STATUTORY INSTRUMENTS

2018 No. 106

REPRESENTATION OF THE PEOPLE

The European Parliamentary Elections (Amendment) Regulations 2018

Made - - - - 29th 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, section 5(1), (2), (3A) and (3B) of the European Parliamentary Elections Act 2002(**3**) and sections 12(1) and 13(4) of the European Parliament (Representation) Act 2003(**4**).

In accordance with section 7(1) and (2)(a) of the Political Parties, Elections and Referendums Act 2000(**5**) and 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, section 13(2) of the European Parliamentary Elections Act 2002 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, extent, application and interpretation

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

(**1**) The Minister for the Cabinet Office is designated by virtue of S.I. 2016/1112.
(**2**) 1972 c.68.
(**3**) 2002 c.24 ("the 2002 Act"). Section 5(3A) and (3B) was inserted by, and section 5(5) was amended by, the European Parliamentary Elections Act 2002 (Amendment) Regulations 2018. The Functions of the Secretary of State under the 2002 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**) 2003 c.7. 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 2002 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).
(**5**) 2000 c.41. Section 7 was amended by paragraph 8 of Schedule 3 to the 2002 Act.

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

(3) These Regulations extend to England and Wales, Scotland and Gibraltar.

(4) These Regulations have effect in relation to—

(a) seats that are vacant at the time that these Regulations come into force but in respect of which a notice of by-election has not been published by that time; and

(b) seats that become vacant on or after the day on which these Regulations come into force.

(5) In these Regulations, "the Principal Regulations" means the European Parliamentary Elections Regulations 2004(**6**).

Amendment of the Principal Regulations

2.—(1) The Principal Regulations are amended as follows.

(2) In regulation 28(1) (offences in connection with candidature)(**7**), after "required by" insert "regulation 85A(3) or".

(3) Before regulation 82 (initial response to vacancies) but within Part 3 (vacancies) insert—

"**Interpretation of Part 3 and computation of time**

81A.—(1) In this Part of these Regulations—

"candidate" is to be construed in accordance with regulation 31(2);

"notice of substitutes" has the meaning given in regulation 83D(2);

"statement of parties and individual candidates nominated", in relation to an election or by-election, means the statement published under rule 15 of the European Parliamentary elections rules.

(2) For the purposes of this Part an MEP ("M")—

(a) was elected to the seat for a registered party at a general election of MEPs if M filled the seat from a registered party's list at the most recent general election of MEPs and was declared to be elected at that election under Part 4 of the European Parliamentary Elections Rules;

(b) was returned in the seat from a registered party's list if M was returned in the seat under regulation 83;

(c) stood as an independent candidate when elected if the statement of parties and individual candidates nominated showed no description in respect of M or, if it did use a description in respect of M, used the word "Independent";

(d) was returned in the seat as a substitute if M was returned as an MEP in the seat under regulation 83E(6) (vacant seat filled from notice of substitutes);

(e) stood on behalf of a registered party when elected at a by-election if the statement of parties and individual candidates nominated showed M as standing on behalf of a registered party;

(f) stood on behalf of two or more registered parties when elected at a by-election if the statement of parties and individual candidates nominated showed a description which complies with rule 5(4) of the European Parliamentary elections rules in respect of M;

(**6**) S.I. 2004/293.
(**7**) Relevant amending instrument is S.I. 2013/2876.

(g) was nominated to the seat if M was returned as an MEP in the seat for a registered party by nomination under regulation 83A(5) (vacant seat filled by nomination);

(h) was jointly nominated to the seat if M was returned as an MEP in the seat on behalf of two or more registered parties by joint nomination under regulation 83B(5) (vacant seat filled by joint nomination).

(3) Regulation 32 (computation of time) applies to this Part as it applies to Part 2.

(4) The period of the next general election of MEPs is that during which the next general election would take place in accordance with the Act annexed to Council Decision 76/787.".

(4) In regulation 82 (initial response to vacancies)—

(a) in paragraph (1), for "paragraphs (2) and" substitute "paragraph";

(b) omit paragraphs (2) and (3);

(c) for paragraph (4) substitute—

"(4) The notice referred to in paragraph (1) must—

(a) state that a vacancy exists;

(b) set out the name of the previous MEP; and

(c) state that the previous MEP—

(i) was elected to the seat for a registered party at a general election of MEPs and set out the name of the registered party;

(ii) was returned in the seat from a registered party's list and set out the name of the registered party;

(iii) stood on behalf of a registered party when elected to the seat at a by-election and set out the name of the registered party;

(iv) stood on behalf of two or more registered parties when elected to the seat at a by-election and set out the names of the registered parties;

(v) was nominated to the seat by a registered party and set out the name of the registered party;

(vi) was jointly nominated to the seat by two or more registered parties and set out the names of the registered parties;

(vii) stood as an independent candidate when elected to the seat; or

(viii) was returned in the seat as a substitute.";

(d) omit paragraph (6).

(5) In regulation 83 (filling of vacancies from a registered party's list)—

(a) before paragraph (1) insert—

"(A1) This regulation applies where—

(a) a returning officer receives notice of a vacancy in the seat of an MEP from the Secretary of State under regulation 82(4); and

(b) the previous MEP—

(i) was elected to the seat for a registered party at a general election of MEPs; or

(ii) was returned in the seat from a registered party's list.";

(b) in paragraph (1), for "a notice under regulation 82(4)" substitute "the notice";

(c) in paragraph (4), at the end insert "(for cases where the returning officer is unable to fill the seat under this regulation, see regulation 83A (filling vacant seat by nomination))";

(d) omit paragraph (8).

(6) For regulation 84 substitute—

"**MEP stood for registered party: filling vacant seat by nomination**

83A.—(1) This regulation applies where—

(a) a returning officer is unable to fill a vacancy in the seat of an MEP from a registered party's list under regulation 83; or

(b) a returning officer receives notice of a vacancy in the seat of an MEP from the Secretary of State under regulation 82(4) and the previous MEP—

(i) stood on behalf of a registered party when elected to the seat at a by-election; or

(ii) was nominated to the seat by a registered party.

(2) As soon as practicable after the circumstances described in paragraph (1)(a) or (b) occur, the returning officer must ask the nominating officer of the registered party to nominate a person to fill the vacant seat and be returned as an MEP for the registered party.

(3) A nomination made in response to the request in paragraph (2) ("the nomination") must —

(a) be in writing;

(b) be made within 28 days beginning with the date of the returning officer's request;

(c) specify a person ("P") who is not disqualified for the office of MEP to fill the vacant seat; and

(d) be signed by the nominating officer of the registered party.

(4) The nomination must be accompanied by a declaration that—

(a) states P's name and date of birth;

(b) gives P's consent to being returned as an MEP in the name of the registered party;

(c) confirms that P is aware of the provisions of section 10 of the 2002 Act (disqualification as an MEP);

(d) declares that, to the best of P's knowledge and belief, P is not disqualified for the office of MEP; and

(e) is signed and dated by P.

(5) If the nominating officer nominates a person in accordance with this regulation, the returning officer must without delay—

(a) declare in writing that P is to be returned as an MEP;

(b) give public notice of the declaration; and

(c) send a copy of the declaration to the Secretary of State.

(6) Where this regulation applies by virtue of paragraph (1)(a), the declaration under paragraph (5)(a) must state that it was not possible to fill the vacancy under regulation 83 (filling vacancy from a registered party's list) and that instead the registered party has nominated P as an MEP.

(7) If the returning officer is unable to fill the seat under this regulation, the returning officer must notify the Secretary of State of that fact (and see regulation 84 (by-elections)).

(8) This regulation is subject to regulation 85A (relevant citizens of the Union).

MEP stood for two or more registered parties: filling vacant seat by nomination

83B.—(1) This regulation applies where—

(a) a returning officer receives notice of a vacancy in the seat of an MEP from the Secretary of State under regulation 82(4); and

(b) the previous MEP—

(i) stood on behalf of two or more registered parties when elected to the seat at a by-election; or

(ii) was jointly nominated to the seat by two or more registered parties.

(2) As soon as practicable after receiving notice of the vacancy, the returning officer must ask the nominating officer of each registered party to jointly nominate a person to fill the vacant seat and be returned as an MEP on behalf of the registered parties.

(3) A joint nomination made in response to the request in paragraph (2) ("the joint nomination") must—

(a) be in writing;

(b) be made within 28 days beginning with the date of the returning officer's request;

(c) specify a person ("P") who is not disqualified for the office of MEP to fill the vacant seat; and

(d) be signed by the nominating officer of each of the registered parties.

(4) The joint nomination must be accompanied by a declaration that—

(a) states P's name and date of birth;

(b) gives P's consent to being returned as an MEP in the name of both registered parties;

(c) confirms that P is aware of the provisions of section 10 of the 2002 Act (disqualification as an MEP);

(d) declares that, to the best of P's knowledge and belief, P is not disqualified for the office of MEP; and

(e) is signed and dated by P.

(5) If the nominating officers nominate a person in accordance with this regulation, the returning officer must without delay—

(a) declare in writing that P is to be returned as an MEP;

(b) give public notice of the declaration; and

(c) send a copy of the declaration to the Secretary of State.

(6) If the returning officer is unable to fill the seat under this regulation, the returning officer must notify the Secretary of State of that fact (and see regulation 84 (by-elections)).

(7) This regulation is subject to regulation 85A (relevant citizens of the Union).

Party no longer registered

83C.—(1) This regulation applies where—

(a) a returning officer receives notice of a vacancy in the seat of an MEP from the Secretary of State under regulation 82(4);

(b) the previous MEP—

(i) was elected to the seat for a registered party at a general election of MEPs;

(ii) was returned in the seat from a registered party's list;