STATUTORY INSTRUMENTS

# 2018 No. 107

# REPRESENTATION OF THE PEOPLE

## The European Parliamentary Elections Act 2002 (Amendment) Regulations 2018

*Made - - - - 25th January 2018*

*Coming into force in accordance with regulation 1(2)*

The Minister for the Cabinet Office, being a Minister designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to the European Parliament, makes the following Regulations in exercise of the powers conferred by that section and sections 12(1) and 13(3)(a) and (4) of the European Parliament (Representation) Act 2003(**3**).

In accordance with section 12(5) of the European Parliament (Representation) Act 2003, the Minister for the Cabinet Office has consulted the Electoral Commission about these Regulations.

In accordance with paragraph 2(2) of Schedule 2 to the European Communities Act 1972 and section 13(5) of the European Parliament (Representation) Act 2003, a draft of these Regulations has been laid before and approved by a resolution of each House of Parliament.

### Citation, commencement and extent

**1.**—(1) These Regulations may be cited as the European Parliamentary Elections Act 2002 (Amendment) Regulations 2018.

(2) These Regulations come into force on the day after the day on which they are made.

(3) These Regulations extend to the whole of the United Kingdom and Gibraltar.

### Amendment of the European Parliamentary Elections Act 2002

**2.**—(1) Section 5 of the European Parliamentary Elections Act 2002 (filling vacant seats)(**4**) is amended as follows.

(**1**) S.I. 2016/1112.

(**2**) 1972 c.68. Section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c.51) and by section 3 of, and Part I of the Schedule to, the European Union (Amendment) Act 2008 (c.7).

(**3**) 2003 c.7 ("the 2003 Act"). Section 12 was amended by S.I. 2003/1887, there are other amending instruments but none is relevant. The functions of the Secretary of State under the 2003 Act were made exercisable concurrently with the Lord President of the Council by the Lord President of the Council Order 2010 (S.I. 2010/1837). The Lord President of the Council's functions were transferred to the Chancellor of the Duchy of Lancaster by the Chancellor of the Duchy of Lancaster Order 2015 (S.I. 2015/1376); and were subsequently transferred to the Minister for the Cabinet Office by the Transfer of Functions (Elections, Referendums, Third Sector and Information) Order 2016 (S.I. 2016/997).

(**4**) 2002 c.24. Section 5 was amended by section 26 of the Political Parties and Elections Act 2009 (c.12).

(2) After subsection (3) insert—

"(3A) As regards a seat for an electoral region other than Northern Ireland, the regulations may, in specified circumstances, require it to be filled as follows—

(a) where the previous MEP filled the seat from a party's list of candidates (whether at a general election of MEPs or under regulations made under subsection (2)(b)), by a person nominated by the nominating officer of that party;

(b) where the previous MEP stood on behalf of a registered party when elected (or most recently elected) at a by-election, by a person nominated by the nominating officer of that party;

(c) where the previous MEP stood on behalf of two or more registered parties when elected (or most recently elected) at a by-election, by a person jointly nominated by the nominating officers of those parties;

(d) where none of paragraphs (a), (b) or (c) apply but the previous MEP gave a notice in accordance with regulations under this Act naming one or more persons as substitutes, by a person so named;

(e) where the previous MEP was nominated to the seat by the nominating officer of a registered party in accordance with provision made under paragraph (a) or (b), by a further person so nominated;

(f) where the previous MEP was jointly nominated to the seat by the nominating officers of two or more registered parties in accordance with provision made under paragraph (c), by a further person so nominated.

(3B) Regulations containing provision made under subsection (3A) may specify that the provision has effect in relation to any seat that is vacant at the time the provision comes into force and in respect of which a notice of a by-election has not been published at that time.".

(3) For subsection (5), substitute—

"(5) In this section—

"nominating officer", in relation to a registered party, means the person registered in the relevant register as its nominating officer;

"the previous MEP", in relation to a vacancy in the seat of an MEP, means the person who was the MEP immediately before the vacancy arose;

"registered party" means a party registered under Part 2 of the Political Parties, Elections and Referendums Act 2000(**5**);

"relevant register", in relation to a registered party, means whichever of the Great Britain register or the Northern Ireland register (in each case within the meaning of that Act) the party is registered in.".

**Amendment of the European Parliamentary Elections Regulations 2004**

**3.** In regulation 2 of the European Parliamentary Elections Regulations 2004(**6**) (interpretation) omit the defined terms—

(a) "nominating officer";

(b) "registered party".

(**5**) 2000 c.41. Section 22 requires parties to be registered in order to be able to field candidates at elections, section 28 makes provision for a party to apply to be registered. Section 22 was amended by section 52 of the Electoral Administration Act 2006 (c.22), Schedule 1 of the Fixed Term Parliaments Act 2011 (c.14) and S.I. 2012/1917.

(**6**) S.I. 2004/293, to which there are amendments not relevant to these Regulations.