

Part A – Context

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1 Introduction

1.1 The purpose of this guidance is to assist (Acting) Returning Officers with the practice and procedure of running a UK Parliamentary general election in Great Britain.

1.2 This guidance is not meant as a comprehensive guide to the relevant election law, and no expression of views on the part of the Electoral Commission can alter the application of any legislation to any particular case. (Acting) Returning Officers, Electoral Registration Officers and their own legal advisers must reach conclusions based on the details of any particular case. While the Commission has a statutory power to provide advice, questions of the final interpretation of the law are ultimately a matter for the courts. A court would have regard to any guidance provided by the Commission.

1.3 This guidance principally needs to be read alongside:

- Representation of the People Acts 1983, 1985 and 2000
- Political Parties, Elections and Referendums Act 2000
- Representation of the People (England and Wales) Regulations 2001
- Representation of the People (Scotland) Regulations 2001
- Electoral Administration Act 2006
- Political Parties and Elections Act 2009

1.4 The guidance covers:

- **legislative requirements** – a guide to what (Acting) Returning Officers must do, with reference to the relevant legislative provisions, including new legislation
- **practical advice** – what (Acting) Returning Officers should do, to ensure consistency and good practice
- **information** – contextual and background information where no action is required

1.5 This guidance covers electoral law and practice in Great Britain only. It does not cover UK Parliamentary general elections in Northern Ireland.

1.6 There is always the potential that a UK Parliamentary general election will be combined with other elections. Full guidance is provided in Part G, 'Combination of polls'; however, throughout the guidance, boxes highlighting specific combination issues are included alongside the relevant text.

2 Legislation

2.1 The relevant legislation for UK Parliamentary general elections is shown in Table 1 below.

Table 1: Relevant legislation

Full title	Abbreviation	Summary
Representation of the People Act 1981	RPA 1981	This Act prevents certain prisoners from standing for election.
Representation of the People Act 1983 (as amended)	RPA 1983	This Act contains provisions relevant to the franchise and its exercise, the conduct of UK Parliamentary general elections and the election campaign.
Schedule 1 of the RPA 1983: Parliamentary Election Rules	PER	This Schedule sets out the rules governing the conduct of UK Parliamentary general elections.
Representation of the People Act 2000 (Schedule 4)	RPA 2000	This Schedule specifically covers the requirements for absent voting.
Political Parties, Elections and Referendums Act 2000 (as amended)	PPERA	This Act, which established the Electoral Commission, covers the registration of political parties, and campaign and election expenses.
Representation of the People (England and Wales) Regulations 2001 (as amended) and Representation of the People (Scotland) Regulations 2001 (as amended)	RPR 2001	These Regulations deal with areas such as electoral registration and absent voting.

Table 1 (cont.): Relevant legislation

Electoral Administration Act 2006	EAA	This Act makes provisions in relation to the registration of electors, standing for election, the administration and conduct of elections, the regulation of political parties and encouragement of participation in elections.
Political Parties and Elections Act 2009	PPEA	This Act amends previous legislation, including changing electoral registration for elections during the canvass and allows candidates to remove their full addresses from ballot papers.

2.2 The guidance should be read in conjunction with the legislation referred to in the above table and any other legislation to which it refers. For example, the RPA 1983 has within it a reference to the Postal Services Act 2000 in relation to the definition of 'universal service provider'.

2.3 All references to the relevant provisions of electoral legislation made throughout the manual will be contained in footnotes, using the abbreviations shown in the above table.

Recent changes to legislation

2.4 The PPEA made some additional changes from the last UK Parliamentary general election:

- If the general election is during the canvass period, completed canvass forms can be used to add any new elector to the register in time to vote if received by the eleventh day before the poll.
- Candidates must now complete a new form as part of their nomination, a home address form.
- The home address form allows a candidate the choice to have their home address or just the name of the UK Parliamentary constituency in which they live published on the statement of persons nominated and the ballot papers.

2.5 This is the first UK Parliamentary general election to be run under the new rules following the enactment of the EAA and the PPEA. It is important that the (Acting) Returning Officer reviews this guidance and the legislation for all aspects of the election so that they conduct their election in accordance with the current legislation.

3 The electoral framework

How a UK Parliamentary general election is called

The issue of the writ



There is no set date for a UK parliamentary general election and one can be called at any time, with a minimum of 17 working days from announcement to polling day.

3.1 The election process starts with the monarch dissolving Parliament, usually on the advice of the Prime Minister. This will be widely covered by news agencies and may be preceded by the Prime Minister announcing that they intend to start the process on a certain date.

3.2 A legal writ will be sent to the (Acting) Returning Officer that requires the election to be run.

Delivery of the writ

3.3 The writ is delivered to the Returning Officer by title, and not by name.¹ An Order in Council made by the monarch will specify how the writ is delivered, whether by post or by an officer appointed by the Lord Chancellor.² Most often, Royal Mail will deliver the writ. The Order in Council will usually require the Returning Officer to give an address for the delivery and for a receipt to be given by the Returning Officer. The PER allow for the delivery to any individual authorised by the Returning Officer.³

3.4 The Clerk of the Crown will regularly maintain a list of Returning Officers and Acting Returning Officers along with their addresses. Up to 18 months before a UK Parliamentary general election is due to be held, the Clerk of the Crown will make contact with (Acting) Returning Officers to update the details.

3.5 If there are any changes to the address of the (Acting) Returning Officer for any reason, the (Acting) Returning Officer should keep the Clerk updated with the correct details.

Parliamentary writs list

3.6 Royal Mail maintains a list, known as the Parliamentary writs list, which specifies the officer to whom the writ is to be sent in each constituency, the address of that officer and the designation and address of the Royal Mail official to whom the duty of securing the delivery of each writ has been assigned (see your local Royal Mail contact). In England and Wales, the writ will be delivered to the Returning Officer unless the Returning Officer (or a predecessor) has given notice that the writ is to be sent to the Acting Returning Officer.

¹ Rule 3(2), PER.

² Rule 3(3), PER.

³ Rule 3(4) and (5), PER.



It is essential that any changes to the details of the person who will receive the writ (for example in England and Wales, when it is decided whether the Returning Officer or Acting Returning Officer will receive it) are notified to Royal Mail immediately.

Receipt of the writ

3.7 Once the writ has been issued, the local Royal Mail contact will usually contact the (Acting) Returning Officer to make an appointment for the delivery.

3.8 A writ is deemed to have been delivered to an (Acting) Returning Officer if it is delivered to a person temporarily in charge of the office of the (Acting) Returning Officer. Regardless of who receives the writ, a receipt provided by Royal Mail must be completed.⁴ This gives the date on which it is received and the name of the officer accepting it. Copies should be taken of the writ and the original kept secure.⁵

Endorsing and returning the writ

3.9 At the conclusion of the count and after the result has been declared, the (Acting) Returning Officer must endorse the writ with a certificate giving the name of the elected Member of Parliament. This can be found on the rear of the writ.⁶ The details of the successful candidate must be written clearly and accurately, and all of the details asked for on the writ must be completed. The (Acting) Returning Officer should undertake this with another staff member to ensure that no mistakes are made.

3.10 The (Acting) Returning Officer should ensure that they have a good relationship with their Royal Mail contact. This should include liaising about the receipt and return of the writ.⁷



Further information about endorsing and returning the writ is given in Part F, 'After the declaration of result'.

UK Parliamentary constituencies

3.11 UK Parliamentary general elections are run on UK Parliamentary constituency boundaries. Constituencies can be coterminous with the areas of local authorities and/or Electoral Registration Officer areas but many comprise only part of the area, while others cross local authority boundaries.

⁴ Rule 3(3), PER.

⁵ Parliamentary Writs Order 1983.

⁶ Rule 51(1), PER.

⁷ Rule 51(3), PER.



For more details on cross-boundary constituencies see section 5, 'What issues are specific to this election', in the Commission's *Essentials of effective election management: planning for a UK Parliamentary general election*.

3.12 UK Parliamentary constituency boundaries change from time to time. Where boundary changes have been passed for a constituency the (Acting) Returning Officer must ensure that they are fully implemented for the election following the dissolution of the UK Parliament.

3.13 There are two types of constituency, county and borough (or burgh in Scotland). County constituencies are those in rural or partly rural areas, and because of their geographic size they carry a slightly higher limit of election expenses than borough constituencies. For details on the type of any particular constituency please contact your local Electoral Commission devolved or English office.



In this guidance manual the term 'borough' will be used and should be read as 'burgh' for constituencies in Scotland.

4 Roles and responsibilities

The Electoral Registration Officer

4.1 The Electoral Registration Officer is the official with responsibility for the preparation and maintenance of the register of electors and lists of absent voters within their area.



In England, every unitary, district and London borough council is required to appoint an officer of the council to be the Electoral Registration Officer.⁸ In the City of London, the Common Council must appoint an officer as the Electoral Registration Officer.⁹



In Wales, the appointment of the Electoral Registration Officer is made by the county or county borough council. The person appointed must be a current officer of the council.¹⁰



In Scotland, the Electoral Registration Officer must be appointed by the local authority. The person appointed must be either an officer of that council or an adjoining council, or may be an officer appointed by a combination of local authorities.¹¹

4.2 In many cases the Electoral Registration Officer will be the same person as the (Acting) Returning Officer. However, in other places this is not the case because the two positions are legally distinct, such as in most of Scotland, or because the UK Parliamentary constituency boundary crosses into two Electoral Registration Officers' areas.

⁸ Section 8 (2)(a), RPA 1983.

⁹ Section 8 (2)(b), RPA 1983.

¹⁰ Section 8 (2A), RPA 1983.

¹¹ Section 8 (3), RPA 1983.

The Returning Officer and Acting Returning Officer



In England and Wales, the Returning Officer is essentially a figurehead who takes little active part in running the election. The Acting Returning Officer carries out all the duties of the Returning Officer except for a limited number of functions that the Returning Officer may reserve to themselves in writing.

In a borough constituency contained in a district, the mayor or chairman of the local authority is the Returning Officer. In a county constituency, the Returning Officer is the Sheriff of the County. In areas where the constituency overlaps county or district borders, the Returning Officer is designated by the Secretary of State.

The only duties that may be reserved and undertaken by the Returning Officer in England and Wales are:¹²

- duties in connection with the receipt of the writ
- duties in connection with the declaration of result

If either or both of these duties are to be reserved, a notice in writing must be made to the Acting Returning Officer by the day after the receipt of the writ (there is no prescribed form for this).¹³ If no notice has been received by that time, the Returning Officer in England and Wales cannot receive the writ or declare the result.

The Acting Returning Officer is personally responsible for the conduct of the election. They can appoint Deputies with full or specific powers to assist them.

Appointment of Acting Returning Officer

The Acting Returning Officer is an Electoral Registration Officer appointed as follows:

- In a constituency in England for which the chairman of a district council or the mayor of a London borough is the Returning Officer (by virtue of Section 24(1) of the RPA 1983), the Electoral Registration Officer appointed by that council is Acting Returning Officer.
- In a constituency in Wales for which the chairman of a county council or county borough council is the Returning Officer (by virtue of Section 24(1) of the RPA 1983, as amended by paragraph 68 of Schedule 16 to the Local Government (Wales) Act 1994), the Electoral Registration Officer appointed by that council is Acting Returning Officer.
- In the case of any other constituency in England and Wales not covered above, the Acting Returning Officer is the Electoral Registration Officer designated by an order made by the Secretary of State.

¹² Section 28(2), RPA 1983.

¹³ Section 28(3), RPA 1983.



In Scotland, the Returning Officer for a UK Parliamentary general election is the same person who has been appointed Returning Officer for the election of councillors in the local authority in which the constituency is situated. Where a constituency covers more than one local authority area, it is for the Secretary of State to direct which local authority Returning Officer will discharge the function.

In Scotland, there is no office of Acting Returning Officer. Instead, the election is administered by the Returning Officer. The Returning Officer in this case is usually a senior officer of the local authority who operates executive control of the election and has personal responsibility for it. They can appoint Deputes with full or specific powers to assist them.

In the majority of instances, the Returning Officer is the chief executive of the council or local authority, although there are several exceptions to this.



For the purposes of this guide, the term 'Deputy' should be read as 'Depute' for elections in Scotland.



For the purposes of this guide, '(Acting) Returning Officer' will refer to the duties normally undertaken by the Acting Returning Officer in England and Wales, and by the Returning Officer in Scotland.

4.3 An (Acting) Returning Officer may appoint Deputies to discharge all or any of their duties. There is no statutory requirement as to the qualification required by a Deputy (Acting) Returning Officer.

4.4 A Deputy (Acting) Returning Officer is liable, in the same way as the (Acting) Returning Officer, for a breach of official duty.

Discharge of duties of the (Acting) Returning Officer

4.5 The duties of the (Acting) Returning Officer are separate from their duties as a local government officer. This follows from Section 27(1) of the RPA 1983, which has the effect of making the office of (Acting) Returning Officer totally distinct from the office by virtue of which they have become (Acting) Returning Officer.

4.6 The provision serves to emphasise the independence of the (Acting) Returning Officer at a UK Parliamentary general election from their local authority. They are directly accountable to the courts system as an independent statutory office holder.

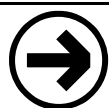
Breach of official duty

4.7 If the (Acting) Returning Officer is, without reasonable cause, guilty of any act or omission in breach of their official duty they are liable on summary conviction to a fine not exceeding £5,000.¹⁴ An (Acting) Returning Officer is, in respect of any breach of their official duty, liable only to the fine imposed by that section. No action for damages lies against the (Acting) Returning Officer or their staff in respect of a breach of official duties.¹⁵

4.8 The (Acting) Returning Officer has the power to correct procedural errors they have made, an Electoral Registration Officer, a Presiding Officer, a person providing goods or services to the (Acting) Returning Officer and any Deputy or authorised assistant of any of the above.¹⁶ Where an (Acting) Returning Officer remedies an act or omission by using this power, they will not be guilty of an offence of breach of official duty, except where any conviction for such a breach is made before the act or omission has been remedied in full.¹⁷

Appointment of Presiding Officer and Poll Clerks

4.9 The (Acting) Returning Officer is required to appoint and pay a Presiding Officer and such Poll Clerks as may be necessary to attend at each polling station.¹⁸ Presiding Officers and Poll Clerks are liable to be convicted for an offence if they are found, without reasonable cause, to have committed a breach of official duty.¹⁹



See the Commission's *Essentials of effective election management: planning for a UK Parliamentary general election* for guidance on successfully undertaking the duties of (Acting) Returning Officer.

¹⁴ Section 63(1), RPA 1983.

¹⁵ Section 63(2), RPA 1983.

¹⁶ Section 46, EAA.

¹⁷ Section 63(5), RPA 1983.

¹⁸ Rule 26, PER.

¹⁹ Section 63(3), RPA 1983.

5 The role of other organisations

The Electoral Commission

Background

5.1 The Electoral Commission is an independent body, established by the UK Parliament in November 2000. The Commission reports directly to the UK Parliament through a committee chaired by the Speaker of the House of Commons, known as the Speaker's Committee.

Statutory functions

5.2 The Commission has a number of statutory functions and powers in relation to elections, and these are set out in PPERA. These include:

- setting and publishing performance standards for electoral services and collecting information on the costs of electoral services from Electoral Registration Officers, Returning Officers and referendum Counting Officers²⁰
- attending at certain election proceedings²¹
- preparing and publishing a Code of practice on the attendance at elections of representatives of the Commission, accredited observers and nominated members of accredited organisations, and managing a scheme for the accreditation of electoral observers²²
- promoting public awareness of electoral matters²³
- publishing reports on the administration of elections and referendums²⁴
- conducting reviews of the law and practice relating to elections and referendums²⁵
- giving advice and assistance to those involved in the electoral process, including political parties and electoral administrators²⁶
- being consulted by the UK Government on proposals to amend electoral law²⁷
- being consulted on the allocation of party political broadcasts²⁸
- maintaining, monitoring and making available for reasons of transparency a register of political parties, and the registration of political party descriptions where parties wish to field candidates standing under the party name or a description other than 'Independent' on the ballot paper²⁹

²⁰ Sections 9A–9C, PPERA, as inserted by Section 67, EAA.

²¹ Section 6A, PPERA, as inserted by Section 29, EAA.

²² Sections 6C, 6D and 6F, PPERA, as inserted by Section 29, EAA.

²³ Section 13, PPERA.

²⁴ Section 5, PPERA.

²⁵ Section 6, PPERA.

²⁶ Section 10, PPERA.

²⁷ Section 7, PPERA.

²⁸ Section 11, PPERA.

²⁹ Sections 23, 28, 28A and 28B, PPERA.

- maintaining, reviewing and publishing for reasons of transparency a register of donations made to registered political parties and others regulated by the legislation³⁰
- reviewing and publishing the annual statements of accounts of political parties³¹
- reviewing and publishing the returns of campaign expenditure incurred by political parties and recognised third parties in respect of their election campaign³²
- reviewing returns of donations and loans to, and the expenditure by and on behalf of, candidates and their agents³³
- receiving from Returning Officers copies of candidates' returns of election expenses³⁴

Provision of advice

5.3 Section 10 of PPERA allows the Commission to provide advice and assistance to Electoral Registration Officers, (Acting) Returning Officers and registered parties. The Commission does this through issuing guidance, templates and online resources. The Commission also provides an enquires service, briefings and seminars on electoral administration and meets (Acting) Returning Officers and their staff to discuss specific issues. While the Commission has a statutory power to provide advice, questions of the final interpretation of the law are ultimately a matter for the courts. A court would have regard to any guidance provided by the Commission.

Contacts

Devolved and English offices

5.4 The first point of contact for any queries should be either the Commission's office in Wales or Scotland or the Commission's English regional office covering the (Acting) Returning Officer's electoral area, as appropriate.

Wales Office

Kay Jenkins

Tel: 029 2034 6800

Email: kjenkins@electoralcommission.org.uk

Scotland Office

David Freeland

Tel: 0131 225 0208

Email: dfreeland@electoralcommission.org.uk

³⁰ Section 69, PPERA.

³¹ Section 46, PPERA.

³² Sections 84 and 145, PPERA.

³³ Section 145, PPERA.

³⁴ Section 87A, RPA 1983.

London Office

Peter Dawson

Tel: 020 7271 0689

Email: pdawson@electoralcommission.org.uk

North of England Office

North East and Yorkshire & the Humber

Sarah Hopson

Tel: 01904 567994

Email: shopson@electoralcommission.org.uk

North West

Sandra Hardy

Tel: 01904 567993

Email: shardy@electoralcommission.org.uk

Midlands Office

Gail Emmerson

Tel: 024 7682 0092

Email: gemmerson@electoralcommission.org.uk

Eastern and South East Office

John Pollard

Tel: 020 7271 0660

Email: jpollard@electoralcommission.org.uk

James Steele

Tel: 020 7271 0600

Email: jsteele@electoralcommission.org.uk

South West Office

Elizabeth Gorst

Tel: 01392 314616

Email: egorst@electoralcommission.org.uk

5.5 For guidance or advice on dealing with matters of electoral malpractice, fraud and related integrity issues, please contact:

Richard Jordan

Senior Adviser (Electoral Integrity)

Tel: 020 7271 0562

Email: rjordan@electoralcommission.org.uk

Registration of political parties

5.6 PPERA requires political parties to register with the Electoral Commission in order to field candidates at an election.³⁵ Parties can also register up to 12 descriptions for their candidates with the Commission.³⁶ Candidates may contest a UK Parliamentary general election as an

³⁵ Section 22, PPERA.

³⁶ Section 28A, inserted into PPERA by Section 49, EAA.

Independent candidate, and need not be a member of a registered political party, although in such circumstances the candidate may only use the description 'Independent' (and/or 'Annibynnol' in Wales), or use no description on the ballot paper.

5.7 For advice on party registration and political parties in England contact:

Party and Election Finance

Tel: 020 7271 0616

Email: pef@electoralcommission.org.uk

In Wales:

David Beacock

Tel: 029 2034 6806

Email: dbeacock@electoralcommission.org.uk

In Scotland:

Mark Nicholls

Tel: 0131 225 0211

Email: mnicholls@electoralcommission.org.uk



The Commission's guidance on the registration of political parties can be obtained from the Commission's website at www.electoralcommission.org.uk or by phoning 020 7271 0616.

Ministry of Justice

5.8 The Ministry of Justice (MoJ) is the central government department with responsibility for the legislative framework for UK Parliamentary general elections, European Parliamentary elections and national referendums, including the franchise, conduct and funding. The MoJ also has responsibility for policy on the conduct of local government elections and mayoral and local government referendums in England and Wales and all issues covered by PPERA. These include generic issues associated with national and regional referendums, the registration of political parties, rules on donations to political parties and third-party donations.

5.9 The Elections and Democracy Division is the part of the MoJ responsible for issues concerning the conduct of elections. The division currently has four teams: Boundaries and Conduct of Elections, Registration and Franchise, Political Parties and Referendums and the Electoral Registration Programme.

5.10 The Boundaries and Conduct of Elections branch has overall responsibility for policy and law on the conduct of UK Parliamentary general, European Parliamentary, Greater London Authority and English and Welsh local elections, and can be contacted on 020 3334 3778.



More information on the MoJ can be found at www.justice.gov.uk.

Election Claims Unit



For advice on the election funding process and related procedures in England and Wales, please do not contact the MoJ's Elections and Democracy Division but instead contact the Election Claims Unit:

Election Claims Unit

Tel: 030 3444 3912

or write to:

FSSD/CLAIMS

Department for Communities and Local Government

1/07 Hempstead House

2 Selden Hill

Hemel Hempstead

Hertfordshire HP2 4XN

Email: ecu@communities.gsi.gov.uk



The Scotland Office is responsible for monitoring the accounts submitted by Returning Officers in Scotland, who can recover their charges in respect of services properly rendered or expenses properly incurred through the UK Parliamentary Elections Fees and Charges Order.

For advice on the election funding process and related procedures in Scotland, contact the Scotland Office at:

Accounts Payable

Finance Branch

The Scotland Office

1 Melville Crescent

Edinburgh EH3 7HW

Tel: 0131 244 9011

Royal Mail

5.11 Royal Mail performs a number of functions at elections and may be engaged throughout the electoral process. Further information may be obtained at www.royalmail.com/postalvoting.

Appendix – Resources

Contact details for ordering Electoral Commission forms and leaflets



Throughout this guidance we refer to forms and leaflets produced by the Commission and available from our distributor:

Tel: 0845 8500 501

Fax: 020 8867 3225

Email: ecpublications@ecgroup.co.uk

For a complete, up-to-date listing of all the forms and leaflets available for order, please refer to the public awareness materials on the Commission's website at www.electoralcommission.org.uk.