Draft Regulations laid before Parliament under section 13(2) of the European Parliamentary Elections Act 2002, section 18(4) of the European Parliament (Representation) Act 2003 and paragraph 2(2) of Schedule 2 to the European Communities Act 1972, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2013 No. 0000

REPRESENTATION OF THE PEOPLE

The European Parliamentary Elections (Amendment) Regulations 2013

Made - - - - ***

Coming into force - - *1st January 2014*

The Lord President of the Council is a minister designated for the purposes of section 2(2) of the European Communities Act 1972(**1**) in relation to the European Parliament(**2**).

The Lord President of the Council makes these Regulations in exercise of the powers conferred by sections 2(2), 6(5) and 7 of the European Parliamentary Elections Act 2002(**3**), sections 17 and 18 of the European Parliament (Representation) Act 2003(**4**) and section 2(2) of the European Communities Act 1972.

The Lord President of the Council has consulted the Electoral Commission in accordance with section 7(1) and (2)(a) of the Political Parties, Elections and Referendums Act 2000(**5**) and with section 17(4) of the European Parliament (Representation) Act 2003.

In accordance with section 13(2) of the European Parliamentary Elections Act 2002, section 18(4) of the European Parliament (Representation) Act 2003 and paragraph 2(2) of Schedule 2 to the European Communities Act 1972(**6**) a draft of these Regulations has been laid before and approved by a resolution of each House of Parliament.

(**1**) 1972 c.68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c.51) and by the Schedule to the European Union (Amendment) Act 2008 (c.7).
(**2**) S.I. 2013/1445.
(**3**) 2002 c.24; section 6(5) was substituted by section 20 of the European Parliament (Representation) Act 2003 (c.7); section 7 was amended by section 22 of that Act. The powers conferred on the Secretary of State by sections 2(2), 6(5) and 7 were made exercisable concurrently by the Lord President of the Council and the Secretary of State by the Lord President of the Council Order 2010 (S.I. 2010/1837).
(**4**) 2003 c.7; sections 17 and 18 were amended by S.I. 2003/1887. The powers conferred on the Secretary of State by sections 17 and 18 were made exercisable concurrently by the Lord President of the Council and the Secretary of State by the Lord President of the Council Order 2010.
(**5**) 2000 c.41; section 7(2)(a) was amended by Schedule 3 to the European Parliamentary Elections Act 2002.
(**6**) Paragraph 2(2) of Schedule 2 to the European Communities Act 1972 was amended by section 27(2)(a) of the Legislative and Regulatory Reform Act 2006.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the European Parliamentary Elections (Amendment) Regulations 2013.

(2) These Regulations come into force on 1st January 2014.

(3) Subject to paragraphs (4) and (5), these Regulations extend to England, Wales, Scotland and Gibraltar.

(4) This regulation and regulations 2 and 3 extend throughout the United Kingdom and to Gibraltar.

(5) Regulations 4 and 5 extend throughout the United Kingdom.

Interpretation

2. In these Regulations—

"the 2001 Franchise Regulations" means the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001(**7**),

"the 2002 Act" means the European Parliamentary Elections Act 2002,

"the 2004 Regulations" means the European Parliamentary Elections Regulations 2004(**8**),

and, unless the context otherwise requires, a reference to a numbered regulation or Schedule means the regulation or Schedule so numbered in the 2004 Regulations.

Amendments to the 2002 Act

3.—(1) In section 10 of the 2002 Act (disqualification)(**9**), in subsection (5), for the words from "criminal law or civil law decision" (the first time they appear) to the end substitute "relevant disqualifying decision under the law of the member state of which he is a national."

(2) In that section, after subsection (5) insert—

"(5A) In this section "relevant disqualifying decision" means, in accordance with Article 6(1) of Council Directive 93/109/EC(**10**)—

(a) a judicial decision, or

(b) an administrative decision that can be subject to a judicial remedy."

Amendments to the 2001 Franchise Regulations

4. In regulation 8 of the 2001 Franchise Regulations (copies of certain applications and declarations), for the words "the Lord Chancellor" (each time they appear) substitute "the Secretary of State or the Lord President of the Council".

5. In the Schedule to the 2001 Franchise Regulations (application with modifications of the Representation of the People Act 1983 etc)(**11**), in Part 1, after the entry in the table for section 13A (alteration of registers)—

(a) in column 1 (provision applied) insert—

(**7**) S.I. 2001/1184, amended by S.I. 2009/726; there is another amending instrument but it is not relevant.
(**8**) S.I. 2004/293, amended by S.I. 2009/186, S.I. 2009/848 and S.I. 2011/2085; there are other amending instruments but none is relevant.
(**9**) Section 10 was amended by section 21 of the European Parliament (Representation) Act 2003, Schedules 17 and 18 to the Constitutional Reform Act 2005 (c.4), Schedule 1 to the Electoral Administration Act 2006 (c.22), S.I. 2004/1374 and S.I. 2011/1043.
(**10**) O.J. L 329 30.12.1993 page 34; the Directive was amended by Council Directive 2013/1/EU, O.J. L 026 26.01.2013 page 27.
(**11**) The Schedule was substituted by S.I. 2009/726.

"Section 13AB (alteration of registers: interim publication dates)"; and

(b) in column 2 (modification) insert—

"For subsection (8) substitute—

"(8) This section applies to elections to the European Parliament in England, Wales and Scotland.""

Amendments to the 2004 Regulations

6. In regulation 2 (interpretation)(**12**), in paragraph (1)—

(a) for the definition of "local counting area" substitute—

""local counting area" means any of the following as it exists on the day of an election—

(a) a district in England for which there is a district council,

(b) a county in England in which there are no districts with councils,

(c) a London borough,

(d) the City of London (including the Inner and Middle Temples),

(e) the Isles of Scilly,

(f) a county or county borough in Wales,

(g) a local government area in Scotland, or

(h) Gibraltar;";

(b) after the definition of "registration officer" insert—

""relevant disqualifying decision" has the meaning given by section 10(5A) of the 2002 Act;"; and

(c) in the definition of "relevant registration officer" omit sub-paragraph (b).

7.—(1) In regulation 5 (general application to Gibraltar)(**13**), in paragraph (3)(a), for "section 189 of, and Schedule 6 to, the Criminal Procedure Act" substitute "section 550 of, and Part A of Schedule 9 to, the Criminal Procedure and Evidence Act 2011".

(2) In that regulation, in paragraph (3)(b), for "section 189 of, and Schedule 6 to, that Act" substitute "section 550 of, and Part A of Schedule 9 to, that Act".

8. In regulation 6 (conduct of poll and count in each local counting area)(**14**), for paragraphs (2) and (2A) substitute—

"(2) The local returning officer for a local counting area that is—

(a) a district in England,

(b) a county in England,

(c) a London borough, or

(d) a county or county borough in Wales,

shall be the person who, by virtue of section 35 of the 1983 Act(**15**), is the returning officer for elections of councillors for the district, county, borough or county borough.

(**12**) Regulation 2 was substituted by S.I. 2009/186 and amended by S.I. 2011/2085.
(**13**) Regulation 5 was amended by S.I. 2009/186.
(**14**) Regulation 6 was amended by S.I. 2009/186.
(**15**) "1983 Act" is defined in regulation 2 of the 2004 Regulations to mean the Representation of the People Act 1983 (c.2); section 35 of the 1983 Act was amended by Schedules 16 and 18 to the Local Government (Wales) Act 1994 (c.19), Schedules

(2A) The local returning officer for the City of London shall be the person who, by virtue of that section, is the returning officer for elections of councillors for the London borough of Westminster.

(2B) The local returning officer for the Isles of Scilly shall be the person who, by virtue of that section, is the returning officer for elections to the Council of the Isles of Scilly.

(2C) The local returning officer for a local government area in Scotland shall be the person who, by virtue of section 41 of the 1983 Act, is the returning officer for elections of councillors for the local authority for that local government area."

9. In regulation 15 (payments by and to returning officers and local returning officers)(**16**), at the beginning of paragraph (1) insert "Subject to regulation 15A,".

10. After regulation 15 insert—

"**Inadequate performance of returning officer or local returning officer: reduction of charges**

15A.—(1) This regulation applies to a service rendered by a returning officer or a local returning officer (referred to in this regulation as the "relevant officer") for or in connection with a European Parliamentary election which, in the opinion of the Electoral Commission, was inadequately performed.

(2) The Commission may recommend to the Secretary of State(**17**) that the relevant officer is entitled under regulation 15(1) to no more than a specified amount (which may be nil) in respect of that service.

(3) In making a recommendation under paragraph (2), the Commission must have regard to—

(a) if the election concerned is a general election of MEPs, any report prepared under section 5 of the 2000 Act(**18**) on the administration of that election;

(b) any assessment of the level of performance of the relevant officer in relation to that election under section 9B(4) of the 2000 Act(**19**);

(c) any representations made to the Commission by the relevant officer in respect of the performance of the service; and

(d) any other information relating to the performance of the service by the relevant officer that has been provided to the Commission.

(4) Where the Commission makes a recommendation under paragraph (2), the relevant officer is entitled under regulation 15(1) to no more than the amount (which may be nil) determined by the Secretary of State, having regard to the recommendation by the Commission."

11. In regulation 25 (breach of official duty)(**20**) omit paragraph (3)(ba).

12. In regulation 28 (offences in connection with candidature)(**21**), in paragraph (1)—

9, 16 and 17 to the Local Government Act 1985 (c.51), Schedules 12 and 13 to the Education Reform Act 1988 (c.40) and Schedule 3 to the Greater London Authority Act 1999 (c.29).

(**16**) Regulation 15 was amended by S.I. 2009/186.

(**17**) The Secretary of State's functions under the 2004 Regulations were made exercisable concurrently by the Lord President of the Council and the Secretary of State by S.I. 2010/1837.

(**18**) "2000 Act" is defined in regulation 2 of the 2004 Regulations to mean the Political Parties Elections and Referendums Act 2000 (c.41); section 5 of the 2000 Act was amended by section 28 of the Electoral Administration Act 2006 (c.22), section 10 of the Local Electoral Administration (Scotland) Act 2011 (2011 asp 10), Schedule 10 to the Police Reform and Social Responsibility Act 2011 (c.13) and S.I. 2007/1388.

(**19**) Section 9B was inserted by section 67 of the Electoral Administration Act 2006 (c.22).

(**20**) Regulation 25 was amended by S.I. 2009/186.

(**21**) Regulation 28 was amended by S.I. 2009/186.

(a) for "rule 9(2)" substitute "rule 9(4)"; and

(b) omit "or, in Gibraltar, not exceeding £1000".

13. In regulation 68 (disturbances at election meetings), in paragraph (3) omit "or, in Gibraltar, not exceeding £200".

14. In regulation 69 (officials not to act for candidates), in paragraph (2) omit "or, in Gibraltar, not exceeding £2500".

15. In regulation 70 (illegal canvassing by police officers), in paragraph (2) omit "or, in Gibraltar, not exceeding £1000".

16. In regulation 114 (time limit for prosecutions)(**22**), in paragraph (1), for "Criminal Procedure Act" substitute "Criminal Procedure and Evidence Act 2011".

17. After regulation 125 (application of Local Government Finance Act 1988) insert—

"**Requirement to provide information about candidate standing in other Member State**

125A.—(1) This regulation applies when the Secretary of State receives a notice from another Member State in accordance with Article 6 of Council Directive 93/109/EC that a person who falls to be treated as a national of the United Kingdom for the purposes of the EU treaties has made a declaration in that Member State under Article 10 of that Directive.

(2) The Secretary of State must, within the period specified in paragraph (3), provide the Member State with any information that is available to the Secretary of State as to whether the person has been deprived of the right to stand as a candidate at European Parliamentary elections through a relevant disqualifying decision in the United Kingdom.

(3) The period referred to in paragraph (2) is five days calculated in accordance with rule 2 of Schedule 1 and beginning with the day the notice is received by the Secretary of State, or such shorter period as is requested by the Member State if it is possible for the Secretary of State to provide the information within that period."

Omission of Schedule A1 to the 2004 Regulations

18. Omit Schedule A1 (designation of local returning officers in Scotland)(**23**).

Amendments to Schedule 1 to the 2004 Regulations

19. In Schedule 1 (European Parliamentary elections rules)(**24**), for rule 9 (candidature by relevant citizen of the Union) substitute—

"**Candidature by relevant citizen of the Union**

9.—(1) A candidate who is a relevant citizen of the Union is not validly nominated as an individual candidate or as a candidate on a registered party's list unless one of Conditions A and B is met.

(2) Condition A is that a declaration under paragraph (4) is delivered to the returning officer, whether before or after the notice of election is published, but not later than 4 p.m. on the twenty-fourth day before the date of the poll.

(**22**) Regulation 114 was substituted by S.I. 2009/186.
(**23**) Schedule A1 was inserted by S.I. 2009/186.
(**24**) Schedule 1 was substituted by S.I. 2009/186.