

European Parliamentary Elections Act 2002

2002 Chapter 24

An Act to consolidate the European Parliamentary Elections Acts

1978, 1993 and 1999.

[24th July 2002]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:-

Introductory

1 Electoral regions and number of MEPs

(1) For the purpose of the election in the United Kingdom of members of the European Parliament ("MEPs")-

(a) England is to be divided into nine electoral regions, and

(b) Scotland, Wales and Northern Ireland are each to constitute a single electoral region.

(2) There are to be 87 MEPs elected in the United Kingdom, of whom-

(a) 71 are to be elected for the electoral regions in England,

(b) 8 are to be elected for Scotland,

(c) 5 are to be elected for Wales, and

(d) 3 are to be elected for Northern Ireland.

(3) Schedule 1 (which makes provision for the electoral regions in England and for the number of MEPs to be elected for each region) has effect.

General elections

2 Voting system in Great Britain

(1) The system of election of MEPs in an electoral region in Great Britain is to be a regional list system.

(2) The Secretary of State must by regulations-

(a) make provision for the nomination of registered parties in relation to an election in such a region, and

(b) require a nomination under paragraph (a) to be accompanied by a list of candidates numbering no more than the MEPs to be elected for the region.

(3) The system of election must comply with the following conditions.

(4) A vote may be cast for a registered party or an individual candidate named on the ballot paper.

(5) The first seat is to be allocated to the party or individual candidate with the greatest number of votes.

(6) The second and subsequent seats are to be allocated in the same way, except that the number of votes given to a party to which one or more seats have already been allocated are to be divided by the number of seats allocated plus one.

(7) In allocating the second or any subsequent seat there are to be disregarded any votes given to-

(a) a party to which there has already been allocated a number of seats equal to the number of names on the party's list of candidates, and

(b) an individual candidate to whom a seat has already been allocated.

(8) Seats allocated to a party are to be filled by the persons named on the party's list of candidates in the order in which they appear on that list.

(9) For the purposes of subsection (6) fractions are to be taken into account.

(10) In this section "registered party" means a party registered under Part 2 of the Political Parties, Elections and Referendums Act 2000 (c. 41).

3 Voting system in Northern Ireland

The system of election of MEPs in Northern Ireland is to be a single transferable vote system under which-

(a) a vote is capable of being given so as to indicate the voter's order of preference for the candidates, and

(b) a vote is capable of being transferred to the next choice-

(i) when the vote is not required to give a prior choice the necessary quota of votes, or

(ii) when, owing to the deficiency in the number of votes given for a prior choice, that choice is eliminated from the list of candidates.

4 Date of elections

The poll at each general election of MEPs is to be held on a day appointed by order of the Secretary of State.

Vacant seats

5 Filling vacant seats

(1) The Secretary of State must by regulations make provision prescribing the procedure to be followed when a seat is or becomes vacant.

(2) The regulations may-

(a) include provision requiring a by-election to be held in specified circumstances (and provision modifying section 2 in its application to by-elections);

(b) require a seat last filled from a party's list of candidates to be filled, in specified circumstances, from such a list (without a by-election).

(3) Where regulations provide for a by-election to be held-

(a) the poll must take place on a day, appointed by order of the Secretary of State, within such period as may be specified in the regulations, but

(b) the regulations may enable the Secretary of State to decline to appoint a day in certain circumstances.

Conduct of elections

6 Returning officers

- (1) There is to be a returning officer for each electoral region.
- (2) For a region in England and for Wales, the returning officer is to be a person who-
 - (a) is an acting returning officer by virtue of section 28(1) of the Representation of the People Act 1983 (c. 2), and
 - (b) is designated for the purposes of this subsection by order of the Secretary of State.
- (3) For Scotland the returning officer is to be a person who-
 - (a) is a returning officer by virtue of section 25 of that Act, and
 - (b) is designated for the purposes of this subsection by order of the Secretary of State.
- (4) For Northern Ireland the returning officer is to be the Chief Electoral Officer.
- (5) The Secretary of State may by regulations confer functions on the returning officers for the electoral regions and on persons who are, in relation to parliamentary elections-
 - (a) in the case of England and Wales, acting returning officers, or
 - (b) in the case of Scotland, returning officers.
- (6) There are to be charged on, and paid out of, the Consolidated Fund-
 - (a) charges to which persons on whom functions are conferred under subsection (5) are entitled under regulations under this Act, and
 - (b) any sums required by the Secretary of State for expenditure on the provision of training relating to functions conferred under subsection (5).
- (7) Where functions are conferred on a person under subsection (5) in relation to an electoral region, the council of a relevant area which falls wholly or partly within that region must place the services of their officers at his disposal for the purpose of assisting him in the discharge of those functions.
- (8) In subsection (7), "relevant area" means-
 - (a) a district or London borough in England,
 - (b) a county or county borough in Wales, and

(c) a local government area in Scotland.

7 Regulation-making powers: general

(1) The Secretary of State may, subject to the provisions of this Act, by regulations make provision as to-

(a) the conduct of elections to the European Parliament, and

(b) the questioning of such an election and the consequences of irregularities.

(2) Regulations under this Act may make provision (including the creation of criminal offences)-

(a) about the limitation of election expenses of candidates;

(b) for the allocation of seats in the case of an equality of votes;

(c) for securing that no person stands for election more than once at a general election (whether by being nominated as a candidate or by being included in a party's list of candidates).

(3) Regulations under this Act may apply, with such modifications or exceptions as may be specified in the regulations-

(a) any provision of the Representation of the People Acts or of any other enactment relating to parliamentary elections or local government elections, and

(b) any provision made under any enactment.

(4) Regulations under this Act may amend any form contained in regulations made under the Representation of the People Acts so far as may be necessary to enable it to be used both for the purpose indicated in regulations so made and for the corresponding purpose in relation to elections to the European Parliament.

(5) Section 26 of the Welsh Language Act 1993 (c. 38) (power to prescribe Welsh version) applies in relation to regulations under this Act as it applies in relation to Acts of Parliament.

Entitlement to vote

8 Persons entitled to vote

(1) A person is entitled to vote as an elector at an election to the European Parliament in an electoral region if he is within any of subsections (2) to (5).

(2) A person is within this subsection if on the day of the poll he would be entitled to vote as an elector at a parliamentary election in a parliamentary constituency wholly or partly comprised in the electoral region, and-

(a) the address in respect of which he is registered in the relevant register of parliamentary electors is within the electoral region, or

(b) his registration in the relevant register of parliamentary electors results from an overseas elector's declaration which specifies an address within the electoral region.

(3) A person is within this subsection if-

(a) he is a peer who on the day of the poll would be entitled to vote at a local government election in an electoral area wholly or partly comprised in the electoral region, and

(b) the address in respect of which he is registered in the relevant register of local government electors is within the electoral region.

(4) A person is within this subsection if he is entitled to vote in the electoral region by virtue of section 3 of the Representation of the People Act 1985 (c. 50) (peers resident outside the United Kingdom).

(5) A person is within this subsection if he is entitled to vote in the electoral region by virtue of the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001 (S.I. 2001/1184) (citizens of the European Union other than Commonwealth and Republic of Ireland citizens).

(6) Subsection (1) has effect subject to any provision of regulations made under this Act which provides for alterations made after a specified date in a register of electors to be disregarded.

(7) In subsection (3) "local government election" includes a municipal election in the City of London (that is, an election to the office of mayor, alderman, common councilman or sheriff and also the election of any officer elected by the mayor, aldermen and liverymen in common hall).

9 Double voting

(1) A person is guilty of an offence if, on any occasion when elections to the European Parliament are held in all the member states under Article 9 of the Act annexed to Council Decision 76/787, he votes as an elector more than once in those elections, whether in the United Kingdom or elsewhere.

(2) Subsection (1) is without prejudice to any enactment relating to voting offences, as applied by regulations under this Act to elections of MEPs held in the United Kingdom.

(3) The provisions of the Representation of the People Act 1983 (c. 2), as applied by regulations under this Act, have effect in relation to an offence under this section as they have effect in relation to an offence under section 61(2) of that Act (double voting).

(4) In particular, the following provisions of that Act apply-

(a) section 61(7) (which makes an offence under section 61(2) an illegal practice but allows any incapacity resulting from conviction to be mitigated by the convicting court), and

(b) section 178 (prosecutions for offences committed outside the United Kingdom).

Entitlement to be MEP

10 Disqualification

(1) A person is disqualified for the office of MEP if-

(a) he is disqualified for membership of the House of Commons, or

(b) he is a Lord of Appeal in Ordinary.

(2) But a person is not disqualified for the office of MEP under subsection (1)(a) merely because-

(a) he is a peer,

(b) he is a Lord Spiritual,

(c) he holds an office mentioned in section 4 of the House of Commons Disqualification Act 1975 (c.24) (stewardship of Chiltern Hundreds etc.), or

(d) he holds any of the offices described in Part 2 or 3 of Schedule 1 to that Act which are designated by order by the Secretary of State for the purposes of this section.

(3) A citizen of the European Union who is resident in the United Kingdom is not disqualified for the office of MEP under subsection (1)(a) merely because he is disqualified for membership of the House of Commons under section 3 of the Act of Settlement (12&13

Will 3 c.2.) (disqualification of persons, other than Commonwealth and Republic of Ireland citizens, who are born outside Great Britain and Ireland and the dominions).

(4) A person is disqualified for the office of MEP for a particular electoral region if, under section 1(2) of the House of Commons Disqualification Act 1975 (c. 24), he is disqualified for membership of the House of Commons for any parliamentary constituency wholly or partly comprised in that region.

(5) A person who-

(a) is a citizen of the European Union, and

(b) is not a Commonwealth citizen or a citizen of the Republic of Ireland,

is disqualified for the office of MEP if he is disqualified for that office through a criminal law or civil law decision under the law of the member state of which he is a national (and in this subsection "criminal law or civil law decision" has the same meaning as in Council Directive 93/109/EC).

(6) If a person who is returned as an MEP for an electoral region under section 2, 3 or 5-

(a) is disqualified under this section for the office of MEP, or

(b) is disqualified under this section for the office of MEP for that region,

his return is void and his seat vacant.

(7) If an MEP becomes disqualified under this section for the office of MEP or for the office of MEP for the electoral region for which he was returned, his seat is to be vacated.

(8) Subsection (1) is without prejudice to Article 6(1) of the Act annexed to Council Decision 76/787 (incompatibility of office of MEP with certain offices in or connected with Community institutions).

11 Judicial determination of disqualification

(1) Any person may apply to the appropriate court for a declaration or (in Scotland) declarator that a person who purports to be an MEP for a particular electoral region-

(a) is disqualified under section 10 (whether generally or for that region), or

(b) was so disqualified at the time when, or at some time since, he was returned as an MEP under section 2, 3 or 5.

(2) For the purposes of subsection (1), the appropriate court is-

- (a) the High Court, if the electoral region concerned is in England, or is Wales,
 - (b) the Court of Session, if the electoral region concerned is Scotland, or
 - (c) the High Court of Justice in Northern Ireland, if the electoral region concerned is Northern Ireland.
- (3) The decision of the court on an application under this section is final.
- (4) On an application under this section-
- (a) the person in respect of whom the application is made is to be the respondent or (in Scotland) the defender, and
 - (b) the applicant must give such security for the costs or expenses of the proceedings, not exceeding £5000, as the court may direct.
- (5) The Secretary of State may by order substitute another figure for the figure in subsection (4)(b).
- (6) No declaration or declarator is to be made under this section in respect of any person on grounds which subsisted at the time of his election if there is pending, or has been tried, an election petition in which his disqualification on those grounds is, or was, in issue.
- (7) Any declaration or declarator made by the court on an application under this section must be certified in writing to the Secretary of State immediately by the court.

European Parliament

12 Ratification of treaties

(1) No treaty which provides for any increase in the powers of the European Parliament is to be ratified by the United Kingdom unless it has been approved by an Act of Parliament.

(2) In this section "treaty" includes-

- (a) any international agreement, and
- (b) any protocol or annex to a treaty or international agreement.

Supplementary

13 Regulations and orders

(1) Regulations and orders made under this Act must be made by statutory instrument.

(2) No regulations may be made under this Act unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House of Parliament.

(3) A statutory instrument containing an order under-

(a) section 10(2)(d) or 11(5), or

(b) paragraph 4(2) of Schedule 1,

is subject to annulment in pursuance of a resolution of either House of Parliament

(4) A statutory instrument containing an order under section 4 or 5(3) is to be laid before Parliament after being made.

14 Transitional provisions

Schedule 2 (transitional provisions) has effect.

15 Consequential amendments

Schedule 3 (consequential amendments) has effect.

16 Repeals and revocation

The enactments and instrument specified in Schedule 4 are repealed or revoked to the extent specified.

General

17 Interpretation

In this Act-

"enactment" includes an enactment contained in-

(a) an Act of the Parliament of Northern Ireland,

(b) an Order in Council made under the Northern Ireland (Temporary Provisions) Act 1972 (c. 22), or

(c) a Measure of the Northern Ireland Assembly;

"the Act annexed to Council Decision 76/787" is the Act concerning the election of MEPs annexed to Council Decision 76/787/ECSC, EEC, Euratom of 20th September 1976;

"citizen of the European Union" is to be determined in accordance with Article 17.1 of the Treaty establishing the European Community.

18 Short title and commencement

- (1) This Act may be cited as the European Parliamentary Elections Act 2002.
- (2) This Act comes into force at the end of the period of 3 months beginning with the day on which it is passed.

SCHEDULES

SCHEDULE 1

Section 1. ELECTORAL REGIONS IN ENGLAND

Electoral regions

1 The electoral regions for England are those listed in the Table below.

2 (1) A reference in the Table to a local government or administrative area is a reference to that area as it is for the time being.

(2) But where an area specified in column (2) of the Table is altered, the alteration does not have effect for the purposes of this Act until the first general election of MEPs at which the poll in the United Kingdom takes place after the alteration comes into force for all other purposes.

Number of MEPs for each region

3 The number of MEPs to be elected for each electoral region in England is the number specified in column (3) of the Table.

4 (1) Each registration officer is to notify the Secretary of State, by 28th May in each pre-election year, of the number of persons whose names appear, on 1st May in that year, in any relevant register maintained by him.

(2) As soon as possible after 1st May in each pre-election year the Secretary of State must-

- (a) consider, in relation to each electoral region in England, the number of persons whose names appear on that date in (or in part of) any relevant register which relates to the region,

(b) consider whether the ratio of such persons to MEPs is as nearly as possible the same for every such region, and

(c) make by order such amendments of column (3) of the Table as he considers necessary to ensure that result.

(3) For the purposes of sub-paragraphs (1) and (2) there is to be disregarded any person who-

(a) is registered only for the purposes of local government elections, and

(b) is a citizen of the European Union but not a Commonwealth citizen or a citizen of the Republic of Ireland.

(4) An order under sub-paragraph (2) must not alter the total number of MEPs to be elected for the electoral regions in England.

(5) In this paragraph "pre-election year" means any year after 2002 which immediately precedes a year in which general elections would be held in accordance with Article 10(2) of the Act annexed to Council Decision 76/787.

(6) For the purposes of this paragraph the relevant registers are-

(a) a register of parliamentary electors;

(b) a register of local government electors;

(c) a register of peers maintained under section 3 of the Representation of the People Act 1985 (c. 50) (peers resident outside the United Kingdom);

(d) a register maintained under regulation 5 of the European Parliamentary Elections (Franchise of Relevant Citizens of the Union) Regulations 2001 (S.I.2001/1184) (citizens of the European Union other than Commonwealth and Republic of Ireland citizens).

| TABLE | | |
|----------------|--|----------------|
| (1) | (2) | (3) |
| Name of Region | Area Included | Number of MEPs |
| East Midlands | County of Derby County of Derbyshire County of Leicester County of Leicestershire County of Lincolnshire County of Northamptonshire | 6 |

| | | |
|------------|---|----|
| | County of Nottingham County of Nottinghamshire County of Rutland | |
| Eastern | County of Bedfordshire County of Cambridgeshire County of Essex County of Hertfordshire County of Luton County of Norfolk County of Peterborough County of Southend-on-Sea County of Suffolk County of Thurrock | 8 |
| London | Greater London | 10 |
| North East | County of Darlington County of Durham County of Hartlepool County of Middlesbrough County of Northumberland County of Redcar and Cleveland County of Stockton-on-Tees County of Tyne and Wear | 4 |
| North West | County of Blackburn with Darwen County of Blackpool County of Cheshire County of Cumbria County of Greater Manchester County of Halton County of Lancashire County of Merseyside County of Warrington | 10 |
| South East | County of Berkshire County of Brighton and Hove County of Buckinghamshire County of East Sussex County of Hampshire County of Isle of Wight County of Kent County of the Medway Towns County of Milton Keynes County of Oxfordshire County of Portsmouth County of Southampton | 11 |

| | | |
|--------------------------|---|---|
| | County of Surrey County of West Sussex | |
| South West | County of Bath and North East Somerset County of Bournemouth County of the City of Bristol County of Cornwall County of Devon County of Dorset County of Gloucestershire County of North Somerset County of Plymouth County of Poole County of Somerset County of South Gloucestershire County of Swindon County of Torbay County of Wiltshire Isles of Scilly | 7 |
| West Midlands | County of Herefordshire County of Shropshire County of Staffordshire County of Stoke-on-Trent County of Telford and Wrekin County of Warwickshire County of West Midlands County of Worcestershire | 8 |
| Yorkshire and the Humber | County of the City of Kingston upon Hull County of the East Riding of Yorkshire County of North East Lincolnshire County of North Lincolnshire County of North Yorkshire County of South Yorkshire County of West Yorkshire County of York | |

SCHEDULE 2

Section 14. TRANSITIONAL PROVISIONS

1 The repeal and re-enactment of provisions in this Act does not affect the continuity of the law.

2 Anything done, or having effect as if done, under or for the purposes of a provision repealed by this Act (including subordinate legislation so made or having effect as if so made), and in force or effective immediately before the commencement of this Act, has effect after that commencement as if done under or for the purposes of the corresponding provision of this Act.

3 A reference, express or implied, in this Act, another enactment or an instrument or document, to a provision of this Act is, subject to its context, to be read as being or including a reference to the corresponding provision repealed by this Act, in relation to times, circumstances or purposes in relation to which the repealed provision had effect.

4 (1) A reference, express or implied, in any enactment, instrument or document, to a provision repealed by this Act is, subject to its context, to be read as being or including a reference to the corresponding provision of this Act, in relation to times, circumstances or purposes in relation to which that provision has effect.

(2) In particular, where a power conferred by an Act is expressed to be exercisable in relation to enactments contained in Acts passed before or in the same Session as the Act conferring the power, the power is also exercisable in relation to provisions of this Act that reproduce such enactments.

5 Paragraphs 1 to 4 have effect in place of section 17(2) of the Interpretation Act 1978 (c. 30) (but are without prejudice to any other provision of that Act).

SCHEDULE 3

Section 15. CONSEQUENTIAL AMENDMENTS

European Communities Act 1972 (c.68)

1 In section 1(2) of the European Communities Act 1972 (interpretation) in the definition of "the Treaties", and "the Community Treaties", after paragraph (k) there is to continue to be inserted- "and

(l) the decision, of 1st February 1993, of the Council amending the Act concerning the election of the representatives of the European Parliament by direct universal suffrage annexed to Council Decision 76/787/ECSC, EEC, Euratom of 20th September 1976."

Juries Act 1974 (c. 23)

2 In Part 3 of Schedule 1 to the Juries Act 1974 (persons excused from jury service in England and Wales) (as amended by section 3(1) of the European Communities (Amendment) Act 1986 (c. 58)), for "Representatives to the European Parliament" and the preceding heading substitute-

"European Parliament

Members of the European Parliament."

Juries (Northern Ireland) Order 1974 (S.I. 1974/2143)

3 In Schedule 2 to the Juries (Northern Ireland) Order 1974 (exemptions from jury service in Northern Ireland) (as amended by section 3(1) of the European Communities (Amendment) Act 1986), for "Representatives to the European Parliament" and the preceding heading substitute-

"European Parliament

Members of the European Parliament."

European Parliament (Pay and Pensions) Act 1979 (c. 50)

4 In the European Parliament (Pay and Pensions) Act 1979, in-

- (a) section 3(1) (resettlement grants),
- (b) section 7(2) (expenses: Northern Ireland), and
- (c) section 8(1) (interpretation),

for "constituency" and "a constituency", in each place, there is to continue to be substituted "electoral region" and "an electoral region".

Broadcasting Act 1996 (c.55)

5 In paragraph 30 of Schedule 10 to the Broadcasting Act 1996 (minor and consequential amendments), for "paragraph 2 of Schedule 1 to the European Parliamentary Elections Act 1978" substitute "section 7 of the European Parliamentary Elections Act 2002".

Government of Wales Act 1998 (c.38)

6 In section 11(3)(a) of the Government of Wales Act 1998 (power to make provision about elections etc.), for "the European Parliamentary Elections Act 1978" substitute "the European Parliamentary Elections Act 2002".

Scotland Act 1998 (c.46)

7 (1) The Scotland Act 1998 is amended as follows.

(2) In section 12(4)(a) (power to make provision about elections), for "the European Parliamentary Elections Act 1978" substitute "the European Parliamentary Elections Act 2002".

(3) In Section B3 of Part 2 of Schedule 5 (reserved matters), for paragraph (a) substitute-

"(a) the European Parliamentary
Elections Act 2002."

Political Parties, Elections and Referendums Act 2000 (c.41)

8 (1) The Political Parties, Elections and Referendums Act 2000 is amended as follows.

(2) In section 7(2)-

(a) in paragraph (a) (consultation of Electoral Commission), for the words from "paragraph" to "elections)" substitute "the European Parliamentary Elections Act 2002", and

(b) in paragraph (b) (designation of returning officers), for "paragraph 4(1)(a) or (b) of that Schedule" substitute "section 6(2)(b) or (3)(b) of that Act".

(3) In section 8(3)(c) (functions of Secretary of State exercisable only on recommendation of Electoral Commission), for the words from "paragraph" to "1978" substitute "section 7(2)(a) of the European Parliamentary Elections Act 2002".