

## SCHEDULE 1

### Amendments to the 1962 Act

#### Part 2

##### Amendments to Part 9 (Questioning of elections) and Part 10 (Electoral misdemeanours)

21. The 1962 Act is amended as follows.

22. In section 96<sup>M1</sup> (provisions applying to all persons reported personally guilty of a corrupt or illegal practice), for subsection (3A) substitute—

“(3A) The incapacity imposed by subsection (3)(a)(i) applies only to a candidate or other person reported personally guilty of—

- (a) a corrupt practice under paragraph 4 of Schedule 9 (personation);
- (b) a corrupt practice under paragraph 4A of that Schedule (offences relating to applications for postal or proxy votes); or
- (c) an illegal practice under paragraph 12A of that Schedule (other voting offences).”.

#### Marginal Citations

**M1** Section 96(1) was amended by S.I. 1972/538 (N.I.1) and the Justice (Northern Ireland) Act 2002 (c.26); subsections (3) and (4) were substituted, and subsection (3A) inserted, by S.I.2001/417; subsection (5) was inserted by S.I. 1987/168.

23. In section 98(1) (avoidance of election for general corruption, etc) for “, employments or hirings” substitute “ or employments ”.

24. In section 105(4)<sup>M2</sup> (prosecution and trial of electoral misdemeanours) for “, illegal employment or illegal hiring” substitute “ or illegal employment ” and for “, paragraph 30 or paragraph 31” substitute “ or paragraph 30 ”.

#### Marginal Citations

**M2** Section 105(1) was amended by S.I. 1981/1675 (N.I.26); subsection (8) was inserted by S.I. 1987/168.

25. In section 107<sup>M3</sup> (power to except innocent act from being illegal practice, payment, employment or hiring) omit “or hiring” in the heading and in subsection (2) for the words “, employment or hiring” in each place in which they occur substitute “ or employment ”.

#### Marginal Citations

**M3** Section 107(1A) was inserted by S.I. 1987/168.

26. In section 108(4)(a)(i)<sup>M4</sup> (penalties for corrupt practices) after “paragraph 4” in each place where it occurs insert “ or 4A ”.

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**Marginal Citations**

**M4** Section 108(1) and (2) was amended by 1984/703 (N.I.3); subsection (2) was also amended by S.I. 1985/454; subsection (4) was inserted by S.I. 1987/168.

27. In section 111(3)<sup>M5</sup> (penalties for electoral offences by officers and other persons) for “a postmaster” substitute “an official designated by a universal service provider”.

**Marginal Citations**

**M5** Section 111(1) was amended by S.I. 1984/703 (N.I.13); subsections (2) and (3) were amended by S.I. 1972/1264 (N.I.13); subsection (2A) was inserted, and subsection (3) amended, by S.I. 1987/168.

28. In section 112<sup>M6</sup> (incapacities resulting from convictions for corrupt or illegal practices), for subsection (1A) substitute—

“(1A) The incapacity imposed by subsection (1)(a)(i) applies only to a person convicted of—

- (a) a corrupt practice under paragraph 4 of Schedule 9 (personation);
- (b) a corrupt practice under paragraph 4A of Schedule 9 (offences relating to applications for postal or proxy votes); or
- (c) an illegal practice under paragraph 12A of Schedule 9 (other voting offences).”.

**Marginal Citations**

**M6** Section 112(1) was amended, and subsections (1A) to (1H) inserted, by S.I. 2001/417.

29. Schedule 9 to the 1962 Act is amended in accordance with paragraphs 30 to 39.

30. After paragraph 4 (personation) insert—

**“Offences relating to applications for postal and proxy votes at a local election**

**4A.—**(1) A person (“P”) is guilty of a corrupt practice if P—

- (a) engages in an act specified in sub-paragraph (2) at a local election, and
- (b) intends, by doing so, to deprive another of an opportunity to vote or to make for P or another a gain of a vote to which P or the other is not otherwise entitled or a gain of money or property.

(2) These are the acts—

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

(3) In sub-paragraph (1)(b), property includes any description of property.

(4) In sub-paragraph (2) 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).

(5) For the purposes of this paragraph—“postal ballot paper” means a ballot paper issued to a postal voter; “postal voter” means a person entitled to vote by post at an election as an absent voter or as a proxy; and “proxy postal ballot paper” means a ballot paper issued to a proxy postal voter.”.

**31.**—(1) Paragraph 5A<sup>M7</sup> (false statements in nomination paper, etc.), which becomes sub-paragraph (1), is amended as follows.

(2) Omit the word “or” before paragraph (b) and after that paragraph insert

“or

(c) a certificate authorising for the purposes of rule 5A of the Local Elections Rules the use by a candidate of a description if the person knows that the candidate is standing at another election in the same local government electoral area in which the poll is to be held on the same day as the election to which the certificate relates.”.

(3) After paragraph 5A(1) insert—

“(2) A person (“P”) is guilty of a corrupt practice if, in any document giving consent to his or her nomination as a candidate at a local election, P makes—

- (a) a statement of P's date of birth;
- (b) a statement as to P's qualification for being elected at that election; or
- (c) a statement that P is not a candidate at an election in the same local government electoral area the poll for which is to be held on the same day as the election to which the consent relates;

which P knows to be false in any particular.

(3) For the purposes of sub-paragraph (2), a statement as to P's qualification is a statement—

- (a) that P is qualified for being elected,
- (b) that P will be qualified for being elected, or
- (c) that to the best of P's knowledge and belief P is not disqualified for being elected.”.

#### Marginal Citations

**M7** [Paragraph 5A](#) was inserted by [S.I. 2001/417](#).

**32.** After paragraph 12A(7)<sup>M8</sup> insert—

“(7A) A person is not guilty of an illegal practice under sub-paragraph (2)(b) or (3)(b) above only by reason of that person having marked a tendered ballot paper in pursuance of rule 37(1C) or (1E) of the Local Elections Rules.”.

#### Marginal Citations

**M8** [Paragraph 12A](#) was inserted by [S.I. 1985/454](#) and substituted by [S.I. 1987/168](#).

**33.** In paragraph 15 for the words from “illegal payment” to “paragraphs 29, 30 and 31” substitute “illegal payment or illegal employment specified in paragraphs 29 and 30 ”.

**34.** In paragraph 17—

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- (a) for “, advance or deposit” substitute “ (of whatever nature) ”; and
- (b) omit “or pays any money in contravention of sub-section (4) of that section,”.

**35.** After paragraph 17 insert—

“**17A.** A person who provides any money or other property in contravention of section 37A(1) (control of donations to candidates at local elections) is guilty of an illegal practice.”.

**36.—**(1) Paragraph 21 is amended as follows.

(2) Omit sub-paragraph (1).

(3) For sub-paragraph (2) substitute—

“(2) Where any election expenses are incurred in excess of the maximum amount specified in section 42(1ZB) (limitation of election expenses) any candidate or election agent who—

- (a) incurred, or authorised the incurring of, the election expenses, and
- (b) knew or ought reasonably to have known that the expenses would be incurred in excess of that maximum amount, is guilty of an illegal practice.”.

**37.** After paragraph 25 <sup>M9</sup>, which becomes sub-paragraph (1), insert—

“(2) Where—

- (a) the returning officer (“R”), fails or neglects to perform his or her functions in relation to an election under this Act, but
- (b) remedies that failure or neglect in full by taking steps under section 57A(1),

R shall not be guilty of an electoral offence under sub-paragraph (1).

(3) Sub-paragraph (2) does not affect any conviction which takes place, or any penalty which is imposed, before the date on which the failure or neglect is remedied in full.”.

**Marginal Citations**  
**M9** Paragraph 25 was amended by Schedule 3 to the [Elected Authorities \(Northern Ireland\) Act 1989 \(c.3\)](#).

<sup>F1</sup>**38.** .....

**Textual Amendments**  
**F1** Sch. 1 para. 38 revoked (12.12.2023) by [Elections Act 2022 \(c. 37\)](#), s. 67(1), [Sch. 6 para. 34\(d\)](#); [S.I. 2023/1234, reg. 2\(e\)\(iv\)](#) (with reg. 3)

**39.—**(1) Paragraph 32A <sup>M10</sup> is amended as follows.

(2) In sub-paragraph (2)(c) for “postmaster or his deputy” substitute “ official designated by a universal service provider ”.

(3) After sub-paragraph (2) insert—

“(3) Where—

- (a) the returning officer at a local election (“R”) is guilty of an act or omission in breach of R's official duty, but
- (b) R remedies that act or omission in full by taking steps under section 57A(1),

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R shall not be guilty of an electoral offence under sub-paragraph (1).

(4) Sub-paragraph (3) 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.”.

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**Marginal Citations**

**M10** Paragraph 32A was inserted by S.I. 1987/168.

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**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 3 para. 4(1)(d) and word inserted by [S.I. 2024/382 art. 11\(b\)](#)