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Yn dilyn fy mhresenoldeb yn y sesiwn dystiolaeth ar 27 Mawrth, roeddwn yn meddwl y byddai'n ddefnyddiol i'r Pwyllgor weld y Gorchymyn Gwasanaeth Carchardai 4650 cyfredol ar Hawliau Pleidleisio Carcharorion. Amgaeaf gopi. Rydym yn deall bod y gorchymyn ar gael yn Saesneg yn unig.

Yn gywir,

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.



## Prison Service Order

ORDER NUMBER  
4650

# Prisoners' Voting Rights

<b>Date of Issue / Amendment</b>	
29/02/2001	
Amendments can be tracked in the Numerical Index.	
PSI Amendments should be read before and in conjunction with PSO	

## INTRODUCTION

### Purpose of the Order

1. This Order is being issued to consolidate into one document all instructions on prisoners' voting rights previously contained in Circular Instructions, Advice to Governors, and Prison Service Instructions; and to provide up-to-date guidance following changes introduced by the Representation of the People Act 2000 (the new Act). A list of the instructions to prisons which are now cancelled is at Annex C.

### Performance Standards

2. This PSO is not part of the Performance Standards Programme.

### Output

3. The Representation of the People Act 2000 (the new Act) takes certain steps to make it easier for eligible prisoners to register to vote, subject to the existing discretion of Electoral Registration Officers. It also extends the deadline for absent voting applications. The categories of prisoner allowed to vote, and the procedures

by which eligible prisoners complete a postal or proxy ballot, remain unchanged by the new Act.

## **Impact and Resource Assessment**

4. 4.1 The greater ease of registration introduced by the new Act may increase the number of eligible prisoners exercising their right to vote and cause a corresponding rise in staff activity when an election or other poll occurs. The main existing duty for staff at election time - the witnessing of declarations of identity completed in the course of a postal ballot - will continue.

4.2 It has not been possible to assess the impact of the new Act on the resources of prisons. This will be determined by the level of interest that prisoners will have in voting and it is not yet known if this will increase. The relevant parts of the new Act deal with removing obstacles to eligible prisoners' registering to vote, particularly those encountered after 6 months or longer spent in custody. It does not include measures to directly encourage more interest in voting by prisoners, so significant changes to voting in prisons might not occur.

## **Implementation**

5. This PSO comes into effect on 16 February 2001, the date upon which Section 5 of the Representation of the People Act 2000 on voting by prisoners comes into effect.

## **Mandatory Action**

6. Governing governors, Directors and Controllers of contracted out establishments must ensure that:

- *this Order is available for staff working with prisoners and in the prison library for use by prisoners who may wish to register to vote, to apply for absent voting or vote in an election*
- *signs on voting rights are displayed in reception and on remand wings*
- *copies of Annex A on registering to vote and Annex B on absent voting, are available to hand to prisoners who express an interest*
- *ballot papers sent to an eligible prisoner whose application for a postal vote has been accepted, are handed unopened to the prisoner, or forwarded unopened if the prisoner has already been released*
- *prisoners' declarations of identity are witnessed and that completed votes are posted back unopened*
- *eligible prisoners who are disabled or who have language, reading or writing difficulties, are assisted with registration and voting, if they request help*

## **Young prisoners**

7. Young prisoners aged 18 and over, who fit into the categories of prisoner listed in paragraph 1.3 of Chapter 1 of the PSO, also have the right to vote. 16 and 17 year

olds held in custody, who fit the categories in paragraph 1.3, may apply to register to vote in anticipation of being able to vote when they reach the age of 18.

### Further information

8. Enquiries about the contents of this PSO, or the issues it covers, should be directed to Gabrielle Kann (020 7217 6331) or Bob Daw (020 7217 6682) in Prisoner Administration Group. Also, Electoral Registration Officers, whose details are listed in Annex C, can provide advice and information on voting by prisoners.

**Ken Sutton**  
**Director of Resettlement**

<b>NOTE FOR ESTABLISHMENT LIAISON OFFICERS</b>					
ELOs must record the receipt of the Prison Service Order - <b>PRISONERS' VOTING RIGHTS</b> - in their registers as issue <b>120</b> as set out below. The PSO must be placed with those sets of orders mandatorily required under Chapter 4 of PSO 0001.					

<b>Issue no.</b>	<b>Date</b>	<b>Order no.</b>	<b>Title and/or description</b>	<b>Date entered in set</b>	<b>ELO Signature</b>
<b>120</b>	<b>29/01/01</b>	<b>4650</b>	<b>PRISONERS' VOTING RIGHTS</b>		

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## **CHAPTER 1 - VOTING ELIGIBILITY AND REGISTRATION**

### **Scope**

**1.1** This Order covers the procedure for ensuring that eligible prisoners are able to exercise their right to vote in the following elections:

- The United Kingdom Parliament
- Local Government
- The European Parliament
- The Scottish Parliament
- The Welsh Assembly
- National and regional referenda.

### **Eligibility to vote**

#### **1.2**

1.2.1 Sentenced prisoners are disqualified from voting (apart from the two categories of sentenced prisoners listed below in paragraph 1.3) by section 3 of the Representation of the People Act 1983, as amended by the Representation of the People Acts 1985 and 2000. This disqualification covers prisoners released on temporary licence (ROTL) and those unlawfully at large.

1.2.2 The Working Party on Electoral Procedures, which examined and reviewed all electoral arrangements after the last general election held in 1997, published its findings on 19 October 1999. They could find no reason to change the existing situation in which convicted prisoners found guilty of a crime serious enough to warrant imprisonment were denied the right to vote for the duration of their imprisonment. Parliament is satisfied that the Representation of the People Act 2000 complies with the Human Rights Act 1998. Long-standing precedent set by the European Court of Human Rights upholds that certain sections of society can be excluded from voting.

### **The categories of prisoner who have the right to vote**

**1.3** The right to vote is restricted to the following categories of prisoner:

- Unconvicted prisoners
- Convicted but unsentenced prisoners
- Persons imprisoned for contempt of court and other prisoners classified under Prison Rule 7(3)
- Those serving a term of imprisonment in default of payment of a sum of money, adjudged to be paid on conviction

### **Registering as an elector and rolling registration**

#### **1.4**

1.4.1 Eligible prisoners may already be registered to vote at the home address where they would be living, were they not in custody: the routine annual canvass of electors held by Electoral Registration Officers (EROs), requires by law that the

names of all people eligible to vote within every household and resident each year on 15 October, are disclosed.

- 1.4.2 An eligible prisoner already registered and wishing to vote, who is or expects to be in prison for six months or more, is advised to contact the relevant ERO to check that their registration is still valid. Other eligible prisoners already registered and wishing to vote, generally need take no action until an election is announced and then apply promptly for an absent vote (see Chapter 2 for absent voting instructions).
- 1.4.3 Eligible prisoners, if they have not already done so, may register to vote at the home address where they would be living, were they not in custody, during the annual voting canvass, on the form sent to households by EROs.
- 1.4.4 With effect from 16 February 2001, under section 1 of the Representation of the People Act 2000, a system of “rolling registration” will be in place. This means that eligible prisoners can apply to an Electoral Registration Officer (ERO) to register to vote at any time of the year, if they were not registered during the routine annual canvass (see Annex A for the application format). Alternatively, registration forms are available from EROs, as listed at Annex E.  
**Eligible prisoners should be aware that under the rules on all elections, the general cutoff date for registration applications being received by EROs is mid-month, two months before the month in which an election will be held.**

## **New ways to register to vote**

### **1.5**

- 1.5.1 If they are not able to register at their home address, eligible prisoners may now register in one of two ways introduced by the Representation of the People Act 2000 (except for convicted unsentenced prisoners - see section 1.7 below):
  - 1.5.2 A “declaration of local connection”  
Eligible prisoners can register in a constituency where they have lived previously, following a “declaration of local connection”. This declaration can be made on the basis of a significant link to a particular locality, which can be demonstrated in various ways, by, for example: relatives or friends stayed with, regular use of a bed and breakfast guesthouse or hostel, or contact with agencies working with the homeless. See Annex A for further information.
  - 1.5.3 The address of the prison establishment  
Alternatively, eligible prisoners may give the address of the prison establishment in which they are held, and therefore apply to vote in the constituency where it is situated. Subject to the discretion of Electoral Registration Officers, it will usually be appropriate to use this option if an eligible prisoner has been, or is likely to be, in custody for six months or more, or if an eligible prisoner is unable to make a declaration of local connection.
  - 1.5.4 Further advice

If a prisoner is not sure about which option to use when wanting to register to vote, they should contact an Electoral Registration Officer, as listed at Annex E, for further guidance.

#### 1.5.5 Applications to register to vote

Forms for registering in the ways described are available from Electoral Registration Officers. Alternatively, eligible prisoners can write to Electoral Registration Officers, using the letter format to be found at Annex A.

### **Expiry of Registration**

- 1.6** Where an eligible prisoner registers via a declaration of local connection, or by using the prison address, the registration will remain in effect for twelve months maximum from the date of registration. At the end of this period the person must make a further application for registration, otherwise their name will be deleted from the register.

### **Registration by convicted unsentenced prisoners**

- 1.7** Convicted unsentenced prisoners are disqualified both from registering via a declaration of local connection, and from registering using the address of the place of detention. Neither option is appropriate for this class of prisoners, since they are either about to be sentenced, thereby losing their voting eligibility, or released and therefore able to register at their home address.

### **Mandatory action for Governors on voting by prisoners**

- 1.8** *Governors must ensure that signs, to be obtained from HMP Coldingley, are displayed to advise eligible prisoners of their right to vote. They must have copies of Annex A on registering to vote available, to hand to prisoners who express an interest.*

## CHAPTER 2 - EXERCISING THE RIGHT TO VOTE

### Absent voting by post or proxy

#### 2.1

2.1.1 An eligible prisoner will be unable to attend a polling station to vote in person, and must therefore, once registered, apply to be an absent voter in order to vote either by post or by an appointed proxy. If an application for a postal vote is then accepted, postal ballot papers will be sent, in the event of a poll, to the address specified in the application. If an application for a proxy vote is accepted, a proxy voter's poll card will be sent to the appointed proxy.

2.1.2 The deadline for postal or proxy votes

An application for absent voting by an eligible prisoner will be made only in respect of a particular election. Such applications should be made as soon as possible after the announcement of an election, to allow time for postal ballot papers to be sent out. In parliamentary and local government elections, applications must be received by Electoral Registration Officers by **5pm**, on the **sixth** working day before the date on which the election will be held.

2.1.3 The absent voting application form

Forms for absent voting are available from Electoral Registration Officers. Alternatively, eligible prisoners can write to Electoral Registration Officers, using the letter format to be found at Annex B.

2.1.4 Prisoners already registered for absent voting

If prisoners have been registered for a postal vote prior to their detention, they can change the address to which the postal ballot papers are sent to that of the place of detention, using a form available from Electoral Registration Officers, or by writing a brief letter. These applications must be received by Electoral Registration Officers by **5pm**, on the **eleventh** working day before the date on which the election will be held.

2.1.5 Mandatory action for Governors on absent voting by prisoners

*Governors must have copies of Annex B on absent voting available, to hand to prisoners who express an interest.*

### Completing a postal ballot

#### 2.2

2.2.1 Action when the postal ballot is received at the prison

Shortly before polling day, an envelope containing ballot papers, and marked in such a way as to be recognisable as a postal ballot, will be sent to each prisoner whose application to vote by post has been accepted. The envelope must be handed unopened to the prisoner to whom it is addressed. If a ballot paper is received for a prisoner who had in the meantime been discharged, it must be forwarded, unopened, to the address given on discharge.

The envelope contains:

- Ballot paper
- Ballot paper envelope (marked “A”)
- Declaration of identity
- Envelope (marked “B”) for returning the ballot paper (sealed in envelope A), and the declaration of identity, to the Returning Officer

### 2.2.2 Action to complete a valid vote

- The declaration of identity must be signed (or marked) by the prisoner in the presence of a person (a member of staff) known to the prisoner when the envelope is first handed to the voter.
- That witness should then counter-sign the declaration, adding his or her name and the establishment address.
- The prisoner should then complete the ballot paper, seal it in envelope A, then seal this envelope and the declaration of identity in envelope B.
- This should then be posted promptly, to ensure that it reaches the returning officer on or before polling day, as a ballot paper received after close of poll cannot be counted.

### 2.2.3 The principle of the secret ballot

The principle of the secret ballot does not, in practice, conflict with the requirement to open prisoners’ correspondence: the discretion to open and examine the contents of the incoming envelope containing the ballot paper can be exercised before the secret ballot is completed by the prisoners. The outgoing envelope is addressed to the returning officer, so is unlikely to contain anything apart from the completed ballot.

## **Availability of political literature**

- 2.3** An eligible prisoner who has made an apparently genuine application for a postal or proxy vote, should be allowed to have election literature and may, on application to the governor, write to candidates’ agents in the relevant constituency, requesting such literature.

## **Northern Ireland**

- 2.4** Potential voters in Northern Ireland must fulfil an additional requirement of having been resident in Northern Ireland during the whole of the three months up to the date of an application to register. Eligible prisoners held in England and Wales, even if they have lived previously in Northern Ireland, are therefore unlikely to be able to register in Northern Irish constituencies but can apply to vote in a British constituency instead.

## FORMAT FOR APPLICATIONS FOR ELECTORAL REGISTRATION

1. Eligible prisoners who wish to apply to register as electors should write at any time to the appropriate Electoral Registration Officer (See Annex E for the addresses of Electoral Registration Officers in England and Wales). **All** applicants (whether using the **home address**, a **declaration of local connection**, or the **prison address**), should include the following in their letter:
  - full name
  - date of birth
  - a statement that the applicant is a citizen of the U.K., Republic of Ireland, or a named country in the Commonwealth or European Union
  - the full address of the prison
  - an address, if different from the prison, where correspondence from the Electoral Registration Officer or Returning Officer should be sent, in order to reach the applicant
  - the applicant's usual signature or mark
  - the date of writing
2. If registering their **home address**, in addition to the information in paragraph 1 above, the applicant should also provide:
  - their current home address in the U.K., where they reside when not detained
3. If making a **declaration of local connection**, in addition to the information in paragraph 1 above, the applicant should also provide:
  - the address in the UK where they would be residing, if not detained
  - or if they cannot give such an address, an address in the UK where they have resided
  - a declaration that the information they have given is true
4. An eligible prisoner who wishes to register the **prison address**, in addition to the information in paragraph 1, should also provide:
  - a brief statement of the reason why the place of detention (rather than a previous address) is being used as a registration address
5. For further information on registering to vote, contact an Electoral Registration Officer. The rules on registration are in the Representation of the People Act 2000 and Regulations.

**FORMAT FOR APPLICATIONS FOR ABSENT VOTING**

1. The eligible prisoner should write to the Electoral Registration Officer (ERO) who accepted their application to register to vote (see Annex A). The absent voting application should be sent as soon as possible after the date of an election has been announced and must be received by EROs no later than **5pm** on the **sixth** working day before the day of the election.
2. **All** applicants for absent voting should include the following in their letter:
  - the address at which the applicant is registered to vote
  - full name
  - the date of the election in which the applicant wishes to vote
  - a statement whether the applicant would like to vote by post or proxy (see below for further guidance)
  - the applicant's usual signature or mark
3. If voting by **post**, in addition to the information in paragraph 2 above, the applicant should also provide:
  - the address to which the ballot paper should be sent (remember that ballot papers will be sent to reach postal voters about seven days before an election, so you may want to give a forwarding address to the prison)
4. If voting by **proxy**, in addition to the information in paragraph 2 above, the applicant should also provide:
  - the reason why you cannot attend the polling station yourself (for example, that you will be in prison on that date)
  - the full name and address of the person who will attend the polling station for you (remember they should be 18 years old or over)
  - if the person you appoint as proxy is a member of your family, give details of how they are related to you (e.g. brother, wife)
  - a statement that the proxy named has been consulted and is able and willing to be proxy
5. For further information on absent voting, contact an Electoral Registration Officer. The rules on absent voting are in the Representation of the People Act 2000 and Regulations.

## Previous Circulars on Prisoners' Voting Rights, now cancelled

Circular Number	Issued	Expired	Subject
PSI 24/2000	30/3/2000	5/5/2000	Local Elections, May 2000
PSI 31/1999	15/4/1999	7/5/1999	Welsh Local and National Assembly Elections, May 1999
PSI 30/1999	15/4/1999	11/6/1999	Local Elections, May 1999, and European Elections June 1999
PSI 68/1997	14/8/1997	31/3/1998	Referendum on a Welsh Assembly, September 1997
PSI 19/1997	3/3/1997	31/3/1998	Local and General Elections, May 1997
IG 22/1994	24/3/1994	28/3/1996	Local Elections, April 1994, and European Elections, May 1994
CI 7/1993	25/3/1993	24/3/1994 (cancelled by IG 22/1994)	Local Elections, May 1993
CI 9/1987	28/3/1987	25/3/1993 (cancelled by CI 7/1993)	Local and General Elections, May 1987
CI 43/1983	13/5/1993	28/3/1987 (cancelled by CI 9/1987)	General Election, May 1983
CI 5/1979	7/2/1979		Scotland and Wales Referenda, March 1979
CI 26/1975	14/5/1975		EEC Referendum, June 1975
CI 43/1970	1/6/1970		General Election, June 1970

## 1. COUNTRIES IN THE EUROPEAN UNION

Once registered to vote, nationals of the Republic of Ireland can vote in all elections. Once registered to vote, the nationals of the other European Union countries can vote in all elections, apart from general elections for the U.K. parliament.

Austria	Ireland
Belgium	Italy
Denmark	Luxembourg
Finland	Netherlands
France	Portugal
Germany	Spain
Greece	Sweden

## 2. COUNTRIES IN THE COMMONWEALTH.

Once registered to vote, nationals of Commonwealth countries can vote in all elections:

Antigua and Barbuda	Mozambique
Australia	Namibia
The Bahamas	Nauru
Bangladesh	New Zealand
Barbados	Nigeria
Belize	Pakistan
Botswana	Papua New Guinea
Brunei	St Christopher and Nevis
Cameroon	St Lucia
Canada	St Vincent and the Grenadines
Cyprus	Samoa
Dominica	Seychelles
Fiji	Sierra Leone
The Gambia	Singapore
Ghana	Solomon Islands
Grenada	South Africa
Guyana	Sri Lanka
India	Swaziland
Jamaica	Tanzania
Kenya	Tonga
Kiribati	Trinidad and Tobago
Lesotho	Tuvalu
Malawi	Uganda
Malaysia	United Kingdom
The Maldives	Vanuatu
Malta	Zambia
Mauritius	Zimbabwe

