurred by the candidate or his agents vouched (except in the case of sums under £10) by bills stating the particulars and receipts and accompanied by a declaration by the candidate as to election expenses.

**4** (1) After the expiry of the time for making the return and declaration, the candidate, if elected, shall not, until he has made the return and declaration or until the date of the allowance of any authorised excuse under paragraph 7 below, sit or vote in the council and if he does so—  
(a) he shall forfeit £50 for every day on which he so sits or votes; or  
(b) instead of civil proceedings for a penalty, proceedings may be instituted in a magistrates' court, and he shall be liable on conviction to a fine of an amount not exceeding the amount of the penalty which would be recoverable in civil proceedings.

(2) Civil proceedings for a penalty under this paragraph shall be commenced within the period of one year beginning with the day in respect of which the penalty is alleged to have been incurred.

(3) For the purposes of sub-paragraph (2) above the issue of a writ or other process shall be deemed to be a commencement of a proceeding, where the service or execution of the same on or against the alleged offender is prevented by the absconding or concealment or act of the alleged offender, but save as mentioned above the service or execution of the same on or against the alleged offender, and not its issue, shall be deemed to be the commencement of the proceeding.

**5** If the candidate fails to make that return and declaration he shall be guilty of an illegal practice, and, if he knowingly makes that declaration falsely, he shall be guilty of a corrupt practice.



**6** The High Court, an election court or the county court may, on application either of the candidate or a creditor, allow any claim to be sent in and any expenses to be paid after the time limited by this Schedule, and a return of any sum so paid shall forthwith after payment be sent to the proper officer of the authority.

**7** (1) If the candidate applies to the High Court, an election court or the county court and shows that the failure to make that return and declaration or either of them or any error or false statement in them has arisen by reason of—

- (a) his illness or absence, or
- (b) the absence, death, illness or misconduct of any agent, clerk or officer, or
- (c) inadvertence or any reasonable cause of a like nature,

and not by reason of any want of good faith on the applicant's part, the court may—

- (i) after such notice of the application as it considers fit, and
- (ii) on production of such evidence of the grounds stated in the application, and of the applicant's good faith, and otherwise, as it considers fit.

make such order allowing the authorised excuse for the failure, error or false statement as it considers just.

(2) The order may make the allowance conditional upon compliance with such terms as to the court seem best calculated for carrying into effect the objects of this Schedule, and the order shall relieve the applicant from any liability or consequence under this Act in respect of the matters excused by the order.

(3) The date of the order, or, if conditions and terms are to be complied with, the date on which the applicant fully complies with them, is referred to in this Act as the date of the allowance of the excuse.

**8** (1) The return and declaration shall be kept at the office of the proper officer of the authority and shall at all reasonable times during the twelve months next after they are received by him be open to inspection by any person on payment of the prescribed fee and the proper officer shall, on demand, provide copies of them, or of any part of them, at the prescribed price.

(2) After the expiry of twelve months the proper officer of the authority may cause the return and declaration to be destroyed or, if the candidate so requires, shall return them to him.

**9.** For the purposes of this Schedule—

- (a) the jurisdiction vested by paragraph 7 in a county court may be exercised otherwise than in open court; and
- (b) an appeal lies to the High Court from any order of a county court made by virtue of that paragraph.

## **SCHEDULE 4A**

**Section 90ZA**

### **ELECTION EXPENSES**

#### **PART 1**

## LIST OF MATTERS

### **1 Advertising of any nature (whatever the medium used).**

**Expenses in respect of such advertising include agency fees, design costs and other costs in connection with preparing, producing, distributing or otherwise disseminating such advertising or anything incorporating such advertising and intended to be distributed for the purpose of disseminating it.**

### **2 Unsolicited material addressed to electors (whether addressed to them by name or intended for delivery to households within any particular area).**

**Expenses in respect of such material include design costs and other costs in connection with preparing, producing or distributing such material (including the cost of postage).**

### **3 Transport (by any means) of persons to any place.**

**Expenses in respect of the transport of such persons include the costs of hiring a means of transport for a particular period.**

### **4 Public meetings (of any kind).**

**Expenses in respect of such meetings include costs incurred in connection with the attendance of persons at such meetings, the hire of premises for the purposes of such meetings or the provision of goods, services or facilities at them.**

### **5 The services of an election agent or any other person whose services are engaged in connection with the candidate's election.**

### **6 Accommodation and administrative costs.**

## PART 2

### GENERAL EXCLUSIONS

### **7 The payment of any deposit required by rule 9 of Schedule 1 to this Act.**

### **8 The publication of any matter, other than an advertisement, relating to the election in-**

**(a) a newspaper or periodical;**

**(b) a broadcast made by the British Broadcasting Corporation or by Sianel Pedwar Cymru;**

**(c) a programme included in any service licensed under Part 1 or 3 of the Broadcasting Act 1990 or Part 1 or 2 of the Broadcasting Act 1996**

### **9 The provision of any facilities provided in pursuance of any right conferred on candidates at an election by this Act other than facilities in respect of which expenses fall to be defrayed by virtue of sections 95(4) and 96(4) above.**

- 10** The provision by an individual of his own services which he provides voluntarily in his own time and free of charge.
- 11** (1) Accommodation which is the candidate's sole or main residence.
- (2) The provision by any other individual of accommodation which is his sole or main residence if the provision is made free of charge.
- 12** (1) Transport by a means of transport which was acquired by the candidate principally for his own personal use.
- (2) Transport provided free of charge by any other individual if the means of transport was acquired by him principally for his own personal use.
- 13** (1) Computing or printing equipment which was acquired by the candidate principally for his own personal use.
- (2) The provision by any other individual of computing or printing equipment which was acquired by the individual principally for his own personal use if the provision is made free of charge.

### **PART 3**

#### **SUPPLEMENTAL**

##### *Guidance by Commission*

- 14** (1) The Electoral Commission ("the Commission") may prepare, and from time to time revise, a code of practice giving guidance as to the matters which do, or do not, fall within Part 1 or 2 of this Schedule.
- (2) Once the Commission have prepared a draft code under this paragraph, they must submit it to the Secretary of State for his approval.
- (3) The Secretary of State may approve a draft code either without modification or with such modifications as he may determine.
- (4) Once the Secretary of State has approved a draft code he shall lay a copy of the draft, whether—
- (a) in its original form, or
- (b) in a form which incorporates any modifications determined under sub-paragraph (3),
- before each House of Parliament.
- (5) If the draft incorporates any such modifications, the Secretary of State must at the same time lay before each House a statement of his reasons for making them.
- (6) If, within the 40-day period, either House resolves not to approve the draft, the Secretary of State must take no further steps in relation to the draft code.

- (7) If no such resolution is made within the 40-day period—
- (a) the Secretary of State must issue the code in the form of the draft laid before Parliament, and
  - (b) the code is to come into force on such date as the Secretary of State may by order appoint;

and the Commission must arrange for it to be published in such manner as they think appropriate.

(8) Sub-paragraph (6) does not prevent a new draft code from being laid before Parliament.

(9) In this paragraph, “the 40-day period”, in relation to a draft code, means—

- (a) if the draft is laid before one House on a day later than the day on which it is laid before the other House, the period of 40 days beginning with the later of the two days, and
- (b) in any other case, the period of 40 days beginning with the day on which the draft is laid before each House,

no account being taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

(10) In this paragraph references to a draft code include a revised draft code.

#### *Power to amend Parts 1 and 2*

15 (1) The Secretary of State may by order made by statutory instrument make such amendments of Part 1 or 2 of this Schedule as he considers appropriate.

(2) An order under sub-paragraph (1) shall not be made unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament.

(3) The Secretary of State may make such an order either—

- (a) where the order gives effect to a recommendation of the Electoral Commission; or
- (b) after consultation with the Electoral Commission.

## SCHEDULE 5

Section 95

### USE FOR PARLIAMENTARY ELECTION MEETINGS OF ROOMS IN SCHOOL PREMISES AND OF MEETING ROOMS

1 (1) Any arrangements for the use of a room in school premises shall be made with the local education authority maintaining the school or, in the case of a room in the premises of a grant-maintained school, with the governing body of the school.

(2) Any question as to the rooms in school premises which a candidate in any constituency is entitled to use, or as to the times at which he is entitled to use them, or as to the notice which is reasonable, shall be determined by the Secretary of State.

**2** (1) Every local education authority shall prepare and revise for their area lists of the rooms in school premises which candidates in any constituency are entitled to use.

(2) The list shall include the rooms in premises outside, as well as those in premises in, the constituency.

**3** (1) Every district and London borough council [ and every Welsh county and county borough council] shall prepare and revise for their area lists of the meeting rooms which candidates in any constituency are entitled to use.

(2) The list shall indicate the person to whom applications for the use of the room are to be made in each case.

(3) The list shall not include any room if the person maintaining it disputes the right of candidates in the constituency to use it.

**4** The lists of rooms in school premises and of meeting rooms prepared for each constituency shall be kept by the registration officer, and those lists and particulars of any change made on their revision shall (where necessary) be forwarded to him accordingly.

**5** In the event of a dissolution, or of a vacancy occurring in the seat for the constituency, any person stating himself to be, or to be authorised by, a candidate or his election agent shall be entitled at all reasonable hours to inspect those lists or a copy of them.

**6** In the application of this Schedule to Scotland—

(a) for any reference to a local education authority substitute a reference to an education authority;

(aa) [...]

(b) sub-paragraph (1) of paragraph 2, sub-paragraph (1) of paragraph 3 and paragraph 4 do not apply, and it is the duty of the proper officer of every local authority to prepare and keep for each constituency wholly situated in the area of the council and for each part so situated of any other constituency—

(i) a list of rooms in school premises, and

(ii) a list of meeting rooms,

which candidates in the constituency are entitled to use.

## **SCHEDULE 6**

### **Section 191(2)**

#### **WARD ELECTIONS IN THE CITY**

**1** Without prejudice to the application of any provision of this Act of elections in the City by virtue of sections 191 to 196 of this Act, this Schedule has effect as regards the operation of Part II of the City of London (Various Powers) Act 1957 (referred to in this Schedule as “the City Act”) and the City of London (Ward Elections) Act 2002.

- 2** Notwithstanding anything in section 6(1) of the City Act—
- (a) a person qualified (age apart) to vote as an elector at a ward election shall be entitled to do so if he is of the age of 18 years or over on the date of the poll, except that,
  - (b) a person registered in the ward list to be used at a ward election shall not be entitled to vote as an election at the election if his entry in the ward list gives a date later than the date of the poll as the date on which he will attain the age of 18 years.
- 3** Ward lists and provisional ward lists shall give for any elector the date on which it appears to the town clerk of the City that the elector will attain the age of 18 years, if that date is after the 16th November in the year in which the ward lists are to be published.
- 4** Claims and objections asking for the omission, insertion or alteration of a date in a ward list as that on which an elector will attain that age may be made as in the case of claims and objections relating to the inclusion of a person's name in the list, and sections 7(4) and 9 of the City Act shall with any necessary modifications apply accordingly.
- 5** Any power under this Act to prescribe the form of service declaration may be exercised so as to take account of the difference between the qualifying date under this Act and the qualifying date under the [City of London (Ward Elections) Act 2002].
- 6** Nothing in this Act affects the operation of [paragraph (a) of subsection (5) of section 5 of the Representation of the People Act 1949 in relation to their application by section 4(2) of the City Act.

## **SCHEDULE 7**

**Section 206**

### **TRANSITIONAL AND SAVING PROVISIONS, AND INTERPRETATION OF OTHER ACTS**

#### **PART I**

#### **TRANSITIONAL AND SAVING PROVISIONS**

##### *General*

- 1.** Where a period of time specified in an enactment repealed by this Act is current as it commencement, this Act has effect as if the provision corresponding to that enactment had been in force when that period began to run.
- 2** The imposition or subsistence of an incapacity is not affected by the repeal by this Act of any enactment, and any such incapacity shall for the purposes of this Act be treated as having been imposed under the corresponding provisions of this Act.

*Electoral Law Act (Northern Ireland) 1962*

**3.**

*Licensing Act 1964*

4 Notwithstanding the repeal by this Act of section 24(2) of the Representation of the People Act 1969, the amendments by that section 24(2) of the Licensing Act 1964 continue to have the same effect as they had immediately before the coming into force of this Act.

*Northern Ireland Constitution Act 1973*

5 So far as sections 8(4) and 26 of this Act reproduce any provisions derived from the exercise of the power under section 38 of the Northern Ireland Constitution Act 1973 to make an Order in Council that provisions has effect as if it were contained in an Order in Council so made.  
Variation of limits of candidates' election expenses

6

*Section 254 of the Local Government Act 1972*

7. Any power exercisable under section 254 of the Local Government Act 1972 (consequential and supplementary provision) in relation to a provision of that Act repealed and re-enacted by this Act is exercisable in relation to that provision as so re-enacted to the extent that it would have been exercisable immediately before such repeal.

*Criminal Justice Act 1982*

8.

*Mental Health (Amendment) Act 1982*

9.

**PART II**

**INTERPRETATION OF OTHER ACTS**

*Register, electors, etc.*

10. (1) A reference in any Act (whenever passed) to—  
(a) the register of parliamentary and local government electors, or  
(b) the register of parliamentary electors, or  
(c) the register of local government electors, or  
(d) the electors lists for such a register,

shall be taken as a reference to—

- (i) the register kept under this Act, or
- (ii) that register so far as it relates to parliamentary electors, or
- (iii) that register so far as it relates to local government electors, or
- (iv) the electors lists for such a register,

as the case may be, and references in any Act to a parliamentary or local government elector shall be construed accordingly.

(2) In relation to a person shown in a register or electors list as attaining voting age on a specified date the references in sub-paragraph (1) above do not apply except for the purposes of an election at which the day fixed for the poll falls on or after that date.

*Registration and returning officers*

- 11** A reference in any Act (whenever passed) to—
- (a) the registration officer for the registration of parliamentary or local government electors, or
  - (b) the returning officer for a parliamentary election or constituency,
- shall be taken respectively as a reference to the registration officer or returning officer appointed under this Act.

*Registration expenses*

- 12** A reference in any Act (whenever passed) to registration expenses in connection with the registration of parliamentary or local government electors shall be taken as a reference to registration expenses under this Act.

*Supplemental*

- 13** (1) Subject to this paragraph, the provisions of paragraphs 10 to 12 of this Schedule apply to a reference—
- (a) to any of the matters mentioned in those provisions, what-ever the terms used in that reference; and
  - (b) to any other matter which was to be construed as a reference to any of those matters by virtue of an enactment repealed by the Representation of the People Act 1948.
- (2) Those provisions so far as they relate to this Act or any other Act passed after that Act of 1948 do not apply where the context otherwise requires.
- (3) Those provisions so far as they relate to Acts passed before that Act of 1948 may be excluded in whole or in part by an order of the Secretary of State in any particular case where they appear to him to be in appropriate.
- (4) That order may make such change in the law which this Act reproduces from the Representation of the People Act 1949 as might have been made before its commencement under paragraph 8(1)(c) of Part I of Schedule 10 to that Act of 1948.
- (5) The provisions of paragraphs 10 to 12 may be supplemented by an order made by the Secretary of State in relation to an Act passed previous to the Representation of the People Act 1948—
- (a) where, in any particular case, such an order appears to him necessary for harmonising the previous Act with the provisions of this Act; and
  - (b) to the extent that the provisions of this Act re-enact such provisions of the Representation of the People Act 1949 as re-enacted provisions of that Act of 1948.
- (6) A power conferred by this paragraph to make an order shall be exercisable by statutory instrument, and any such instrument shall be subject to annulment by resolution of either House of Parliament.
- (7) Nothing in paragraphs 10 to 12 shall be taken to prejudice the operation in relation to this Act of any provision of the Interpretation Act 1978 as to repeals.



**SCHEDULE 8**

**Section 206**

**CONSEQUENTIAL AMENDMENTS**

**SCHEDULE 9**

**Section 206**

**REPEALS AND REVOCATIONS**