

## **Proposed Draft Secondary Legislation – Final Publication**

The passage of the Electoral Registration and Administration (ERA) Bill to introduce Individual Electoral Registration (IER) in Great Britain has been characterised by consultation, listening and reflection on the part of Government. The three published sets of draft secondary legislation reflect that approach.

This draft is the third part of the draft secondary legislation and maintains and builds on the detail contained in the previous publications of the proposed main regulations. However, this tranche of legislation also includes two further draft statutory instruments covering:

- The transitional provisions for the introduction of IER (which now includes the provisions for confirming existing electors during the transition to IER)
- The postponement of the 2013 Annual Canvass

As in previous secondary legislation drafts, we have included a number of explanatory text boxes to provide context and to add further detail.

In the development of policy on IER, we are continuing to work closely with our key stakeholders including the Electoral Commission (EC), the Association of Electoral Administrators (AEA), the Society of Local Authority Chief Executives (SOLACE), the Scottish Assessors Association (SAA) and electoral administrators on the front line. However views are welcome from anyone with an interest in the details of how the new system will operate.

The proposed draft regulations set out are those for England and Wales. When final regulations are brought forward, there will be a separate set covering Scotland, due to slight differences in legal frameworks. However, there will be no material difference in policy or approach, merely in how the legislation is put in place.

As previously stated, the development of IT services for IER has adopted “agile development methodology.” This is a flexible development approach that rapidly responds to the evolving requirements without being restricted by a rigid framework. While the precise detail of the IER Digital Service cannot be set out in this publication, this approach will ensure that the final package is fit for purpose and meets the needs of individuals and registration officers once it is introduced.

### **Areas previously included in this document**

- Form and content of applications
- Evidence that needs to be provided with applications
- Altering entries on the register

- Verification process
- Providing additional information
- Confirming existing electors
- Requiring an individual to make an application by a certain date
- Issuing a civil penalty

#### **Additional areas now included in this document**

- Procedure for determining applications – the draft presented here sets out the steps an ERO must follow (sharing information to allow for verification) ahead of making a determination.
- *Issuing invitations to apply to register*
- *Steps to be taken to encourage a person to make an application for registration in response to an invitation to do so*
- *Annual canvass*
- *Manner of applications*
- *Moving the 2013 canvass*
- *Civil penalties appeals process*
- *Removing electors from the register*
- *Non response to a canvass form*
- *Encouraging an application*
- *Processing of information*
- *Offence for onward disclosure of information*
- *Additional details of transition*
- *Objections process*
- *Manner in which the canvass is to be conducted*

#### **Areas where we do not intend to publish draft legislation**

For the first four areas listed below, we do not intend to publish proposed draft legislation as the detail of the policy which will be set out in the legislation has been articulated in previous publications for example in the Government's response to pre-legislative scrutiny and the public consultation. For the remaining areas we are not intending to use these powers at present.

- *Proxy voters* – these regulations will set out the process a registration officer will need to have undertaken to ensure that proxy voters are registered under IER
- *Additional information on poll cards* – these regulations will set out that information about the move to IER will be included on the poll cards for the European Elections in 2014
- *Alignment of other electoral legislation* – further secondary legislation making similar changes will be required to ensure that other legislation relating to electoral registration and elections (for example legislation relating to elections other than UK Parliamentary and local elections) align with the move to IER.
- *Commencement orders* – these will set out the date on which each provision of the Bill will come into force
- *Amending or abolishing the annual canvass and piloting of changes to the annual canvass*– these are not provisions we are currently intending to use;

however, based on the experience of Northern Ireland it may be something we will consider in the future.

- *Accepting a prescribed person's statement as fact of evidence* – a in future this may be used to enable verification which has previously been carried out through another Government transaction to be accepted as sufficient evidence, however we are not intending to do this at present.

### **Key stakeholders who will be consulted**

- Association of Chief Police Officers
- The Crown Prosecution Service
- Electoral Commission
- Association of Electoral Administrators
- Scottish Assessors Association
- Society of Local Authority Chief Executives
- Registration Officers and Electoral Administrators on the IER Expert Panel<sup>a</sup>
- Election Management Systems suppliers
- Electoral Management Board for Scotland
- Credit reference agencies
- Information Commissioner's Office
- Electoral Reform Society
- Unlock Democracy
- Association of Chief Police Officers
- Serious Organised Crime Agency
- No2ID
- Big Brother Watch
- Liberty
- Justice
- Privacy International
- Runnymede Trust
- NUS
- Age UK
- Catch 21
- Cabrini Children's Society
- Centre for Women and Democracy
- Children in Wales
- MIND
- RNIB
- Sense
- Scope
- Operation Black Vote
- Bite the Ballot
- Political Parties

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<sup>a</sup> The expert panel are a group of EROs and EA's who have provided their expertise and advice to the Electoral Registration Transformation Programme since its inception on policy and business design issues. They have helped to design and test the current policy. The panel has 18 members from a varying range of Local Authorities right across GB, some of who have also been involved in the Programme's work in other areas.

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However views are welcomed from other parties with an interest, who do not appear on this list, who can contact us at: [electoralregistration@cabinet-office.gsi.gov.uk](mailto:electoralregistration@cabinet-office.gsi.gov.uk). We expect to conclude our discussions with the groups listed by the beginning of November this year.

**Cabinet Office, September 2012**

## REPRESENTATION OF THE PEOPLE

### Representation of the People (England and Wales) (Amendment) Regulations 2013

*Made* - - - - - \*\*\*\*\*

*Coming into force in accordance with regulation 1*

Whereas a draft of these Regulations has been approved by resolution of each House of Parliament, and the Lord President of the Council has consulted the Electoral Commission and the Information Commissioner in accordance with section 53(5) of the Representation of the People Act 1983 and section 7(1)(e) of the Political Parties, Elections and Referendums Act 2000;

Now, therefore, the Lord President of the Council in exercise of the powers conferred on him by sections 9E, 10ZC, 10ZD of, and Schedules 2 and 3 to, the Representation of the People Act 1983 makes the following Regulations.

#### Citation, commencement and extent

1.—(1) These Regulations may be cited as the Representation of the People (England and Wales) (Amendment) Regulations [2013] and come into force [on the day after the day on which they are made].

(2) These Regulations do not extend to Scotland or Northern Ireland.

This draft covers only England and Wales. As set out in the introduction, Scotland has separate regulations that will also be amended when secondary legislation is laid before Parliament to reflect policy decisions set out in this draft order. The Government welcomes views from stakeholders in Scotland about any issues that may arise from these regulations.

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

2. The Representation of the People (England and Wales) Regulations 2001 are amended as follows.

3.—(1) Regulation 5 is renumbered as paragraph (1) of that regulation.

The below provision makes an exception for notices of requirements to register and notices of civil penalty from the general rule that applications, notices and representations can be sent electronically. These notices must be sent in hard copy. There has also been an amendment inserted so that objections are made on paper, and not by electronic means. We are giving further thought as to whether any other parts of the registration process should be ‘paper only’.

(2) In that paragraph—

- (a) after “notice,” insert “or”;
- (b) omit “or objection”.

(3) After that paragraph insert—

“(2) Paragraph (1) does not apply to notice of a requirement to register given under regulation 26J(1) or notice of a civil penalty given under regulation 26K(2).”.

4. In regulation 6(1)—

- (a) after “notice,” insert “or”; and
- (b) omit “or objection”.

5. In regulation 23, after paragraph (1) insert—

As stated in the previous publication, the Government’s policy is that while a registration officer would be able to request additional information from an applicant to support their application for registration, it should not be a criminal offence to fail to provide this information. The Government has no intention of attaching a criminal sanction for not registering to vote and this change ensures that an individual who has made an application does not potentially receive a criminal penalty for not providing further information in support of this application. The consequence for an individual who failed to supply such information would be that they would not be registered to vote, not that they would face a criminal penalty for failing to supply information to a registration officer when required to do so. The proposed change in law set out below is intended to ensure that this is the case, whilst retaining the ability of the ERO to use the existing powers to request information from households (and others) to see who may be entitled to be registered and to investigate entries already on the register.

“(1A) A registration officer may not use the power at paragraph (1) to require a person who has made an application under section 10ZC or 10ZD of the 1983 Act to provide evidence to assist the registration officer in determining, in connection with that application, whether the applicant is the person named in the application or is entitled to be registered.”

6. For regulation 26, substitute—

#### **“26 Applications for registration or alteration**

The following provisions in the draft regulations sets out what the IER application must contain, whether paper or online or via a telephone channel. The majority of these requirements are fairly self-explanatory, but for clarity, the reasoning behind those where there may be questions are set out below. We are also in discussion with the Electoral Commission about how different formats and languages of application forms might be provided for.

We are exploring with registration officers and others whether telephone number and/or email address should be requested on the application form, but citizens would not be required to provide this.

(1) An application for registration as a parliamentary or local government elector (or both) under section 10ZC or an application for alteration under section 10ZD of the 1983 Act (“an application”) must state—

- (a) the applicant’s full name and any previous name the applicant has held within 12 months before the date of the application;

Previous name is required in case the information against which an application is checked still reflects the applicant’s previous name. This might happen in relation to someone recently married. We would not want an applicant to have to go through further steps to validate their application where this is avoidable.

- (b) the address in respect of which the applicant applies to be registered and at which they are resident on the date of the application;
- (c) any address at which the applicant has ceased to reside within 12 months before the date of the application;

This information will allow a registration officer for the area where the applicant used to reside to be notified that the person has applied to be registered in a new area. The registration officer for the previous area will then be alerted to the fact that they will need to start the process of removing that entry (with appropriate safeguards against fraud). The detailed process here will be set out in guidance to registration officers.

- (d) any other address at which the applicant is resident, including any address in respect of which the applicant is currently registered as an elector and in respect of which the applicant claims to be entitled to be remain registered;

This will enable registration officers to identify dual-registrations, and to raise any queries with the 'other' registration officer if they see fit to do so to determine an applicant's entitlement to be registered. Dual registrations are legal in some circumstances and this will not be altered by the new system.

- (e) subject to regulation 26A, the applicant's date of birth;
- (f) subject to regulation 26A, the applicant's national insurance number;

The National Insurance Number (NINO) and date of birth, together with the applicant's name will be the information used to verify an application (outside the 'confirmation phase' of transition, where name and address will be the information used to verify existing entries). The data matching pilots carried out in 2011 indicated that a majority of electors were confirmed to a sufficient degree of certainty through the comparison of electoral registers with the DWP Customer Information System database. We are now carrying out further data matching pilots to confirm these findings and test how this process will work. We are keen to simplify the transition to IER for as many individuals as possible without compromising the integrity of the register and believe that those who have been included in the register as a result of a previous application (which a registration officer has considered, subjected to an objections process and subsequently accepted the application) who can also be cross checked against trusted public data sources should be confirmed as entries on the register. For new applications, this previous consideration would not have taken place and requiring this additional information will safeguard the integrity of the new registers.

- (g) the applicant's nationality, except in the case of a person applying to be registered in pursuance of an overseas elector's declaration;
- (h) in the case of an applicant who is a Commonwealth citizen but is not a citizen of the European Union, the applicant's immigration status;

Currently, and under IER, registration officers can ask for more information from an individual where they have any doubts as to whether an individual is entitled to be registered. So where a registration officer has doubts about a person's age or nationality, he may ask that person to produce certain evidence, e.g. a birth certificate or certificate of naturalisation, for the purposes of registration.

We are exploring with UKBA the possibility of systematically verifying immigration status against their data, and looking at whether there are other public data sets that can help improve the accuracy of the electoral register. We are also considering whether we should ask for all of a citizen's nationalities (where they have more than one).

- (i) in the case of an applicant whose application is not accompanied by an application for an anonymous entry and who wishes his name and address to be omitted from the edited version of the register, that fact;

Under IER, an individual's preference in relation to the edited register will be carried forward unless, and until, they inform their registration officer that they wish to make a new choice or they complete a new application to register under IER (having moved home for example). We intend to make it as simple and straightforward as possible for electors to change their preference, if they so wish. Individuals will be able to do so at any time simply by writing to their Electoral Registration Officer, and digital applications will explain what the edited register is, and how to opt in or out. Currently electors may make a change each year when they re-register.

Following discussions with stakeholders after publication of the first tranche of proposed draft secondary legislation, the Government intends to look at the standard description of the edited register and engage on the wording for both registers, and the name for the "Edited Register", with key stakeholders and with any interested stakeholders who wish to make themselves known to us, with a view to bringing forward any changes in the final regulations, if it is decided that the current wording should be updated..

- (j) in the case of an applicant whose application is accompanied by an application for an anonymous entry, that fact;
- (k) where an application is or includes an application under section 10ZD to alter the name in respect of which the applicant is registered, that fact.

The provision relating to people who are unable to provide their NINOs has been moved to section 26A which deals with all details of non-standard applications.



The following provision sets out how the paper application forms for IER will be designed. As well as requiring the information set out in paragraphs (1)(a)-(k) above and appropriate declarations in (2) below, the forms will need to meet the criteria set out in paragraph 3, below.

The Electoral Commission expects the form design process to include the following types of activity:

- user-testing of draft form designs with members of the public;
- consultation/seeking expert advice on form design in terms of usability and accessibility;
- consultation with existing practitioner stakeholder groups and networks including the Elections, Referendums and Registration Working Group (ERRWG), and suppliers of electoral management software and hardware.

In addition, user-testing of the online portal for registration will help inform user-testing of paper forms, and vice-versa.

In contrast to existing regulations, these draft regulations do not set out specific forms of words that will be used on the application forms. At this stage this is because we want user-testing and feedback on what form of words is most effective in encouraging registrations to inform the decisions on wording. However, leaving wording out of regulations allows the Commission to move much more quickly and flexibly in terms of updating forms, and we will discuss with stakeholders whether to include specific wording on the forms in final regulations.

We would welcome views on whether to require individuals to use only the prescribed forms designed by the Commission (with appropriate branding) or if it would be preferable to encourage the use of these forms, but reproduce the existing or ‘to like effect’ provisions in the current regulations.

The final application form will include prescribed wording on the edited register. As set out on page 8, we will be engaging with stakeholders on this wording.

The below provision has been moved from the previous draft where it could be found at 26(4)(a) and (b).

(2) An application under paragraph (1) above must include—

- (a) a declaration by the applicant that the information provided in the application is true; and
- (b) in the case of a person applying to be registered as a parliamentary or local government elector (or both) in pursuance of a service declaration, a declaration of local connection or an overseas elector’s declaration, the appropriate declaration.

(3) The Electoral Commission must design a paper application form which requires the information and declarations in paragraphs (1) and (2) above and includes—

- (a) a statement as to how the information provided in the application will be processed. In this sub-paragraph “processed” has the same meaning as in the Data Protection Act 1998;

This section of the form will set out to individuals why additional information is needed (to enable verification of applications and improve accuracy of the registers) as well as explaining clearly to people what information is on the registers and how they are used.

- (b) a statement that it is an offence to provide false information to the registration officer, together with a statement of the maximum penalty for that offence; and

As currently, the form will explain that providing false information to a registration officer is an offence. The provision relating to the inclusion of a statement as to when a civil penalty can be imposed has been removed as a penalty can only be imposed following an invitation to register. This has now been included in the provisions relating to invitations at 26H.

The below provision has been amended to clarify that space for a pre-printed bar code must be included as opposed to requiring a unique bar code to be included on the form design.

- (c) space for a pre-printed bar code reference number unique to each form.

For those who have received postal invitations sent by a registration officer to their address, the return of this application form will act as evidence of a connection between the applicant and their address. Including a unique reference number will ensure the authenticity of the application which is being returned. The bar code will also make it easier for the registration officer to link the completed application to the invitation issued when processing the individual's response. We will continue to discuss the practicalities here with the Electoral Commission, registration officers and suppliers, who have already commented on this proposal.

As set out in the Government's response to pre-legislative scrutiny and the public consultation, we have decided that a signature would not be required on an IER form. The removal of the requirement for a signature enables registrations to be made through alternative channels such as online or via telephone and it is our view that the additional verification procedures being introduced through IER would not be significantly enhanced by extending the requirement to provide a signature to all those who wish to register. We are still considering whether there is value in retaining the signature requirement for paper based applications.

However, regardless of the manner of application, all individuals will be required to make a declaration of truth attesting to the veracity of the information they have provided, and it will continue to be an offence to knowingly supply false information to a registration officer.

It is not our intention to change the declaration process for Service voters, those making declarations of local connection or overseas electors. However, these electors will have to register under the new system to ensure that they appear on the new register.

To ensure that no electors from this group are disenfranchised, these electors will remain on the register until their existing declaration expires without them having to register under the new system; however once their current declaration expires, they will need to make an IER application along with their renewed declaration in order to remain on the register.

- (4) An application under paragraph (1) above must be made in writing and must be made either on a paper application form as designed by the Electoral Commission under paragraph (3) or through the Individual Electoral Registration Digital Service ("the digital service") provided by [the service provider].

The below provision allows the digital service (see description on page 14) to request the applicant's email address in order for a confirmation of receipt of application electronic notification to be sent to the applicant.

- (5) Where an application is made through the digital service, the [service provider] must request the applicant's email address.

- (6) The [service provider] must send any application it receives to the registration officer together with—

- (a) the applicant's email address (if provided); and
- (b) a reference number unique to that application.

(7) An application may be made through the digital service only if the applicant is able to provide all of the information required by regulation 26(1).

The title of the below regulation has been amended as these provisions outline specifically the exceptions to the standard verification process. The provisions have been expanded and amended from the previously published draft to set out what an individual needs to provide in order to make an application for registration using alternative evidence.

We expect the number of people without a NINO to be very small, but there will be some situations where this is the case. Therefore the form will require the applicant to state why they are unable to supply their NINO (or their date of birth). These individuals will be required to provide alternative evidence to support their application.

### **26A Exceptions to the requirement to provide national insurance number and date of birth**

(1) A person making an application under regulation 26 accompanied by an application for an anonymous registration—

- (a) if they are aged over 70 years old, must state that fact in their application;
- (b) is not required to provide their date of birth under regulation 26(1)(e) unless the person is aged under 18 years old;
- (c) is not required to provide their national insurance number under regulation 26(1)(f).

(2) If an applicant to whom paragraph (1) does not apply is not able to state the information required by regulation 26(1)(e) or (f), the applicant must provide with their application—

- (a) a statement of the reason why they are not able to provide that information; and
- (b) if the applicant is unable to provide their date of birth, a statement as to whether the applicant is aged under 18 years old or over 70 years old.

(3) If a registration officer receives an application accompanied by a statement under paragraph (2)(a) and is satisfied that the applicant is unable to provide the information, the registration officer must request that the applicant provide alternative evidence that the applicant is the person named in the application, of a kind specified in a list published from time to time by the Lord President of the Council.

(4) If the applicant informs the registration officer that they are not able to provide the alternative evidence requested under paragraph (3) and the registration officer is satisfied that the applicant is unable to provide such evidence, the registration officer must request that the applicant provide a declaration by a person who fulfils the criteria published by the Lord President of the Council from time to time, attesting that the applicant is the person named in the application and indicating the name and address of the person making the declaration.

The registration officer must be satisfied that the individual is genuinely unable to provide them with their NINO or date of birth, and does not have suspicions that this is someone trying to circumvent the system. Guidance on this point will be provided.

The list of alternative evidence will be set out in a list issued by the Lord President of the Council. It is our intention that individuals will be asked to provide 2 documents (dated in the last 3 months) as proof of address. These can be taken from the list below:

- Utility or landline phone bill
- Post office, bank, building society statement
- Credit / debit card statement
- Mortgage statement

Proof of name and date of birth will also need to be provided. Currently our view is that this will involve one document from the list below

- Commonwealth or EU passport
- Commonwealth or EU national ID card
- British Passport

This reflects our initial thinking on the alternative process for people who are unable to provide a NINO and as part of our ongoing policy development we are considering all factors including accessibility, security, and testing. From feedback received thus far, we know the process as currently drafted is too restrictive and welcome views from interested parties on what additional documents could be provided as proof of address, name and date of birth.

For those individuals who are unable to provide either their National Insurance Number or Date of Birth or any of the documents set out above, it is our current intention that a registration officer will be able to accept written attestation from another registered elector verifying their application. The list of electors able to provide this verification will be set out in a list published by the Secretary of State based on similar lists used for other Government transactions. This will need to be accompanied by a written statement from the applicant which explains why they are unable to provide any of the information listed above. Our current list of those able to attest to another individual's identity will be:

- Accountant
- Bank / building society official
- Care home manager
- Civil servant
- Fire Services officer
- Justice of the Peace
- Legal professional
- Local Government Officer
- Medical Practitioner
- Member of a professional/chartered body (we are planning to include a list of such bodies and would welcome views on those organisations which should be included)
- Minister of religion
- Police Officer
- Probation Officer
- Royal Navy, Merchant Navy, Army or Royal Air Force Officer
- Social Worker
- Surveyor
- Teacher / lecturer
- Valuer / auctioneer

We anticipate that the number of people who will need to use this attestation process will be limited and will only apply to those who are unable to provide a NINO or evidence from the list of alternative evidence. We will continue to test the policy with key stakeholders.

### **26B Application for alteration of register in respect of name under section 10ZD**

We anticipate using the same form for IER applications as for individuals wishing to change their name on the register, however, individuals applying for a change of name will not be required to make an application for a new entry.

A person making an application under section 10ZD of the 1983 Act for alteration of the name in respect of which they are registered must provide to the registration officer one of the following documents as evidence of the applicant's change of name—

- (a) marriage or civil partnership certificate;
- (b) overseas marriage or civil partnership certificate if it has been deposited in the General Register Office for England & Wales; or
- (c) deed poll.

While amendments to address information will require the individual's application to be verified according to the process set out in regulation 26C, this method of verification would not be necessary for an individual who is resident at the same address but has changed their name. For this type of amendment, the elector will need to provide one of the documents listed above to enable the registration officer to verify the individual's name change request.

Individuals who have changed both their name and address will be required to follow the standard application process.

This section will be updated when regulations are drafted for Scotland to enable cross-border recognition of name changes, where such arrangements are different. We are also looking into the issue of an individual changing their name by common usage.

### **26C Verification of information**

The below provisions do not apply to applications made under 26A (exceptions to the requirement to provide a national insurance number and date of birth) or 26B (applications for alteration of register in respect of name under section 10ZD). This exception was previously set out at regulation 26B(1) in the previous publication.

- (1) This regulation does not apply to applications to which regulation 26A or 26B applies.
- (2) On receipt of an application under section 10ZC or 10ZD of the 1983 Act made on a paper application form, a registration officer must disclose the information provided under regulation 26(1)(a), (e) and (f) to [the service provider] through the digital service.
- (3) On receipt of such information from the registration officer or (in the case of an application made through the digital service) from the applicant the [service provider] must disclose the information to the Secretary of State for the Department for Work and Pensions ("DWP"), who may compare it against information held by DWP.
- (4) DWP may disclose the results of such comparison to [the service provider].
- (5) On receipt of such results, the service provider must provide them to the registration officer in whose register the applicant has applied to be registered.
- (6) The registration officer must [take the results into account] in determining the application.

The provisions above relate to an important part of the process – the matching of data from applications against the DWP Customer Information System to verify applications. At the heart of this process is the transfer of specific information outlined in this regulation from the Electoral Registration Officer to DWP, via the IER Digital Service being developed by the Cabinet Office.

A decision is yet to be made on where the service will be based, so for the time being the term [‘service provider’] is used. The Government is currently considering the correct balance of legislation and guidance in respect of details of the algorithm to be used to match data for the verification of applications.

The provisions above provide a legal gateway for the sharing of data, and will be backed up by service level agreements which guarantee turn service levels, data security and response times.

Important security components of the IT service supporting IER will be the ability to spot a large number of multiple online applications originating from a single IP address (which could indicate fraud), as well as the ability to identify the source of an online application in the case of a suspected fraudulent application. We are considering the best way to give effect to these requirements, and final regulations will reflect the solution arrived at.

A Registration Officer, on receipt of the results of the match must have regard to the statutory guidance issued by the Lord President of the Council which will provide them with guidance on the steps they must take on receipt of this data, in particular the match score. It is expected that there will be a three level scoring system with positive matches, negative matches and uncertain matches. In almost all circumstances it is expected that an ERO will accept an application when a positive match score has been returned.

#### **26D Power to request additional evidence in order to determine an application for registration**

(1) Paragraph (2) applies where a registration officer considers that additional evidence is necessary in order to determine, in connection with an application under section 10ZC or 10ZD of the 1983 Act—

- (a) whether the applicant is the person named in the application; or
- (b) whether the applicant is entitled to be registered.

(2) The registration officer may request that the applicant provide evidence of a kind set out in a list published from time to time by the Lord President of the Council.

A further provision has been included above which provides for a list of acceptable alternative evidence that the registration officer may request from an individual. This will be the same list referred to above for people who are unable to provide their NINO.

#### **26E Processing of information provided in connection with an application under section 10ZC or 10ZD**

26E is a new provision which prescribes how documents and information received in connection with an application must be processed by the ERO. It deals with retention, destruction and redaction of information.

At 26E(6) a new offence has been created for disclosing information in relation to an application under 10ZC or 10ZD, in breach of 26E(4).

26E in the previous draft detailed the policy on steps taken by a registration officer before a requirement to apply for registration may be imposed. This can now be found under 26J.

(1) If a person provides an original document under regulation 26A(3), 26B or 26D(2), the registration officer must make a copy of that document and return the original document to the person who provided it.

(2) In respect of any application under section 10ZC or 10ZD of the 1983 Act, the registration officer must retain for a period of one year starting on the date on which the registration officer receives the application—

- (a) the application form or, in the case of an application made through the digital service, the information contained in the application;
- (b) any other information or documents provided to the registration officer in connection with the application or, in the case of original documents which are returned under paragraph (1), a copy of such documents.

(3) Subject to paragraph (4), the registration officer must destroy such information and documents within a period of 30 days following the expiry of the period mentioned in paragraph (2).

(4) The registration officer may retain an application received under section 10ZC or 10ZD after the expiry of the 30 day period mentioned in paragraph (3) provided that, if the applicant provided their national insurance number, it is redacted from the application form and deleted from any other records within that period.

(5) Information disclosed under regulation 26C may not be disclosed to any other person, except—

- (a) for the purpose of determining the application in connection with which the information was disclosed; or
- (b) for the purpose of any civil or criminal proceedings.

(6) A person who discloses information in breach of paragraph (5) is guilty of an offence and liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both;
- (b) on summary conviction, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding the statutory maximum, or both.

We are currently considering whether the 12 month retention policy should also apply to Household Enquiry Forms and would welcome views as to whether this would be something that can usefully be provided for in regulations.



## 26F Annual canvass

26F is a new regulation that provides details on how the annual canvass will operate under IER. The provisions outline what will need to be included on the annual canvass form and what the registration officer will be required to input on to the form before issuing. The regulation does not prescribe the timing as to when a registration officer must provide a canvass form, but they must do so in good time to collect information, send invitations to new residents and publish a revised register by 1 December each year.

The regulation also lists the requirements of the form that will be designed by the Electoral Commission. This regulation implies that the canvass form must be supplied in hard-copy to each household in an area, but if this needs to be made clearer final regulations will do so.

In contrast to existing regulations, these draft regulations do not set out specific forms of words that will be used on the annual canvass/Household Enquiry Forms. At this stage this is because we want user-testing and feedback on what form of words is most effective in encouraging registrations to inform the decisions on wording. However, leaving wording out of regulations allows the Commission to move much more quickly and flexibly in terms of updating forms, and we will discuss with stakeholders whether to include specific wording on the forms in final regulations.

The Government will ensure there is a balance between privacy and administrative simplicity in the design of the Household Enquiry Form. We are discussing with stakeholders whether the form should include nationality in order to help determine eligibility.

We would welcome views on whether to require the use of only the prescribed forms designed by the Commission (with appropriate branding) or if it would be preferable to encourage the use of these forms, but reproduce the existing or 'to like effect' provisions in the current regulations.

(1) The annual canvass required by section 9D(1) of the 1983 Act must be conducted in accordance with the following paragraphs.

(2) The Electoral Commission must design a canvass form which—

- (a) requires the full name of each person aged over 16 years old residing at the address to which the form is delivered;
- (b) requires an indication as to whether each person residing at the address is less than 18 or more than 70 years of age;
- (c) includes space for a reference number and barcode unique to each form;
- (d) includes a statement that the recipient must provide the required information to the registration officer for the area which includes the address to which the form was delivered, and the manner in which the recipient may do so;
- (e) includes an explanation of the requirements for entitlement to register to vote;
- (f) includes a statement as to how the information provided on the form will be used and kept;
- (g) includes a statement that failure to provide the information required by the canvass form to the registration officer is an offence and a statement of the maximum penalty for that offence;
- (h) includes a statement that it is an offence to provide false information to the registration officer, and a statement of the maximum penalty for that offence;
- (i) includes a declaration that the information provided on the canvass form is true, to be made by a named resident at the address to which the form is provided.

(3) Each registration officer must provide a canvass form in the form designed by the Electoral Commission to each residential address in the area for which the officer acts.

(4) Before providing a canvass form under paragraph (3), the registration officer must print on the form any information required by the canvass form which the officer already holds in respect of each person who is registered at the address to which the annual canvass form is provided, with the exception of persons registered as mentioned in section 9D(6) of the 1983 Act.

### **26G Steps to be taken by a registration officer where no response to an annual canvass form is received in respect of a particular address**

26G is a new regulation that details the steps a registration officer must take when they have not received a response to the annual canvass form from a particular address.

- (1) If a registration officer has provided an annual canvass form to an address but has not received a response in respect of that address, the officer must—
  - (a) provide a second canvass form to that address and, if no response is received in respect of the second form, provide a third canvass form; and
  - (b) visit the address in order to obtain the information required by the canvass form.
- (2) The second and third canvass forms, if required, must be in the same form as the first annual canvass form.
- (3) The registration officer must take the steps required by paragraph (1) above before publishing a revised register under section 13(1)(a) of the 1983 Act.

### **26H Invitations to apply for registration**

26H is a new regulation that details what an invitation to apply for registration must include and provision about the giving of invitations. A registration officer will need to send an invitation to register that will include a separate application form.

Final regulations will set out any standard wording that needs to be used in letters confirming a successful application for registration ('confirmation letters') and possibly on envelopes, and will set out that such letters must be sent (a) to those citizens whose entry on the register is confirmed through data matching during the transition to IER, and (b) to anyone who makes an application without having first been invited by an ERO. We welcome views on whether all applicants during transition and thereafter should be sent a confirmation letter following a successful application. We are also considering whether there are any other circumstances in which confirmation letters should be sent, and will set out the position in the final regulations.

We are not presently proposing to mandate the inclusion of other information with invitations, but there is nothing to prevent that happening.

In contrast to existing regulations, these draft regulations do not set out specific forms of words that will be used on the invitations. At this stage this is because we want user-testing and feedback on what form of words is most effective in encouraging registrations to inform the decisions on wording. However, leaving wording out of regulations allows the Commission to move much more quickly and flexibly in terms of updating invitations, and we will discuss with stakeholders whether to include specific wording on the invitations in final regulations.

(1) The Electoral Commission must design an invitation to apply for registration which includes—

- (a) the full name and address of the person to be invited;
- (b) an explanation of how to make an application for registration; and
- (c) a statement as to the circumstances in which a civil penalty may be imposed under section 9E of the 1983 Act, and the amount of such civil penalty.

(2) Where a registration officer is required by section 9E(1) of the 1983 Act to give a person an invitation to apply for registration—

- (a) the officer must give the invitation within 28 days;
- (b) the invitation must be in the form designed by the Electoral Commission under paragraph (1);
- (c) the invitation must be accompanied by an application form in the form designed by the Electoral Commission under regulation 26(3) on which the officer has, if practicable, printed the person's full name and address; and

The below provision is being considered further and discussed with Royal Mail.

- (d) the invitation and application form must be given in an envelope on which is printed-
  - (i) a direction that the envelope must not be redirected if it is incorrectly addressed; and
  - (ii) a direction that any other person who receives the envelope who is resident at the address to which the invitation is addressed must inform the ERO if the person to whom the invitation is addressed is not resident at that address.

26I is a new regulation setting out the steps a registration officer must take if they have not received a response from an invitation to register.

### **26I Steps to be taken by a registration officer to encourage a person to make an application for registration in response to an invitation to do so**

The prescribed requirements will describe the standard process that will need to be followed in the event that an individual does not make an application to register when invited to do so, which is that two reminders must be sent, and that this must be followed up with a door to door canvasser. These requirements link to the imposition of a requirement to register and subsequently a civil penalty. We are discussing with administrators whether the time between invitations should be in law, guidance or left to local best practice.

- (1) If a registration officer has given a person an invitation to apply for registration under section 9E(1) of the 1983 Act and the person has not made an application to register, the officer must —
  - (a) give the person a second invitation to apply for registration and, if no application is received in respect of the second invitation, give the person a third invitation; and

- (b) visit the address at which the invitations have been given in order to encourage the person to make an application for registration.
- (2) The second and third invitations to apply for registration, if required, must be in the same form as the first invitation to apply for registration.
- (3) Paragraph (1) above does not apply if the registration officer is satisfied that-
  - (a) the person is not entitled to be registered at the address at which the invitations to register were given; or
  - (b) the person is registered at a different address.

### **26J Requiring a person to make an application for registration**

In the previously published draft secondary legislation these provisions were under 26E. These provisions have been updated with any significant changes marked in a text box.

26J(1) below now combines 26E(1) and (2) from the previous published draft secondary legislation.

- (1) Where a registration officer requires a person to make an application for registration by a specified date under section 9E(4) of the 1983 Act, the registration officer must give the person notice in writing of such requirement.
- (2) The date by which the person is required to make an application for registration shall be 28 days after the date of the notice of requirement to apply for registration.
- (3) A registration officer may not require a person to apply for registration unless—
  - (a) the registration officer has taken the steps required by regulation 26I and 28 days have elapsed since those steps have been taken;

This provision has been updated to reflect the insertion of 26I which sets out the prescribed steps a registration officer must take before issuing a notice of requirement.

- (b) the registration officer has established that the person—
  - (i) has received an invitation to apply for registration;

Guidance will set out how a registration officer can be satisfied that the person has received an invitation to register. It is likely that in the majority of cases the registration officer will only be satisfied when they have made contact with the individual at the address in question and handed them an invitation, but it is possible for them to know that the individual is there without face to face contact.

There have been two additional provisions inserted below. The first is to ensure a registration officer is satisfied that an individual understands how they make an application, such as people who do not speak English as first language. The second is to remind the individual that they may be penalised if they do not make an application if required to do so.

- (ii) understands how to make an application for registration; and
- (iii) understands that the registration officer may impose a civil penalty if the person is required to make an application but does not do so; and
- (c) the registration officer has established that the person is resident at the address at which the invitations to apply for registration have been given.

This step will ensure that registration officers do not issue requirements to individuals who are no longer resident at that address.

The below provisions have been expanded to include more detail of what a notice must include and allows for an individual to make representations (other than those at (d) and (e)) as to why they should not have a requirement placed on them.

- (4) A notice under paragraph (1) must state—
  - (a) the date by which the person must make an application for registration;
  - (b) that, if the person does not make an application by that date, the registration officer may impose a civil penalty on that person;
  - (c) the amount of any such civil penalty and the rate of interest payable if the penalty is not paid on time;
  - (d) that, if the person is not entitled to be registered, they must inform the registration officer of that fact and explain why they are not so entitled, and are not required to make an application for registration;
  - (e) that, if the person is registered at another address, they must inform the registration officer of that fact and provide that address, and are not required to make an application for registration;
  - (f) that the person may make other representations as to why they should not be required to make an application to register by the specified date, or why a civil penalty should not be imposed if they do not do so.
- (5) The registration officer must give with the notice—
  - (a) an invitation to apply for registration; and
  - (b) an application form in the form designed by the Electoral Commission under regulation 26(3) on which the officer has, if practicable, printed the person’s full name and address.
- (6) A registration officer must cancel a requirement to make an application for registration, and give the person concerned notice in writing of the cancellation, if—
  - (a) the officer is satisfied that the person is not entitled to be registered at the address at which the invitations to register were given; or
  - (b) the officer is satisfied that the person is registered at a different address; or
  - (c) any of the requirements in paragraph (3) have not been met.
- (7) A registration officer may cancel a requirement to make an application for registration, and give the person concerned notice in writing of the cancellation, if the officer considers it appropriate to do so.

Paragraph (7) is included so that where, for example, a registration officer has issued a requirement to an individual to make an application, but subsequently become aware that the individual has become incapacitated and is therefore unable to make an application by the specified date, the registration officer may cancel the requirement they had issued.

The notice of requirement will explain to the citizen how to dispute the requirement on the basis that one of criteria in paragraph 6 applies.

## 26K Notice of Civil Penalty

We have expanded the section on the civil penalty from the previous publication to give more detail on the process of notification, payment and review of the civil penalty and the process of appeal to a First-tier Tribunal.

The intention here is that the amount of the civil penalty will be specified in the regulations. At second reading of the Bill the Minister for Political and Constitutional Reform stated that the level of the civil penalty would be akin to those of parking fines, as this strikes the right balance between not making the fine too heavy a penalty, but ensuring that it acts as an encouragement for people to do their civic duty and register to vote. The current range of fines for parking fines varies from £40 for less serious parking offences outside of London, and £130 for serious parking fines in London. It is also instructive to take into account the fines imposed for the current criminal offence for not providing information when required to do so, such as in response to the annual canvass. This has a maximum fine of £1,000 but in practice the fines issued are much lower than this. For example during the 2011 canvass the Borough of Hounslow successfully prosecuted 10 people for not providing the information required on the household canvass form - the average fine issued was £125.

Arguments that may be made for setting the amount of the civil penalty at a lower level could include reducing the potential to cause financial hardship to the most vulnerable in society. It would also be close to fines imposed in other countries that run similar schemes, for example in Australia an individual can be fined A\$50, while in Germany if an individual does not register their address with the local authorities (upon which the elector register is based) than they tend to get a small fine. Finally, as most parking fines offer a significant discount for individuals who pay early, the amount actually paid is much lower than that issued. However under this civil penalty scheme it is the Government's intention that when issued with a penalty an individual can waive all liability by making an application to register to vote. This provision will be included in further iterations of the draft secondary legislation.

Arguments that may be made for setting the civil penalty at a higher level could include sending a clear message that the Government considers registering to vote to be a civic duty, and that as the register is used for other purposes such as selecting jurors, and parliamentary boundary reviews, not registering to vote can have a negative impact in a number of ways. When considering the level at which to set the civil penalty it may also be relevant to consider the relationship between the amount of the penalty and the steps that have to be taken before a penalty can be imposed. As these draft regulations set relatively stringent requirements before a penalty may be imposed, it may be considered more appropriate to set the fine at a higher level.

We are currently engaging with stakeholders listed above to discuss the level of the Civil Penalty.

(1) [Amount of Civil Penalty]

(2) Where the registration officer imposes a civil penalty under section 9E(7) of the 1983 Act, the registration officer must give the person notice in writing that the penalty has been imposed and specifying the reasons for imposing the civil penalty.

(3) The notice in paragraph (2) must state that the person must within 28 days of the notice—

- (a) make an application to register; or
- (b) pay the full amount of the civil penalty; or
- (c) request a review of the decision to impose the civil penalty.

(4) The notice in paragraph (2) must also state—

- (a) the amount due;

- (b) how to make payment; and
- (c) the rate of interest payable if the penalty is not paid on time.

This section sets out the duties of the registration officer relating to giving notice of the imposition of the penalty. They must inform the person of the amount due, how to pay and any interest or additional payments that may be incurred. The notice will also set out the person's option for action: applying to register, paying the penalty, or requesting a review.

It is important to note that the penalty will be cancelled if the person makes an application to register at any point until the decision of a review is issued.

### **26L Payment, enforcement and cancellation of civil penalty**

(1) Subject to paragraph (2), a person on whom a civil penalty is imposed under section 9E(7) of the 1983 Act must pay the amount of the penalty to the registration officer who imposed it within 28 days of the date of the notice given under regulation 26K(2).

As set out in Schedule 3 paragraph 11 of the primary legislation, a civil penalty received by a registration officer is to be paid into the Consolidated Fund.

26L(6) gives the registration officer power to cancel the civil penalty at any time if they consider it appropriate to do so.

(2) If a person on whom a civil penalty is imposed requests a review under regulation 26M(1) or brings an appeal under regulation 26N(1), paragraph (1) does not apply and the person must pay the amount of the penalty to the registration officer who imposed it within 28 days of the date of the notice that the review or appeal has been unsuccessful.

The deadline for payment of the penalty does not apply when the person has requested a review or made an appeal against the imposition of the penalty. Following notification that an appeal has been unsuccessful the person on whom the penalty has a further 28 days to pay the penalty.

(3) If the person does not pay the civil penalty as required by paragraph (1) or (2), [interest of 8% per annum may be charged from the date payment becomes overdue to the date of payment].

(4) A civil penalty not paid in accordance with paragraphs (1) or (2) is recoverable, if the county court so orders on the application of the registration officer, as if it were payable under an order of that court.

Non-payment of the civil penalty, other than when an appeal against its imposition has been requested, may lead to additional interest on the penalty and to recovery through the county court.

(5) A registration officer must cancel a civil penalty, and give the person concerned notice in writing of the cancellation, if—

- (a) the person makes an application for registration at any time before paying the civil penalty; or
- (b) the officer is satisfied that—
  - (i) the person is not entitled to be registered at the address at which the invitations to register were given; or
  - (ii) the person is registered at a different address; or

(c) any of the requirements in regulation 26J(3) have not been met.

(6) A registration officer may cancel the penalty if the officer considers it appropriate to do so, and if the officer cancels the penalty they must give the person concerned notice in writing of the cancellation.

This section sets out the grounds on which a penalty may be cancelled: an application to register being received, the person not being entitled to be registered at the specified address, the person being registered elsewhere, or the registration officer having failed to complete the steps to encourage an application required of them prior to imposing a penalty. The registration officer is also permitted to cancel the penalty for other reasons that they find appropriate, for example if new evidence comes to light.

### **26M Review of registration officer's decision to impose a civil penalty**

(1) A person on whom a civil penalty has been imposed may request a review of the registration officer's decision to impose the civil penalty.

(2) A request under paragraph (1) must be made in writing within 14 days of the notice given under regulation 26K(2).

This new section sets out the review process. A person receiving notice of a penalty may request a review within 14 days of receiving the notice. The registration officer must then contact that person within seven days to acknowledge the request and set out their right to make representations in writing or in person.

(3) Where a person requests a review of the registration officer's decision under paragraph (1) above, the registration officer must within 7 days of receiving the request send notice in writing to the person—

- (a) acknowledging the request;
- (b) informing the person that they may within 14 days of the date of the notice—
  - (i) make representations explaining why they have not made an application to register or why the civil penalty should be cancelled;
  - (ii) submit evidence in support of such representations; and
- (c) explaining how such representations may be made and evidence may be submitted.

The registration officer must await any representations (or the expiry of the fourteen-day deadline) before proceeding with the review. The review will investigate whether any of the grounds for cancellation listed in 26L(5) apply to the case; similarly the registration officer may cancel the penalty for reasons they deem appropriate. The person who requested the review will be notified of the result (either upholding or cancelling the penalty) in writing.

During the period when a review or First-tier Tribunal investigation has been requested or is ongoing, the person does not have to pay the penalty imposed and no interest will be incurred for late payment.

(4) The registration officer must carry out a review, and such review may not start before the earlier of—

- (a) the end of the fourteenth day after the date of the notice sent under paragraph (3);  
or
- (b) the receipt of any submissions or evidence.

(5) Following a review under paragraph (4) above, the registration officer may—

- (a) uphold the decision to issue a civil penalty; or



(b) cancel the civil penalty.

(6) The registration officer must inform the person in writing of the outcome of the review.

(7) If the officer upholds the decision to impose a civil penalty, the notice must also state that the person on whom the penalty has been imposed—

(a) may appeal that decision to the First-tier Tribunal, and how to make such an appeal; and

(b) must pay the penalty within 28 days if they do not make such an appeal.

We have not included a time frame for a registration officer to conduct a review. We would welcome views on an appropriate amount of time, or whether an appropriate amount of time should be provided in legislation or guidance or left to a registration officer's discretion.

### **26N Appeals to the First-tier Tribunal against a notice of civil penalty**

(1) If a registration officer upholds the decision to issue a civil penalty following a review under regulation 26M(4)(a), the person on whom the penalty was imposed may appeal to the First-tier Tribunal on the grounds that the registration officer had not complied with the requirements of regulations 26J(1) to (6), 26K(2) to (4), 26L(5).

(2) On an appeal under paragraph (1) the First-tier Tribunal may—

(a) uphold the registration officer's decision to impose the civil penalty; or

(b) cancel the civil penalty.”

If a review upholds the decision to impose a civil penalty, the person on whom it is imposed must either pay the fine within 28 days or appeal the decision to the First-tier Tribunal. The tribunal must then review whether the steps to encourage an application and the notification of the civil penalty were completed in accordance with regulations, and that none of the grounds for cancelling the penalty apply. The tribunal may either uphold or cancel the penalty.

### **Objections Process – Minor Alterations**

Below is a new provision that relates to the slightly amended objections procedure under IER, whereby the application for registration will not be made available for inspection at the registration officer's office and it will only appear as an entry on the list of applications. This is because application forms will contain personal data that could not be made available for general inspection.

**7.** In regulation 28(1), for “An application for registration” substitute “An entry on the list of applications for registration kept under regulation 29(2)(a)”.

**8.** In regulation 29(1), for “an application for registration under section 10A(1) or 13A(1)(a) of the 1983 Act and an objection under section 10A(3) of that Act” substitute “an application under section 10ZC(1)(a) or 10ZD(1)(a) of the 1983 Act or considering an objection under section 10ZC(2), 10ZD(2) or 10ZE(5)(a) of that Act”.

### **Removing Electors from the Register**

Below are new provisions that were not included in the previously published draft. These provisions set out the procedure for review of entitlement to register. They are largely based on the existing regulations.

We will be speaking to registration officers in particular about these provisions. For clarity, a Keeling Schedule of these regulations has been provided on pages 28-32.

Regulation 9 amends regulation 31B in the Representation of the People (England and Wales)

#### **9. In regulation 31B, for paragraph (2) substitute—**

“(2) The functions specified in this paragraph are—

- (a) determining, under the following provisions, whether a person was entitled to be registered—
  - (i) sections 7(3)(aa), 7A(3)(aa), 7C(2)(aa), 10ZE(1)(a) and 15(2)(aa) of the 1983 Act, and
  - (ii) section 2(2)(ab) of the 1985 Act;
- (b) determining, under the following provisions, whether a person was registered or their entry has been altered as a result of an application made by another person—
  - (i) sections 7(3)(ab), 7A(3)(ab), 7C(2)(ab), 10ZE(1)(c) and 15(2)(ab) of the 1983 Act; and
  - (ii) section 2(2)(ab) of the 1985 Act;
- (c) determining under section 10ZE(1)(b) of the 1983 Act whether a person has ceased to be resident at the address or has otherwise ceased to satisfy the conditions for registration set out in section 4 of the 1983 Act.”

Regulation 10 below amends the current regulation 31C to provide for the circumstances under IER in which a registration officer may delete someone from the register without following the review process.

#### **10. In regulation 31C—**

- (a) in paragraph (1) for “the determination specified in regulation 31B(2)(b)(ii)” substitute “a determination under section 10ZE(1) of the 1983 Act in respect of an elector”;
- (b) in paragraph (2)—
  - (i) for sub-paragraphs (a) to (c) substitute—
    - “(aa) has information from at least two sources that supports such a determination;
    - (ab) has been provided with a death certificate in respect of the elector;”;
  - (ii) in sub-paragraph (d) omit “by a relative or executor of the elector or”;
- (c) in paragraph (3) omit the definition of “relative”.

Regulation 11 below amends the current regulation 31D and sets out the procedure for reviewing entitlement to registration under the new system.

#### **11. In regulation 31D—**

- (a) after paragraph (1) insert—
  - “(1A) A registration officer may not make such a determination without conducting a review except where permitted by regulation 31C(1).”;

- (b) in paragraph (4)(a) for “is not entitled to be registered” substitute “is or was not entitled to be registered, or has an entry in the register which results from or was altered as the result of an application made by another person,”;
- (c) in paragraph (5)—
  - (i) after “not entitled to be registered” insert “, that the subject of the review was registered or their entry has been altered as the result of an application made by another person,”; and
  - (ii) after “as the case may be,” insert “that the subject of the review”;
- (d) in paragraph (7) for “is entitled to be registered” substitute “is or was entitled to be registered, or that the person’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
- (e) in paragraph (8)—
  - (i) after “was not entitled to be registered” insert “, that the subject of the review was registered or their entry has been altered as the result of an application made by another person,”; and
  - (ii) after “as the case may be,” insert “that the subject of the review”.

**12. In regulation 31F(6)—**

- (a) after “not entitled to be registered” insert “, that the subject of the review was registered or their entry has been altered as the result of an application made by another person,”; and
- (b) after “as the case may be,” insert “that the subject of the review”.

**13. After regulation 31F insert—**

Below is a suggestion considering whether timings should be in regulations or set out in guidance.

**“31FA Determinations of entitlement to remain registered during the annual canvass**

If a registration officer is required by section 10ZE(5)(b) of the 1983 Act to consider making a determination under section 10ZE(1) of that Act as a result of information received in response to the canvass conducted under section 9D of that Act, the registration officer must so far as reasonably practicable take any relevant steps under regulations 31D to 31F so as to enable the relevant determination to be made before the registration officer publishes a revised version of the register under section 13(1)(a) of the 1983 Act.”

**Keeling Schedule of regulations 31B to 31F of the Representation of the People  
(England and Wales) Regulations 2001 as at September 2012, as proposed to  
be amended for the implementation of individual electoral registration**

**31B Other determinations by registration officer of entitlement to registration**

(1) A registration officer must discharge the functions specified in paragraph (2) in accordance with regulations 31C to 31F.

~~(2) The functions specified in this paragraph are—~~

~~(a) determining, under the following provisions, whether a person was entitled to be registered—~~

~~(i) sections 7(3)(aa), 7A(3)(aa), 7C(2)(aa), and 15(2)(aa) of the 1983 Act, and~~

~~(ii) section 2(2)(aa) of the 1985 Act;~~

~~(b) determining whether a person under section 10A(5)(b) of the 1983 Act whether a person—~~

~~(i) was entitled to be registered;~~

~~(ii) has ceased to be resident at the address in respect of which he is entered in the register or otherwise ceased to satisfy the conditions for registration set out in section 4 of the 1983 Act.~~

(2) The functions specified in this paragraph are—

(a) determining, under the following provisions, whether a person was entitled to be registered—

(i) sections 7(3)(aa), 7A(3)(aa), 7C(2)(aa), 10ZE(1)(a) and 15(2)(aa) of the 1983 Act, and

(ii) section 2(2)(ab) of the 1985 Act;

(b) determining, under the following provisions, whether a person was registered or their entry has been altered as a result of an application made by another person—

(i) sections 7(3)(ab), 7A(3)(ab), 7C(2)(ab), 10ZE(1)(c) and 15(2)(ab) of the 1983 Act; and

(ii) section 2(2)(ab) of the 1985 Act;

(c) determining under section 10ZE(1)(b) of the 1983 Act whether a person has ceased to be resident at the address or has otherwise ceased to satisfy the conditions for registration set out in section 4 of the 1983 Act.

**31C Summary procedure for determining in specified circumstances person has ceased to satisfy conditions for registration**

(1) In any of the circumstances specified in paragraph (2) the registration officer may make ~~the determination specified in regulation 31B(2)(b)(ii)~~ a determination under section 10ZE of the 1983 Act in respect of an elector without following the procedure set out in regulations 31D to 31F.

(2) The circumstances specified in this paragraph are where the registration officer--

- ~~(a) — has received an application under regulation 26 which includes a statement to which paragraph (1)(c) of that regulation refers;~~
  - ~~(b) — has received a notice under regulation 37;~~
  - ~~(c) — has been given information by the elector that he has ceased to reside at the address in question or has otherwise ceased to satisfy the conditions for registration set out in section 4 of the 1983 Act;~~
  - (aa) has information from at least two sources that supports such a determination;
  - (ab) has been provided with a death certificate in respect of the elector;
  - ~~(d) has been notified by a relative or executor of the elector or by the registrar of births and deaths that the elector has died.~~
- (3) In paragraph (2)--  
 "elector" means a person who is duly entered in a register in respect of an address;  
 "relative" means a spouse, civil partner, parent, grandparent, brother, sister, child or grandchild.

**31D Procedure for reviewing entitlement to registration**

(1) A registration officer may, for the purposes of making a determination of the nature specified in regulation 31B(2), conduct a review in respect of a person entered in the register.

(1A) A registration officer may not make such a determination without conducting a review, except where permitted by regulation 31C(1).

(2) Where the registration officer is not satisfied that the subject of the review is entitled to be registered, he must--

- (a) send to that person such notice, of a kind specified in paragraph (4), as he considers appropriate, and
- (b) enter the review in the list kept in pursuance of regulation 31E.

(3) Paragraph (2)(b) does not apply where the subject of a review has an anonymous entry.

(4) A notice is specified for the purposes of this paragraph if it--

- (a) states that the registration officer is of the opinion that the subject of the review is not entitled to be registered is or was not entitled to be registered, or has an entry in the register which results from or was altered as the result of an application made by another person, and the grounds for his opinion,
- (b) states the reason for the review and requires the subject of the review to provide such further information as might be specified in the notice or requires him to make a declaration under regulation 24 or both, or
- (c) states the reason for the review and that the registration officer intends to conduct a hearing of it.

(5) Where--

- (a) the registration officer sends to the subject of the review a notice in the form specified in paragraph (4)(a), and

(b) that person does not, within 14 days beginning with the date of that notice, notify the registration officer that he requires the review to be heard, the registration officer may determine without a hearing that the subject of the review was not entitled to be registered, that the subject of the review was registered or their entry has been altered as the result of an application made by another person, or, as the case may be, that the subject of the review has ceased to satisfy the conditions for registration set out in section 4 of the 1983 Act.

(6) Paragraph (7) applies where--

(a) the registration officer sends to the subject of the review a notice in the form specified in paragraph (4)(b), and

(b) that person does not respond to the registration officer's satisfaction, or at all, within the period of 28 days beginning with the date of that notice.

(7) The registration officer may send a notice to the subject of the review which states that he is not satisfied that that person ~~is entitled to be registered~~ is or was entitled to be registered, or that the person'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 his opinion.

(8) Where--

(a) the registration officer sends to the subject of the review a notice in pursuance of paragraph (7), and

(b) the subject of the review does not, within the period of 14 days beginning with the date of that notice, notify the registration officer that he requires the review to be heard,

the registration officer may determine without a hearing that the subject of the review was not entitled to be registered, that the subject of the review was registered or their entry has been altered as the result of an application made by another person, or, as the case may be, that the subject of the review has ceased to satisfy the conditions for registration set out in section 4 of the 1983 Act.

(9) In making a determination under paragraph (5) or (8), the registration officer must take into account any written representations made to him by the subject of the review and may take into account the written representations of any other person who appears to him to be interested.

(10) In this regulation and regulations 31E and 31F--

"review" must be construed in accordance with paragraph (1);

"the subject of the review" means the person in respect of whom the review is conducted.

### **31E List of reviews**

(1) The registration officer must keep a list of reviews.

(2) The list must contain, in relation to each review, the following particulars--

(a) the full name of the subject of the review,

(b) his electoral number,

- (c) his qualifying address, and
  - (d) the reason for the review.
- (3) The list must be made available for inspection at the registration officer's office.
- (4) This regulation does not apply to any review where the subject of the review has an anonymous entry.

### **31F Hearings of reviews**

- (1) Where the registration officer determines that a hearing of the review should be conducted, the notice given under regulation 31D(4)(c) must also state the time and place at which he proposes to hear the review.
- (2) Where the subject of the review requires the review to be heard, the registration officer must send to that person a notice stating the time and place at which he proposes to hear the review.
- (3) The time fixed for the hearing must not be earlier than the third day after the date of the notice in which that time is stated.
- (4) The persons entitled to appear and be heard are--
- (a) the subject of the review;
  - (b) any other person who appears to the registration officer to be interested.
- (5) Paragraphs (2) to (4) of regulation 31 apply to the hearing of a review as they apply to the hearing of an application for registration or objection.
- (6) The registration officer may determine that the subject of the review was not entitled to be registered, that the subject of the review was registered or their entry was altered as the result of an application made by another person, or, as the case may be, that the subject of the review has ceased to satisfy the conditions for registration set out in section 4 of the 1983 Act, despite the failure of that person (or any other person entitled to appear and be heard) to attend.
- (7) In making a determination under paragraph (6), the registration officer must take into account any written representations made to him by the subject of the review and may take into account the written representations of any other person who appears to him to be interested.

### **31FA Determinations of entitlement to remain registered during the annual canvass**

If a registration officer is required by section 10ZE(5)(b) of the 1983 Act to consider making a determination under section 10ZE(1) of that Act as a result of information received in response to the canvass conducted under section 9D of that Act, the registration officer must so far as reasonably practicable take any relevant steps under

regulations 31D to 31F so as to enable the relevant determination to be made before the registration officer publishes a revised version of the register under section 13(1)(a) of the 1983 Act.



**2013 No. XXXX**

**REPRESENTATION OF THE PEOPLE**

**The Electoral Registration and Administration Act [2012]  
(Transitional Provisions) Order 2013**

*Made* - - - -

*xxxx 2013*

*Coming into force in accordance with article 1*

The below provisions detail how the transition to Individual Electoral Registration [IER] will be administered. The order also details how electors will be notified that they have lost their absent vote and we are discussing with registration officers how this will work in practice.

Registration officers will be required to inform individuals in writing if they have been confirmed as eligible to remain on the register. The process by which electors will be confirmed as eligible can be found in the draft main regulations accompanying this draft order. The final regulations and orders will make clear that confirmation letters must include prescribed wording to inform the citizen whether or not their name appears on the edited register, together with details on how to change their preference.

The orders here allow for the write out in 2014 and 2015 to take place during a specified period – currently anticipated to be a two-week window to coincide with national publicity.

We are considering how the invitations and confirmation letters can prompt people to tell other members of their household to contact a registration officer if they have not received anything and we are also in discussion with Royal Mail on the write-out process and considering including a provision for people to return incorrectly addressed letters with the updated details of any new residents.

Electors who were added to the spring 2014 register using the existing carry-forward provisions will be removed from the register published in December 2014 unless they apply under IER because the ERO has not heard from them for an extended period time. The Government is currently looking at the specific wording in the order to enable this removal.

Final regulations and orders will set out any standard wording that needs to be used in letters confirming a successful application for registration (‘confirmation letters’), and will set out that such letters must be sent (a) to those citizens whose entry on the register is confirmed through data matching during the transition to IER, and (b) to anyone who makes an application without having first been invited by an ERO. We welcome views on whether all applicants during transition and thereafter should be sent a confirmation letter. We will set out the position in the final regulations and orders.

The Lord President of the Council makes the following Order in exercise of the powers conferred by paragraphs 4, 8, 9 and 12 of Schedule 5 to the Electoral Registration and Administration Act [2012](a).

In accordance with section 10(2) of that Act, a draft of this Order has been laid before and approved by each House of Parliament.

### **Citation, commencement and interpretation**

1. This Order may be cited as the Electoral Registration and Administration Act [2012] (Transitional Provisions) Order 2013 and comes into force on [date].

2. In this Order—

“the Act” means the Electoral Registration and Administration Act [2012];

### **Confirmation of entitlement to remain registered**

3.— A registration officer must check whether each person who:

- (a) has an entry in a register maintained by the officer; and
- (b) does not fall within paragraph 4(5) of Schedule 5 to the Act

is entitled to remain registered.

### **Verification of information in order to confirm entitlement to remain registered**

The process below relates closely to that of verification, as set out in the main regulations.

As set out in the main regulations, registration officers will be referred to the Lord President of the Council/Secretary of State’s lists of approved evidence in order to help determine an individual’s eligibility to be on the register.

The Government is currently considering the correct balance of legislation and guidance in respect of details of the algorithm to be used to match data relating to confirm individuals’ entitlement to remain registered.

4.—(1) A registration officer must, in relation to each person in article 3 above, verify the following information:

- (a) The person’s forename;
- (b) The person’s surname; and
- (c) The person’s address and postcode.

(2) The registration officer must disclose the information in paragraph (1) above to the [service provider] through the digital service.

(3) On receipt of such information from the registration officer, the [service provider] must disclose the information to the Secretary of State for the Department for Work and Pensions (“DWP”), who may compare it against information held by DWP.

(4) DWP may disclose the results of such comparison to [the service provider].

(5) On receipt of such results, [the service provider] must provide them to the registration officer.

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(a) 2012 c. xx.

(6) The registration officer must take the results into account in determining whether the person is entitled to remain registered.

#### **Notification of confirmed entries on the register**

The effect of this provision is that everyone who is eligible to remain on the register will be sent a confirmation letter.

The final order will provide that the confirmation letter sent to individuals confirming their entitlement to remain registered will also include their edited register preference that has been carried forward from the previous register, together with details on how to change it.

**5.**—(1) If a registration officer has confirmed a person's entitlement to remain registered pursuant to an order under paragraph 4(1) of Schedule 5 to the Act, the registration officer must give notice in writing to that person.

(2) Such notice must be given within the period starting on [date] and ending on [date].

(3) The notice must—

(a) state the full name and address of the person to whom it is given;

We are considering how this provision should be used to ensure people with the same name residing under the same address receive the correct confirmation letter.

(b) state that the person's entry on the register has been confirmed and that the person need not make a new application for registration in order to remain on the register unless their entitlement to be registered changes;

(c) state that, if the person ceases to reside at their current address, they should inform the registration officer;

The below provision is being considered further and discussed with Royal Mail.

(d) be given in an envelope on which is printed—

(i) a direction that the envelope must not be redirected if it is incorrectly addressed; and

(ii) a direction that any other person who receives the envelope who is resident at the address to which the notice is addressed must inform the registration officer if the person to whom the notice addressed is not resident at that address;

#### **Period within which invitations to register must be given to existing electors in 2014**

**6.** The period prescribed for the purpose of paragraph 8 of Schedule 5 to the Act is [*the same period as prescribed for giving confirmation notices under article 5(2)*]. [*Note: This period applies also for providing canvass forms - see paragraph 9(3) of Schedule 5 to the Electoral Registration and Administration Bill.*]

#### **Period within which canvass forms must be given in 2015**

**7.** Any canvass forms to be used for the purpose of the second new canvass are to be given within the period starting on [date] and ending on [date].

#### **Invitations to register given to existing electors**

**8.**—(1) The Electoral Commission must design an invitation to make a new application for registration, which includes—

(a) the full name and address of the person to be invited;

As above, we are considering how this provision should be used to ensure people with the same name residing under the same address receive the correct confirmation letter.

Invitations sent to existing electors will make clear that they need to be individually registered to continue to use a postal or proxy vote if they already have one, and that their proxy also needs to be individually-registered. We are currently working on the language of letters of invitation and considering whether the language should be specified in regulations to ensure consistency.

- (b) an explanation of how to make a new application for registration;
- (c) a statement as to the circumstances in which a civil penalty may be imposed under paragraph 13 of Schedule 5 to the Act, and the amount of the civil penalty.

(2) The Electoral Commission must also design such an invitation to be given under paragraph 8 of Schedule 5 to the Act to a person shown in the record kept under paragraph 3 of Schedule 4 to the Representation of the People Act 2000 or the list mentioned in paragraph 5(2) or (3) of that Schedule, which—

- (a) meets the requirements of paragraph (1); and
- (b) includes an explanation that if the person does not make a new application for registration which is successful before the registration officer publishes a revised version of the register following the first new canvass, the person will cease to be entitled to vote by post or (as the case may be) by proxy.

As above, the below provision is being discussed with Royal Mail.

The Electoral Commission will not be required to design the envelopes which the invitations will be sent in. However, the final orders will likely set out the required messages to be included in the mailings.

(3) Where a registration officer is required by paragraph 8 or 11 of Schedule 5 to the Act to give a person an invitation to make a new application for registration—

- (a) the officer must give—
  - (i) an invitation in the form designed by the Electoral Commission under paragraph (1) or (2), as appropriate; and
  - (ii) an application form in the form designed by the Electoral Commission under regulation 26(3) of the Representation of the People (England and Wales) Regulations 2001, on which the officer has printed the person's full name and address; and
- (b) the invitation and application form must be given in an envelope on which is printed—
  - (i) a direction that the envelope must not be redirected if it is incorrectly addressed; and
  - (ii) a direction that any other person who receives the envelope who is resident at the address to which the invitation is addressed must inform the registration officer if the person to whom the invitation is addressed is not resident at that address.

*[Note: Provisions about chasing for applications after the sending of an invitation, requiring applications and imposing civil penalties will reflect the provisions in the main regulations.]*

#### **Notification that an elector has lost their absent vote**

These provisions set out how an elector will be notified in writing that they have been removed from the absent voters record. However, the provisions do not yet include notifying proxy voters or proxies themselves that the proxy's appointment has ceased. We are working on the appropriate text to accompany this notification and final orders will include provision to this effect.

9. A registration officer who is required by paragraph 17(7) of Schedule 5 to the Act to notify a person that their entry has been removed from the absent voters record or list must—

- (a) give such notice in writing;
- (b) include in that notice an explanation of—
  - (i) why the person is no longer entitled to vote by post or (as the case may be) by proxy;
  - (ii) what the person must do in order to be able to vote by post or (as the case may be) by proxy; and
- (c) provide with that notice—
  - (i) an application form in the form designed by the Electoral Commission under regulation 26(3) of the Representation of the People (England and Wales) Regulations 2001, on which the officer has printed the person's full name and address; and
  - (ii) an application form for an application to vote by post or (as the case may be) by proxy.

**2013 No.**

**REPRESENTATION OF THE PEOPLE**

**The Electoral Registration (Postponement of 2013 Annual  
Canvass) Order 2013**

*Made* - - - -

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*Coming into force in accordance with Article 1*

The provisions for the postponement of the 2013 annual canvass are set out below. The 2013 annual canvass will be delayed to finish in early 2014 to make the register underpinning the confirmation process in 2014 as accurate as possible.

The dates for the canvass will be linked to the dates of elections in 2014. Decisions on combining local and European elections in 2014 have yet to be taken, but the dates below give an indication of our thinking at this point:

- If elections are not combined, the reference date will likely be 1 February, and publication date 1 March;
- If the elections are combined with a European election in June 2014, the reference date will likely be 1 March, and publication date will be 1 April.

The precise start and end dates for the postponed canvass are under consideration. In particular we are talking to registration officers and political parties (as key users of the register) and about the start and finish dates. We are conscious of the need to balance cost and benefits and this will factor into our final decision.

The Lord President of the Council makes the following Order in exercise of the power conferred by section 10(3) and (4) of, and paragraph 9(1) of Schedule 5 to, the Electoral Registration and Administration [Act 2013].

In accordance with section 10(1) of that Act a draft of this Order has been laid before and approved by each House of Parliament.

**Citation, commencement and interpretation**

1.This Order may be cited as the Electoral Registration (Postponement of 2013 Annual Canvass) Order 2013 and comes into force on the day after the day on which it is made.

2.In this order “the 1983 Act” means the Representation of the People Act 1983.

### **Postponement of 2013 annual canvass**

3. The annual canvass for 2013 to be conducted under section 10(1) of the 1983 Act shall be postponed.

4. A registration officer must not conduct any part of that canvass before 1st December 2013.

5. The canvass shall be conducted by reference to residence on *[date]*.

6. The canvass forms to be used for the canvass must be given within the period starting on *[date]* and ending on *[date]*.

### **Publication of revised version of register following postponed 2013 canvass**

7. Each registration officer in Great Britain must publish a revised version of their registers during the period starting with the end of the canvass and ending with *[date]*.

### **Consequential provisions**

8. In consequence of the provisions at articles 3 to 7—

- (a) section 10(1) of the 1983 Act does not require a registration officer for any area in Great Britain to complete the annual canvass for 2013 before 1st January 2014;
- (b) section 10(2) of the 1983 Act does not apply in respect of the annual canvass for 2013 in any area in Great Britain;
- (c) section 10A(2A) and (5)(a) of the 1983 Act apply, in respect of such a canvass, as if the reference to 15th October were to *[date]*;
- (d) section 13(1)(a) and (1A) of the 1983 Act do not apply to registration officers in Great Britain for 2013;
- (e) any other provisions of the 1983 Act which apply to a register published under section 13(1)(a) of that Act apply in the same way to a register published under article 7 of this Order;
- (f) section 13BB of the 1983 Act applies in connection with the annual canvass for 2013 in any area in Great Britain as if in subsections (1)(b)(ii) and (5)(b)(ii) “1st December 2013 and ending with *[date]*” were substituted for “1st July in the year of the canvass and ending with 1st December in that year”.

*[Note: consequential amendments to regulations will also be required]*