Draft Regulations laid before Parliament under section 201(2) of the Representation of the People Act 1983, section 13(2) of the European Parliamentary Elections Act 2002 and section 42(10) of the Electoral Administration Act 2006, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2009 No.

REPRESENTATION OF THE PEOPLE

NORTHERN IRELAND

The European Parliamentary Elections (Northern Ireland) (Amendment) Regulations 2009

Made - - - - 2009

Coming into force in accordance with regulation 1(2)

The Secretary of State makes these Regulations in exercise of the powers conferred by section 13BA of the Representation of the People Act 1983(**1**), sections 6(5) and 7 of the European Parliamentary Elections Act 2002(**2**) and section 42 of the Electoral Administration Act 2006(**3**).

The Secretary of State has consulted the Electoral Commission pursuant to section 7(1) and (2)(a) and (e) of the Political Parties, Elections and Referendums Act 2000(**4**) and section 42(9) of the Electoral Administration Act 2006.

In accordance with section 201(2) of the Representation of the People Act 1983, section 13(2) of the European Parliamentary Elections Act 2002 and section 42(10) of the Electoral Administration Act 2006 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 (Northern Ireland) (Amendment) Regulations 2009.

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

(3) These Regulations extend to Northern Ireland only.

(**1**) 1983 c. 2. Section 13BA was inserted by section 6(2) of the Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33).
(**2**) 2002 c. 24 ("the 2002 Act"). The 2002 Act was amended by section 1 of the European Parliament (Representation) Act 2003 (c. 7). Other amendments made by that Act to the 2002 Act are not relevant to Northern Ireland.
(**3**) 2006 c. 22.
(**4**) 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).

Interpretation

2. Unless the context otherwise requires, in these Regulations and in any provision applied by these Regulations—

(a) "the 2004 Regulations" means the European Parliamentary Elections (Northern Ireland) Regulations 2004(**5**); and

(b) a reference to a numbered regulation or Schedule means the regulation or Schedule so numbered in the 2004 Regulations.

Amendments to the 2004 Regulations

3. For regulation 2 (interpretation) substitute the following—

"**2.** Unless the context otherwise requires, in these Regulations—

"1983 Act" means the Representation of the People Act 1983;

"1985 Act" means the Representation of the People Act 1985(**6**);

"2000 Act" means the Political Parties, Elections and Referendums Act 2000;

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

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

"2003 Act" means the European Parliament (Representation) Act 2003(**8**);

"2006 Act" means the Electoral Administration Act 2006;

"2008 Regulations" means the Representation of the People (Northern Ireland) Regulations 2008(**9**);

"the absent voters list" means, in relation to any election, the list kept under regulation 9(6);

"citizen of the Union" is to be construed in accordance with Article 8 of the Treaty establishing the European Community(**10**), and "relevant citizen of the Union" means such a citizen who is not a Commonwealth citizen or a citizen of the Republic of Ireland;

"completed corresponding number list" means a list prepared under rule 20 of the European Parliamentary elections rules, including the parts which are completed in accordance with rules 30(3)(d) and 39(1)(b) of those rules or paragraph 21(1) of Schedule 2 to these Regulations;

"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 European Parliamentary election;

"election court" means, in relation to a European Parliamentary election petition, the judges presiding at the trial;

(**5**) S.I. 2004/1267 as amended by S.I. 2004/1374, S.I. 2004/1771 and S.I. 2005/2114.
(**6**) 1985 c. 50.
(**7**) S.I. 2001/1184, which was amended by S.I. 2003/1557. Other amendments are not relevant to these Regulations.
(**8**) 2003 c. 7.
(**9**) S.I. 2008/1741.
(**10**) O.J. L 278, 08.10.1976, p.21 (Cmnd.3780). Article 8 was substituted by Article 12 of the Lisbon Treaty (Cmnd. 7294, European Communities Series No.13) which was signed by the United Kingdom on 13 December 2007 but which has yet to be ratified.

"elector" means, in relation to an election, any person who has for the time being an entry in a register of electors, but does not include those shown in such a register as below voting age on the day fixed for the poll;

"European Parliamentary elections rules" means the rules in Schedule 1 to these Regulations;

"European Parliamentary election petition" means a petition presented in pursuance of Part 4 of these Regulations;

"European Parliamentary overseas elector" means a person falling within section 8(4) of the 2002 Act;

"European Parliamentary overseas elector's declaration" means a declaration made in pursuance of regulations made under section 3 of the 1985 Act(**11**);

"legal incapacity" includes (in addition to any incapacity by virtue of any subsisting provision of the common law) any disqualification imposed by these Regulations or by any Act;

"legal process" means a claim form, application, notice, writ, summons or other process;

"the list of proxies" means, in relation to any election, the list kept under regulation 9(6);

"marked register" is the copy of a register of electors marked in accordance with rule 39(1)(c) of the European Parliamentary elections rules;

"marked copy of the absent voters list or the proxy postal voters list" is the copy of that list marked as mentioned in paragraph 31 of Schedule 2 to these Regulations for the purposes of rule 33(1) of the European Parliamentary elections rules;

"overseas elector" means a person falling within section 8(2)(b) of the 2002 Act;

"overseas elector's declaration" has the meaning given by section 2 of the 1985 Act(**12**);

"the proxy postal voters list" means, in relation to any election, the list kept under regulation 11(8);

"register of electors" means any part of—

(a) a register of parliamentary or, in the case of peers, local electors,

(b) a register under section 3 of the 1985 Act,

(c) a register under regulation 5 of the 2001 Franchise Regulations,

in force within the electoral region at the time of a European Parliamentary election in that region;

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

"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 regulation 35(1);

"universal service provider" means a universal service provider within the meaning of the Postal Services Act 2000(**13**); and

(**11**) Section 3 was substituted by paragraph 4 of Schedule 2 to the Representation of the People Act 2000 (c. 2). The Representation of the People (Northern Ireland) Regulations 2008 (S.I. 2008/1741) were made under this provision.
(**12**) 1985 c. 50. Section 2 was substituted by section 8 of, and paragraphs 1 and 3 of Schedule 2 to, the Representation of the People Act 2000 (c. 2) and sub-section (2) was subsequently amended by section 12(9) of the Electoral Administration Act 2006 (c. 22). S.I. 2008/1741 was also made under this section.
(**13**) 2000 c. 26.

"voter" means a person voting at an election and includes a person voting as proxy and, except in the European Parliamentary elections rules, a person voting by proxy; and "vote" (whether noun or verb) is to be construed accordingly, except that in those rules any reference to an elector voting or an elector's vote is to include a reference to an elector voting by proxy or an elector's vote given by proxy."

4. After regulation 2 (interpretation) insert—

"**Forms**

2A. The forms set out in the Appendix of Forms in Part 8 of Schedule 1 (European Parliamentary elections rules) and the Appendix of Forms in Schedule 2 (absent voting) to these Regulations may be used with such variations as the circumstances may require, provided that the form used is substantially to the like effect as the corresponding form in that Part or Schedule.".

5. In regulation 6 (rules for European Parliamentary elections), after paragraph (2) insert—

"(2A) The returning officer may take such steps as he thinks appropriate to remedy any act or omission on his part, or the part of a relevant person, which—

(a) arises in connection with any function he or a relevant person has in relation to the election; and

(b) is not in accordance with the European Parliamentary elections rules or other requirements applicable to the election.

(2B) The returning officer may not under paragraph (2A) re-count the votes given at an election after the result has been declared.

(2C) These are the relevant persons—

(a) the registration officer;

(b) a presiding officer;

(c) a person providing goods or services to the returning officer;

(d) a deputy of any person mentioned in sub-paragraphs (a) to (c) or a person appointed to assist, or in the course of his employment assisting, such a person in connection with any function that person has in relation to the European Parliamentary election.".

6. In regulation 7 (manner of voting) after paragraph (6) insert—

"(6A) Paragraph (2) does not prevent a person, at the polling station allotted to him, marking a tendered ballot paper in pursuance of rule 43(4) or (6) of the European Parliamentary elections rules.".

7. In regulation 8 (absent vote at elections for an indefinite period) amend paragraph (4)(b) by substituting "disability" for "physical incapacity".

8. In regulation 11 (voting as proxy) after paragraph (10) insert—

"(10A) Paragraph (2) does not prevent a person, at the polling station allotted to him, marking a tendered ballot paper in pursuance of rule 42(4) or (6) of the European Parliamentary elections rules.".

9. After regulation 12 (offences as to declarations) insert—

"**Offences relating to applications for postal and proxy votes**

12A.—(1) A person commits an offence if he—

(a) engages in an act specified in paragraph (2) at a European Parliamentary 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 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 paragraph (1)(b) property includes any description of property.

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

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

10. Omit regulation 14 (modification of the Regulations for 2004 elections).

11.—(1) Amend regulation 16 (payments by and to returning officers) as follows.

(2) For paragraphs (1) to (4) substitute—

"(1) The returning officer may recover his charges in respect of services rendered, or expenses incurred, for or in connection with a European 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.

(2) An order under paragraph (1)(b) 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 paragraph (3), the returning officer may not recover more than that amount in respect of any such services or expenses.

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

(a) more than the overall recoverable amount, or

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

if satisfied that the conditions in paragraph (4) are met.

(4) The conditions referred to in paragraph (3) are—

(a) that it was reasonable for the returning officer to render the services or incur the expenses; and

(b) that the charges in question are reasonable.".

(3) In paragraph (9) for "paragraphs (1) and (2)" substitute "paragraph (1)".