DRAFT STATUTORY INSTRUMENTS

# 2006 No. XXXX

# REPRESENTATION OF THE PEOPLE LOCAL GOVERNMENT, ENGLAND AND WALES

## Representation of the People (England and Wales) (Amendment) Regulations 2006

*Made - - - - 2006*

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

The Secretary of State makes the following Regulations in exercise of the powers referred to in the Schedule.

The Secretary of State has consulted the Electoral Commission about these Regulations in accordance with section 7(1) and (2)(e) of the Political Parties, Elections and Referendums Act 2000(**1**) and sections 44(3A) and 45(8A) of the Local Government Act 2000(**2**).

A draft of this instrument has been laid before Parliament in accordance with section 201(2) of the Representation of the People Act 1983(**3**) and section 105(6) of the Local Government Act 2000 and approved by resolution of each House of Parliament.

**Citation, commencement, interpretation and extent**

**1.**—(1) These Regulations may be cited as the Representation of the People (England and Wales) (Amendment) Regulations 2006 and shall come into force on the fourteenth day after the day on which they are made.

(2) Part 1 of these Regulations makes amendments to provisions in the Representation of the People (England and Wales) Regulations 2001(**4**) ("the 2001 Regulations").

(3) Part 2 of these Regulations makes amendments to—

(a) the Local Authorities (Conduct of Referendums) (England) Regulations 2001(**5**) ("the Conduct of Referendums Regulations"); and

(**1**) 2000 c.41.
(**2**) 2000 c.22. Sections 44(3A) and 45(8A) were inserted by Schedule 21 to the Political Parties, Elections and Referendums Act 2000 (c.41).
(**3**) 1983 c.2. Section 201(1) was amended by S.I.1991/1728 and section 201(3) was inserted by Schedule 1 to the Representation of the People Act 2000 (c.2).
(**4**) S.I. 2001/341, which was amended by S.I. 2001/1700, S.I. 2002/1871 and S.I. 2004/294.
(**5**) S.I. 2001/1298, which was amended by S.I. 2001/1494, 2002/521 and 2004/226.

(b) the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2002(**6**) ("the Mayoral Elections Regulations")

(4) These Regulations shall not extend to Scotland or Northern Ireland.

(5) Regulations 26 and 27 shall not extend to Wales(**7**).

# PART 1

## Amendments to provisions in the 2001 Regulations

**Amendment to provision about applications for registration**

**2.**—(1) Regulation 26 of the 2001 Regulations shall be amended as follows.

(2) In paragraph (1)—

(a) omit sub-paragraph (f);

(b) after sub-paragraph (g) insert—

"(h) except in the case of a person applying to be registered in pursuance of an overseas elector's declaration, the applicant's nationality.".

**Amendment to provision about general requirements for applications for an absent vote**

**3.** In regulation 51(2)(b) of the 2001 Regulations, for "or will be registered" substitute "registered or has applied to be (or is treated as having applied to be) registered".

**Additional provisions concerning the requirements for applications for an absent vote**

**4.** After regulation 51 of the 2001 Regulations insert the following—

"**Additional provision concerning the requirement that an application for an absent vote must be signed by the applicant**

**51A.** The registration officer may satisfy himself that an application for an absent vote meets the requirement in regulation 51(3) that it has been signed by the applicant by referring to any signature previously provided by the applicant to the registration officer or the returning officer.

**Additional requirements for applications for ballot papers to be sent to different address from that shown in the record kept under paragraph 3(4) or 7(6) of Schedule 4**

**51B.** An application under—

(a) paragraph 4(3)(a) of Schedule 4 by a person shown as voting by post in the record kept under paragraph 3(4) of that Schedule; or

(b) paragraph 7(7) of that Schedule by a person shown as voting by post in the record kept under paragraph 7(6) of that Schedule,

(**6**) S.I. 2002/185, amended by S.I. 2004/225.

(**7**) Regulation 26 amends regulation 12 of the Conduct of Referendums Regulations which concern referendums held under section 27 of the Local Government Act 2000 (c.22) ("the 2000 Act") or by virtue of regulations or an Order made under Part II of that Act. The Conduct of Referendums Regulations only apply to England. Amendments similar to those made by regulation 26 concerning referendums held under the 2000 Act in Wales have been made by the Local Authorities (Conduct of Referendums) (Wales) Regulations 2004 (S.I. 2004/870 (W. 85)). For the application of the 2000 Act to Wales, see section 106.

for his ballot paper to be sent to a different address from that shown in the record shall set out why the applicant's circumstances will be or are likely to be such that he requires his ballot paper to be sent to that address.".

**Amendment to provision about additional requirements for applications for a proxy vote in respect of a particular election**

**5.**—(1) For regulation 55 of the 2001 Regulations substitute—

"**Additional requirements for applications for a proxy vote in respect of a particular election**

**55.**—(1) An application under paragraph 4(2) of Schedule 4 to vote by proxy at a particular election shall set out why the applicant's circumstances on the date of the poll for that election in respect of which it is made will be or are likely to be such that he cannot reasonably be expected to vote in person at his allotted polling station.

(2) Where an application under paragraph 4(2) of Schedule 4—

(a) is made on the grounds of the applicant's physical incapacity; and

(b) is made after 5 p.m. on the sixth day before the date of the poll at the election for which it is made,

the requirements of regulation 53 as to the matters to be specified and the attestation shall apply.

(3) Where an application mentioned in paragraph (2) above is made, the person who attests the application shall state, in addition to those matters specified in regulation 53(4), to the best of his knowledge and belief, the date upon which the applicant became physically incapacitated.".

**Amendment to provision about closing date for applications**

**6.**—(1) Regulation 56 of the 2001 Regulations shall be amended as follows.

(2) In paragraph (1) for "3(6) or (7)" substitute "3(1), (6) or (7), or 7(4)".

(3) In paragraph (2) for "3(1) or (2), or 6(7) or 7(4)" substitute "3(2) or 6(7)".

(4) For paragraph (3) substitute—

"(3) Subject to paragraph (3A), an application under paragraph 4(2) or 6(8) of Schedule 4 shall be refused if it is received by the registration officer after 5 p.m. on the sixth day before the date of the poll at the election for which it is made.

(3A) Where—

(a) an application under paragraph 4(2) of Schedule 4 is made on the grounds of the applicant's physical incapacity; and

(b) the applicant became physically incapacitated after 5 p.m. on the sixth day before the date of the poll at the election for which it is made,

the application, or an application under paragraph 6(8) of Schedule 4 made by virtue of that application, shall be refused if it is received after 5 p.m. on the day of the poll at the election for which it is made.".".

(5) In paragraph (4) for "7(7)" substitute "4(1) or 7(7)".

**Amendment to provision about grant or refusal of applications**

**7.**—(1) Regulation 57 of the 2001 Regulations shall be amended as follows.

(2) In paragraph (1) and (5) of the 2001 Regulations omit ", where practicable,".

(3) After paragraph (4) insert—

"(4A) Where the registration officer grants an application made under—

(a) paragraph 4(3)(a) of Schedule 4 by a person shown as voting by post in the record kept under paragraph 3(4) of that Schedule; or

(b) paragraph 7(7) of that Schedule by a person shown as voting by post in the record kept under paragraph 7(6) of that Schedule,

he shall notify the applicant of this.

(4B) Where a person is removed from the record kept pursuant to paragraph 3(4) of Schedule 4, the registration officer shall notify him of this and the reason for it.

(4C) Where the appointment of a proxy is cancelled by the elector or otherwise ceases to be in force, the registration officer shall notify the elector that the appointment has been cancelled or, as the case may be, notify him that the appointment has ceased and the reason for it."

**Amendment to provision about procedure on issue of postal ballot paper**

**8.** In regulation 72(7)(b) of the 2001 Regulations for "2001" substitute "2000".

**Amendment to provision about spoilt postal ballot papers**

**9.**—(1) Regulation 77 of the 2001 Regulations shall be amended as follows.

(2) For paragraphs (1) and (2) substitute—

"(1) If a postal voter has inadvertently dealt with his postal ballot paper or declaration of identity in such a manner that it cannot be conveniently used as a ballot paper (referred to as "a spoilt ballot paper") or, as the case may be, a declaration of identity (referred to as "a spoilt declaration of identity") he may return (either by hand or by post) to the returning officer the spoilt ballot paper or, as the case may be, the spoilt declaration of identity.

(2) Where a postal voter exercises the entitlement conferred by paragraph (1), he shall also return—

(a) the postal ballot paper or, as the case may be, the declaration of identity, whether spoilt or not;

(b) where postal ballot papers for more than one election have been issued together under regulation 65, all other ballot papers so issued, whether spoilt or not; and

(c) the envelopes supplied for the return of the documents mentioned in paragraph (1) or sub-paragraph (a) or (b).".

(3) In paragraph (3)—

(a) at the beginning insert "Subject to paragraph (3A)"; and

(b) for "5pm on the day before the day of the poll" substitute "5pm on the day of the poll".

(4) After paragraph (3) insert—

"(3A) Where the returning officer receives the documents referred to in paragraph (1) and, where applicable paragraph (2), after 5pm on the day before the day of the poll, he shall only issue another postal ballot paper or, as the case may be, ballot papers if the postal voter returned the documents by hand.".

(5) For paragraph (5) substitute—

"(5) Any postal ballot paper or declaration of identity, whether spoilt or not, returned in accordance with paragraph (1) or (2) shall be immediately cancelled.".

(6) For paragraph (7) substitute the following paragraph—

"(7) Where a postal voter applies in person—

(a) by 5pm on the day before the day of the poll, the returning officer may hand a replacement postal ballot paper to him; or

(b) after 5pm on the day before the day of the poll, the returning officer may only hand a replacement postal ballot paper to him,

instead of delivering it in accordance with regulation 76.".

**Amendment to provision about lost postal ballot papers**

**10.**—(1) Regulation 78 of the 2001 Regulations shall be amended as follows.

(2) For paragraph (1) substitute—

"(1) Where a postal voter claims either to have lost or not to have received—

(a) his postal ballot paper, or

(b) the declaration of identity, or

(c) one or more of the envelopes supplied for their return,

by the fourth day before the day of the poll, he may apply (whether or not in person) to the returning officer for a replacement ballot paper.".

(3) After paragraph (2) insert—

"(2A) Where a postal voter exercises the entitlement conferred by paragraph (1), he shall return—

(a) the documents referred to in paragraph (1)(a) to (c); and

(b) where postal ballot papers for more than one election have been issued together under regulation 65, all other ballot papers so issued,

which he has received and which have not been lost.

(2B) Any postal ballot paper or declaration of identity returned in accordance with paragraph (2A) shall be immediately cancelled.

(2C) The returning officer, as soon as practicable after cancelling those documents, shall make up those documents in a separate packet and shall seal the packet; and if on any subsequent occasion documents are cancelled as mentioned above, the sealed packet shall be opened and the additional cancelled documents included in it and the packet shall be again made up and sealed.".

(4) In paragraph (3)—

(a) at the beginning insert "Subject to paragraph (3A)";

(b) for "5pm on the day before the day of the poll" substitute "5pm on the day of the poll";

(c) for sub-paragraph (b), substitute—

"(b) has no reason to doubt that the postal voter has either lost or has not received the original postal ballot paper or the declaration of identity or one or more of the envelopes provided for their return."

(5) After paragraph (3) insert—

"(3A) Where the application is received by the returning officer after 5pm on the day before the day of the poll, he shall only issue another postal ballot paper or, as the case may be, other ballot papers if the postal voter applied in person.".