Draft Regulations laid before Parliament under section 201(2) of the Representation of the People Act 1983, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2018 No.

REPRESENTATION OF THE PEOPLE

The Representation of the People (England and Wales) (Amendment) Regulations 2018

Made - - - - ***

Coming into force in accordance with regulation 1

In accordance with section 7(1) and (2)(e) of the Political Parties, Elections and Referendums Act 2000(**a**), the Minister for the Cabinet Office has consulted the Electoral Commission before making these Regulations.

In accordance with section 201(2) of the Representation of the People Act 1983(**b**), a draft of these Regulations has been laid before and approved by resolution of each House of Parliament.

Accordingly, the Minister for the Cabinet Office makes these Regulations in exercise of the powers conferred by sections 9B(1A)(**c**), 10ZC(3), 10ZD(3), 10ZE(4) and 53(1)(b)(i) and (c), and (3) of, and paragraphs 1(2) and (2A), 3ZA, 5(1B), 10 and 13(2) of Schedule 2 to, the Representation of the People Act 1983(**d**).

Citation and commencement

1.—(1) These Regulations may be cited as the Representation of the People (England and Wales) (Amendment) Regulations 2018.

(2) This regulation and regulations 2 and 9 to 11 come into force on the day after the day on which they are made.

(3) Regulations 3 to 8 and 12 come into force on 1st July 2018.

(**a**) 2000 c. 41. There are amendments to section 7 but none is relevant to this instrument.

(**b**) 1983 c. 2. Section 201(2) was substituted by paragraph 69 of Schedule 4 to the Representation of the People Act 1985 (c. 50) and amended by paragraph 6 of Schedule 21 to the Political Parties, Elections and Referendums Act 2000, section 13(2) of the Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13) and article 5(b) of S.I. 1991/1728.

(**c**) See the definition of "prescribed" in section 202(1) of the Representation of the People Act 1983.

(**d**) Section 9B was inserted by section 10(1) of the Electoral Administration Act 2006 (c. 22) and sub-section (1A) was substituted by paragraphs 1 and 7(1) and (2) of Schedule 4 to the Electoral Registration and Administration Act 2013 (c. 6) ("the 2013 Act"). Sections 10ZC, 10ZD and 10ZE were inserted by section 1 of, and paragraph 1 of Schedule 1 to, the 2013 Act. Section 53(1)(b) and (c) were substituted by paragraph 13(b) of Schedule 1 to the Representation of the People Act 2000 (c. 2). Section 53(3) was amended by section 24 of, and paragraph 13(b) of Schedule 4 to, the Representation of the People Act 1985. Paragraph 1(2) of Schedule 2 was amended by section 8 of, and paragraphs 1 and 24 of Schedule 1 to, the Representation of the People Act 2000 and by section 12(1) of, and paragraph 20 of Schedule 4 to, the 2013 Act. Paragraph 1(2A) and 3ZA of Schedule 2 were inserted by section 2 of the 2013 Act. Paragraph 5(1B) of Schedule 2 was inserted by paragraphs 2 and 15(1) and (5) of Schedule 1 to the Electoral Administration Act 2006. Under article 3 of, and Schedule 1 to, the Transfer of Functions (Elections, Referendums, Third Sector and Information) Order 2016 (S.I. 2016/997) these powers are exercisable concurrently by the Secretary of State and the Minister for the Cabinet Office.

Amendment of the Representation of the People (England and Wales) Regulations 2001

2. The Representation of the People (England and Wales) Regulations 2001(**a**) are amended in accordance with regulations 3 to 12.

3. In regulation 26(3) (applications for registration)—

(a) after sub-paragraph (b) insert—

"(ba) a statement that persons who are not qualifying Commonwealth citizens, citizens of the Republic of Ireland or relevant citizens of the Union are ineligible to register to vote and that, in relation to an applicant's nationality, registration officers may require the applicant to provide additional information or may carry out checks against Government records;";

(b) after sub-paragraph (c) insert—

"(ca) a statement that failure to provide an address at which the applicant has ceased to reside within 12 months before the date of the application or any other mandatory information required on the form may delay the registration process;".

4. In regulation 26B(6)(c)(iv) (power to request additional evidence) for sub-paragraph (bb) substitute—

"(bb) the date on which a notice specifying that person's entry in the register was issued under (as the case may be) section 13A(2), 13AB(2), 13B or 13BC of that Act (and if there has been more than one such notice, the date on which the last one was issued);".

5. In regulation 31C (summary procedure for removal from the register)—

(a) in paragraph (2) at the end of the first line omit "either";

(b) at the end of paragraph (2)(b) insert "; or";

(c) after paragraph (b) insert—

"(c) the registration officer has not received the information referred to in paragraph (2)(b)(ii) or (iii) but—

(i) has determined that the elector has died after inspecting records kept by—

(aa) the council by which the registration officer was appointed,

(bb) where the council by which the registration officer was appointed is a council for a district in a county for which there is a county council, that county council, or

(cc) a person providing services to, or authorised to exercise any function of, the council referred to in (aa) or (bb);

(ii) has received information from the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild of the elector, which allows the registration officer to determine that the elector has died;

(iii) has received information as a result of the annual canvass required by section 9D of the 1983 Act, which allows the registration officer to determine that the elector has died; or

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(**a**) S.I. 2001/341. Regulation 26 was substituted by S.I. 2013/3198 and subsequently amended by S.I. 2015/1971 and 2016/694. Regulation 26B was inserted by S.I. 2013/3198 and subsequently amended by S.I. 2016/694. Regulation 31C was substituted by S.I. 2013/3198 and subsequently amended by S.I. 2015/1971. Regulation 31D was inserted by S.I. 2006/2910 and subsequently amended by S.I. 2013/3198. Regulation 31FZA was inserted by S.I. 2015/1971. Regulation 31FZ was inserted by S.I. 2013/3198 and subsequently amended by S.I. 2015/1971. Regulations 31G to 31J were inserted by S.I. 2006/2910 and subsequently amended by S.I. 2009/725, S.I. 2013/3198, S.I. 2016/21 and section 15(3) of, and Schedule 8 to, the Crime and Courts Act 2013 (c. 22). Regulation 93A was inserted by S.I. 2013/3198; there are other amendments but none is relevant to this instrument.

(iv) has received information from a person managing a care home service registered under Part 2 of the Care Standards Act 2000(**a**) where the elector was resident, which allows the registration officer to determine that the elector has died.

(2A) The information referred to in paragraph (2)(c)(ii) and (iv) may be provided in person, by telephone or in writing and must include—

(a) the full name and address of the elector who has died;

(b) the full name and address of the person providing the information and, in case of information received under paragraph (2)(c)(ii), that person's relationship to the elector; and

(c) a statement that the person providing the information is aware of the penalty for providing false information to a registration officer.

(2B) Where the information referred to in paragraph (2)(c)(ii) and (iv) has been provided in person or by telephone by virtue of paragraph (2A), the registration officer must record that information in writing or in data form.".

6. In regulation 31D (procedure for reviewing entitlement to registration)—

(a) after paragraph (4) insert—

"(4A) A notice specified for the purposes of paragraph (4)(a) must also state that—

(a) where the subject of the review does not notify the registration officer within 14 days beginning with the date of the notice that the subject of the review requires the review to be heard, the registration officer may determine the review and remove the subject's entry from the register;

(b) the subject of the review would not be entitled to a right of appeal against the registration officer's determination in the circumstances described in sub-paragraph (a); and

(c) after 14 days beginning with the date of the notice, the subject of the review can contact the registration officer to find out if the registration officer has removed the subject's entry from the register. ";

(b) for paragraph (7) substitute—

"(7) The registration officer may send a notice to the subject of the review which states that—

(a) the registration officer is not satisfied that the subject of the review is or was entitled to be registered, or that the subject's entry in the register does not result from or has not been altered as the result of an application made by another person, and the grounds for the registration officer's opinion;

(b) if within 14 days beginning with the date of the notice, the subject of the review does not require the review to be heard, the registration officer may determine the review and remove the subject's entry from the register;

(c) the subject of the review would not be entitled to a right of appeal against the registration officer's determination in the circumstances described in sub-paragraph (b); and

(d) after 14 days beginning with the date of the notice, the subject of the review can contact the registration officer to find out if the registration officer has removed the subject's entry from the register. ".

7. For regulation 31FZA (notification of outcome of reviews) substitute—

(**a**) 2000 c. 14.

"**Notification of outcome of reviews**

31FZA.—(1) Where the registration officer is required to send to the subject of the review a notice under regulation 31D(2) and the subject of the review has required the review to be heard or has made representations to the registration officer, the registration officer must notify the subject of the review in writing of its outcome and when doing so—

(a) state whether there is a right of appeal under section 56(1)(azd) or (aa) of the 1983 Act;

(b) specify the time within which any notice of appeal under that section must be given (in accordance with regulation 32(2)); and

(c) provide such other information about the appeal that the registration officer considers necessary.

(2) Where the registration officer is required to send to the subject of the review a notice under regulation 31D(2) and the subject of the review has not required that the review be heard, or has not made any representations to the registration officer, the registration officer may notify the subject of the review of its outcome and when doing so state that there is no right of appeal of that decision.".

8. In regulation 31FA (determinations during the annual canvass)—

(a) at the beginning insert "(1)";

(b) after paragraph (1) (so renumbered) insert—

"(2) This regulation does not apply where under regulation 31C(2)(c)(iii) a registration officer has received information as a result of the annual canvass which allows the registration officer to determine that the elector has died.".

9. In regulation 31I(3) (anonymous registration: evidence consisting of relevant court orders or injunctions) after sub-paragraph (q), insert—

"(r) a domestic violence protection order made under section 28 of the Crime and Security Act 2010(**a**) or section 97 of, and paragraph 5 of Schedule 7 to, the Justice Act (Northern Ireland) 2015(**b**);

(s) a female genital mutilation protection order made under section 5A of, and paragraphs 1 or 18 of Schedule 2 to, the Female Genital Mutilation Act 2003(**c**).".

10. In regulation 31J(4) (anonymous registration: evidence by attestation)—

(a) in sub-paragraphs (a), (b) and (c) for "superintendent" substitute "inspector";

(b) at the end of sub-paragraph (k), insert—

"(l) any registered medical practitioner;

(m) any registered nurse or midwife;

(n) any person who manages a refuge.".

11. After regulation 31J(4) insert—

"(5) In this regulation "refuge" means accommodation together with a planned programme of therapeutic and practical support for victims of, or those at risk of, domestic abuse or violence.".

12. In regulation 93A(4) (notifying registration officer of change to edited register preference) for "must" substitute "may".

(**a**) 2010 c. 17.
(**b**) 2015 c. 9. Section 97 and paragraph 5 of Schedule 7 are not yet in force.
(**c**) 2003 c. 31. Section 5A and Schedule 2 were inserted by section 73(1) and (2) of the Serious Crime Act 2015 (c. 9).

Signed by the authority of the Minister for the Cabinet Office

Name
Minister for the Constitution
Date Cabinet Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Representation of the People (England and Wales) Regulations 2001 ("the 2001 Regulations") in relation to procedures relating to registration and the evidence which can be used in support of an application for anonymous registration.

Regulation 3 inserts a new provision into regulation 26(3) of the 2001 Regulations to require the Electoral Commission to include on the form of application for registration under section 10ZC or 10ZD of the Representation of the People Act 1983 ("the application form") a statement that persons who are not qualifying Commonwealth citizens, citizens of the Republic of Ireland or relevant citizens of the Union are ineligible to register to vote, and that further information may be requested from the applicant or requests for checks against Government records may be made in respect of their nationality. Regulation 3 also amends regulation 26(3) of the 2001 Regulations to require the Electoral Commission to include on the application form a statement that failure to provide mandatory information on the form may delay the processing of the application.

Regulation 4 amends the requirements for attestation in regulation 26B(6)(c)(iv)(bb) of the 2001 Regulations to include persons who have been included on the register of electors by notices issued under section 13AB(2) (notices of alteration on interim publication dates), 13B (notices of alteration pending elections) or 13BC (notices of alteration pending a recall petition) of the Representation of the People Act 1983, in addition to those added to the register by a notice of alteration under section 13A(2) of that Act.

Regulation 5 amends regulation 31C of the 2001 Regulations to add additional circumstances in which registration officers can remove an elector from the register based on a single source of evidence that the elector has died. Regulation 8 makes consequential amendment to regulation 31FA as a result.

Regulations 6 and 7 amend the notices which registration officers must send when they conduct a review. Regulation 6 amends regulation 31D of the 2001 Regulations to require the registration officer to include additional information about the review process in a notice that a review is being undertaken, and regulation 7 amends regulation 31FZA of the 2001 Regulations to allow for the sending of a notification of the outcome of a review to be discretionary where the registration officer has not received any response to a notice that a review is being undertaken.

Regulation 31G of the 2001 Regulations governs the procedure for applying for an anonymous entry in the electoral register. An application must be accompanied by evidence of the nature prescribed in regulation 31I (court orders or injunctions protecting the applicant (or another person in their household)) or regulation 31J (attestation by a qualifying officer that the safety of the applicant (or another person in their household) is at risk if the electoral register contained their name or address). Regulation 9 amends regulation 31I(3) of the 2001 Regulations to include additional court orders.

Under existing regulation 31J(4)(a) to (c) of the 2001 Regulations, police officers of or above the rank of superintendent of any police force in England and Wales, the Police Service of Scotland, or the Police Service of Northern Ireland are qualifying officers who may attest an application for anonymous registration. Regulation 10(a) amends that provision so that police officers of or above the rank of inspector of any police force in England and Wales, the Police Service of Scotland, and the Police Service of Northern Ireland are qualifying officers.

Regulation 10(b) inserts new sub-paragraphs into regulation 31J(4) of the 2001 Regulations to include within the meaning of qualifying officer any registered doctor, any registered nurse or

midwife, and any refuge manager. “Registered medical practitioner” and “registered” (in relation to nurses and midwives) are defined in the Interpretation Act 1978.

Regulation 11 inserts the definition of ‘refuge’ for the purposes of Regulation 31J of the 2001 Regulations.

Regulation 12 amends regulation 93A of the 2001 Regulations so that, following a request from a person to be included in or omitted from the edited register, the sending of confirmation that the person has been included in or omitted from the edited register by the registration officer no longer mandatory.

An impact assessment has been prepared in relation to these Regulations. Copies are available from Registration and Franchise Team, Constitution Group, 4th Floor, 1 Horse Guards Road, London SW1A 2HQ and on www.legislation.gov.uk.

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£6.00

UK201712181020 12/2017 19585

http://www.legislation.gov.uk/id/ukdsi/2018/9780111163696

ISBN 978-0-11-116369-6

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