
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 2(2) of the European Communities Act 1972 and are expressed to come into force on the day after the day on which they are made, subject to special provisions in respect of registration in 1994. They contain provisions extending the franchise at European Parliamentary elections and also amend paragraph 5 of Schedule 1 to the European Parliamentary Elections Act 1978 (“the Act of 1978”) and various sets of regulations made under the Representation of the People Acts for the purpose of implementing article 8b.2 of the Treaty establishing the European Community (as amended by Title II of the Treaty on European Union) and the requirements of the directive of the Council of the European Communities No. [93/109/EC](#). References in this note to articles are to articles of the Directive.

Regulation 3(1) makes an amendment to the said paragraph 5 to implement article 6.1 so that a relevant citizen of the Union who is disqualified for the office of representative to the European Parliament under the law of the Member State of which he is a national through a criminal law or civil law decision is also disqualified for that office under paragraph 5. In this note “relevant citizen of the Union” means a national of a Member State who is not a Commonwealth citizen or citizen of the Republic of Ireland.

Regulation 3(2) makes an amendment to the said paragraph 5 to implement article 3 (and article 8b.2 of the Treaty establishing the European Community) by removing the current disqualification for the office of representative that applies to those relevant citizens of the Union who were born outside the United Kingdom and its dominions or the Republic of Ireland. Having regard to article 8b.2 of the Treaty and article 1.1 of, and the definition of “Member State of residence” in article 2 of, the Directive, the removal of the disqualification is limited to those relevant citizens of the Union resident in the United Kingdom.

Regulation 4 creates an offence of standing as a candidate at the same elections to the European Parliament in a Member State in addition to the United Kingdom thereby implementing the requirements of articles 4.2 and 13. *Regulations 5(3) and 6(3)* make consequential amendments.

Regulations 5(4) and 6(4) amend rule 8 (consent to nomination) of the parliamentary elections rules in Schedule 1 to the Representation of the People Act 1983 (“the Act of 1983”) as applied for the purposes of European Parliamentary elections by the European Parliamentary Elections Regulations 1986 (“the European Regulations”) and the European Parliamentary Elections (Northern Ireland) Regulations 1986 (“the European (Northern Ireland) Regulations”), respectively, to give effect to articles 6.2, 10.1, 10.2 and 13. By virtue of the amendments, relevant citizens of the Union who stand as candidates at European Parliamentary elections are required to deliver a declaration and certificate in addition to the existing requirement in respect of the consent to nomination and returning officers are required to send copies of the declarations to the Secretary of State. In order to give effect to the definition of “formal declaration” in article 2(9), the amendments made by *regulations 5(2) and 6(2)* make false statements in a declaration an offence.

Regulation 7 extends the franchise at European Parliamentary elections to relevant citizens of the Union resident in the United Kingdom and thereby implements article 3 (and article 8b.2 of the Treaty establishing the European Community). The existing franchise at European Parliamentary elections is set out in paragraph 2(1) of Schedule 1 to the Act of 1978 (which rests on entitlement to vote at parliamentary or, in the case of peers, local government elections) and section 3 of the Representation of the People Act 1985 (which, in subsection (2), allows a peer who is not resident in the United Kingdom to vote at European Parliamentary elections, subject to satisfying the conditions

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in and under that section). *Regulation 7(2)* is justified by the last sentence of article 5. The definition of “legal incapacity” in *regulation 7(3)* attracts provisions such as section 3 of the Act of 1983 (disfranchisement of offenders in prison etc.) thereby treating relevant citizens of the Union in the same way as existing electors.

Regulation 8 ensures that the registration officer who is responsible in a local government area for the registration of existing electors is also the registration officer in that area for the registration of relevant citizens of the Union. It also applies certain provisions of the Act of 1983 for this purpose.

Regulation 9 provides for the registration of relevant citizens of the Union and, in accordance with article 9.1 and the definition of “electoral roll” in article 2(7), *regulation 9(2)* requires the register of those citizens to be combined, so far as practicable, with registers of existing electors. *Regulation 9(4)* applies various provisions in the Act of 1983 for these purposes, including provisions about appeals to the courts in respect of decisions about registration, thereby giving effect to article 11.2.

Regulation 10 confers on relevant citizens of the Union the right to be registered. In order to give effect to article 9.2 this right can only be exercised on production of an application and declaration setting out the matters specified in *regulation 10(2) and (3)*. The effect of *regulation 10(4) and (6)* is that, in the case of a relevant citizen of the Union who has a service qualification under *regulation 13(1)* or who is a voluntary mental patient within the meaning of section 7(2) of the Act of 1983, as applied by *regulation 14(1)*, a service declaration or patient’s declaration, respectively, is required (except where *regulation 10(4)* applies) in addition to the application and declaration required by *regulation 10(2) and (3)*.

Regulation 11 makes a false statement in the application and declaration required by *regulation 10(2) and (3)* punishable on summary conviction by a fine not exceeding level 3 on the standard scale (which is the same punishment as for false information provided in response to requests from registration officers in connection with the registration of existing electors). This gives effect to the requirement which applies by virtue of the definition of “formal declaration” in article 2(9).

Regulation 12 requires copies of the applications and declarations required by *regulation 10(2) and (3)* to be sent to the Secretary of State in years when the register to which the applications and declarations relate will be used for a European Parliamentary general election. This is to enable the United Kingdom to discharge its obligations under article 13.

Regulations 15 and 16 amend the European Regulations and the European (Northern Ireland) Regulations, respectively, to take account of the changes to the franchise. Those sets of Regulations provide for the conduct of European Parliamentary elections in Great Britain and Northern Ireland, respectively. In particular, *regulations 15(1) and 16(1)* amend the definitions of “elector” and “register” in those sets of Regulations so that the expressions include relevant citizens of the Union registered under these Regulations. *Regulation 16(4)* amends the list of specified documents as it applies in respect of European Parliamentary elections to allow the passport of any Member State to be produced at a polling station in Northern Ireland so that a ballot paper may be delivered to the voters.

Regulation 17 and the Schedule amend the Representation of the People Regulations 1986, the Representation of the People (Scotland) Regulations 1986 and the Representation of the People (Northern Ireland) Regulations 1986 so that Parts I (general), II (so far as relevant, service and patient’s declarations) and III (registration) of each set of Regulations apply, so far as relevant, to the registration of relevant citizens of the Union as they apply to the registration of existing electors but subject to the amendments set out in the Schedule to these Regulations.

Regulation 18 modifies the provisions about registration for the purposes of the register of relevant citizens of the Union which is to be compiled in 1994 only and which that regulation requires to be published by 9th May 1994. The need for such a provision is recognised by article 15.2. It arises because registers of electors in the United Kingdom are ordinarily required to be published by 15th February in any year and, accordingly, the registers to be used at the European Parliamentary general election in June 1994 would not otherwise include those persons entitled to be registered under these Regulations.