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STATUTORY INSTRUMENTS

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**2007 No. 236**

The National Assembly for Wales  
(Representation of the People) Order 2007

PART 2

**Assembly franchise and its exercise**

**Voting at Assembly elections**

3. At an Assembly general election, both constituency and electoral region votes shall be given in an Assembly constituency<sup>(1)</sup>.

**Registers of electors etc**

4. An alteration in a published version of a register of electors under section 13A or 56 of the 1983 Act (alteration of registers and registration appeals) shall not have effect for the purposes of an Assembly election if it is to take effect after the fifth day before the date of the poll.

**Registration appeals**

5.—(1) Subject to giving notice of the appeal in accordance with paragraph 9(1) of Schedule 1, an appeal from any decision under this Order of the registration officer disallowing a person's application to vote—

- (a) by proxy or by post as elector; or
- (b) by post as proxy,

lies to the county court in any case where the application is not made for a particular Assembly election only.

(2) No appeal lies from the decision of the Court of Appeal on appeal from a decision of the county court under this article.

(3) An appeal to the county court or Court of Appeal by virtue of this article or section 56 of the 1983 Act which is pending when notice of an Assembly election is given shall not prejudice the operation as respects the Assembly election of the decision appealed against, and anything done in pursuance of the decision shall be as good as if no such appeal had been brought and shall not be affected by the decision of the appeal.

(4) Notice shall be sent to the registration officer in the manner provided by rules of court of the decision of the county court or of the Court of Appeal on any appeal by virtue of this article, and the registration officer shall make such alterations in the—

- (a) record kept under article 8(3); or
- (b) record kept under article 12(6),

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(1) Section 6 of the Government of Wales Act 2006 (c. 32).

as may be required to give effect to the decision.

(5) Where, as a result of the decision on an appeal by virtue of this article or section 56 of the 1983 Act, an alteration in the register or record takes effect on or before the date of the poll, paragraph (3) shall not apply to that appeal as respects that Assembly election.

(6) The registration officer shall on an appeal brought under this article be deemed to be a party to the proceedings, and the registration expenses payable to a registration officer shall include any expenses properly incurred by him by virtue of this paragraph.

(7) CCR Order 45, rule 2 of the Civil Procedure Rules 1998(2) (appeal from decision of registration officer) shall have effect in relation to appeals under this article subject to the following modifications—

(a) in rule 2(1), “regulations made under section 53 of the said Act of 1983”; and

(b) in rule 2(4)(a), “to the regulations mentioned in paragraph (1)”,

shall be construed as including a reference to paragraph 9 of Schedule 1.

### **Polling districts and places at Assembly elections**

6.—(1) For the purpose of Assembly elections every Assembly constituency shall be divided into polling districts and there shall be a polling place for each polling district unless the size or other circumstances of a polling district are such that the situation of the polling stations does not materially affect the convenience of the electors or any body of them.

(2) The polling districts and polling places for the purpose of Assembly elections shall be the districts and places designated for parliamentary elections.

(3) An election shall not be questioned by reason of—

(a) any non-compliance with the provisions of this article; or

(b) any irregularity relating to polling districts or polling places.

### **Manner of voting at Assembly elections**

7.—(1) This article applies to determine the manner of voting of a person entitled to vote as an elector at an Assembly election.

(2) He may vote in person at the polling station allotted to him under this Order, unless he is entitled as an elector to an absent vote at the Assembly election.

(3) He may vote by post if he is entitled as an elector to vote by post at the Assembly election.

(4) If he is entitled to vote by proxy at the Assembly election, he may so vote unless, before a ballot paper has been issued for him to vote by proxy, he applies at the polling station allotted to him under this Order for a ballot paper for the purpose of voting in person, in which case he may vote in person there.

(5) If he is not entitled as an elector to an absent vote at an Assembly election but cannot reasonably be expected to go in person to the polling station allotted to him under this Order by reason of the particular circumstances of his employment—

(a) as a constable;

(b) by a constituency returning officer, in the case of a constituency election;

(c) by a regional returning officer, in the case of a regional election; or

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(2) see Part 50 of and Schedule 2 to the Civil Procedure Rules (S.I. 1998/31320(L.17)). There are amendments to those rules that are not relevant to this Order.

(d) by a constituency returning officer, in the case of a regional election where that officer is exercising functions in relation to the election, on the date of the poll for a purpose connected with the election (subject to paragraph (7)), he may vote in person at any polling station in an Assembly constituency as set out in paragraph (6).

(6) A person to whom paragraph (5) applies may vote in person at a polling station in the Assembly constituency —

- (a) for which the election is being held, in the case of a constituency election; or
- (b) in which he is entitled to give his vote, in the case of a regional election.

(7) Where the polls at a constituency election and a regional election are to be taken together and a person is employed at those elections for a purpose connected with only one of those two elections at which he is entitled to give a vote, he shall be treated for the purposes of paragraph (5) as employed for a purpose connected with both elections; provided that, if a person is so treated, in exercising the right conferred by paragraph (5) those votes shall be given at the same polling station.

(8) Nothing in the preceding provisions of this article applies to a person to whom section 7 of the 1983 Act (mental patients who are not detained offenders) applies and who is liable, by virtue of any enactment, to be detained in the mental hospital in question, whether he is registered by virtue of that provision or not; and such a person may vote—

- (a) in person (where he is granted permission to be absent from the hospital and voting in person does not breach any condition attached to that permission); or
- (b) by post or by proxy (where he is entitled as an elector to vote by post or, as the case may be, by proxy at the election).

(9) Nothing in the preceding provisions of this article applies to a person to whom section 7A of the 1983 Act (persons remanded in custody) applies whether he is registered by virtue of that provision or not; and such a person may only vote by post or by proxy (where he is entitled as an elector to vote by post or, as the case may be, by proxy at the election).

(10) For the purposes of this Order a person entitled to vote as an elector at an Assembly election is entitled to vote by post or entitled to vote by proxy at the election if paragraph (11) or (12) (as the case may be) applies to him in relation to the election.

(11) This paragraph applies to a person who is shown in the postal voters list mentioned in article 10(2) as entitled to vote by post at an election.

(12) This paragraph applies to a person who is shown in the list of proxies mentioned in article 10(3) as entitled to vote by proxy at an election.

(13) Paragraph (2) does not prevent a person, at the polling station allotted to him, marking a tendered ballot paper in pursuance of rule 49(4) or (6) of Schedule 5.

### **Absent vote at Assembly elections for a particular or an indefinite period**

**8.—**(1) Where a person applies to the registration officer to vote by post, or to vote by proxy, at Assembly elections (whether for an indefinite period or for a particular period specified in his application), the registration officer shall grant the application if—

- (a) in the case of an application to vote by proxy, he is satisfied that the applicant is eligible to vote by proxy at Assembly elections;
- (b) he is satisfied that the applicant is or will be registered in the register; and
- (c) the application contains the applicant's signature and date of birth and meets the requirements set out in Schedule 1.

(2) For the purposes of this article, a person is eligible to vote by proxy at Assembly elections if—

- (a) he is or will be registered as a service voter;

- (b) he has an anonymous entry in the register of electors for the election;
  - (c) he cannot reasonably be expected—
    - (i) to go in person to the polling station allotted or likely to be allotted to him under this Order; or
    - (ii) to vote unaided there,  
by reason of blindness or other disability;
  - (d) 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 civil partner, or by reason of his attendance on a course provided by an educational institution or that of his spouse or civil partner; or
  - (e) he cannot go in person from his qualifying address to that polling station without making a journey by air or sea.
- (3) The registration officer shall keep a record of those whose applications under this article have been granted showing whether their applications were to vote by post or proxy for an indefinite or a particular period and specifying that period.
- (4) The record kept under paragraph (3) shall also show—
- (a) 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
  - (b) in the case of those who may vote by proxy, the names and addresses of those appointed as their proxies.
- (5) The registration officer shall remove a person from the record kept under paragraph (3)—
- (a) if he applies to the registration officer to be removed;
  - (b) in the case of a person who is eligible to vote by proxy by virtue of having an anonymous entry, if he ceases to have an anonymous entry;
  - (c) in the case of any registered person, if he ceases to be registered or registered at the same qualifying address or ceases to be, or becomes, registered in pursuance of—
    - (i) a service declaration; or
    - (ii) a declaration of local connection;
  - (d) in the case of any person shown in the record as voting by proxy, if the registration officer gives notice that he has reason to believe there has been a material change of circumstances; or
  - (e) in the case of a person who applied to vote by post or proxy for a particular period, once that period has expired.
- (6) A person shown in the record kept under paragraph (3) as voting by post may subsequently alter his choice by applying to the registration officer to vote by proxy instead (whether for an indefinite period or for a particular period specified in his application); and if the registration officer would be required to grant that application if it were an application to vote by proxy under paragraph (1), the registration officer shall amend the record accordingly.
- (7) A person shown in the record kept under paragraph (3) as voting by proxy may subsequently alter his choice by applying to the registration officer to vote by post instead (whether for an indefinite period or for a particular period specified in his application); and if the application meets the requirements of Schedule 1, the registration officer shall amend the record accordingly.
- (8) The registration officer may dispense with the requirement under paragraph (1)(c) for the applicant to provide a signature if he is satisfied that the applicant is unable—
- (a) to provide a signature because of any disability the applicant has; or

- (b) to provide a signature because the applicant is unable to read or write; or
- (c) to sign in a consistent and distinctive way because of any such disability or inability.

(9) The registration officer shall also keep a record in relation to those whose applications under this article have been granted showing—

- (a) their dates of birth; and
- (b) except in cases where the registration officer in pursuance of paragraph (8) has dispensed with the requirement to provide a signature, their signatures.

(10) The record kept under paragraph (9) must be retained by the registration officer for the period prescribed in paragraph 2 of Schedule 1.

### **Absent vote at a particular Assembly election**

9.—(1) Where a person applies to the registration officer to vote by post, or to vote by proxy, at a particular Assembly election, the registration officer shall grant the application if—

- (a) he is satisfied in the case of an application to vote by proxy, 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 under this Order;
- (b) he is satisfied that the applicant is or will be registered in the register; and
- (c) the application contains the applicant's signature and date of birth and meets the requirements set out in Schedule 1.

(2) Where a person who has an anonymous entry in the register applies to the registration officer to vote by proxy at a particular Assembly election, the registration officer shall grant the application if it meets the requirements set out in Schedule 1.

(3) Paragraph (1) does not apply to a person who is included in the record kept under article 8 but such a person may, in respect of a particular Assembly election, apply to the registration officer—

- (a) for his ballot paper to be sent to a different address from that shown in the record; or
- (b) to vote by proxy,

if he is shown in the record as voting by post at Assembly elections.

(4) The registration officer shall grant an application under paragraph (3) if—

- (a) in the case of any application, it meets the requirements set out in Schedule 1; and
- (b) in the case of an application to vote by proxy, 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 under this Order.

(5) The registration officer may dispense with the requirement under paragraph (1)(c) for the applicant to provide a signature if he is satisfied that the applicant is unable—

- (a) to provide a signature because of any disability the applicant has; or
- (b) to provide a signature because the applicant is unable to read or write; or
- (c) to sign in a consistent and distinctive way because of any such disability or inability.

(6) The registration officer shall also keep a record in relation to those whose applications under this article have been granted showing—

- (a) their dates of birth; and
- (b) except in cases where the registration officer in pursuance of paragraph (5) has dispensed with the requirement to provide a signature, their signatures.

(7) The record kept under paragraph (6) must be retained by the registration officer for the period prescribed in paragraph 2 of Schedule 1.

(8) For the purposes of this article, articles 11 and 12 and Schedule 1, “particular election”, shall, where a person (whether as elector or as proxy) is entitled to give two votes, refer to both elections at which he is entitled to so vote; and references to an absent vote at a particular Assembly election shall be construed accordingly.

### **Absent voters lists at Assembly elections**

**10.**—(1) The registration officer shall, in respect of each Assembly election, keep the two special lists mentioned in paragraphs (2) and (3).

(2) The first of those lists (“the postal voters list”) is a list of—

- (a) those who are for the time being shown in the record kept under article 8 as voting by post at Assembly elections (excluding those so shown whose applications under article 9(3)(b) to vote by proxy at the election, have been granted) together with the addresses provided by them in their application under article 8 or 9(3)(a) as the addresses to which their ballot papers are to be sent; and
- (b) those whose applications under article 9(1) to vote by post at the election have been granted, together with the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent.

(3) The second list is a list (“the list of proxies”) of those who are for the time being shown in the record kept under article 8 as voting by proxy at Assembly elections or whose applications under article 9 to vote by proxy at the election have been granted, together with the names and addresses of those appointed as their proxies.

(4) In the case of a person who has an anonymous entry in the register the postal voters list or list of proxies (as the case may be) must show in relation to that person only—

- (a) his electoral number; and
- (b) the period for which the anonymous entry has effect.

(5) Where electors are entitled to give two votes, only one list shall be kept under each of paragraphs (2) and (3) and those lists shall have effect in relation to both elections.

### **Proxies at Assembly elections**

**11.**—(1) Subject to the provisions of this article, any person is capable of being appointed proxy to vote for another (in this article and article 12 referred to as “the elector”) at any Assembly election and may vote in pursuance of the appointment.

(2) The elector cannot have more than one person at a time appointed as proxy to vote for him at an Assembly election (whether in the same Assembly constituency or elsewhere).

(3) A person is not capable of being appointed to vote, or voting, as proxy at an Assembly election—

- (a) if he is subject to any legal incapacity (age apart) to vote at that election as an elector; or
- (b) if he is neither a qualifying Commonwealth citizen nor a citizen of the Republic of Ireland nor a relevant citizen of the Union.

(4) A person is not capable of voting as proxy at an Assembly election unless on the date of the poll he has attained the age of eighteen.

(5) A person is not entitled to vote as proxy—

- (a) in the case of an Assembly general election in the same Assembly constituency, or constituencies in the same electoral region;

(b) in the case of a constituency election other than at an Assembly general election, in the same constituency election;

(c) in a regional election,

on behalf of more than two persons of whom he is not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild.

(6) Where the elector applies to the registration officer for the appointment of a proxy to vote for him at Assembly elections (whether for an indefinite period or for a particular period specified in his application), the registration officer shall make the appointment if the application meets the requirements set out in Schedule 1 and he is satisfied that the elector is or will be—

(a) registered in the register; and

(b) shown in the record kept under article 8 as voting by proxy at such elections,

and that the proxy is capable of being and willing to be appointed to vote as proxy at such elections.

(7) Where the elector applies to the registration officer for the appointment of a proxy to vote for him at a particular Assembly election, the registration officer shall make the appointment if the application contains the signature and date of birth of the applicant and meets the requirements set out in Schedule 1 and he is satisfied that the elector is or will be—

(a) registered in the register for that election; and

(b) entitled to vote by proxy at that election by virtue of an application under article 9,

and that the proxy is capable of being, and willing to be, appointed.

(8) The appointment of a proxy under this article is to be made by means of a proxy paper issued by the registration officer.

(9) The appointment may be cancelled by the elector by giving notice to the registration officer and shall also cease to be in force on the issue of a proxy paper appointing a different person to vote for him at an Assembly election or Assembly elections (whether in the same Assembly constituency or elsewhere), and where the appointment was for a particular period, the appointment shall cease to be in force once that period expires.

(10) Subject to paragraph (9), the appointment shall remain in force—

(a) in the case of an appointment for a particular election, for that election; and

(b) in any other case, while the elector is shown as voting by proxy in the record kept under article 8 in pursuance of the same application under that article.

### **Voting as proxy at Assembly elections**

**12.—**(1) A person entitled to vote as proxy at an Assembly election may do so in person at the polling station allotted to the elector under this Order unless he is entitled to vote by post as proxy for the elector at the election, in which case he may vote by post.

(2) Where a person is entitled to vote by post as proxy for the elector at any Assembly election, the elector may not apply for a ballot paper for the purpose of voting in person at the election.

(3) For the purposes of this Order, a person entitled to vote as proxy for another at an Assembly election is entitled so to vote by post if he is included in the list kept under paragraph (8) in respect of the election.

(4) Where a person applies to the registration officer to vote by post—

(a) as proxy at Assembly elections (whether for an indefinite period or for a particular period specified in his application); or

(b) as proxy at a particular Assembly election,

the registration officer shall grant the application if the conditions set out in paragraph (5) are satisfied.

(5) Those conditions are—

- (a) that the registration officer is satisfied that the elector is or will be registered in the register; and
- (b) that there is in force an appointment of the applicant as the elector’s proxy to vote for him at Assembly elections or, as the case may be, the Assembly election concerned; and
- (c) that the application contains the applicant’s signature and date of birth and meets the requirements set out in Schedule 1.

(6) The registration officer shall keep a record of those whose applications under paragraph (4) (a) have been granted showing—

- (a) whether their applications were to vote by post as proxy for an indefinite or a particular period (specifying that period); and
- (b) the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent.

(7) Where, in the case of a particular election, a person included in the record kept under paragraph (6) applies to the registration officer for his ballot paper to be sent to a different address from that shown in the record, the registration officer shall grant the application if it meets the requirements set out in Schedule 1.

(8) The registration officer shall, in respect of each Assembly election, keep a special list (“the proxy postal voters list”) of—

- (a) those who are for the time being included in the record kept under paragraph (6), together with the addresses provided by them in their applications under paragraph (4)(a) or paragraph (7) as the addresses to which their ballot papers are to be sent; and
- (b) those whose applications under paragraph (4)(b) have been granted in respect of the election concerned, together with the addresses to which their ballot papers are to be sent,

provided that where the polls at a constituency election and at a regional election are to be taken together, only one list shall be kept under this paragraph and that list shall have effect in relation to both elections.

(9) In the case of a person who has an anonymous entry in the register the special list mentioned in paragraph (8) must contain only the person’s electoral number and the period for which the anonymous entry has effect.

(10) The registration officer shall remove a person from the record kept under paragraph (6)—

- (a) if he applies to the registration officer to be removed;
- (b) in the case of a person who applied to vote by post as proxy for a particular period, once that period expires;
- (c) if the elector ceases to be registered as mentioned in paragraph (5)(a); or
- (d) if the appointment of the person concerned as the elector’s proxy ceases to be in force (whether or not he is re-appointed).

(11) Paragraph (2) does not prevent a person, at the polling station allotted to him, marking a tendered ballot paper in pursuance of rule 49 (4) or (6) of Schedule 5.

(12) The registration officer may dispense with the requirement under paragraph (5)(c) for the applicant to provide a signature if he is satisfied that the applicant is unable—

- (a) to provide a signature because of any disability the applicant has; or
- (b) to provide a signature because the applicant is unable to read or write; or



(c) to sign in a consistent and distinctive way because of any such disability or inability.

(13) The registration officer shall also keep a record in relation to those whose applications under paragraph (4)(a) or (b) have been granted showing—

(a) their dates of birth; and

(b) except in cases where the registration officer in pursuance of paragraph (12) has dispensed with the requirement to provide a signature, their signatures.

(14) The record kept under paragraph (13) must be retained by the registration officer for the period prescribed in paragraph 2 of Schedule 1.

### **Electors' signatures and use of personal identifier information**

**13.**—(1) An application for an absent vote or postal proxy made in accordance with article 8, 9, 11 or 12 must comply with paragraph 1 of Schedule 1 (relating to personal identifiers).

(2) A registration officer shall comply with the transitional provisions of Schedule 2 in relation to a person who, on 1st February 2007 has an entry as an absent voter or postal proxy in his absent voting record.

(3) A person who remains on the record kept under article 8(3) or 12(6) may, at any time, provide the registration officer with a fresh signature.

(4) Anything required or authorised to be done for the purposes of any enactment in relation to a signature required to be provided in pursuance of the absent vote provisions of this Order must be done in relation to a signature provided as mentioned in paragraph (3) instead of in relation to a signature provided on any earlier occasion.

(5) The registration officer shall either—

(a) provide the constituency returning officer for an Assembly election with a copy of the information contained in records kept by the registration officer in pursuance of articles 8(9), 9(6) and 12(13) in relation to electors at the election; or

(b) give that returning officer access to such information.

(6) Information contained in records kept by a registration officer in pursuance of article 8(9), 9(6) or 12(13) may be disclosed by him (subject to the conditions prescribed in paragraphs 13 and 14 of Schedule 1) to—

(a) any other registration officer if he thinks that to do so will assist the other registration officer in the performance of his duties;

(b) any person exercising functions in relation to the preparation or conduct of legal proceedings under the Representation of the People Acts or this Order;

(c) such other persons for such other purposes relating to elections as are prescribed in paragraphs 13 and 14 of Schedule 1.

### **Offences**

**14.**—(1) A person who provides false information in connection with an application to which article 8, 9, 11 or 12 applies is guilty of an offence.

(2) For the purposes of paragraph (1), “false information” means a signature which—

(a) is not the usual signature of; or

(b) was written by a person other than,

the person whose signature it purports to be.

(3) A person does not commit an offence under paragraph (1) if he did not know and had no reason to suspect that the information was false.

(4) Where sufficient evidence is adduced to raise an issue with respect to the defence under paragraph (3), the court shall assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.

(5) A person guilty of an offence under paragraph (1) shall be liable on summary conviction to—

- (a) imprisonment for a term not exceeding 51 weeks; or
- (b) a fine not exceeding level 5 on the standard scale,

or both.

(6) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003<sup>(3)</sup>, the reference in paragraph (5)(a) to 51 weeks must be taken to be a reference to 6 months.

(7) A person also commits an offence if he—

- (a) engages in an act specified in paragraph (8) at an Assembly election; and
- (b) intends, by doing so, to deprive another of an opportunity to vote or to make for himself or another a gain of a vote to which he or the other is not otherwise entitled or a gain of money or property.

(8) These are the acts—

- (a) applying for a postal or proxy vote as some other person (whether that other person is living or dead or is a fictitious person);
- (b) otherwise making a false statement in, or in connection with, an application for a postal or proxy vote;
- (c) inducing the registration officer or constituency returning officer to send a postal ballot paper or any communication relating to a postal or proxy vote to an address which has not been agreed to by the person entitled to the vote; and
- (d) causing a communication relating to a postal or proxy vote or containing a postal ballot paper not to be delivered to the intended recipient.

(9) In paragraph (7)(b), property includes any description of property.

(10) In paragraph (8) a reference to a postal vote or a postal ballot paper includes a reference to a proxy postal vote or a proxy postal ballot paper (as the case may be).

(11) A person who commits an offence under paragraph (7) or who aids, abets, counsels or procures the commission of such an offence is guilty of a corrupt practice and shall be liable on conviction in accordance with article 120.

#### **Absent voting at Assembly elections: miscellaneous**

**15.**—(1) For the purposes of section 59(4) of the 1983 Act (supplemental provisions as to members of forces and service voters)—

- (a) subsections (3)(b) and (c) shall be construed as including a reference to this Order in connection with the rights conferred by this Order on a person having a service qualification by virtue of section 14(1)(a) or (b) of that Act in relation to the making and cancellation of appointments of a proxy and in relation to voting in person, by post or by proxy; and
- (b) subsection (3A) shall be similarly construed.

(2) Schedule 1 (which makes further provision in connection with absent voting at Assembly elections) has effect.

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(3) 2003 c. 44.

(4) Section 59 was amended by section 13(2) of the Electoral Administration Act 2006 (c. 22).

(3) Schedule 2 (which makes transitional provision in connection with absent voting at Assembly elections) has effect.

(4) Schedule 3 (which makes further provision in connection with the issue and receipt of postal ballot papers) has effect.

### **Combination of polls at Assembly and local government elections**

**16.**—(1) Where the polls at an Assembly general election and an ordinary local government election are to be taken on the same date, they shall be taken together.

(2) Where the polls at an Assembly election and local government election for related areas are to be taken on the same date but are not required by paragraph (1) to be taken together, they may nevertheless be so taken if the returning officer for each election thinks fit.

(3) For the purposes of paragraph (2), two areas are related if one is coterminous with or situated wholly or partly within the other.

(4) Where the polls at an Assembly general election and an ordinary local government election are combined under paragraph (1) the cost of taking the combined polls (excluding any cost solely attributable to one election) and any cost attributable to their combination shall be apportioned among the elections in such proportions as the Assembly may by order specify; and an order under this paragraph may specify different proportions in relation to different functions.

(5) Where the polls at an Assembly election and another election are combined under paragraph (2) the cost of taking the combined polls (excluding any cost solely attributable to one election) and any cost attributable to their combination shall be apportioned equally among the elections.

(6) The power to make orders under paragraph (4) shall be exercised by statutory instrument and for the purposes of section 1 of the Statutory Instruments Act 1946<sup>(5)</sup> this provision shall have effect as if contained in an Act of Parliament.

(7) Schedule 4 (which makes provision in connection with the combination of polls at Assembly and local government elections) has effect but, where the poll at an Assembly election is combined with a mayoral election, only Parts 1 and 2 of Schedule 4 shall apply.

### **Rules for Assembly elections**

**17.**—(1) The proceedings at Assembly elections including the return of Assembly members shall be conducted in accordance with the Assembly election rules set out in Schedule 5.

(2) In addition to the functions otherwise conferred or imposed on a constituency or regional returning officer at an Assembly election it is the general duty of such an officer to do all such acts as may be necessary for effectively conducting the election in the manner provided by those rules.

(3) No Assembly election shall be declared invalid by reason of any act or omission by such a returning officer or any other person in breach of his official duty in connection with the election or otherwise of those rules if it appears to the tribunal having cognizance of the question that—

- (a) the election was so conducted as to be substantially in accordance with the law as to Assembly elections; and
- (b) the act or omission did not affect the result.

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(5) 1946 c. 36. By virtue of section 1(1A) inserted into that Act of 1946 by paragraph 2 of Schedule 12 to the Government of Wales Act 1998, references in section 1(1) of that Act of 1946 to a Minister of the Crown are construed as including references to the National Assembly for Wales constituted by that Act of 1998 and by virtue of section 1(1A) of that Act of 1946 substituted by paragraph 2 of Schedule 10 to the Government of Wales Act 2006, references to a Minister of the Crown are construed as including references to the Welsh Ministers. see footnote to the definition of “the Assembly” in article 2(1) as to the vesting in the Welsh Ministers of the function of “the Assembly” under article 16(4).

### **Returning officers**

- 18.**—(1) For the purpose of Assembly elections there shall be—
- (a) a constituency returning officer for each Assembly constituency; and
  - (b) a regional returning officer for each Assembly electoral region, and
- such persons shall hold office in accordance with the following provisions of this article.
- (2) A constituency returning officer shall be the person—
- (a) who is appointed under section 35(1A)(a) of the 1983 Act<sup>(6)</sup> to be the returning officer for elections of councillors of a county or county borough situated wholly or partly in the Assembly constituency; and
  - (b) in the case where there is more than one such person, who is for the time being designated by the Assembly as returning officer for the constituency.
- (3) A regional returning officer shall be the person—
- (a) who is appointed under section 35(1A)(a) of the 1983 Act to be the returning officer for elections of councillors of a county or county borough situated wholly or partly in the Assembly electoral region; and
  - (b) in the case where there is more than one such person, who is for the time being designated by the Assembly as returning officer for the electoral region.
- (4) A designation made under this article shall be in writing.
- (5) The office of returning officer is a distinct office from that by virtue of which the person becomes returning officer.
- (6) Where a person takes any office by virtue of which he becomes a returning officer, he (and not the outgoing holder of the office) shall complete the conduct of any outstanding election in accordance with the Assembly election rules.

### **Officers of councils to be placed at disposal of returning officers**

- 19.**—(1) The council of each county or county borough shall place the services of its officers at the disposal of any constituency returning officer for an Assembly constituency wholly or partly situated in its area.
- (2) The services placed at the disposal of a constituency returning officer under paragraph (1) may relate to the exercise of that officer's functions in connection with a constituency election, a regional election or both such elections.
- (3) The council of each county or county borough shall also place the services of its officers at the disposal of any regional returning officer for an Assembly electoral region partly situated in its area.

### **Returning officers: discharge of functions**

- 20.**—(1) A constituency or a regional returning officer at an Assembly election may, in writing, appoint one or more persons to discharge all or any of his functions.
- (2) Paragraph (1) applies to a constituency returning officer at a constituency or a regional election.
- (3) Except in the case of an election to fill a casual vacancy, it shall be the duty of each regional returning officer and each constituency returning officer for an Assembly constituency in the Assembly electoral region to co-operate with each other in the discharge of their functions.

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(6) Subsection (1A) was added by Schedule 16 of the Local Government (Wales) Act 1994 (c. 19).

(4) The duty imposed by paragraph (3) applies as between constituency returning officers in an Assembly electoral region as well as between such officers and the regional returning officer for the electoral region.

(5) In this Order, a reference to a constituency returning officer in relation to the discharge of functions at a regional election is a reference to the discharge of such functions in relation to the Assembly constituency for which he is the returning officer.

### **Returning officers: correction of procedural errors**

**21.**—(1) A constituency or a regional returning officer at an Assembly election may take such steps as he thinks appropriate to remedy any act or omission on his part, or on the part of a relevant person, which—

- (a) arises in connection with any function the returning officer or relevant person has in relation to the election; and
- (b) is not in accordance with the rules or any other requirements applicable to the election.

(2) But a returning officer may not under paragraph (1) re-count the votes given at an election after the result has been declared.

(3) These are the relevant persons—

- (a) an electoral registration officer;
- (b) in relation to a regional election, a relevant returning officer at that election;
- (c) a presiding officer;
- (d) a person providing goods or services to the returning officer; and
- (e) a deputy of any person mentioned in sub paragraphs (a) to (c) or a person appointed to assist, or in the course of his employment assisting, such a person in connection with any function he has in relation to the election.

(4) In paragraph (3)(b), “a relevant returning officer” means—

- (a) in the case of a regional returning officer taking steps under paragraph (1), a constituency returning officer at that regional election; and
- (b) in the case of a constituency returning officer taking steps under paragraph (1), the regional returning officer at that regional election.

(5) Where the act or omission to be remedied is that of a relevant returning officer, then, before taking steps under paragraph (1)—

- (a) the regional returning officer must consult the constituency returning officer whose act or omission is to be remedied; and
- (b) a constituency returning officer must consult the regional returning officer.

### **Returning officers: general**

**22.**—(1) An Assembly election is not liable to be questioned by reason of a defect in the title, or want of title, of the person presiding at or conducting the election, if that person was then in actual possession of, or acting in, the office giving the right to preside at or conduct the election.

(2) A person is not subject to any incapacity to vote at an Assembly election by reason of being or acting as returning officer at that election.

### **Payments by and to returning officer**

**23.**—(1) A constituency or a regional returning officer shall be entitled to recover his charges in respect of services rendered, or expenses incurred, for, or in connection with, an Assembly election if—

- (a) the services were necessarily rendered, or the expenses were necessarily incurred, for the efficient and effective conduct of the election; and
- (b) the total of his charges does not exceed the amount (“the overall maximum recoverable amount”) specified in, or determined in accordance with, an order made by the Assembly for the purposes of this paragraph,

and in the case of a constituency returning officer, this paragraph applies to services rendered or expenses incurred for, or in connection with, a constituency or a regional election.

(2) An order under paragraph (1) may specify, or make provision for determining in accordance with the order, a maximum recoverable amount for services or expenses of any specified description and, subject to paragraph (3), the returning officer may not recover more than that amount in respect of any such services or expenses.

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

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

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

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

- (a) that it was reasonable for the returning officer concerned to render the services or incur the expenses; and
- (b) that the charges in question are reasonable.

(5) The power to make orders under paragraph (1) shall be exercised by statutory instrument and for the purpose of section 1 of the Statutory Instruments Act 1946<sup>(7)</sup> this provision shall have effect as if contained in an Act of Parliament.

(6) Any order under paragraph (1) may make different provision for different purposes and may contain such incidental supplemental saving or transitional provision as the Assembly thinks fit.

(7) The Assembly shall pay the amount of any charges recoverable in accordance with this article on an account being submitted to it but the Assembly may if it thinks fit, before payment, apply for the account to be assessed under the provisions of article 24.

(8) Where the superannuation contributions required to be paid by a local authority in respect of any person are increased by any fee paid under this article as part of a returning officer’s charges at an Assembly election; then on an account being submitted to the Assembly, a sum equal to the increase shall be paid by the Assembly to the authority.

(9) On a returning officer’s request for an advance on account of his charges, the Assembly may, on such terms as it thinks fit, make such an advance.

(10) The Assembly may by regulations make provision as to the time when and the manner and form in which accounts are to be rendered to the Assembly for the purpose of the payment of a returning officer’s charges; and such regulations may make different provision for different purposes.

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(7) see footnote to article 16(6) as to section 1 of the Statutory Instruments Act 1946.

(11) Any sums payable by the Assembly or the Welsh Ministers<sup>(8)</sup> under paragraph (7) or (8) in the financial year beginning on 1st April 2007 and in subsequent years shall be charged on the Welsh Consolidated Fund<sup>(9)</sup>

#### **Detailed assessment of returning officer's account**

**24.**—(1) An application for a returning officer's account to be assessed shall be made to the county court and in this article the expression "the court" means the county court.

(2) On any such application the court has jurisdiction to assess the account in such manner and at such time and place as the court thinks fit, and finally to determine the amount payable to the returning officer.

(3) On any such application the returning officer may apply to the court to examine any claim made by any person against him in respect of matters charged in the account; and the court, after notice given to the claimant and after giving him an opportunity to be heard and to tender any evidence, may allow or disallow or reduce the claim objected to with or without costs; and the determination of the court shall be final for all purposes and against all persons.

(4) CCR Order 45, rule 1 of the Civil Procedure Rules 1998<sup>(10)</sup> (application for detailed assessment of returning officer's account under section 30 of the 1983 Act) shall have effect in relation to applications made under this article and, in relation to such applications, that rule shall apply with the following modifications—

- (a) references to the Secretary of State shall be construed as references to the Assembly; and
- (b) references to returning officers shall be construed as references to—
  - (i) constituency returning officers in relation to a constituency election; and
  - (ii) constituency and regional returning officers in relation to a regional election.

#### **Loan of equipment for Assembly elections**

**25.**—(1) Any ballot boxes, fittings and compartments provided for parliamentary elections out of money provided by Parliament may, on request, be lent to a constituency returning officer at an Assembly election on such terms and conditions as the Commission may determine.

(2) Any ballot boxes, fittings and compartments provided by or belonging to a local authority within the meaning of the Local Government Act 1972<sup>(11)</sup> shall, on request (if not required for immediate use by that authority), be lent to a constituency returning officer at an Assembly election on such terms and conditions as may be agreed.

#### **Effect of registers**

**26.**—(1) Any entry in the register of electors, if it gives a date as that on which the person named will attain voting age, shall for any purpose of this Part relating to him as elector be conclusive that until the date given in the entry he is not of voting age nor entitled to be treated as an elector except for the purposes of an Assembly election at which the date fixed for the poll is that or a later date.

(2) A person registered as a local government elector, or entered in the list of proxies, shall not be excluded from voting at an Assembly election on any of the grounds set out in paragraph (3); but this shall not prevent the rejection of the vote on a scrutiny, or affect his liability to any penalty for voting.

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<sup>(8)</sup> see footnote to the definition of "the Assembly" in article 2 as to the vesting in the Welsh Ministers of functions of "the Assembly" under article 23.

<sup>(9)</sup> see section 117 of the Government of Wales Act 2006 as to the meaning of the Welsh Consolidated Fund.

<sup>(10)</sup> see Part 50 of and Schedule 2 to the Civil Procedure Rules (S.I. 1998/3132)(L.17). There are amendments to those rules that are not relevant to this Order.

<sup>(11)</sup> 1972 c. 70

- (3) The grounds referred to in paragraph (2) are—
- (a) that he is not of voting age;
  - (b) that he is not, or on the relevant date or the date of his appointment (as the case may be), was not—
    - (i) a qualifying Commonwealth citizen;
    - (ii) a citizen of the Republic of Ireland; or
    - (iii) a relevant citizen of the Union; or
  - (c) that he is or, on the relevant date or the date of his appointment (as the case may be) was, otherwise subject to any other legal incapacity to vote.
- (4) In paragraph (3), the “relevant date” means—
- (a) in relation to a person registered in the register as published in accordance with section 13(1) of the 1983 Act, the 15th October immediately preceding the date of publication of the register;
  - (b) in relation to any other person registered in the register, the relevant date for the purposes of section 4 of the 1983 Act<sup>(12)</sup>.
- (5) Paragraph (1) applies to an entry in the record of anonymous entries as it applies to an entry in the register of electors.

### **Effect of misdescription**

**27.** In relation to an Assembly election no misnomer or inaccurate description of any person or place named—

- (a) in the register of electors; or
- (b) in any list, record, proxy paper, nomination paper, ballot paper, notice or other document required for the purposes of this Order,

shall affect the full operation of the document with respect to that person or place in any case where the description of the person or place is such as to be commonly understood.

### **Discharge of registration duties**

**28.—(1)** A registration officer shall comply with any general or specific directions which may be given by the Secretary of State, in accordance with and on the recommendation of the Commission, with respect to the arrangements to be made by the registration officer in carrying out his functions under this Order.

(2) Any of the duties and powers of a registration officer under this Order may be performed and exercised by any deputy for the time being approved by the county or county borough council which appointed the registration officer; and the provisions of this Order apply to any such deputy so far as respects any duties or powers to be performed or exercised by him as they apply to the registration officer.

(3) Any acts authorised or required to be done by or with respect to the registration officer under this Order may, in the event of his incapacity to act or of a vacancy, be done by or with respect to the proper officer of the county or county borough council by whom the registration officer was appointed.

(4) A county or county borough council by whom a registration officer is appointed shall assign such officers to assist him as may be required in carrying out his functions under this Order.

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<sup>(12)</sup> See section 4(6) of the Representation of the People Act 1983. Section 4 was substituted by section 1(2) of the Representation of the People Act 2000 (c. 2).



### Payment of expenses of registration

**29.**—(1) Any expenses properly incurred by a registration officer in the performance of his functions under this Order (in this Order referred to as “registration expenses”) shall be paid by the county or county borough council by whom the registration officer was appointed.

(2) Any fees paid to the registration officer under this Order shall be accounted for by him and paid to the county or county borough council by whom he was appointed.

(3) On the request of a registration officer for an advance on account of registration expenses, the county or county borough council by whom the registration officer was appointed may, if it thinks fit, make such an advance to him of such an amount and subject to such conditions as it may approve.

### Personation

**30.**—(1) In relation to an Assembly election a person shall be guilty of a corrupt practice if he commits, or aids, abets, counsels or procures the commission of, the offence of personation.

(2) A person shall be deemed to be guilty of personation at an Assembly 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 by post 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.

(3) For the purposes of this article, a person who has applied for a ballot paper for the purpose of voting in person or who has marked, whether validly or not, and returned a ballot paper issued for the purpose of voting by post, shall be deemed to have voted.

(4) Section 24A of the Police and Criminal Evidence Act 1984(**13**) (arrest without warrant: other persons) does not permit a person other than a constable to arrest, inside a polling station, a person who commits or is suspected of committing an offence under the preceding provisions of this article.

### Other voting offences

**31.**—(1) For the purposes of this article a person who has applied for a ballot paper for the purpose of voting in person, or who has marked, whether validly or not, and returned a ballot paper issued for the purpose of voting by post, shall be deemed to have voted, but for the purpose of determining whether an application for a ballot paper constitutes an offence under paragraph (6), a previous application made in circumstances which entitle the applicant only to mark a tendered ballot paper shall, if he does not exercise that right, be disregarded.

(2) A person shall be 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 elector at an Assembly election, or at Assembly elections, knowing that he is subject to a legal incapacity to vote at the election or, as the case may be, at elections of that kind;

(b) he applies for the appointment of a proxy to vote for him at an Assembly election or at Assembly elections, knowing that he or the person to be appointed is subject to a legal incapacity to vote at the election or, as the case may be, at elections of that kind; or

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(13) Section 24A of the Police and Criminal Evidence Act 1984 (c. 60) was inserted by section 110(1) of the Serious Organised Crime and Police Act 2005 (c. 15). There is an amendment to section 24A which is not relevant to this Order.

- (c) he votes, whether in person or by post, as proxy for some other person at an Assembly election, knowing that that person is subject to a legal incapacity to vote.
- (3) For the purposes of paragraph (2), references to a person being subject to a legal incapacity to vote do not, in relation to things done before polling day at the election or first election at or for which they are done, include his being below voting age if he will be of voting age on that day.
- (4) A person shall be guilty of an offence if—
- (a) he votes as elector otherwise than by proxy either—
    - (i) more than once in the same Assembly constituency at any Assembly election;
    - (ii) in more than one Assembly constituency at an Assembly general election; or
    - (iii) in any Assembly constituency at an Assembly election when there is in force an appointment of a person to vote as his proxy at the election in some other constituency;
  - (b) he votes as elector in person at an Assembly election at which he is entitled to vote by post;
  - (c) he votes as elector in person at an Assembly election, knowing that a person appointed to vote as his proxy at the election either has already voted in person at the election or is entitled to vote by post at the election; or
  - (d) he applies for a person to be appointed as his proxy to vote for him at Assembly elections in any Assembly constituency without applying for the cancellation of a previous appointment of a third person then in force in respect of that or another constituency or without withdrawing a pending application for such an appointment in respect of that or another constituency.
- (5) A person shall be guilty of an offence if—
- (a) he votes as proxy for the same elector either—
    - (i) more than once in the same Assembly constituency at any Assembly election; or
    - (ii) in more than one Assembly constituency at an Assembly general election;
  - (b) he votes in person as proxy for an elector at an Assembly election at which he is entitled to vote by post as proxy for that elector; or
  - (c) he votes in person as proxy for an elector at an Assembly election knowing that the elector has already voted in person at the election.
- (6) A person shall also be guilty of an offence if he votes as proxy—
- (a) in the case of an Assembly general election, at constituency elections in Assembly constituencies in an Assembly electoral region (or in one such election);
  - (b) in the case of a constituency election other than at an Assembly general election, at a constituency election; or
  - (c) at a regional election (whether or not at an Assembly general election);
- for more than two persons of whom he is not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild.
- (7) A person shall also be guilty of an offence if he knowingly induces or procures some other person to do an act which is, or but for that other person's want of knowledge would be, an offence by that other person under the foregoing paragraphs of this article.
- (8) A person is not guilty of an offence under paragraph (4)(b) or (5)(b) only by reason of his having marked a tendered ballot paper in pursuance of rule 49(4) or (6) of Schedule 5.
- (9) An offence under this article shall be an illegal practice, but—

- (a) the court before whom a person is convicted of any such offence may, if they think it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of article 123; and
- (b) a candidate shall not be liable, nor shall his election be avoided, for an illegal practice under this article of any agent of his other than an offence under paragraph (7).

(10) Where a person is entitled to give two votes (whether in person as elector or by proxy, or by post as elector or by proxy) he votes once in relation to each Assembly election for which his votes are given.

### **Breach of official duty**

**32.**—(1) If a person to whom this article applies is, without reasonable cause, guilty of any act or omission in breach of his official duty, he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) No person to whom this article applies shall be liable for breach of his official duty to any penalty at common law and no action for damages shall lie in respect of the breach by such a person of his official duty.

(3) The persons to whom this article applies are—

- (a) any registration officer, returning officer or presiding officer;
- (b) any other person whose duty it is to be responsible after an Assembly election for the used ballot papers and other documents (including returns and declarations as to expenses);
- (c) any official designated by a universal service provider; and
- (d) any deputy of a person mentioned in any of sub-paragraphs (a) to (c) or any person appointed to assist or in the course of his employment assisting a person so mentioned in connection with his official duties,

and “official duty” shall for the purpose of this article be construed accordingly, but shall not include duties imposed otherwise than by the law relating to Assembly elections or the registration of local government electors.

(4) Where—

- (a) a returning officer for an Assembly election is guilty of an act or omission in breach of his official duty; but
- (b) he remedies that act or omission in full by taking steps under paragraph (1) of article 21,

he shall not be guilty of an offence under paragraph (1).

(5) Paragraph (4) does not affect any conviction which takes place, or any penalty which is imposed, before the date on which the act or omission is remedied in full.

### **Tampering with nomination papers, ballot papers etc**

**33.**—(1) A person shall be guilty of an offence if, at an Assembly election, he—

- (a) fraudulently defaces or fraudulently destroys any constituency, individual or party nomination paper;
- (b) fraudulently defaces or fraudulently destroys any ballot paper, or the official mark on any ballot paper, or postal voting statement or official envelope used in connection with voting by post;
- (c) without due authority supplies any ballot paper to any person;
- (d) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorised by law to put in;

- (e) fraudulently takes out of the polling station any ballot paper;
  - (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.
- (2) If a returning officer, a presiding officer or a clerk appointed to assist in taking the poll and counting the votes, or at the proceedings in connection with the issue or receipt of postal ballot papers, is guilty of an offence under this article, he shall be liable—
- (a) on conviction on indictment to a fine, or to imprisonment for a term not exceeding two years, or to both; or
  - (b) on summary conviction, to a fine not exceeding the statutory maximum, or to imprisonment for a term not exceeding 6 months, or to both.
- (3) If any other person is guilty of an offence under this article he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale, or to imprisonment for a term not exceeding 6 months, or to both.
- (4) In relation to an offence committed after commencement of section 281(5) of the Criminal Justice Act 2003, the reference in paragraphs (2)(b) and (3) to 6 months must be taken to be a reference to 51 weeks.

#### **False statements in nomination papers etc**

- 34.—**(1) A person shall be guilty of a corrupt practice if, in the case of an Assembly election, he causes or permits to be included in a document delivered or otherwise furnished to a returning officer for use in connection with the election—
- (a) a statement of the name or home address of a candidate at the election which he knows to be false in any particular; or
  - (b) anything which purports to be the signature of a person who subscribes a nomination paper but which he knows—
    - (i) was not written by the person by whom it purports to have been written; or
    - (ii) if written by that person, was not written by him for the purpose of subscribing that nomination paper; or
  - (c) a certificate under rule 5 of the Assembly election rules authorising the use by a constituency candidate of a description if he knows that the candidate is a candidate in another Assembly constituency election in which the poll is to be held on the same day as the poll at the election to which the certificate relates; or
  - (d) a certificate under rule 8 of the Assembly election rules authorising the use by a registered political party of a description if he knows that a candidate on that party's list of candidates is also an individual candidate or a party list candidate for another registered political party at that Assembly election or is a candidate in another Assembly election in which the poll is to be held on the same day as the poll at the election to which the certificate relates.
- (2) A person is guilty of a corrupt practice if, in the case of a constituency election, he makes in any document in which he gives his consent to nomination as a candidate—
- (a) a statement of his date of birth;
  - (b) a statement as to his qualification for membership of the Assembly; or
  - (c) a statement that he is not a candidate at an election for any other constituency the poll for which is to be held on the same day as the poll at the election to which the consent relates, which he knows to be false in any particular.

(3) A person is guilty of a corrupt practice if, in the case of an individual candidate at a regional election, he makes in any document in which he gives his consent to nomination as a candidate—

- (a) a statement of his date of birth;
- (b) a statement as to his qualification for membership of the Assembly; or
- (c) a statement that he is not a party list candidate at that regional election nor a candidate in another Assembly election the poll for which is to be held on the same day as the poll at the election to which the consent relates,

which he knows to be false in any particular.

(4) A person is guilty of a corrupt practice if, in the case of a party list candidate at a regional election, he makes in any document in which he gives his consent to nomination as a candidate—

- (a) a statement of his date of birth;
- (b) a statement as to his qualification for membership of the Assembly; or
- (c) a statement that he is not an individual candidate or a candidate on the list submitted by another registered political party at that regional election or a candidate at another Assembly election in which the poll is to be held on the same day as the poll at the election to which the consent relates,

which he knows to be false in any particular.

(5) For the purposes of paragraphs (2), (3), and (4) a statement as to the candidate's qualification is a statement that—

- (a) he is qualified for being elected;
- (b) he will be qualified for being elected; or
- (c) to the best of his knowledge and belief he is not disqualified for being elected.

### **Requirement of secrecy**

**35.**—(1) The following persons attending at a polling station, namely—

- (a) a returning officer;
- (b) a presiding officer or clerk;
- (c) a candidate or election agent or polling agent; or
- (d) a person attending by virtue of any of sections 6A to 6D of the 2000 Political Parties Act,

shall maintain and aid in maintaining the secrecy of voting and shall not, except for some purpose 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 on any ballot paper.

(2) Every person attending at the counting of the votes shall maintain and aid in maintaining the secrecy of voting and shall not—

- (a) ascertain or attempt to ascertain at the counting of votes the number or other unique identifying mark on the back of any ballot paper; or
- (b) communicate any information obtained at the counting of votes as to how any vote is given on any particular ballot paper.

(3) No person shall—

- (a) interfere with or attempt to interfere with a voter when giving his vote;
  - (b) otherwise obtain or attempt to obtain in a polling station information as to how a voter in that station is about to vote or has voted;
  - (c) communicate at any time to any person any information obtained in a polling station as to how a voter in that station is about to vote or has voted, or as to the number or other unique identifying mark on the back of a ballot paper given to a voter at that station; or
  - (d) directly or indirectly induce a voter to display a ballot paper after he has marked it so as to make known to any person how he has or has not voted.
- (4) Every person attending the proceedings in connection with the issue or the receipt of ballot papers for persons voting by post shall 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;
  - (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 or other unique identifying mark on the back of the ballot paper sent to any person;
  - (c) except for some purpose authorised by law, attempt to ascertain at the proceedings in connection with the receipt of ballot papers the number or other unique identifying mark on the back of any ballot paper; or
  - (d) attempt to ascertain at the proceedings in connection with the receipt of the ballot papers how any vote is given on any particular ballot paper or communicate any information with respect thereto obtained at those proceedings.
- (5) No person having undertaken to assist a voter with disabilities shall communicate at any time to any person any information as to how that voter intends to vote or has voted, or as to the number or other unique identifying mark on the back of the ballot paper given for the use of that voter.
- (6) If a person acts in contravention of this article he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months.
- (7) In relation to an offence committed after commencement of section 281(5) of the Criminal Justice Act 2003, the reference in paragraph (6) to 6 months must be taken to be a reference to 51 weeks.

### **Prohibition on publication of exit polls**

- 36.**—(1) No person shall, in the case of an Assembly election, publish before the poll is closed—
- (a) any statement relating to the way in which voters have voted at the election where that statement is (or might reasonably be taken to be) based on information given by voters after they have voted; or
  - (b) any forecast as to the result of the election which is (or might reasonably be taken to be) based on information so given.
- (2) If a person acts in contravention of paragraph (1), he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months.
- (3) In relation to an offence committed after commencement of section 281(5) of the Criminal Justice Act 2003, the reference in paragraph (2) to 6 months must be taken to be a reference to 51 weeks.
- (4) In this article—

“forecast” includes estimate;

“publish” means make available to the public at large, or any section of the public, in whatever form and by whatever means,

and any reference to the result of an election is a reference to the result of the election either as a whole or so far as any particular candidate or candidates at the election is or are concerned.