Draft Regulations laid before Parliament under section 13(2) of the European Parliamentary Elections Act 2002 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

2010 No.

REPRESENTATION OF THE PEOPLE, NORTHERN IRELAND

The European Parliamentary Elections (Northern Ireland) (Amendment) Regulations 2010

Made - - - - ***

Coming into force in accordance with regulation 1(2)

The Secretary of State makes these Regulations in exercise of the powers conferred by section 5 of the European Parliamentary Elections Act 2002(**1**) and section 26(2) of the Political Parties and Elections Act 2009(**2**) and being a Minister designated(**3**) for the purposes of section 2(2) of the European Communities Act 1972(**4**) in relation to the rights of citizens of the Union to stand as candidates at a European Parliamentary election, in exercise of the powers conferred by that section.

The Secretary of State has consulted the Electoral Commission pursuant to section 7(1) and (2)(a) of the Political Parties, Elections and Referendums Act 2000(**5**).

In accordance with section 13(2) of the European Parliamentary Elections Act 2002 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.

Citation, commencement, extent and interpretation

1.—(1) These Regulations may be cited as the European Parliamentary Elections (Northern Ireland) (Amendment) Regulations 2010.

(**1**) 2002 c. 24 ("the 2002 Act"). The 2002 Act was amended by section 1 of the European Parliament (Representation) Act 2003 (c. 7) and section 26 of the Political Parties and Elections Act 2009 (c. 12). Other amendments made by both of those Acts are not relevant to Northern Ireland.
(**2**) 2009 c. 12.
(**3**) The Secretary of State is designated by virtue of S.I. 1993/2661.
(**4**) 1972 c. 68; section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c. 51) and section 3 of, and part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7).
(**5**) 2000 c. 41; section 7(2)(a) was amended by section 15 of, and paragraph 8 of Schedule 3 to, the European Parliamentary Elections Act 2002 (c. 24).
(**6**) Paragraph 2(2) of Schedule 2 was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c. 51).

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

(3) These Regulations have effect in relation to vacancies arising on or after the day on which they come into force.

(4) These Regulations extend to Northern Ireland only.

(5) In these Regulations "the 2004 Regulations" means the European Parliamentary Elections (Northern Ireland) Regulations 2004(**7**).

Amendments to the 2004 Regulations

2. For regulation 76 of the 2004 Regulations (by-elections) substitute the following—

"**Interpretation of Part 3**

76.—(1) In this Part of these Regulations, unless the context otherwise requires—

"Chief Electoral Officer" means the Chief Electoral Officer for Northern Ireland;

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

"nominating officer" in relation to a registered party, means the person registered as its nominating officer under the 2000 Act in the Northern Ireland register (within the meaning of that Act);

"registered party" means a party registered under that Act in that register; and

"statement of candidates nominated" means the statement of candidates nominated published under rule 13 of the European Parliamentary elections rules(**8**).

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

(a) stood as an independent when elected if the statement of candidates nominated for the purposes of the last election for P's seat showed no description or the description "independent" in respect of P;

(b) stood in the name of a registered party when elected if that statement showed a description of the type mentioned in rule 5(2) of the European Parliamentary elections rules in respect of P;

(c) stood in the name of two or more registered parties when elected if that statement showed a description of the type mentioned in rule 5(4) of the European Parliamentary elections rules in respect of P.

(3) If P is an MEP by virtue of being returned to fill a vacant seat in accordance with this Part, a reference in paragraph (2) to the description in respect of P is a reference to the description in respect of the last MEP returned to fill that seat at an election.

(4) A reference in this Part to a person being disqualified for the office of MEP is a reference to a person being disqualified within the meaning of section 10 of the 2002 Act(**9**).

(**7**) S.I. 2004/1267 was amended by S.I. 2004/1374, S.I. 2004/1771, S.I. 2005/2114 and S.I. 2009/813.
(**8**) The European Parliamentary elections rules are contained in Schedule 1 to the European Parliamentary Elections (Northern Ireland) Regulations 2004 (S.I. 2004/1267). A new Schedule 1 was substituted by S.I. 2009/813.
(**9**) 2002 c. 24. Section 10 has been amended by section 21(1) of the European Parliament (Representation) Act 2003 (c. 7); sections 145 and 146 of, and paragraph 32 of Schedule 17 and Part 5 of Schedule 18 to, the Constitutional Reform Act 2005 (c. 4); section 18(6) of, and paragraph 41 of Schedule 1 to, the Electoral Administration Act 2006 (c. 22); and regulation 2 of S.I. 2004/1374 (made under the European Communities Act 1972 (c. 68)).

Computation of time for purposes of Part 3

76A. Regulation 33 applies in computing any period of time for the purposes of this Part of these Regulations as it applies for the purposes of Part 2 of these Regulations.

Initial response to vacancy

76B.—(1) As soon as practicable after the Secretary of State has—

(a) received information of a vacancy in the seat of an MEP in the Northern Ireland electoral region from the President of the European Parliament under the Act annexed to Council Decision 76/787(**10**), or

(b) informed the European Parliament under that Act that such a vacancy exists,

the Secretary of State must send a notice in accordance with paragraph (2) to the Chief Electoral Officer.

(2) The notice must state the name of the previous MEP and that a vacancy exists.

(3) On receipt of the notice, the Chief Electoral Officer must determine, by reference to the statement of candidates nominated for the purposes of the last election to the seat, whether the previous MEP stood—

(a) in the name of a registered party when elected,

(b) in the name of two or more registered parties when elected, or

(c) as an independent when elected.

(4) Paragraph (1) does not apply where the event referred to in sub-paragraph (a) or (b) of that paragraph occurred less than six months before the Thursday of the period of the next general election of MEPs.

(5) That period is the one during which the next general election would take place in accordance with Article 10(2) of the Act annexed to Council Decision 76/787.

MEP stood for registered party: filling vacant seat

76C.—(1) This regulation applies if—

(a) the Chief Electoral Officer receives notice of a vacancy in the seat of an MEP from the Secretary of State under regulation 76B(1), and

(b) the Chief Electoral Officer determines the previous MEP stood in the name of a registered party when elected.

(2) As soon as practicable after receiving the notice of the vacancy, the Chief Electoral Officer must ask the nominating officer of that registered party to nominate in writing, within 28 days from the date of the Chief Electoral Officer's request, a person ("P") to fill the vacant seat and be returned as an MEP in the name of the registered party.

(3) The nomination must be made and signed by the nominating officer of the registered party and must specify a person who is not disqualified for the office of MEP to fill the vacant seat.

(4) The nomination must be accompanied by a declaration that is signed and dated by P and that—

(a) states P's 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; and

(**10**) O.J.L 278, 08.10.1976, p. 5 (cmnd. 6623).

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

(5) If the nominating officer responds to the Chief Electoral Officer's request in accordance with paragraphs (2) to (4) the Chief Electoral Officer must, without delay—

(a) declare P to be returned to fill the vacant seat; and

(b) notify P's name to the Secretary of State.

(6) If the nominating officer does not respond to the Chief Electoral Officer's request in accordance with paragraphs (2) to (4) the Chief Electoral Officer must notify the Secretary of State that this is the case and regulation 76H (by-elections) applies.

(7) This regulation is subject to regulations 76E (party or parties no longer registered) and 76I (relevant citizens of the Union).

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

76D.—(1) This regulation applies if—

(a) the Chief Electoral Officer receives notice of a vacancy in the seat of an MEP from the Secretary of State under regulation 76B(1), and

(b) the Chief Electoral Officer determines the previous MEP stood in the name of two or more registered parties when elected.

(2) As soon as practicable after receiving the notice of the vacancy the Chief Electoral Officer must ask the nominating officers of each of those registered parties jointly to nominate in writing, within 28 days from the date of the Chief Electoral Officer's request, a person ("P") to fill the vacant seat and be returned as an MEP in the names of both or all of the registered parties.

(3) The joint nomination must be made and signed by the nominating officers of both or all of the registered parties and must specify a person who is not disqualified for the office of MEP to fill the vacant seat.

(4) The joint nomination must be accompanied by a declaration that is signed and dated by P and that—

(a) states P's date of birth;

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

(c) confirms that P is aware of the provisions of section 10 of the 2002 Act; and

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

(5) If the nominating officers respond to the Chief Electoral Officer's request in accordance with paragraphs (2) to (4) the Chief Electoral Officer must, without delay—

(a) declare P to be returned to fill the vacant seat; and

(b) notify P's name to the Secretary of State.

(6) If the nominating officers do not respond to the Chief Electoral Officer's request in accordance with paragraphs (2) to (4), the Chief Electoral Officer must notify the Secretary of State that this is the case and regulation 76H (by-elections) applies.

(7) This regulation is subject to regulations 76E (party or parties no longer registered) and 76I (relevant citizens of the Union).