
THE UNITED KINGDOM

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INTRODUCTION

The election laws of the United Kingdom reflect the fact that there is no written constitution and so there are no written constitutional provisions relating to elections or the organisation thereof.

There is an absence of any central body or authority which is responsible for the organisation and conduct of elections throughout the United Kingdom. Indeed the structure of the organisation of elections exists largely within the Local Government framework of the political units of England, Wales, Scotland and Northern Ireland, with the London Boroughs exhibiting a measure of distinguishing features.

The elections legislative scheme of the UK displays in part different rules for parliamentary, local and European parliamentary elections. The discussion of the legislative scheme herein is focused on the framework for the national parliamentary elections only.

— *Section 1* —

ADMINISTRATION

1.01 The Secretary of State

The Secretary of State for Home Affairs is responsible for the regulatory machinery of the election laws and the Home Office assists with their implementation and application with the issuance of regular circulars and memoranda.¹

1.02 Returning Officers – England and Wales

The sheriff of the county is the returning officer of a county constituency which is coterminous with or wholly contained in a county.

In the case of a borough constituency which is coterminous with or wholly contained in a district, the returning officer is the chairman of the district council.

In the case of any other constituency wholly outside Greater London, such sheriff or chairman of a district council may be designated returning officer in an order by the Secretary of State made by statutory instrument.

In the case of a constituency which is coterminous with or wholly contained in a London borough, the returning officer is the mayor of the borough.

In the case of a constituency wholly or partly in Greater London which is situated partly in one London borough and partly in a district or any other London borough, the returning officer is the mayor of such London borough or the chairman of such district council as may be designated in an order by the Secretary of State made by statutory instrument.

The City, the Inner Temple and the Middle Temple are treated as if together they formed a London borough.²

1.03 Returning Officers – Scotland

In the case of a constituency wholly situated in one region or islands area, the officer appointed by the local authority to be returning officer (under section 41 of the Representation of the People Act (RPA) 1983).

In the case of a constituency situated in more than one region or islands area, such person mentioned above as the Secretary of State may by order direct.³

1.04 Returning Officers – Northern Ireland

The Chief Electoral Officer for Northern Ireland is the returning officer for each constituency.⁴

1.05 General Duties of Returning Officers

It is the duty of the returning officer to execute the writ for a parliamentary election. Where a person takes any office by virtue of which he becomes returning officer, he (and not the outgoing holder of the office) has the responsibility to complete the execution of any writ for a parliamentary election previously issued and not yet returned.⁵

1.06 Acting Returning Officers – England and Wales

In England and Wales the duties of the returning officer are performed by an acting returning officer except those duties in connection with the receipt of the writ and any other duties which the returning officer has reserved for himself.

The acting returning officer is the registration officer appointed by the council in the case of a constituency for which the chairman of a district council or the mayor of a London borough is returning officer.

In the case of any other constituency, the acting returning officer is the registration officer who is designated in an order made by statutory instrument by the Secretary of State.⁶

1.07 Duties of Acting Returning Officers

The returning officer must give written notice to the acting returning officer of any duties which he reserves to himself. In the discharge of the duties imposed on an acting returning officer, he has all the powers, obligations, rights and liabilities of the returning officer.⁷

1.08 Deputy Acting Returning Officers

Deputy acting returning officers may be appointed by an acting returning officer to discharge any or all of the duties imposed on the latter.⁸

1.09 Other Staff of Returning Officer

District councils and London borough councils may assign officers to assist the acting returning officers to carry out their parliamentary election functions in the constituency.⁹

In Scotland, the returning officer for a constituency wholly or partly situated in a region or islands area may request the council to assign staff to assist him in the discharge of his functions relating to a parliamentary election in the constituency.¹⁰

In Northern Ireland, the Chief Electoral Officer in his capacity as returning officer has power to appoint temporary deputy returning officers and assistants.

1.10 Appointment of Presiding Officers, Poll Clerks and Counting Clerks

The returning officer is required to appoint and pay a presiding officer to manage each polling station. He also has to appoint such clerks as may be necessary for the election.¹¹

Any person who has been employed by or on behalf of a candidate in the election must not be appointed as a presiding officer or clerk.

The functions of the presiding officer, except the arrest, exclusion or removal of any person from the polling station, may be performed by a clerk.

The legislative scheme does not provide specifically for the appointment of accounting clerks, but rule 26 of the Parliamentary Election Rules (PER) requires the returning officer to appoint clerks to assist him with the election. (Rule 45 of the PER which deals with the count does not refer to the role of clerks.)

1.11 Charges for Returning Officers' Services and Expenses

A returning officer is entitled to recover his charges for services properly rendered and for expenses properly incurred for or in connection with a parliamentary election if the services or charges are of a class specified and reasonable.¹²

The schedule to Parliamentary Elections (Returning Officers' Charges) Order 1994 specifies the types of services or expenses for which a returning officer may recover his charges.¹³

On the request of a returning officer, the Secretary of State may, on such terms as he thinks fit, make an advance on account of his charges.¹⁴

— *Section 2* —

CONSTITUENCY BOUNDARIES

2.01 Constituencies

A “constituency” is an area which has a separate representation in the House of Commons, and each constituency returns one member to that House.

The Parliamentary Constituencies Act 1986 established four permanent Boundary Commissions, namely a Boundary Commission for England, a Boundary Commission for Scotland, a Boundary Commission for Wales and a Boundary Commission for Northern Ireland, for the purpose of the continuous review and distribution of seats at parliamentary elections.¹⁵

2.02 Constitution of the Commissions

The chairman of each of the Commissions is the Speaker of the House of Commons.

Each of the four Commissions consists of the chairman, a deputy chairman and two other members appointed by the Secretary of State.

The deputy chairman

- (a) in the case of the Commission for England is a judge of the High Court appointed by the Lord Chancellor;
- (b) in the case of the Commission for Scotland is a judge of the Court of Session appointed by the Lord President of the Court of Session;
- (c) in the case of the Commission for Wales is a judge of the High Court appointed by the Lord Chancellor; and
- (d) in the case of the Commission for Northern Ireland is a judge of the High Court in Northern Ireland appointed by the Lord Chief Justice of Northern Ireland.

A member of any Commission (other than the chairman) holds office for such term and on such conditions as may be determined before his appointment by the person appointing him.¹⁶

2.03 Officers of Each Commission

Each Commission may be assisted by assessors as follows:

- (a) in the case of the Commission for England, the Registrar General for England and Wales and the Director General of Ordnance Survey;
- (b) in the case of the Commission for Scotland, the Registrar General of Births, Deaths and Marriages for Scotland and the Director General of Ordnance Survey;
- (c) in the case of the Commission for Wales, the Registrar General for England and Wales and the Director General of Ordnance Survey; and

- (d) in the case of the Commission for Northern Ireland, the Registrar General of Births and Deaths in Northern Ireland, the Commissioner of Valuation for Northern Ireland and the Chief Electoral Officer for Northern Ireland.

The Secretary of State may, at the request of any Commission, appoint one or more assistant Commissioners to inquire into, and report to the Commission upon, such matters as the Commission thinks fit. The Secretary of State is required to appoint a Secretary to each of the Commissions, and may appoint such other officers of any Commission as he may determine with the approval of the Treasury.

2.04 Work of the Commissions

Each Boundary Commission is required to keep the representation of the House of Commons of the part of the United Kingdom with which it is concerned under review and submit reports to the Secretary of State on the whole of that part of the UK, either showing the constituencies into which that Commission recommends that it should be divided or stating that, in the Commission's opinion no alteration is required to be made in respect of that part of the United Kingdom.

The first report of each Boundary Commission to be made after the passing of the 1986 Act was due to be submitted to the Secretary of State not later than 31 December 1994.¹⁷

In other cases, reports are required to be submitted by a Boundary Commission not less than eight nor more than twelve years from the date of its last report.¹⁸

Any Boundary Commission may also from time to time submit to the Secretary of State reports with respect to the area comprised in any particular constituency or constituencies in the part of the United Kingdom with which it is concerned, showing the constituencies into which it recommends that that area should be divided.

The Secretary of State is required to lay the report of a Boundary Commission before Parliament. Where an alteration is recommended by the Boundary Commission concerned, the Secretary of State includes a draft of an Order in Council for giving effect, with or without modifications, to the recommendations contained in the report when laying it before Parliament.

2.05 Orders in Council

The draft of any Order in Council laid before Parliament by the Secretary of State for giving effect to the recommendations contained in the report of a Boundary Commission may make provision for any matters which appear to him to be incidental to, or consequential on, the recommendations.

Where any such draft gives effect to the recommendations with modifications, the Secretary of State must lay before Parliament a statement of the reasons for the modifications. If the draft is approved by resolution of each House of Parliament, the Secretary of State submits it to Her Majesty in Council.

2.06 Rules for the Redistribution of Seats

The number of constituencies in Great Britain shall not be substantially greater or less than 613. The number of constituencies in Scotland shall not be less than 71 and in Wales not less than 35 and not more than 18 nor less than 16 in Northern Ireland. There has to be a constituency which includes the whole of the City of London the name of which shall refer to the City of London.

Having regard to the foregoing rules:

- (a) in England and Wales –
 - (i) no county or any part of a county is to be included in a constituency which includes the whole or part of any other county or the whole or part of a London borough;
 - (ii) no London borough or any part of a London borough is to be included in a constituency which includes the whole or part of any other London borough;
- (b) in Scotland, regard is to be had to the boundaries of local authority areas;
- (c) in Northern Ireland, no ward is to be included partly in one constituency and partly in another.

A Boundary Commission may depart from the strict application of certain of the rules if special geographical considerations, including in particular size, shape and accessibility of a constituency, appear to them to render a departure desirable.

A Boundary Commission, in applying the rules may take account of:

- (a) the electorate of any constituency and the electoral quota, that is to say, the number obtained by dividing the electorate for that part of the United Kingdom by the number of constituencies in it existing on the enumeration date;
- (b) the inconveniences attendant on alterations of constituencies; and
- (c) any local ties which would be broken by such alterations.¹⁹

2.07 Procedures

Where a Boundary Commission intends to consider making a report it shall give notice in writing to the Secretary of State and a copy of the notice must be published –

- (a) in a case where it was given by the Boundary Commission for England or the Boundary Commission for Wales, in the London Gazette;
- (b) in the case where it was given by the Boundary Commission for Scotland, in the Edinburgh Gazette;
- (c) in the case where it was given by the Boundary Commission for Northern Ireland, in the Belfast Gazette.

Where a Boundary Commission has provisionally determined to make recommendations affecting any constituency, it is required to publish in at least one newspaper circulating in the constituency a notice stating the effect of the proposed recommendations is open to inspection at a specified place within the constituency. The notice should also state that

representations with respect to the proposed recommendations may be made to the Commission within one month after the publication of the notice. The Commission is required to take into account any representations made in accordance with such notice.

A Boundary Commission may, if it thinks fit, cause a local inquiry to be held in respect of any constituency or constituencies.

Where, as a result of the publication of the notice above-mentioned of a recommendation affecting any constituency, the Commission receives any representation objecting to the proposed recommendation from a local authority whose area is wholly or partly comprised in the constituency or constituencies affected by the recommendation or from a body of electors numbering one hundred or more, the Commission must not make the recommendation unless a local inquiry has been held in respect of the constituencies.²⁰

— Section 3 —

REGISTRATION OF ELECTORS

3.01 The Franchise

A person entitled to vote as an elector at a parliamentary election in any constituency is one who –

- (a) is resident there on the qualifying date and
- (b) on that date and on the date of the poll –
 - (i) is not subject to any legal incapacity to vote; and
 - (ii) is either a Commonwealth citizen or a citizen of the Republic of Ireland; and
- (c) is of voting age on the date of the poll.

A person is not entitled to vote as an elector at a parliamentary election in any constituency in Northern Ireland unless he was resident in Northern Ireland during the whole of the period of three months ending on the qualifying date for the electoral register to be used at that election.

A person is not entitled to vote as an elector in any constituency unless registered there in the register of parliamentary electors to be used at the election.

A person is not entitled to vote as an elector –

- (a) unless he is 18 years or over;
- (b) more than once in the same constituency at any parliamentary election;
- (c) in more than one constituency at a general election.²¹

3.02 The Qualifying Date

In England, Wales and Scotland, 10 October in any year is the electoral registration qualifying date.

In Northern Ireland, 15 September in any year is the qualifying date for a parliamentary election, but this date may be varied by the Secretary of State.

3.03 Residence

A person's residence on the qualifying date for an election is determined in the light of several factors including –

- (a) the purpose of his presence at or absence from the address in question;
- (b) residence is not interrupted by the performance of any duty arising from or incidental to any office, service or employment held or undertaken by a person, if he intends to resume actual residence within six months of giving it up.

A person who is detained at any place in legal custody is not treated as resident there.

A merchant seaman is entitled to be treated as resident –

- (a) at any place at which he would have been resident but for the nature of his occupation, or
- (b) at any hotel or club providing accommodation for merchant seamen at which he commonly stays in the course of his occupation.

A person who is detained at any place on grounds of mental disorder is not treated as resident there. A voluntary mental patient may make a declaration for transmission to the registration officer and when this is done in proper form, that person is qualified to be registered as an elector.

3.04 Right to be Registered

All persons who may be entitled to vote at a parliamentary election for which any register is to be used is entitled to be registered in that register, except –

- (a) persons disqualified by statute from registration under provisions dealing with corrupt and illegal practices;
- (b) persons who are voluntary mental patients and who have not made a patient's declaration;
- (c) persons who on the qualifying date have a service qualification but who have not made an appropriate service declaration;
- (d) British citizens resident abroad who under the RPA 1985 and 1989 would be entitled to register but have not made an overseas electors declaration.

A person otherwise qualified is entitled to be registered in a register of parliamentary electors if he will attain voting age before the end of twelve months following the day by which the register is required to be published.²²

3.05 Registration Officers

Registration officers are appointed to register electors in the following manner:

In England and Wales –

- (a) the council of every district and London borough must appoint an officer of the council to be registration officer for any constituency or part of a constituency coterminous with or situated in the district or borough, and
- (b) the Common Council shall appoint an officer to be registration officer for the part of the constituency containing the City and the Inner Temple and the Middle Temple.

In Scotland, the council of every region and islands area appoints an officer of the council for their area, or an officer appointed by any combination of such councils, to be registration officer for any constituency or part of a constituency which is situated within that region or islands area.

In Northern Ireland, the Chief Electoral Officer for Northern Ireland is the registration officer for each constituency.²³

3.06 Registers of Electors

Every registration officer has a statutory duty to prepare and publish in each year a register of parliamentary electors for each constituency or part of a constituency in the area for which he acts.

The law requires that so far as practicable the registers of local government and parliamentary electors must be combined, but the names of persons registered only as parliamentary electors or local government electors should be marked to indicate that fact.

3.07 Preparation of Registers

In preparing the register, the registration officer must cause a house to house or other sufficient inquiry to be undertaken to have persons registered.

The registration officer must prepare and publish lists of electors who appear to him to be entitled to be registered and their addresses.

The registration officer shall determine any claim for registration made by any person, and all objections to any person's registration made by another person appearing from the electors lists to be himself entitled to be registered.

3.08 Service Qualification and Declaration

A person has a service qualification who

- (a) is a member of the forces,

- (b) is employed in the service of the Crown in a post outside the United Kingdom of any prescribed class or description,
- (c) is employed by the British Council in a post outside the United Kingdom,
- (d) is the wife or husband of a member of the forces,
- (e) is the wife or husband of a person mentioned in paragraph (b) or paragraph (c) above and is residing outside the United Kingdom to be with her husband or his wife, as the case may be.

A service declaration shall be made by

- (a) a person who has a service qualification, or
- (b) a person about to leave the United Kingdom in such circumstances as to acquire a service qualification.

A service declaration must state the date of the declaration, the fact that the declarant is entitled to make it, the address of the declarant, that the declarant is a Commonwealth citizen or a citizen of the Republic of Ireland, the age of the declarant and any prescribed particulars of identity, and service qualifications.

A member of the forces or wife or husband of such a member whose service declaration is in force on the qualifying date shall be treated for the purposes of registration as a resident on the qualifying date at the address specified in the declaration.²⁴

3.09 Overseas Electors and Declaration

A person is entitled to vote as an elector at a parliamentary election if –

- (a) he qualifies as an overseas elector in respect of a constituency on the qualifying date, and
- (b) on that date and on the date of the poll he is not subject to any legal incapacity to vote and is a British citizen.

A person qualifies as an overseas elector in respect of a constituency on the qualifying date if –

- (a) on that date he is not resident in the United Kingdom, and
- (b) he satisfies one of the following sets of conditions; namely –
 - (A) (i) that he was included in a register of parliamentary electors in respect of an address situated in the constituency concerned,
 - (ii) on the date by reference to which the register was prepared, he was resident or treated for the purposes of registration as resident at that address,
 - (iii) that the date fell within the period of twenty years ending immediately before the qualifying date, and
 - (iv) if he was included in any register of parliamentary electors prepared by reference to a date later than the date referred to in paragraph (ii) above, he was not resident or treated for the purposes of registration as resident at an address in the United Kingdom on that later date.

The second set of conditions is that –

- (B) (i) he was last resident in the United Kingdom within the period of twenty years ending immediately before the qualifying date,
- (ii) he was by reason of his age only incapable of being included in any register of parliamentary electors prepared by reference to the last date, within that period by reference to which such registers were prepared, on which he was so resident, and
- (iii) the address at which he was resident on the date referred to in paragraph (ii) above was at a place that is situated within the constituency concerned and a parent or guardian of his was included, in respect of that address, in a register of parliamentary electors prepared by reference to that date.²⁵

In order for a person to be included in any register as an overseas elector, he has to make a declaration (overseas elector's declaration). An overseas elector's declaration must state –

- (a) the date of the declaration,
- (b) that the declarant is a British Citizen,
- (c) that the declarant will not be resident in the United Kingdom on the qualifying date,
- (d) when he ceased to be resident in the United Kingdom or, if he relies on registration as a service voter or, if later, ceased to be so resident.

The declarant must –

- (a) show which set of conditions (set out above) he satisfies,
- (b) in the case of the first set of conditions, specify the address in respect of which he was registered, and
- (c) in the case of the second set of conditions, specify
 - (i) the date of the declarant's birth,
 - (ii) the address in the United Kingdom at which he was registered, and
 - (iii) the name of the parent or guardian on whose registration in respect of that address he relies, and whether the person named was a parent or a guardian, and may not, in the case of either set of conditions, specify more than one such address.²⁶

3.10 Electors List

The Representation of the People Regulations (RPR) 1986 provide practical guidelines on the preparation of electors lists.

The electors lists must be framed in separate parts for each parliamentary polling district, except that, where a parliamentary polling district is contained in more than one electoral area, there has to be a separate part of the electors lists for each part of the polling district which is contained in each electoral area.

The electors list for each separate part referred to above may be prepared in the form of a draft register.

Each separate part of the electors lists may be divided into three, namely:

List A, which is a copy of the register in force for that part,

List B, which sets out –

- (i) the names and addresses of those persons who appear to the registration officer to be entitled to be registered as parliamentary electors in respect of qualifying addresses for which they are not registered in the register in force, and
- (ii) the names of those persons who appear to the registration officer to be entitled to be so registered but whose addresses are not included in the electors lists,

List C, which sets out –

- (i) the names of those persons who no longer appear to the registration officer to be entitled to be registered as parliamentary electors in respect of qualifying addresses for which they are registered in the register in force, together with those addresses, and
- (ii) the names of those persons who no longer appear to the registration officer to be so entitled and whose addresses do not appear in the register in force.

The registration officer prepares a list of the names of each person who appears to him to be entitled to be registered in pursuance of an overseas elector's declaration ("the list of overseas electors"). The addresses specified in the declaration are to be included in the list.

The registration officer must, on or before 28 November, publish the electors lists by –

- (a) making a copy of them available for inspection at his office, and
- (b) as soon as practicable thereafter, making a copy of the part of the electors lists relating to each electoral area available for inspection at a specified place in or near that electoral area to which the public have access.

The registration officer shall –

- (a) on request, and
 - (b) if he is not the acting returning officer for the constituency in respect of which the request was made, after consultation with that officer,
- supply free of charge four copies of so much of the electors lists as related to the constituency, and four copies of so much of the list of overseas electors as so relates, as long as those lists are kept published, to any person who satisfies the registration officer that he requires them for use in connection with his own or some other person's prospective candidature at a parliamentary election for that constituency.

The electors lists must be altered to:

- (a) give effect to the registration officer's decision on any claim or objection;
- (b) correct any misnomer or inaccurate description;
- (c) give effect to alterations to parliamentary polling districts pursuant to a direction by the Secretary of State;

- (d) delete the name of any person who the registration officer is satisfied is dead; or
- (e) give effect to a correction that is not covered by the foregoing provisions.²⁷

3.11 Claims and Objections

The registration officer must at the time of publishing the electors lists publish a notice, in the prescribed form, specifying the manner in which and the time within which claims and objections in respect of the electors lists may be made. A claim to be added to the electors lists may be made by or on behalf of the person who claims to be entitled to be included in the lists ("the claimant"). A claim must state the full name of the claimant and, where a person makes the claim on behalf of the claimant, that person's name and address. It must also state the address in respect of which the claimant claims to be registered and whether he was resident there on the qualifying date; whether the claimant will be 18 years of age or more on the day when the next register comes into force and, if not, the day on which he will attain that age; if the claimant was not resident at the address in respect of which he claims to be registered on the qualifying date, whether he had made a service declaration, patient's declaration or overseas elector's declaration by that date, and if he was a merchant seaman on the qualifying date, that fact.

Claims must be made available for inspection at the office of the registration officer until the completion of the hearing of claims and objections.

An objection to an entry in the electors lists or, as the case may be, to a claim is made in writing to the registration officer and must be signed and dated by the objector and must state the following –

- (a) the name of the person against whom the objection is made,
- (b) the address of that person as shown in the electors lists, or as the case may, given in the claim,
- (c) the grounds of the objection, and
- (d) the name of the objector and his address as shown in the electors lists.

Objections must be made available for inspection at the office of the registration officer until the completion of the hearing of claims and objections. A claim or an objection in respect of the electors lists must be delivered to the registration officer by 16 December.²⁸

3.12 Treatment of Claims and Objections

The registration officer keeps separate lists of claims and objections and on receipt he enters a claim or objection in the appropriate list together with the name and qualifying address of the claimant or the person in respect of whom the objection is made. If the registration officer is of the opinion –

- (a) that the particulars given in a claim or objection are insufficient, he may ask for further information and take no further action until such information is supplied;
- (b) that a claim may be allowed without a hearing, he may allow the claim, provided that no objection is made to it, and inform the claimant accordingly;

- (c) that the objector is not entitled to object, he may disallow the objection and inform the objector accordingly;
- (d) that a claim or objection cannot be allowed because –
 - (i) the matter had been concluded by the decision of a court, or
 - (ii) the particulars given in a claim or objection do not entitle the claimant or objector to succeed,he may send to the person making the claim or objection a notice stating his opinion, the grounds for it and that he intends to disallow the claim or objection unless that person gives the registration officer notice within three days from the date of registration officer's notice that he requires the claim or objection to be heard, and, if he receives no such notice within that time, he may disallow the claim or objection.

The registration officer must, if the matter is not disposed of, send a notice, in the case of a claim, to the person making the claim and, in the case of an objection, to the objector and the person objected to, stating the time and place at which he proposes to hear the claim or objection. The notice sent to a person objected to shall state the name and address of the objector and the grounds of the objection.

On the hearing of a claim, the person making the claim and any person who has duly made an objection to it and on the hearing of an objection, the objector and the person objected to and, on the hearing of either, any other person who appears to the registration officer to be interested is entitled to appear and be heard.

An appeal from a decision of the registration officer to the county court may be made within 14 days of the decision. A person desiring to appeal must give notice of appeal to the registration officer and to the opposite party specifying the ground of appeal.

An appeal lies from a decision of the county court to the Court of Appeal.²⁹

3.13 The Register

The register is framed in separate parts for each parliamentary polling district, except that, where a parliamentary polling district is contained in more than one electoral area, a separate part of the register is provided for each part of the polling district which is contained in each electoral area.

There must be a different letter or letters in the register for each parliamentary polling district and such letter or letters form part of an elector's number in the register.

The names and addresses in each separate part of the register are arranged in street order unless the council which appointed the registration officer determines for any part of the register the strict order is not reasonably practicable in which case the names and addresses are arranged in alphabetical order or partly in street order and partly in alphabetical order as the council may determine.

The names of –

- (a) each service voter and voluntary mental patient and
 (b) each overseas elector
 are grouped together in alphabetical order at the end of that part of the register which relates to –
- (i) the address given by that service voter or patient in his declaration, or
 - (ii) the address specified by an overseas elector in his declaration.

The names in the register are to be numbered so far as is reasonably practical consecutively, and there must be a separate series of numbers for each parliamentary polling district.

The registration officer shall publish the register by making a copy of it available for inspection at his office and by making copies of the part of the register relating to each electoral area available for inspection as soon as practicable thereafter at the place at which copies of the part of the electors lists relating to that electoral area have been made available for inspection.³⁰

3.14 Supply of Registers

The registration officer shall, on request, supply free of charge to the Member of Parliament for a constituency one copy of so much of the register as relates to that constituency and one copy of so much of the list of overseas electors as so relates. He shall also supply free of charge –

- (i) four copies of so much of the register as relates to the constituency to any person who satisfies the registration officer that he requires them for use in connection with his own or some other person's prospective candidature at a parliamentary election for the constituency; and
- (ii) two copies of so much of the register as relates to the constituency to each candidate at a parliamentary election for that constituency or his election agent. A copy of the register and of the list of overseas electors shall, on publication, be supplied free of charge by the registration officer to the Secretary of State and the British Library. The registration officer shall also, on request, supply free of charge one copy of so much of the register as relates to an electoral act to every councillor for that area and each candidate at a local government election. The registration officer shall on the request of a party or community council supply free of charge to that council one copy of so much of each register as relates to the areas of a party or community.

Any remaining copies of the register may be so sold to any person upon payment of the prescribed fee. Copies of the register may also be ordered before 1 November each year.

The registration officer shall –

- (a) on payment of a fee as prescribed, and
 - (b) if he is not acting returning officer for the constituency in respect of which the application was made, after consultation with that officer,
- supply to a person, who is entitled to free copies of the whole or part of the register, so

much of the data as relates to the part or parts of the register to which such a person is entitled.³¹

3.15 Published Register – Alterations, Claims, Objections and Corrections

Where any alteration is made to a parliamentary polling district, the registration officer concerned may be directed to adapt the register in force to the alteration.

Claims and objections may be made in respect of the register under section 11(2) of the RPA 1983. The procedure to be followed is similar to that outlined above in connection with claims and objections in respect of the electors lists. The hearing of claims and objections also follows a procedure similar to that followed in hearing claims and objections regarding electors lists. The appeals procedures are likewise similar.

Where the registration officer makes an alteration in a register pursuant to a decision in respect of a claim or objection, he shall –

- (a) send to the person affected by the alteration and, if he gives effect to a decision on an objection, to the objector a notice stating the alteration,
- (b) make a copy of the alteration available for inspection at his office,
- (c) make copies of the alteration available for inspection at the place at which copies of the part of the register to which the alteration relates have been made available for inspection, and
- (d) supply free of charge a copy of the alteration to each person to whom he has supplied a copy of the part of the register to which the alteration relates.³²

3.16 Absent Voters

A person may apply to vote by post or by proxy at a parliamentary election. The registration officer shall grant the application if –

- (a) he is satisfied that the applicant is eligible for an absent vote at elections to which the application relates for an indefinite period,
- (b) he is satisfied that the applicant is or will be registered in the register for such elections, and
- (c) the application meets the prescribed requirements.

A person is eligible for an absent vote at a parliamentary election for an indefinite period –

- (a) if he is or will be registered as a service voter,
- (aa) if he is no longer resident at his qualifying address or at any other address in the same area,
- (b) if he cannot reasonably be expected –
 - (i) to go in person to the polling station allotted or likely to be allotted to him, or
 - (ii) to vote unaided there,by reason of blindness or other physical incapacity,

- (c) if he cannot reasonably be expected to go in person to that polling station by reason of the general nature of his occupation, service or employment or that of his spouse, or
- (d) if he cannot go in person from his qualifying address to that polling station without making a journey by air or sea.

The registration officer is required to keep a record of those whose applications have been granted showing –

- (a) that their applications were granted in respect of a parliamentary election,
- (b) in the case of those who may vote by post, the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent, and
- (c) in the case of those who may vote by proxy, the names and addresses of those appointed as their proxies.

A person may apply to the registration officer to vote by post or to vote by proxy at a particular parliamentary election and the application will be granted if –

- (a) he is satisfied that the applicant's circumstances on the date of the poll will be or are likely to be such that he cannot reasonably be expected to vote in person at the polling station allotted or likely to be allotted to him,
- (b) he is satisfied that the applicant is or will be registered in the register of parliamentary electors, and
- (c) the application meets the prescribed requirements.³³

— Section 4 —

WRIT OF ELECTION

4.01 The Writ

The Writ of Election is a document which, in the case of a general election, is directed to the returning officer of each constituency, and, in the case of a by-election, to the returning officer of the constituency concerned. It is issued by the Lord Chancellor from the office of the Clerk of the Crown in Chancery and directs the returning officer to cause election to be made for the constituency concerned and cause the name of the person elected to be certified without delay.³⁴

Her Majesty may by Order in Council –

- (a) specify the manner in which writs are to be conveyed, whether by post, by an officer appointed by the Lord Chancellor, or as regards Northern Ireland, the Secretary of State, or otherwise, and make different provision for different classes of writs, and
- (b) provide for the giving of receipts for writs by persons to whom they are delivered or who may receive them in the course of their conveyance.

An Order in Council may –

- (a) require a returning officer to provide an address to which writs are to be conveyed and any change of that address, and
- (b) provide for recording those addresses, and
- (c) provide that the delivery of a writ to a person found in and for the time being in charge of a place so recorded as the office of a returning officer shall be as good as delivery to that returning officer.

A draft of an Order in Council dealing with the foregoing matters is required to be laid before Parliament.³⁵

4.02 Conveyance of Writ in England and Wales

For a constituency in England and Wales the writ is conveyed to the acting returning officer if the returning officer –

- (a) has so requested by notice in the form prescribed by an Order in Council and received by the Clerk of the Crown one month or more before the issue of the writ, and
- (b) has not revoked by a further notice in the form so prescribed and received within such time as mentioned above.

The notice applies to the constituencies which are within the jurisdiction of the returning officer giving it.

4.03 Notice of Election

The returning officer is required to publish a notice of election, stating –

- (a) the place and times at which nomination papers are to be delivered, and
 - (b) the date of the poll in the event of a contest,
- and the notice shall state that forms of nomination papers may be obtained at that place and those times.

The notice must state the date by which –

- (a) applications to vote by post or by proxy, and
 - (b) other applications and notice about postal or proxy voting,
- must reach the registration officer in order that they may be effective for the election.³⁶

— Section 5 —

CONDUCT OF ELECTION

5.01 Nomination of Candidates

A candidate is nominated by his nomination paper in the prescribed form being delivered by himself, his proposer or seconder or agent to the returning officer.

The nomination paper must state the candidate's –

- (a) full name,
- (b) home address in full, and
- (c) if desired, description (of no more than six words in length) and the surname is to be placed first in the list of names.

The nomination paper is required to be subscribed by two electors as proposer and seconder, and by eight other electors as assenting to the nomination. The nomination paper must state the electoral number of each person subscribing it.

The general rule is that a person cannot be validly nominated unless he consents in writing, but if a person satisfies the returning officer that he is absent from the United Kingdom, the returning officer may accept a telegram (or similar means of communication), consenting to his nomination and purporting to have been sent by him.

A candidate's consent shall –

- (a) state the day, month, and year of his birth; and
- (b) state that he is not disqualified for membership of the House of Commons.

A person cannot be validly nominated unless the prescribed sum (£500 at the time of writing) is deposited by him or on his behalf with the returning officer at the place and during the time for delivery of nomination papers.

The returning officer is required to fix the place at which nomination papers are to be delivered to him, and to attend there during the time for their delivery.

Except in Scotland, the place for nomination shall be in –

- (a) the constituency; or
- (b) the registration area which includes the constituency; or
- (c) unless the constituency is a borough constituency, in a district adjoining the constituency or registration area.

In Scotland the place shall be –

- (a) the constituency; or
- (b) the district or (if more than one) any of the districts in which the constituency is situated; or
- (c) any district adjoining the district or districts in which the constituency is situated.

A person standing nominated as a candidate, his election agent, proposer or seconder are entitled to be present at the proceedings during the time for delivery of nomination papers or for making objections to them. Where the candidate acts as his own agent he may name one other person to attend in place of his election agent. A candidate's wife or husband is entitled to be present at the delivery of the candidate's nomination.

Where a nomination paper and the candidate's consent to it are delivered and a deposit is made as required, the candidate is deemed to stand nominated unless and until –

- (a) the returning officer decides that the nomination paper is invalid; or
- (b) proof is given to the returning officer that the candidate has died; or
- (c) the candidate withdraws.

The returning officer is entitled to hold a nomination paper invalid only on one of the following grounds –

- (a) that the particulars of the candidate or the persons subscribing the paper are not as required by law;
- (b) that the paper is not subscribed as so required; and
- (c) that the candidate is disqualified by the RPA 1981.

The returning officer shall give his decision on any objection to a nomination paper as soon as practicable after it is made. Where he decides that a nomination paper is invalid, the returning officer must endorse and sign on the paper the fact and the reasons for his decision.

The returning officer's decision that a nomination paper is valid is final and cannot be questioned in proceedings; but in other cases the validity of a nomination may be questioned on an election petition.

A candidate may withdraw his candidature by notice of withdrawal –

- (a) signed by him and attested by one witness, and
- (b) delivered to the returning officer at the place for delivery of nomination papers.

The returning officer is required to prepare and publish a statement showing the persons who have been nominated. The statement must show the persons standing nominated arranged alphabetically in order of their surnames and, if there are two or more of them with the same surname of their other names.

Where the proceedings for or in connection with nomination are on any day interrupted or obstructed by riot or open violence –

- (a) the proceedings shall be abandoned for that day, and
- (b) if that day is the last day for the delivery of nomination papers, the proceedings shall be continued on the next day as if that were the last day of such delivery.

If the statement of persons nominated shows more than one person standing nominated, a poll shall be taken. If the statement of persons nominated shows only one person standing nominated, that person is declared to be elected.³⁷

5.02 Preparation for the Poll

The votes at the poll are given by ballot, the result is ascertained by counting the votes given to each candidate and the candidate to whom the majority of votes has been given is declared to be elected.

The ballot of every voter consists of a ballot paper which carries the names of the persons shown in the statement of persons nominated. Every ballot paper shall be in prescribed form and –

- (a) shall contain the names and other particulars of the candidates as shown in the statement of persons nominated,
- (b) shall be capable of being folded up,
- (c) shall have a number printed on the back, and
- (d) shall have attached a counterfoil with the same number printed on it.

The ballot paper must be marked with an official mark which shall perforate the ballot paper. The official mark is required to be kept secret, and an interval of not less than seven years must intervene between the use of the same official mark at elections for the same constituency. The official mark used for ballot papers issued for the purpose of voting by post must not be used at the same election for ballot papers issued for the purpose of voting in person.

The returning officer may use, free of charge, for the purpose of taking the poll –

- (a) a room in a school, or
- (b) a room the expense of maintaining which is payable out of any rate.

The returning officer must make good any damage done to, and defray any expense incurred by the persons having control over, such room which is used for the purpose of taking the poll.

The returning officer is required to include a notice of the poll in the statement of persons nominated, stating the day on which and hours during which the poll will be taken.

The returning officer shall also give public notice of –

- (a) the situation of each polling station,
- (b) the description of voters entitled to vote there.

The returning officer shall send to those entitled to vote by post, at the addresses shown in the absent voters list, a ballot paper and a declaration of identity in the prescribed form together with an envelope for their return.

The returning officer shall provide a sufficient number of polling stations in such manner as he thinks convenient. One or more polling stations may be provided in the same room. The polling station allotted to electors from any polling district must be in the polling place for

that district. In a constituency in Scotland comprising the whole or any part of more districts than one, there shall be at least one polling station in each of those districts. The returning officer is to ensure that there are such number of compartments at each polling station as may be necessary for the voters to mark their votes screened from observation.

The returning officer must appoint and pay a presiding officer to attend at each polling station and such clerks as may be necessary for the election.

The returning officer is required to send in good time to electors and their proxies an official poll card. Such a card need not be sent to an elector who is in the absent voters list or a proxy voter who is entitled to vote by post or to a person who is registered in pursuance of an overseas elector's declaration. An official poll card must be in the prescribed form and set out –

- (a) the name of the constituency;
- (b) the elector's name, qualifying address and number on the register;
- (c) the date and hours of the poll and the situation of the elector's polling station.

The returning officer is required to provide each presiding officer with such number of ballot boxes and ballot papers as may be necessary. The ballot box must be so constructed that the ballot papers can be put in, but cannot be withdrawn from it, without the box being unlocked.

The returning officer must also provide each polling station with –

- (a) materials to enable voters to mark the ballot papers;
- (b) instruments for stamping on them the official mark;
- (c) copies of the register of electors or such part of it as contains the names of the electors allotted to the station; and
- (d) the parts of any special lists prepared for the election corresponding to the register of electors or part of it.

In every compartment of every polling station there must be exhibited the notice "Vote for one candidate only. Put no other mark on the ballot paper, or your vote may not be counted".³⁸

5.03 Candidates' Polling and Counting Agents

Each candidate is entitled, before the commencement of the poll, to appoint –

- (a) polling agents to attend at polling stations for the purpose of detecting personation; and
- (b) counting agents to attend at the counting of the votes.

The candidate is required to give notice of the appointments in writing to the returning officer not later than the second day before polling day. If an agent dies, or becomes incapable of acting, the candidate may appoint another in his place and notify the returning

officer accordingly. A candidate may himself do any act or thing which any polling or counting agent of his is authorised to do, or he may assist his agent in doing any such act or thing.

A candidate's election agent may do or assist in doing anything which a polling or counting agent of his is authorised to do.³⁹

5.04 The Poll

The presiding officer is required to regulate the number of voters to be admitted to the polling station at the same time and he shall exclude other persons except –

- (a) the candidates and their agents;
- (b) the polling agents appointed to attend at the polling station;
- (c) the clerks appointed to attend at the polling station;
- (d) the constables on duty; and
- (e) the companions of blind voters.

Not more than one polling agent is to be admitted at the same time to a polling station on behalf of the same candidate.

It is the presiding officer's duty to keep order at his polling station. Where a person misconducts himself in a polling station, or fails to obey the presiding officer's order, he may be removed from the polling station –

- (a) by a constable in or near that station, or
- (b) by any other person authorised in writing by the returning officer to remove him.

The powers must not be exercised in such a manner as to prevent a voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

Before the commencement of the poll, the presiding officer must show the ballot box empty to such persons as are present in the polling station, so that they may see that it is empty. He must then lock it up and place his seal on it in such a manner as to prevent its being opened without breaking the seal and place it in his view for receipt of ballot papers, and keep it so locked and sealed.

The presiding officer, may, and if required by a candidate or his election or polling agent shall, put to any person applying for a ballot paper at the time of his application, the following questions, or either of them –

- (a) in the case of a person applying as an elector –
 - (i) “Are you the person registered in the register of parliamentary electors for this election as follows?” (He is required to read the whole entry from the register.)
 - (ii) “Have you already voted, here or elsewhere, at this general election, otherwise than as proxy for some other person?”
- (b) in the case of a person applying as proxy –

- (i) “Are you the person whose name appears as AB in the list of proxies for this election as entitled to vote as proxy on behalf of CD?”
- (ii) “Have you already voted here or elsewhere at this general election as proxy on behalf of CD?”

In the case of a person applying as proxy, the presiding officer, if required, shall put additional questions to the applicant asking him if he is the husband (wife), parent, grandparent, brother (sister), child or grandchild of the person purported to appoint them.⁴⁰

5.05 Voting Procedure

If at the time a person applies for a ballot paper for the purpose of voting in person, a candidate or his election or polling agent –

- (a) declares to the presiding officer that he has reasonable cause to believe that the applicant has committed an offence of personation, and
- (b) undertakes to substantiate the charge in a court of law, the presiding officer may order a constable to arrest the applicant.

The person against whom the declaration is made must not by it alone be prevented from voting.

A ballot paper must be delivered to a voter who applies for one, and immediately before delivery –

- (a) the ballot paper shall be stamped with the official mark;
- (b) the number and name of the elector as stated in the copy of the register of electors shall be called out;
- (c) the number of the elector shall be marked on the counterfoil;
- (d) a mark shall be placed in the register of electors against the number of the elector to denote that a ballot paper has been received but without showing the particular ballot paper has been received;
- (e) in the case of a person applying for a ballot paper as a proxy, a mark shall also be placed against his name in the list of proxies.

The voter, on receiving the ballot paper, is required forthwith to proceed into one of the compartments in the polling station and mark secretly his paper and fold it up so as to conceal his vote. He will then show to the presiding officer the back of the paper, so as to disclose the official mark, and put the ballot paper so folded up into the ballot box in the presiding officer’s presence. The voter must leave the polling station without delay as soon as he has put his ballot paper into the ballot box.⁴¹

5.06 Voting by Incapacitated Persons

The presiding officer, on the application of a voter –

- (a) who is incapacitated by blindness or other physical cause from voting in the general manner; or

(b) who declares orally that he is unable to read, is required, in the presence of the polling agents, to cause the voter's vote to be marked on a ballot paper in a manner directed by the voter, and the ballot paper to be placed in the ballot box. The presiding officer must keep a list ("the list of votes marked by the presiding officer") of every voter whose vote is treated in this manner.

A blind person may make an application to the presiding officer to be allowed to vote with the assistance of another person by whom he is accompanied and the presiding officer shall grant the application if he is satisfied that the applicant is so incapacitated and that either his companion is entitled to vote at the election or is the father, mother, brother, sister, husband, wife, son or daughter of the blind voter and has attained the age of 18 years. A list is kept of the blind persons who vote with the assistance of a companion.⁴²

5.07 Tendered and Spoilt Ballot Papers

Where a person, representing himself to be –

- (a) a particular elector named on the register and not named in the absent voters list, or
- (b) a particular person named in the list of proxies as proxy for an elector and not entitled to vote by post as proxy,

applies for a ballot paper after another person has voted in person either as the elector or his proxy, the applicant shall, on satisfactorily answering the question permitted by law to be asked at the poll, be entitled to mark a ballot paper ("a tendered ballot paper") in the same manner as any other voter.

A tendered ballot paper is –

- (a) of a colour differing from the other ballot paper;
- (b) instead of being put into the ballot box, to be given to the presiding officer and endorsed by him with the name of the voter and his number in the register of electors, and set aside in a separate packet.

The name of the voter and his number on the register of electors must be entered on a list ("tendered votes list").

A voter who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used as a ballot paper may, if the presiding officer is satisfied that was done inadvertently, obtain another ballot paper in place of the ballot paper ("spoilt ballot paper") which is returned to the presiding officer, and the spoilt ballot paper must be cancelled immediately.⁴³

5.08 Adjournment of Poll in Case of Riot

Where the proceedings at any polling station are interrupted by riot or open violence, the presiding officer shall adjourn the proceedings till the following day and shall give notice of the postponement to the returning officer.

5.09 Close of the Poll and the Count

At the close of the poll, the presiding officer shall, in the presence of the polling agents, make up into separate packets, sealed with his own seal and the seals of such polling agents as desire to affix their seals –

- (a) each ballot box in use at the station, sealed so as to prevent the introduction of additional ballot papers and unopened, but with the key attached,
- (b) the unused and spoiled ballot papers placed together,
- (c) the tendered ballot papers,
- (d) the marked copies of the register of electors and the list of proxies,
- (e) the counterfoils of the used ballot papers and the certificates as to employment on duty on the day of the poll,
- (f) the tendered votes list, the list of blind voters assisted by companions, the list of votes marked by the presiding officer, a statement of the number of voters whose votes are so marked by the presiding officer under the heads “physical incapacity” and “unable to read”, and the declarations made by the companions of blind voters, and deliver the packets to the returning officer.

The marked copies of the register of electors and the list of proxies shall be in one packet but not in the same packet as the counterfoils of the used ballot papers and the certificates as to employment on duty on the day of the poll.

The packets must be accompanied by a statement (“the ballot paper account”) made by the presiding officer showing the number of ballot papers given to him, and accounting for them under the heads of ballot papers issued and not otherwise accounted for, unused, spoiled and tendered ballot papers.⁴⁴

5.10 Counting of Votes

The returning officer is required to make arrangements for counting the votes in the presence of the counting agents as soon as practicable after the close of the poll, and must give notice in writing to the counting agents of the time and place at which he will begin to count the votes.

No person other than –

- (a) the returning officer and his clerks,
 - (b) the candidates and their wives or husbands,
 - (c) the election agents, and
 - (d) the counting agents,
- may be present at the counting of votes, unless permitted by the returning officer to attend.

The returning officer shall –

- (a) in the presence of the counting agents open each ballot box and count and record the number of ballot papers in it;

- (b) in the presence of the election agents verify each ballot paper account; and
- (c) count such of the postal ballot papers as have been duly returned and record the number counted.

The returning officer must not count the votes given in any ballot papers until –

- (a) in the case of postal ballot papers, they have been mixed with the ballot papers from at least one ballot box, and
- (b) in the case of ballot papers from a ballot box, they have been mixed with the ballot papers from at least one other ballot box.

The returning officer must not count any tendered ballot papers and in counting the votes, the returning officer must keep the ballot papers with their faces upwards and take all proper precautions to prevent any person from seeing the numbers printed on the back of the papers.

The returning officer must verify each ballot paper account by comparing it with the number of ballot papers recorded by him, and the unused and spoilt ballot papers in his possession and the tendered votes list and draw up a statement as to the result of the verification, which any election agent may copy.

The returning officer must as far as practicable proceed continuously with counting the votes, allowing only time for refreshment, but with the agreement of the agents, he may break off between 7pm and 9am the following morning.

A candidate or his election agent may, if present when the counting or any re-count of the votes is completed, require the returning officer to have the votes re-counted or again re-counted but the returning officer may refuse to do so if in his opinion the request is unreasonable.

Any ballot paper –

- (a) which does not bear the official mark, or
 - (b) on which votes are given for more than one candidate, or
 - (c) on which anything is written or marked by which the voter can be identified except the printed number on the back, or
 - (d) which is unmarked or void for uncertainty,
- shall be void and not counted.

The returning officer is required to endorse the word “rejected” on any ballot paper which cannot be counted for the aforementioned reasons.

The returning officer shall draw up a statement showing the number of ballot papers rejected under each of the headings above-mentioned.

The decision of the returning officer on any question arising in respect of a ballot paper is final, but may be reviewed on an election petition.

Where, after the counting of the votes (including any recount) is completed, an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the returning officer must decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.⁴⁵

5.11 Declaration of Result and Return to the Writ

In a contested election, when the result has been ascertained, the returning officer shall forthwith –

- (a) declare to be elected the candidate with the majority of votes;
- (b) return his name to the Clerk of the Crown; and
- (c) give public notice of his name and of the total number of votes given for each candidate together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers.

In an uncontested election, the statement of persons nominated, in addition to showing the person standing nominated, shall also declare that person elected, and the returning officer shall forthwith return his name to the Clerk of the Crown.

The returning officer shall return the name of the member elected by endorsing in the writ a certificate in the prescribed form. The Clerk of the Crown enters the name of the member returned in book kept by him for that purpose.⁴⁶

5.12 Forfeiture of Candidate's Deposit

When the count is completed, if any candidates fail to have polled more than one-twentieth of the total number of votes polled by all the candidates, his deposit is forfeited. In all other cases the candidate's deposit is returned.⁴⁷

5.13 Disposal of Documents

On the completion of the counting at a contested election the returning officer must seal up in separate packets the counted and rejected ballot papers.

The returning officer shall then forward to the Clerk of the Crown the following documents –

- (a) the packets of ballot papers in his possession,
- (b) the ballot paper accounts and the statements of rejected ballot papers and the result of the verification of the ballot paper accounts,
- (c) the tendered votes lists, the lists of blind voters assisted by companions, the lists of votes marked by the presiding officer and related statements, and the declarations made by the companions of blind voters,
- (d) the packets of counterfoils and certificates as to employment on duty on the day of the poll,
- (e) the packets containing marked copies of registers and of lists of proxies, endorsing

on each packet a description of its contents, the date of the election to which they relate and the name of the constituency for which the election was held.

The Clerk of the Crown shall retain for a year all documents relating to an election forwarded to him by a returning officer, and then unless otherwise directed by order of the House of Commons or the High Court, shall cause them to be destroyed.⁴⁸

— Section 6 —

PARLIAMENTARY ELECTION PETITION

6.01 Challenging a Parliamentary Election

A petition complaining of no return is deemed to be a parliamentary election petition and the High Court may make such order on the petition as they think expedient for compelling a return to be made, or may allow the petition to be heard by an election court.

A parliamentary election petition may be presented by one or more of the following persons –

- (a) a person who voted as an elector at the election or who had a right to do so; or
- (b) a person claiming to have had a right to be elected or returned at the election; or
- (c) a person alleging himself to have been a candidate at the election.

The member whose election or return is complained of is referred to as the respondent, but if the petition complains of the conduct of the returning officer, the returning officer is deemed to be a respondent.

The petition shall be in the prescribed form and be signed by the petitioner or petitioners and shall be presented to the High Court, or to the Court of Session, or to the High Court of Northern Ireland, depending on whether the constituency to which it relates is in England and Wales, or Scotland or Northern Ireland.

A parliamentary election petition shall be presented within 21 days after the return to the Clerk of the Crown, or to the Clerk of the Crown for Northern Ireland, as the case may be, of the member to whose election the petition relates.

If the petition questions the election or return upon an allegation of corrupt practices and specifically alleges a payment of money or other reward to have been made by the member or on his account or with his privity since the time of that return in pursuance or in furtherance of the alleged corrupt practice, it may be presented within 28 days after the date of the payment.

A petition questioning the election or return upon an allegation of an illegal practice may, so far as respects that illegal practice, be presented –

- (a) within 21 days after the day specified in sub-section (4) below; or

- (b) if specifically alleging a payment of money or some other act to have been made or done since the day so specified by the member to whose election the petition relates or an agent of his, or with the privity of that member or his election agent, in pursuance or in furtherance of the alleged illegal practice, within 28 days after the date of the payment or other act.

Sub-section (4) stated that the day referred to above is the tenth day after the end of the time allowed for delivering to the returning officer returns as to election expenses at the election or, if later –

- (a) that on which the returning officer receives the return and declarations as to the election expenses by that member and his election agent; or
- (b) where the return and declarations are received on different days, the last of those days; or
- (c) where there is an authorised excuse for failing to make the return and declarations, the date of the allowance of the excuse, or if there was a failure as regards two or more of them, and the excuse was allowed at different times, the date of the allowance of the last excuse.⁴⁹

6.02 Election Court

A parliamentary election petition shall be tried by –

- (a) two judges on a rota for the trial of parliamentary election petitions,
 - (b) in Northern Ireland, two judges of the High Court or the Court of Appeal for the time being selected for the purpose,
- and the judges presiding at the trial of a parliamentary election petition are referred to as the election court.

The place of trial is normally within the constituency for which the election was held.

The judges' expenses are met by the Treasury out of money provided by Parliament.

6.03 Procedure on Election Petitions

At the time of presenting an election petition or within three days afterwards the petitioner is required to give security for all costs which may become payable by him to any witness summoned on his behalf or to any respondent.

The security, in the case of a parliamentary election petition, is such amount not exceeding £5,000 as the High Court or a judge of the High Court, on summons, directs. The security must be given in the prescribed manner by recognizance entered into by any number of sureties not exceeding four or a deposit of money, or partly in one way and partly in the other.

In Scotland, the amount of surety is the same (not exceeding £5,000) as the Court of Session or a judge of the Court of Session directs, but the persons finding caution for that amount may exceed four.

Within the prescribed time after giving the security, the petitioner is required to serve on the respondent in the prescribed manner –

- (a) a notice of presentation of the petition and of the amount and nature of the security, and
- (b) a copy of the petition.

Within a further prescribed time, the respondent may object in writing to any recognizance on the ground that any surety is insufficient or is dead or cannot be found or ascertained for want of a sufficient description in the recognizance, or that a person named in the recognizance has not acknowledged the recognizance.

If the objection is allowed, the petitioner may within a further prescribed time, remove it by a deposit in the prescribed manner of such sum of money as will, in the opinion of the court or officer having cognizance of the matter, make the security sufficient.

Where no security is given as required or any objection is allowed and not removed as mentioned above, no further proceedings will be had on the petition.⁵⁰

6.04 Trial of Petition

The petition is at issue –

- (a) on the expiry of the time limited for objections, or
- (b) if an objection is made, on that objection being disallowed or removed, whichever happens last.

The prescribed officer is required to make out a list of all election petitions at issue presented to the court of which he is officer, placing them in the order in which they were presented, and keeping at his office a copy of the list open to inspection in the prescribed manner.

Petitions are normally tried in the order in which they stand in the list.

An election petition is tried in open court without a jury. Notice of the time and place of the trial must be given in the prescribed manner, not less than 14 days before the trial.

The election court may in its discretion adjourn the trial from time to time, but the trial is required, so far as is practicable consistently with the interests of justice, to be continued from day to day on every lawful day until its conclusion.

On the trial of a petition, unless the court otherwise directs, any charge of a corrupt practice may be gone into, and evidence in relation to received, before any proof has been given of agency on behalf of any candidate in respect of the corrupt practice.

On the trial of a petition complaining of an undue election and claiming the seat or office for some person, the respondent may give evidence to prove that that person was not

duly elected, in the same manner as if he had presented a petition against the election of that person.

Witnesses must be summoned and sworn in the same manner as in an action trial in the High Court. On the trial a member of the election court may, by order signed by him, require any person who appears to him to have been concerned in the election to attend as a witness, and any person refusing to obey the order is guilty of contempt of court. A witness may be cross-examined by or on behalf of the petitioner and respondent, or either of them, after his examination by the court.

The Director of Public Prosecutions shall without any direction from any court cause any person appearing to him to be able to give material evidence as to the subject of the trial to attend the trial and must with leave of the court, examine him as a witness. The foregoing provision does not apply to Scotland where one of the deputies of the Lord Advocate or the procurator-fiscal of the district may, if the Lord Advocate so decides, and must if the court so requests attend the trial of the petition as part of his official duty.

A person called as a witness respecting an election before any election court must not be excused from answering any question relating to any offence at or connected with the election –

- (a) on the ground that the answer to it may incriminate or tend to incriminate –
 - (i) that person or that person's husband or wife, or
 - (ii) in Scotland, that person; or
- (b) on the ground of privilege.

Answer by a person to a question put before any election court shall not, except in the case of any criminal proceeding for perjury in respect of the evidence, be in any proceeding, civil or criminal, admissible evidence against –

- (a) that person or that person's husband or wife; or
- (b) in Scotland, that person.

The reasonable expenses incurred by any person in appearing to give evidence at the trial of an election petition, according to the scale allowed to witnesses on the trial of civil actions, may be allowed to him by a certificate of the election court or of the prescribed officers. Where the witness was called by an order of the election court, the expenses are deemed part of the expenses of providing a court.⁵¹

6.05 Conclusion of Trial

At the conclusion of the trial of a parliamentary election petition, the election court shall determine whether the member whose election or return is complained of, or any and what other person, was duly returned or elected or whether the election was void, and the determination so certified shall be final to all intents as to the matters at issue on the petition.

The election court shall forthwith certify in writing the determination to the Speaker.

If the judges constituting the election court –

- (a) differ as to whether the member whose election or return is complained of was duly elected or returned, they shall certify that difference and the member shall be deemed to be duly elected or returned;
- (b) determine that the member was not duly elected or returned but differ as to the rest of the determination, they shall certify that difference and the election shall be deemed to be void.

Where any charge is made in the petition of any corrupt or illegal practice having been committed at the election the court shall, in addition to giving a certificate, and at the same time, make a report to the Speaker stating whether corrupt or illegal practices have, or whether there is reason to believe that corrupt or illegal practices have, extensively prevailed at the election.

Every report sent to the Speaker shall be signed by both judges of the election court and if the judges differ as to the subject of the report, they shall certify that difference and make no report on the subject on which they so differ.

The House of Commons, on being informed by the Speaker of a certificate and any report of an election court, shall order the certificate and report (if any) to be entered in their journals and give the necessary direction –

- (a) for confirming or altering the return, or
- (b) for issuing a writ for a new election, or
- (c) for carrying the determination into execution as the circumstances may require, and where the court makes a special report, the House of Commons may make such order in respect of that report as they think fit.⁵²

6.06 Withdrawal of Petition

A petitioner cannot withdraw an election petition without the leave of the election court or High Court on special application, made in the prescribed manner at the prescribed time and place. If a petition is withdrawn the petitioner shall be liable to pay the costs of the respondent. The applicant and his solicitor must produce affidavits stating the grounds on which the petition is sought to be withdrawn.

Copies of the affidavits must be delivered to the Director of Public Prosecutions at a reasonable time before the application for the withdrawal is heard, and the court –

- (a) may hear the Director of Public Prosecutions or his assistant or other representative in opposition to the allowance of the withdrawal of the petition, and
- (b) shall have power to receive on the oath of any person or persons whose evidence the Director of Public Prosecutions or his assistant, or other representative, may consider material.

In every case of withdrawal of a parliamentary election petition, the court giving leave for the withdrawal is required to make a report to the Speaker.⁵³

6.07 Costs of Petition

All costs of and incidental to the presentation of an election petition and the proceedings consequent on it, except as otherwise provided in RPA 1983, must be met by the parties to the petition in such manner and in such proportions as the election court or High Court may determine.

In particular –

- (a) any costs which in the opinion of the election court or High Court have been caused by vexatious conduct, unfounded allegations or unfounded objections on the part either of the petitioner or of the respondent, and
- (b) any needless expense incurred or caused on the part of the petitioner or respondent, may be ordered to be defrayed by the parties by whom it has been incurred or caused whether or not they are on the whole successful.⁵⁴

— Section 7 —

ELECTION EXPENSES

7.01 Making of Contracts Through Election Agent

The election agent of a candidate is required to appoint every polling agent, clerk and messenger employed for payment on behalf of the candidate at an election, and hire every committee room hired on behalf of the candidate.

A contract by which any election expenses are incurred cannot be enforced against a candidate at the election unless made by the candidate himself or by his election agent. Every payment made by an election agent in respect of any election expenses must, except where less than £20, be vouched for by a bill stating the particulars and by a receipt. Reference to an election agent includes a sub-agent.

All money provided by any person other than the candidate for any election expenses, whether as gift, loan, advance or deposit, must be paid to the candidate or his election agent and not otherwise.

A person who makes any payment, advance or deposit contrary to the RPA 1983 is guilty of an illegal practice.⁵⁵

7.02 Candidate's Expenses

The candidate at an election may pay any personal expenses incurred by him on account of or in connection with or incidental to the election, but the amount which a candidate at a parliamentary election may pay must not exceed £600, and any further personal expenses so incurred by him must be paid by his election agent.

The candidate must send to his election agent within the stipulated time limit a written statement of the amount of personal expenses paid by him.

Any person may, if so authorised in writing by the candidate's election agent, pay any necessary expenses for stationery, postage, telegrams (or any similar means of communication) and other petty expenses, to a total amount not exceeding that named in the authority, and any excess above the total amount so named is to be paid by the election agent.

A statement of the particulars of payments made by any person so authorised is to be sent to the election agent within the stipulated time for sending claims, and must be vouched for by a bill containing that person's receipt.

No expenses must, with a view to promoting or procuring the election of a candidate at an election, be incurred by any person other than the candidate, his election agent and persons authorised in writing by the election agent on account –

- (a) of holding public meetings or organising any public display; or
- (b) of issuing advertisements, circulars or publications; or
- (c) of otherwise presenting to the electors the candidate or his views or the extent or nature of his backing or disparaging another candidate.

If a person –

- (a) incurs, or aids, abets, counsels or procures any other person to incur, any expenses in contravention of the Act (RPA 1983), or
- (b) knowingly makes a false declaration as to the expenditure to the appropriate officer, he is guilty of a corrupt practice.⁵⁶

7.03 Limitation of Election Expenses

A candidate at an election or his election agent, whether before, during or after an election, on account of or in respect of the conduct or management of the election, must not exceed the maximum amount specified from time to time, and a candidate or election agent knowingly acting in contravention of this requirement is guilty of an illegal practice.

The maximum amount may be varied by the Secretary of State and a resolution to that effect must be approved by each House of Parliament.

(The latest variation at the time of writing came into force in 1994 as follows –

- (a) for a candidate at a parliamentary general election, being an election,
 - (i) in a county constituency, £4,642 together with an additional 5.2p for every entry in the register of electors to be used at the election, and
 - (ii) in a borough constituency, £4,642 together with an additional 3.9p for every entry in the register of electors to be used at the election;
- (aa) for a candidate at a parliamentary by-election –

- (i) in a county constituency, £18,572 together with an additional 20.8p for every entry in the register of electors to be used at the election;
- (ii) in a borough constituency, £18,572 together with an additional 15.8p for every entry in the register of electors to be used at the election.⁵⁷⁾

The maximum amount for a candidate at a parliamentary election is not required to cover the candidate's personal expenses.

7.04 Time for Paying Claims

Every claim against a candidate or his election agent in respect of election expenses which is not sent in to the election agent within 21 days after the day on which the result of the election is declared shall be barred and not paid. All election expenses must be paid within 28 days after that day.

An election agent who pays a claim or any other payment in contravention of the law is guilty of an illegal practice; but where the election court reports that it has been proved to the court by the candidate that any payment was made by an election agent without the sanction or connivance of the candidate –

- (a) the candidate's election is not void; and
- (b) he is not to be subject to any incapacity by reason only of that payment having been made in contravention of the law.

The claimant or the candidate or his election agent may apply to the High Court or to a county court for leave to pay a claim for any election expenses, although sent in after that period of 21 days or although sent in to the candidate and not to the election agent, and the court on cause shown to their satisfaction may by order grant leave.

7.05 Disputed Claims

If the election agent disputes any claim sent in to him within the period of 21 days, or refuses or fails to pay the claim within the period of 28 days, the claim is deemed to be disputed.

The claimant may bring an action for a disputed claim in any competent court, and any sum paid by the candidate or his agent in pursuance of the judgment or order of the court is deemed not to be in contravention of the law.

7.06 Return as to Election Expenses

Within 35 days after the day on which the result of the election is declared, the election agent of every candidate at the election must deliver to the appropriate officer a true return in the prescribed form containing a statement of all payments made by the election agent together with all the bills and receipts.

The return must include –

-
- (a) an account of the remuneration or expenses of speakers at public meetings;
 - (b) a statement of the amount of personal expenses, if any, paid by the candidate;
 - (c) a statement of all disputed claims of which the election agent is aware;
 - (d) a statement of all the unpaid claims, if any, of which the election agent is aware, in respect of which application has been or is about to be made to the High Court or county court;
 - (e) a statement of all money, securities and equivalent of money received by the election agent from the candidate or any other person for the purposes of election expenses incurred or to be incurred, with a statement of the name of every person from whom they may have been received.

The return must be accompanied by a declaration made by the election agent, and a separate declaration by the candidate at the same time as the election agent's or seven days after, both declarations to be in the prescribed form. Where the candidate is his own election agent, the election agent's declaration will not be needed.⁵⁸

7.07 Penalty for Failure to Submit Return

Unless relief is granted by a competent court (the High Court, an election court or a county court) upon showing good cause, a candidate or election agent who fails to deliver a true return and declaration in proper form is guilty of an illegal practice.

If, in the case of any candidate, the return and declarations as to election expenses are not delivered before the expiry of the time limited for the purpose, that candidate shall not after the expiry of that time, sit or vote in the House of Commons as member for the constituency for which the election was held until –

- (a) either that return and those declarations have been delivered, or
- (b) the date of the allowance of any authorised excuse for the failure to deliver that return and those declarations,

and if he sits or votes in the House he forfeits £100 for every day on which he so sits or votes.

Provision is made in the RPA 1983 for publication of returns and declarations at a specified time and place and for inspection for a period of two years by any person on payment of a fee.⁵⁹

7.08 Publicity

A candidate is (subject to Post Office regulations) entitled to send free of charge for postage either –

- (a) one unaddressed postal communication, containing matter relating to the election only and not exceeding 60 (sixty) grammes in weight, to each place in the constituency which, in accordance with those regulations, constitutes a delivery point; or
- (b) one such postal communication addressed to each elector.

He is also entitled to send free of any charge for postage to each person entered in the list of proxies for the election one such communication as mentioned above for each appointment in respect of which that person is so entered.⁶⁰

— *Section 8* —

ELECTION OFFENCES / CORRUPT AND ILLEGAL PRACTICES

8.01 Treating

A person is guilty of a corrupt practice if he is guilty of treating.

A person is guilty of treating if he corruptly, by himself or by any other person, either before, during or after an election, directly or indirectly, gives or provides, or pays wholly or in part the expenses of giving or providing, any meat, drink, entertainment or provision to or for any person –

- (a) for the purpose of corruptly influencing that person or any other person to vote or refrain from voting; or
- (b) on account of that person or any other person having voted or refrained from voting, or being about to vote or refrain from voting.

Every elector or his proxy who corruptly accepts or takes any such meat, drink, entertainment or provision is guilty of treating.⁶¹

8.02 Undue Influence

A person is guilty of a corrupt practice if he is guilty of undue influence.

A person is guilty of undue influence –

- (a) if he, directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of any force, violence or restraint, or inflicts or threatens to inflict, by himself or by any other person on his behalf, any temporal or spiritual injury, damage, harm or loss upon or against any person in order to induce or compel that person to vote or refrain from voting or on account of that person having voted or refrained from voting; or
- (b) if, by abduction, duress or any fraudulent device or contrivance, he impedes, or prevents the free exercise of the franchise of an elector or proxy for an elector, or so induces or prevails upon an elector or proxy for an elector either to vote or to refrain from voting.⁶²

8.03 Bribery

A person is guilty of a corrupt practice if he is guilty of bribery.

A person is guilty of bribery if he, directly or indirectly, by himself or by any other person on his behalf –

- (a) gives any money or procures any office to or for any voter or to or for any other person on behalf of any voter or to or for any other person in order to induce any voter to vote or refrain from voting, or
- (b) corruptly does any such act as mentioned above on account of any voter having voted or refrained from voting, or
- (c) makes any such gift or procurement as mentioned above to or for any person in order to induce that person to procure, or endeavour to procure, the return of any person at an election or the vote of any voter,

or if upon or in consequence of any such gift or procurement as mentioned above he procures or engages, promises or endeavours to procure the return of any person at an election or the vote of any voter.

A person is guilty of bribery if he advances or pays or causes to be paid any money to or for the use of any other person with the intent that that money or any part of it shall be expended in bribery at any election or knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election.

A person is guilty of bribery if before or during an election he directly or indirectly by himself or by any other person on his behalf receives, agrees, or contracts for any money, gift, loan or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting.⁶³

8.04 Personation

A person is guilty of a corrupt practice if he commits, or aids, abets, counsels or procures the commission of, the offence of personation.

A person is guilty of personation at a parliamentary election if he –

- (a) votes in person or by post as some other person, whether as an elector or as proxy, and whether that other person is living or dead or is a fictitious person; or
- (b) votes in person or as proxy –
 - (i) for a person whom he knows or has reasonable grounds for supposing to be dead or to be a fictitious person; or
 - (ii) when he knows or has reasonable grounds for supposing that his appointment as proxy is no longer in force.⁶⁴

8.05 False Declaration

If a candidate or election agent knowingly makes a false declaration (under section 82 of RPA 1983) he is guilty of a corrupt practice.

8.06 Unauthorised Expenses

If a person –

- (a) incurs, aids, abets, counsels or procures any other person to incur, any expenses in contravention of section 75 of RPA 1983, or
- (b) knowingly makes a false declaration under the said section of the Act, that person is guilty of a corrupt practice.

8.07 Punishment for Corrupt Practices

A corrupt practice may be tried as a summary or indictable offence. A person convicted on indictment of a corrupt practice (other than personation which may attract a two year sentence) is liable to imprisonment for up to a year or to an unlimited fine, or both. On summary conviction of a corrupt practice a person is liable to six months imprisonment or to a fine or both.

A candidate at a parliamentary election reported by an election court personally guilty of a corrupt practice is incapable of being elected to and sitting in the House of Commons for the constituency for which the election was held, or any constituency including the whole or any part of that area as constituted for the election, for ten years from the date of the report. If so reported by his agents of a corrupt practice the period of incapacity is seven years.

A candidate or any other person reported by an election court personally guilty of a corrupt practice is incapable of being registered as an elector for five years from the date of the report. He is also barred from voting at any parliamentary election or from being elected to and sitting in the House of Commons and of holding any public or judicial office for the same period. If he is already elected or holding any office it is vacated from the date of the report.⁶⁵

8.08 Illegal Practices

8.08.1 Illegal Payments (under the RPA 1983)

Any person who knowingly makes payment or contract for payment for the purpose of promoting or procuring the election of a candidate at an election to an elector or his proxy on account of the exhibition of, or the use of any house, land, building or premises for the exhibition of any address, bill or notice, is guilty of an illegal practice, unless –

- (a) it is the ordinary business of the elector or proxy as an advertising agent to exhibit for payment bills and advertisement; and
- (b) the payment or contract is made in the ordinary course of that business (section 109).

Where a person knowingly provides money –

- (a) for any payment which is contrary to the provisions of the RPA 1983, or

-
- (b) for any expenses incurred in excess of the maximum amount allowed under the Act,
or
(c) for replacing any money expended in any such payment or expenses,
that person is guilty of an illegal payment (section 112).

To knowingly make any payment or contract for payment either before, during or after an election, for the purpose of promoting or procuring the election of a candidate on account of the conveyance of electors or their proxies to or from the poll, whether for hire of carriages, or for railway fares, or otherwise –

- (a) the person making the payment or contract, and
(b) if he knows it to be in contravention of the RPA 1983, any person receiving the payment or being a party to the contract,
is guilty of an illegal practice (section 102).

A person who corruptly induces or procures any other person to withdraw from being a candidate at an election, in consideration of any payment or promise of payment, and any person withdrawing in pursuance of the inducement or procurement, is guilty of an illegal payment (section 107).

8.08.2 Illegal Employment

If a person is, either before, during or after an election, engaged or employed for payment or promise of payment as a canvasser for the purpose of promoting or procuring a candidate's election –

- (a) the person so engaging or employing him, and
(b) the person so engaged or employed,
is guilty of illegal employment (section 111).

8.08.3 Illegal Hiring

If a person –

- (a) hires or uses any premises to which this section applies, or any part of them, for a committee room for the purpose of promoting or procuring the election of a candidate, or
(b) lets any premises or any part of them knowing that it was intended to use them or that part as a committee room,
he is guilty of illegal hiring (section 108).

8.08.4 Improper Conduct of Campaign

It is an illegal practice to knowingly publish either before or during an election a false statement, of a candidate's withdrawal at the election for the purpose of promoting or procuring the election of another candidate (section 106(5)).

A person who, or any director of any body or association corporate which –

- (a) before or during an election,
- (b) for the purpose of affecting the return of any candidate at the election, makes or publishes any false statement of fact in relation to the candidate's personal character or conduct is guilty of an illegal practice, unless he can show that he had reasonable grounds for believing, and did believe, the statement to be true (section 106(1)).

It is an illegal practice for any person, with interests to influence persons to give or refrain from giving their votes at a parliamentary election, to use, or aid, abet, counsel or procure the use of, any television or other wireless transmitting station outside the United Kingdom for the transmission of any matter having reference to the election otherwise than in pursuance of –

- (a) arrangements made with the British Broadcasting Corporation for it to be received and re-transmitted by that Corporation, or
- (b) arrangements made with the Independent Broadcasting Authority or a programme contractor (within the meaning of the Broadcasting Act 1981) for it to be received by the Authority or contractor and re-transmitted by the Authority (section 92).

It is an illegal practice under section 97 of the RPA 1983 for a person at a lawful public meeting to which the section applies to act, or incite others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called.

It is an illegal practice for any person, for the purpose of promoting or procuring the election of a candidate at a parliamentary election, to issue any poll card or document so closely resembling an official poll card as to be calculated to deceive (section 94).

8.08.5 Voting Offences

A person is guilty of an offence if –

- (a) he votes in person or by post, whether as an elector or as proxy, or applies to vote by proxy or by post as an elector at a parliamentary election knowing that he is subject to a legal incapacity to vote at the election, or
- (b) he applies for the appointment of a proxy to vote for him at any parliamentary election knowing that he or the person to be appointed is subject to a legal incapacity to vote at the election, or
- (c) he votes, whether in person or by post, as proxy for some other person at a parliamentary election, knowing that that person is subject to a legal incapacity to vote.⁶⁶

8.08.6 Punishment for Illegal Practice

A person who is guilty of an illegal practice is liable to a fine. On report by an election court that a candidate is personally guilty or guilty by his agents of an illegal practice at a parliamentary election, his election is void.

A candidate at a parliamentary election who is reported guilty of an illegal practice by his agents is incapable from the date of the report of being elected to and sitting in the House of Commons for the constituency for which the election was held or any constituency which includes the whole or part of the area of the first-mentioned constituency as constituted for the purposes of the election during the Parliament for which the election was held.⁶⁷

A candidate or other person reported by an election court personally guilty of an illegal practice or convicted of an illegal practice is, for five years from the date of the report or conviction, incapable of being registered as an elector or voting at any parliamentary election or at any election to public office held within the constituency for which the election was held when the offence was committed.⁶⁸

If an elected candidate is reported by an election court personally guilty or guilty by his agents of any illegal practice his election is void.

— Section 9 —

OTHER ELECTION OFFENCES

9.01 Election Literature

It is an offence for any person to print, publish or cause to be printed or published, any bill, placard or poster for the purpose of promoting or procuring the election of a candidate, unless the bill, placard, poster or document bears upon its face the name and address of the printer and publisher. Distributing, posting of such bill, placard, or poster is also an offence.⁶⁹

9.02 Tampering with Nomination Papers, etc

A person is guilty of an offence, if at a parliamentary election, he –

- (a) fraudulently defaces or fraudulently destroys any nomination paper; or
- (b) fraudulently defaces or fraudulently destroys any ballot paper, or the official mark on any ballot paper, or any declaration of identity or official envelope used in connection with voting by post; or
- (c) without due authority supplies any ballot paper to any person; or
- (d) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorised by law to put in; or
- (e) fraudulently takes out of the polling station any ballot paper; or
- (f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election; or
- (g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts.

In Scotland, a person is guilty of an offence if –

- (a) at a parliamentary election, he forges any nomination paper, delivers to the returning officer any nomination paper knowing it to be forged, or forges or counterfeits any ballot paper or the official mark on any ballot paper; or
- (b) he fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts.⁷⁰

9.03 Breaches of Secrecy

The following persons –

- (a) every returning officer and every presiding officer or clerk attending at a polling station,
 - (b) every candidate or election agent or polling agent so attending,
- shall maintain and aid in maintaining the secrecy of voting and must not, except where authorised by law, communicate to any person before the poll is closed any information as to –
- (i) the name of any elector or proxy for an elector who has or has not applied for a ballot paper or voted at a polling station;
 - (ii) the number on the register of electors of any elector who, or whose proxy, has or has not applied for a ballot paper or voted at a polling station; or
 - (iii) the official mark.

Every person attending at the counting of the votes must maintain and aid in maintaining the secrecy of voting and must not –

- (a) ascertain or attempt to ascertain at the counting of the votes the number on the back of any ballot paper;
- (b) communicate any information obtained at the counting of the votes as to the candidate for whom any vote is given on any particular ballot paper.

No person shall –

- (a) interfere with or attempt to interfere with a voter when recording his vote;
- (b) otherwise obtain or attempt to obtain in a polling station information as to the candidate for whom a voter in that station is about to vote or has voted;
- (c) communicate at any time to any person information obtained in a polling station as to the candidate for whom a voter in the station is about to vote or as to the number on the back of the ballot paper given to a voter at that station;
- (d) directly or indirectly induce a voter to display his ballot paper after he has marked it so as to make known to any person the name of the candidate for whom he has or has not voted.

Every person attending the proceedings in connection with the issue or the receipt of ballot papers for persons voting by post must maintain and aid in maintaining the secrecy of the voting and shall not –

- (a) except for some purpose authorised by law, communicate, before the poll is closed, to any person any information obtained at those proceedings as to the official mark; or
- (b) except for some purpose authorised by law, communicate, to any person at any time any information obtained at those proceedings as to the number on the back of the ballot paper sent to any person; or
- (c) except for some purpose authorised by law, attempt to ascertain at the proceedings in connection with the receipt of ballot papers the number on the back of any ballot paper; or
- (d) attempt to ascertain at the proceedings in connection with the receipt of the ballot paper the candidate for whom any vote is given in any particular ballot paper or communicate any information with respect thereto obtained at those proceedings.

No person who undertakes to assist a blind voter to vote shall communicate at any time to any person any information as to the candidate for whom that voter intends to vote or has voted, or as to the number on the back of the ballot paper given for the use of the voter.

Any person who acts in contravention of these provisions is guilty of an offence.⁷¹

9.04 Offences as to Declarations

A person who –

- (a) makes a patient's declaration or a service declaration –
 - (i) when he is not authorised to do so, or
 - (ii) except as permitted by the RPA 1983, when he knows that he is subject to a legal incapacity to vote, or
 - (iii) when he knows that it contains a statement which is false, or
- (b) attests a patient's declaration or a service declaration, when he knows –
 - (i) that he is not authorised to do so, or
 - (ii) that it contains a false statement as to any particulars,

is guilty of an offence.⁷²

9.05 False Information

Regulation 29 (which deals with registration) of RPR 1986 makes it an offence to give false information to a registration officer.

9.06 Interference with Notices, etc

Any person, who without lawful authority destroys, mutilates, defaces or removes any notice published by the registration officer in connection with registration duties, commits an offence.⁷³

There is liability on summary conviction to a fine of £400.

9.07 Breach of Official Duty

A person who commits a breach of official duties in relation to parliamentary elections is guilty of an offence.

The persons to whom this provision applies are –

- (a) the Clerk of the Crown,
- (b) any sheriff, clerk, registration officer, returning officer or presiding officer,
- (c) any postmaster, and
- (d) any deputy of a person mentioned above.⁷⁴

9.08 Acting for Candidate

If –

- (a) any returning officer at a parliamentary election,
 - (b) any officer or clerk appointed under the parliamentary election rules, or
 - (c) any partner or clerk of any such person,
- acts as a candidate's agent in the conduct or management of the election he is guilty of an offence.⁷⁵

9.09 Illegal Canvassing

Any member of a police force, who by word, message, writing or in any manner, endeavours to persuade any person to give or dissuade any person from giving, his vote, whether as an elector or as proxy at any parliamentary election for a constituency wholly or partly within the police area, is guilty of an offence.⁷⁶

9.10 Candidate Sitting or Voting Without Transmittal of Return or Declarations

Any candidate who, without transmitting the return and declarations as to election expenses within the stipulated time limit, sits or votes in the House of Commons as member for the constituency for which the election was held, is guilty of an offence and is liable to forfeit £100 for every day on which he so sits or votes.⁷⁷

9.11 Corrupt Withdrawal of Election Petition

If a person makes any agreement or terms, or enters into any undertaking, in relation to the withdrawal of any election petition, and such agreement, terms or undertaking –

- (a) is or are for the withdrawal of the election petition in consideration of any payment, or in consideration that the seat or office should at any time be vacated, or in consideration of the withdrawal of any other election petition, or
 - (b) is or are (whether lawful or unlawfully) not mentioned in the affidavits,
- that person is liable, on conviction on indictment, to imprisonment for a term of up to a year or to a fine or both; on conviction on summary offence to imprisonment for up to six months or to a fine or both.⁷⁸

NOTES

1. Representation of the People Act (RPA) 1983, see section 201
2. *Ibid.*, see section 24
3. *Ibid.*, see section 25
4. *Ibid.*, see section 26
5. *Ibid.*, see section 27
6. *Ibid.*, see section 28
7. *Ibid.*, see section 28
8. See section 28 of RPA 1983 and paragraph 6(b) of Schedule 4 of RPA 1985
9. Section 28 of RPA 1983 as amended by 6(b) of Schedule 4, RPA 1985
10. RPA 1983, see section 25
11. See rule 26 of the Parliamentary Election Rules, Schedule 1 of RPA 1983
12. RPA 1983, see section 29(3)
13. The Returning Officers' Charges Order came into force on 8 April 1994
14. RPA 1983, see section 29(7)
15. Parliamentary Constituencies Act (PCA) 1986, see section 2
16. See Schedule 1 to PCA 1986
17. Boundary Commission Act 1992, see section 2(2)
18. *Ibid.*, see section 2(3)
19. See Schedule 2 to PCA 1986
20. PCA 1986, see sections 5 and 6
21. RPA 1983, see section 1
22. *Ibid.*, see section 12
23. *Ibid.*, see section 8
24. *Ibid.*, see sections 14-17
25. See section 1 of RPA 1985 and 1989
26. RPA 1985, see section 2
27. Representation of the People Regulations (RPR) 1986, see regulations 31-37
28. *Ibid.*, see regulations 38-41
29. See section 56 of RPA 1983 and regulations 42-44 of RPR 1986
30. RPR 1986, see regulations 47-51
31. *Ibid.*, see regulations 53-55
32. *Ibid.*, see regulations 57-62
33. RPA 1985, see sections 6 and 7
34. See Schedule 1, rule 3 and Appendix of RPA 1983
35. Rule 3 – Schedule 1, RPA 1983
36. Rule 5 – Schedule 1, RPA 1983
37. See rules 6-12 of Parliamentary Election Rules (PER), Schedule 1 of RPA 1983
38. PER 1983, see rules 18-29
39. *Ibid.*, see rule 30
40. *Ibid.*, see rules 32-35
41. *Ibid.*, see rules 36-37
42. *Ibid.*, see rules 38-39
43. *Ibid.*, see rules 40-41
44. *Ibid.*, see rule 43
45. *Ibid.*, see rules 44-49
46. *Ibid.*, see rules 50-52
47. *Ibid.*, see rule 53
48. *Ibid.*, see rules 54-57
49. RPA 1983, see sections 120-122
50. *Ibid.*, see section 136
51. *Ibid.*, see sections 137-143
52. *Ibid.*, see section 144
53. *Ibid.*, see sections 147-153
54. *Ibid.*, see section 154
55. *Ibid.*, see sections 72-73
56. *Ibid.*, see sections 74-75
57. See section 76 of RPA 1983 and the Representation of the People (Variation of Limits of Candidates' Election Expenses) Order 1994
58. RPA 1983, see sections 81-82
59. *Ibid.*, see sections 84-89
60. *Ibid.*, see section 91
61. *Ibid.*, see section 114
62. *Ibid.*, see section 115
63. *Ibid.*, see section 113
64. *Ibid.*, see section 60
65. *Ibid.*, see sections 159, 160 and 168
66. *Ibid.*, see section 61
67. *Ibid.*, see section 159
68. *Ibid.*, see section 160(5)
69. *Ibid.*, see section 110
70. *Ibid.*, see section 65
71. *Ibid.*, see section 66
72. *Ibid.*, see section 62
73. RPR 1986, see regulation 13
74. RPA 1983, see section 63
75. *Ibid.*, see section 99
76. *Ibid.*, see section 100
77. *Ibid.*, see section 85
78. *Ibid.*, see section 149