

## SCHEDULE 3

Article 12(2)

### ABSENT VOTING

#### General requirements for applications

1.—(1) Applications under article 8, 9, 10 or 11 (absent votes) must be made and sent or delivered in accordance with article 87, must be dated and must state—

- (a) the applicant's name in full;
- (b) except in the case of an application under article 11, the address in respect of which the applicant is registered or has applied to be (or is treated as having applied to be) registered in the register of electors;
- (c) in the case of an application under article 11, the address of the applicant, together with the name of the elector for whom the applicant will act as proxy and the address of that elector in respect of which the elector is registered or has applied to be (or is treated as having applied to be) registered in the register of electors;
- (d) in the case of an application under to vote by proxy, the grounds on which the elector claims to be entitled to an absent vote;
- (e) in the case of an application to vote by post (including an application under article 11), the address to which the ballot paper should be sent;
- (f) in the case of a person who is unable to provide a signature, the reasons for the person's request for waiver of any requirement under article 8, 9, 10 or 11 to provide a signature and the name and address of any person who has assisted the person to complete the application; and
- (g) where the applicant has, or has applied for, an anonymous entry, that fact.

(2) Where an application is required to contain a signature and date of birth, the information must be set out in a manner that is sufficiently clear and unambiguous as to be capable of electronic scanning by configuring the information as follows—

- (a) the signature shall appear against a background of white unlined paper at least five centimetres long and two centimetres high; and
- (b) the applicant's date of birth shall be set out numerically configured in the sequence of date, month and year, namely [d][d][m][m][y][y][y][y].

(3) Where the application contains a request that the ERO waive the requirement for a signature, sub-paragraph (2)(a) shall not apply.

(4) For the purposes of sub-paragraph (1)(b), the address in respect of which the applicant is or has applied to be (or is treated as having applied to be) registered includes—

- (a) in the case of a service voter, the address given in the service declaration in accordance with section 16(1)(d) of the 1983 Act<sup>(1)</sup> (contents of a service declaration);
- (b) in the case of a voluntary mental patient, the address of the mental hospital or the address shown on the declaration of local connection in accordance with section 7B(3)(d) of the 1983 Act<sup>(2)</sup> (notional residence: declaration of local connection);

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(1) Section 16(1)(d) was amended by the 2000 Act, sections 8 and 15(2), Schedule 1, paragraphs 1 and 9(c) and Schedule 7, Part 1. The existing text was renumbered as subsection (1), and a further subsection added, by section 9 of the Scottish Elections (Reduction of Voting Age) Act 2015 (asp 7).

(2) Section 7B was inserted by the 2000 Act, section 6, and is amended by section 8 of the Scottish Elections (Reduction of Voting Age) Act 2015 (asp 7).

- (c) in the case of a person remanded in custody, the address of the place at which the person is detained or the address shown on the declaration of local connection in accordance with section 7B(3)(d) of the 1983 Act; and
  - (d) in the case of a homeless person, within the meaning of section 7B(2)(c) of the 1983 Act, or of a person to whom section 7B(2A) of the 1983 Act<sup>(3)</sup> applies, the address shown on the declaration of local connection in accordance with section 7B(3)(d) of that Act.
- (5) An application under article 9(1), (2) or (4), 10(7) or 11(4) or (6) shall specify the election in respect of which it is made.
- (6) An application under article 9(1), (2) or (4) shall also specify whether it is for an indefinite period or for a particular period specified in the application.
- (7) An application to vote by proxy under article 8(2) or (7) or 9(2) or (4) shall include an application for the appointment of a proxy which meets the requirements of paragraph 7.
- (8) An application under article 8, 9, 10 or 11 shall comply with such further requirements of this Schedule as apply to such an application including the requirements as to time set out by paragraph 9.

### **Checking of signatures**

2. The ERO may be satisfied that an application under article 8, 9, 10 or 11 meets any requirements that it has been signed by the applicant and states the applicant's date of birth by referring to any signature and date of birth previously provided by the applicant to—
- (a) the ERO or a returning officer; or
  - (b) the local authority by which the ERO was appointed, if held by that local authority in records which the ERO is authorised to inspect for the purposes of the ERO's registration duties.

### **Provision of fresh signatures**

- 3.—(1) A person who remains on the record kept under article 8(4) or article 11(5) may, at any time, provide the ERO with a fresh signature.
- (2) Anything required or authorised to be done for the purposes of this Order in relation to a signature required to be provided in pursuance of this Order must be done in relation to a signature provided as mentioned in sub-paragraph (1) instead of in relation to a signature provided on any earlier occasion.

### **Additional requirements for applications for ballot papers to be sent to different address from that shown in the record kept under article 8(4) or 11(5) (records of absent voters)**

- 4.—(1) Sub-paragraph (3) applies to an application under—
- (a) article 9(4)(a) by a person shown as voting by post in the record kept under article 8(4); or
  - (b) article 11(6) by a person shown as voting by post in the record kept under article 11(5),
- for the person's ballot paper to be sent to a different address from the address shown in that record.
- (2) Sub-paragraph (3) also applies where—
- (a) in the case of an application to vote by post under article 8(1) or (7) or article 9(1), the address stated in accordance with paragraph 1(1)(b) and the address stated in accordance with paragraph 1(1)(e) are different;

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(3) Section 7B(2A) is inserted by section 8 of the Scottish Elections (Reduction of Voting Age) Act 2015; it allows persons under the age of 16 to register using a declaration of local connection if they are or have been looked after by a local authority or are being kept in secure accommodation.

- (b) in the case of an application by a proxy to vote by post under article 11(4) the proxy's address stated in accordance with paragraph 1(1)(c) and the address stated in accordance with paragraph 1(1)(e) are different.
- (3) Subject to sub-paragraph (4), the application must set out why the applicant's circumstances will be or are likely to be such that the applicant requires the ballot paper to be sent to that address.
- (4) This paragraph does not apply where an applicant has, or has applied for, an anonymous entry.

#### **Additional requirements for applications for proxy vote on grounds of disability**

5.—(1) An application to vote by proxy under article 8(2), as read with article 8(3)(c) (application by reason of blindness or other disability), must specify the disability by reason of which the application is made.

- (2) Subject to sub-paragraphs (3) and (6), such an application shall be attested and signed by—
  - (a) a registered medical practitioner;
  - (b) a nurse registered on the register maintained by the Nursing and Midwifery Council under article 5 of the Nursing and Midwifery Order 2001(4) by virtue of qualifications in nursing;
  - (c) a registered dentist as defined by section 53(1) of the Dentists Act 1984(5);
  - (d) a registered dispensing optician or a registered optometrist as defined by section 36(1) of the Opticians Act 1989(6);
  - (e) a registered pharmacist as defined in article 3(1) of the Pharmacy Order 2010(7);
  - (f) a registered osteopath as defined by section 41 of the Osteopaths Act 1993(8);
  - (g) a registered chiropractor as defined by section 43 of the Chiropractors Act 1994(9);
  - (h) a Christian Science practitioner;
  - (i) a person registered as a member of a profession to which the Health and Social Work Professions Order 2001(10) for the time being extends, other than the profession of social worker;
  - (j) the person managing a care home service registered under Part 5 of the Public Services Reform (Scotland) Act 2010(11);
  - (k) the warden of premises forming one of a group of premises provided for persons of pensionable age or disabled persons for which there is a resident warden, where the applicant states that the applicant resides in such premises;
  - (l) a manager (or a person on behalf of a manager) within the meaning of section 329 of the Mental Health (Care and Treatment) (Scotland) Act 2003(12) responsible for the administration of a hospital within the meaning of that section; or
  - (m) a person registered as a social worker in the register maintained in accordance with section 44 of the Regulation of Care (Scotland) Act 2001(13).
- (3) A person ("P") who qualifies—

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(4) S.I. 2002/253, to which there are amendments not relevant to this Order.

(5) 1984 c.24.

(6) 1989 c.44. The definitions of "registered dispensing optician" and "registered optometrist" were inserted by S.I. 2007/3101, regulation 187(e).

(7) S.I. 2010/231, to which there are amendments not relevant to this Order.

(8) 1993 c.21. The definition of "registered osteopath" was amended by S.I. 2007/3101, regulation 214(c).

(9) 1994 c.17. The definition of "registered chiropractor" was amended by S.I. 2007/3101, regulation 226(c).

(10) S.I. 2002/254, amended by S.I. 2004/2033. The title of the Order is amended by the Health and Social Care Act 2012 (c.7), section 213(6). There are other amending instruments but none is relevant.

(11) 2010 asp 8. The definition of "managers" was amended by S.S.I. 2011/211, schedule 2, paragraph 8(5)(b).

(12) 2003 asp 13.

(13) 2001 asp 8. Section 44 was amended by S.I. 2007/3101, regulation 257.

- (a) by virtue of any of paragraphs (a) to (i) of sub-paragraph (2) may not attest an application for these purposes unless—
  - (i) P is treating the applicant for the disability specified in the application; or
  - (ii) the applicant is receiving care from P in respect of that disability; or
- (b) by virtue of paragraph (m) of sub-paragraph (2) may not attest an application for these purposes unless—
  - (i) P is treating the applicant for the disability specified in the application;
  - (ii) the applicant is receiving care from P in respect of that disability; or
  - (iii) P has arranged care or assistance for the applicant in respect of that disability.
- (4) The person (“Q”) attesting an application under sub-paragraph (2), other than a person attesting by virtue of sub-paragraph (2)(l), shall state—
  - (a) Q’s name and address and the qualification by virtue of which Q attests the application;
  - (b) where Q is a person referred to in sub-paragraph (3)(a), that Q is treating the applicant for the disability specified in the application or that the applicant is receiving care from Q in respect of that disability;
  - (c) where Q is a person referred to in sub-paragraph (3)(b), that Q is treating the applicant for the disability specified in the application, that the applicant is receiving care from Q in respect of that disability, or that Q has arranged care or assistance for the applicant in respect of that disability;
  - (d) that, to the best of Q’s knowledge and belief, the applicant has the disability specified in the application and that the applicant cannot reasonably be expected to go in person to the applicant’s allotted polling station or to vote unaided there, by reason of that disability; and
  - (e) that, to the best of Q’s knowledge and belief, the disability specified in the application is likely to continue either indefinitely or for a period specified by Q.
- (5) A manager (or a person on behalf of a manager) attesting an application under sub-paragraph (2)(l) shall state—
  - (a) the name of the manager attesting the application;
  - (b) that the manager is authorised to attest the application;
  - (c) the position of the manager in the hospital at which the applicant is liable to be detained or at which the applicant is receiving treatment;
  - (d) the statutory provision under which the applicant is detained, or liable to be detained, at the hospital, where applicable;
  - (e) that, to the best of the manager’s knowledge and belief, the applicant has the disability specified in the application and that the applicant cannot reasonably be expected to go in person to the applicant’s allotted polling station or to vote unaided there, by reason of that disability; and
  - (f) that, to the best of the manager’s knowledge and belief, the disability specified in the application is likely to continue either indefinitely or for a period specified by the manager attesting the application.
- (6) Sub-paragraphs (2) to (5) shall not apply where—
  - (a) the application is based on the applicant’s blindness and the applicant is registered as a blind person by a local authority, which is specified in the application; or
  - (b) the application states that the applicant is in receipt of the higher rate of the mobility component of a disability living allowance (payable under section 73 of the Social Security

Contributions and Benefits Act 1992(14)), armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011(15) or the enhanced rate of the mobility component of personal independence payment (payable under section 79(2) of the Welfare Reform Act 2012(16)) because of the disability specified in the application.

(7) The fact that an applicant is registered as a blind person with a local authority shall be deemed sufficient evidence that the applicant is eligible to vote by proxy on the grounds set out in article 8(3)(c).

(8) In this paragraph and paragraphs 6 and 7, “the applicant’s allotted polling station”, in relation to an elector, means the polling station allotted or likely to be allotted to the elector under this Order.

**Additional requirements for applications for a proxy vote based on occupation, service, employment or attendance on a course**

6.—(1) An application to vote by proxy for a particular or indefinite period under article 8(2), as read with article 8(3)(d), (application by reason of occupation, service, employment or attendance on a course provided by an educational institution) must state—

- (a) whether the occupation, service or employment, in respect of which it is made, is that of the applicant or the applicant’s spouse or civil partner or, as the case may be, it is the applicant or the applicant’s spouse or civil partner who is attending the course provided by an educational institution in respect of which the application is made;
- (b) the nature of the occupation, service, employment or course provided by an educational institution giving rise to the application;
- (c) where the person in respect of whose occupation, service or employment it is made (in this paragraph referred to as “the employed person”) is self-employed, that fact and, in any other case, the name of that person’s employer; and
- (d) the reason relevant to the general nature of the employment, service or occupation in question or the course provided by an educational institution, why the applicant cannot reasonably be expected to go in person to the applicant’s allotted polling station.

(2) Such an application shall be attested and signed—

- (a) where the employed person is self-employed, by a person who—
  - (i) is aged 16 years or over;
  - (ii) knows the employed person; and
  - (iii) is not related to the employed person;
- (b) by the employer of the employed person or by another employee to whom this function is delegated by the employer; and
- (c) in the case of a course provided by an educational institution, by the director or tutor of that course or by the principal or head of that institution or an employee to whom this function is delegated by the principal or head.

(3) For the purposes of this paragraph and paragraph 7 one person is related to another if the person is the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild of the other.

(4) The person (“P”) attesting an application under sub-paragraph (2) shall—

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(14) 1992 c.4.

(15) S.I. 2011/517, which is relevantly amended by S.I. 2013/436.

(16) 2012 c.5.

- (a) where the applicant is the employed person or the person attending the course, certify that the statements included in the application in accordance with the requirements of sub-paragraph (1)(a) to (d) are true; or
  - (b) where the applicant is the spouse or civil partner of the employed person or the person attending the course, certify that the statements included in the application in accordance with the requirements of sub-paragraphs (1)(a) to (c) are true.
- (5) P shall also state—
- (a) in the case of a person who attests an application under sub-paragraph (2)(a), P's name and address, and that P is aged 16 years or over, knows the employed person, but is not related to the employed person;
  - (b) in the case of a person who attests an application under sub-paragraph (2)(b), either that P is the employer of the employed person or the position P holds in the employment of that employer; or
  - (c) in the case of a person who attests under sub-paragraph (2)(c), the post P holds at the institution.

#### **Additional requirements for applications for a proxy vote in respect of a particular election**

7.—(1) An application under article 9(2) to vote by proxy at a particular election shall set out why the applicant's circumstances on the date of the poll for that election will be or are likely to be such that the applicant cannot reasonably be expected to vote in person at the applicant's allotted polling station.

(2) Where such an application is made on the grounds of the applicant's disability and it is made after 5 pm on the sixth day before the date of a poll at the election for which it is made—

- (a) the requirements of paragraph 5 as to the matters to be specified and the attestation shall apply; and
- (b) the person who attests the application shall also state, to the best of the person's knowledge and belief, the date upon which the applicant became disabled.

(3) Where such an application is made by a person to whom paragraph 2(5A) of Schedule 4 to the 2000 Act<sup>(17)</sup> (mental patients who are not detained offenders) applies and it is made after 5 pm on the sixth day before the date of a poll at the election for which it is made—

- (a) the requirements of paragraph 5 as to the matters to be specified and the attestation shall apply;
- (b) the application shall additionally state the name and address of the hospital at which the applicant is liable to be detained; and
- (c) the application shall be attested by a manager (or a person on behalf of a manager) within the meaning of section 329 of the Mental Health (Care and Treatment) (Scotland) Act 2003 responsible for the administration of the hospital at which the applicant is liable to be detained, and the attestation shall state—
  - (i) the name of the manager attesting the application;
  - (ii) that the manager is authorised to attest the application;
  - (iii) the position of the manager in the hospital at which the applicant is liable to be detained; and
  - (iv) the statutory provision under which the applicant is liable to be detained at the hospital.

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<sup>(17)</sup> Paragraph 2(5A) was inserted by the 2006 Act, section 35.

(4) Where such an application is made on grounds relating to the applicant's occupation, service or employment and it is made after 5 pm on the sixth day before the date of a poll at the election for which it is made—

(a) the application must, in addition to providing the information required by sub-paragraph (1), state—

(i) where the applicant is self-employed, that fact, and, in any other case, the name of the applicant's employer;

(ii) that the reason provided in accordance with sub-paragraph (1) relates to the applicant's occupation, service or employment; and

(iii) the date on which the applicant became aware of that reason; and

(b) the application must be attested in accordance with sub-paragraphs (5) to (7), unless the applicant is or will be registered as a service voter.

(5) An application to which sub-paragraph (4) applies must be attested and signed—

(a) where the applicant is self-employed, by a person who—

(i) is aged 16 years or over;

(ii) knows the applicant; and

(iii) is not related to the applicant;

(b) where the applicant is not self-employed, by the applicant's employer or by another employee to whom this function is delegated by the employer.

(6) The person ("P") attesting an application under sub-paragraph (5) must certify that the statements required by sub-paragraph (4)(a) and the information required by sub-paragraph (1) are true to the best of P's knowledge and belief.

(7) P shall also state—

(a) P's name and address;

(b) where the applicant is self-employed, that fact and that P is aged 16 years or over and that P knows, but is not related to, the applicant; and

(c) where the applicant is not self-employed, that P is the applicant's employer or the position P holds in the employment of P's employer.

(8) This paragraph does not apply where an applicant has an anonymous entry.

#### **Additional requirements for applications for appointment of a proxy**

**8.** An application for the appointment of a proxy under article 10(6) or (7) shall state the full name and address of the person whom the applicant wishes to appoint as the applicant's proxy, together with the person's family relationship, if any, with the applicant, and—

(a) if it is signed only by the applicant, shall contain a statement by the applicant that the applicant has consulted the person so named and that that person is capable of being and willing to be appointed to vote as the applicant's proxy; or

(b) if it is also signed by the person to be appointed, shall contain a statement by that person that the person is capable of being and willing to be appointed to vote as the applicant's proxy.

#### **Closing dates for applications**

**9.—(1)** An application—

(a) to vote by post under article 8(1);

*Draft Legislation: This is a draft item of legislation and has not yet been made as a Scottish Statutory Instrument. This draft has been replaced by a new draft, The Scottish Parliament (Elections etc.) Order 2015 ISBN 978-0-11-102991-6*

- (b) to vote by proxy under article 8(7);
- (c) to vote by post under article 8(7); or
- (d) from a proxy to vote by post under article 11(4),

shall be disregarded for the purposes of any particular election, and an application by a postal voter for the voter's ballot papers to be sent to a different address or to vote instead by proxy at a particular election under article 9(4) shall be refused, if it is received by the ERO after 5 pm on the eleventh day before the date of the poll at that election.

(2) An application—

- (a) to vote by proxy under article 8(2);
- (b) for the appointment of a proxy under article 10(6),

shall be disregarded for the purposes of any particular election if it is received by the ERO after 5 pm on the sixth day before the date of the poll at that election.

(3) An application (other than an application to which sub-paragraph (4) applies)—

- (a) to vote by proxy under article 9(2);
- (b) for the appointment of a proxy under article 10(7),

shall be refused if it is received by the ERO after 5 pm on the sixth day before the date of the poll at the election for which it is made.

(4) Where an application to vote by proxy under article 9(2) is made on a ground set out in sub-paragraph (2), (3) or (4) of paragraph 7 the application, or an application under article 10(7) made by virtue of that application, shall be refused if it is received after 5 pm on the day of the poll at that election.

(5) An application—

- (a) to vote by post under article 9(1);
- (b) from a proxy postal voter for the voter's ballot papers to be sent to a different address at a particular election under article 11(6),

shall be refused if it is received by the ERO after 5 pm on the eleventh day before the date of the poll at the election for which it is made.

(6) The following, namely—

- (a) an application under article 8(5)(a) by an elector to be removed from the record kept under article 8(4);
- (b) an application under article 11(9)(a) by a proxy to be removed from the record kept under article 11(5); and
- (c) a notice under article 10(9) of the cancellation of a proxy's appointment,

shall be disregarded for the purposes of a particular election if it is received by the ERO after 5 pm on the eleventh day before the date of the poll at that election.

(7) In computing a period of days for the purposes of this paragraph—

- (a) a Saturday or a Sunday;
- (b) Christmas Eve, Christmas Day, Good Friday or Easter Monday; or
- (c) a day which is a bank holiday in Scotland under section 1 of the Banking and Financial Dealings Act 1971(18),

shall be disregarded.

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(18) 1971 c.80.



### **Grant or refusal of applications for a postal or proxy vote**

**10.**—(1) Where the ERO grants an application under article 8, 9, 10 or 11 the ERO shall, where practicable, notify the applicant of the ERO's decision.

(2) Where the ERO grants an application for the appointment of a proxy, the ERO shall, where practicable—

- (a) confirm in writing to the elector that the proxy has been appointed, the proxy's name and address and the duration of the appointment; and
- (b) confirm in writing to the proxy that the proxy has been appointed, the elector's name and address and the duration of the appointment.

(3) The proxy paper to be issued by the ERO on the appointment of a proxy may be combined with another form of proxy paper if the ERO is issuing a proxy paper appointing that person as proxy for the same elector in respect of another election or other elections.

(4) Where the ERO does not grant an application under article 8, 9, 10 or 11, the ERO shall notify the applicant of the ERO's decision and, in the case of an application under article 8(1) or 11(4), of the reason for the ERO's decision; and the ERO shall date such notification.

(5) Where under paragraph 9(1), (2) or (6) the ERO disregards an application or notice for the purposes of any particular election, the ERO shall, where practicable, notify the applicant of this.

(6) Where a person is removed from the record kept in pursuance of article 8(4), the ERO shall, where practicable, notify the person of this and the reason for it.

(7) At an election where the ERO is not the CRO for any constituency or part of a constituency for which the ERO is the ERO, the ERO shall send to that CRO details of any application to vote by post which the ERO has granted as soon as practicable after doing so.

### **Notice of appeal**

**11.**—(1) A person desiring to appeal under article 4(1) against the decision of an ERO must give notice of the appeal to the ERO within 14 days of the receipt of the notice given under paragraph 10(4), specifying the grounds of the appeal.

(2) The ERO shall forward any such notice to the sheriff with a statement of—

- (a) the material facts which in the ERO's opinion have been established in the case;
- (b) the ERO's decision upon the whole case;
- (c) the ERO's decision on any point which may be specified as a ground of appeal,

and shall also give to the sheriff any other information which the sheriff may require and which the ERO is able to give.

(3) Where it appears to the ERO that any notices of appeal given to the ERO are based on similar grounds, the ERO shall inform the sheriff so that the sheriff may consolidate the appeals or select a case as a test case.

### **Cancellation of proxy appointment**

**12.**—(1) Where the appointment of a proxy is cancelled by notice given to the ERO under article 10(9) or ceases to be in force under that provision or is no longer in force under article 10(10)(b), the ERO shall—

- (a) notify the person whose appointment as proxy has been cancelled, has expired, ceases to be or is no longer in force, unless the ERO has previously been notified by that person that the person no longer wishes to act as proxy; and
- (b) remove the person's name from the record kept under article 8(4).

(2) The ERO shall, where practicable, also notify the elector that the appointment has been cancelled or, as the case may be, notify the elector that the appointment has ceased and the reason for it.

#### **Inquiries by registration officer about postal and proxy voters**

**13.—**(1) The ERO may, at such times as the ERO thinks fit, make inquiries of a person who is shown in the record kept under article 8(4) by virtue of an application under that article on the grounds set out in article 8(3)(d) or (e).

(2) The ERO may treat the failure by a person of whom inquiries have been made under sub-paragraph (1) to respond to such inquiries within one month of the date on which they were made as sufficient evidence of a material change in circumstances.

#### **Requirement to provide fresh signatures at five yearly intervals**

**14.—**(1) The ERO shall every year by 31st January send every person who remains an absent voter and whose signature held on the personal identifiers record is more than five years old a notice in writing—

- (a) requiring the absent voter to provide a fresh signature; and
- (b) informing the absent voter of the date (six weeks from the date of sending the notice) on which the absent voter would cease to be entitled to vote by post or by proxy in the event of a failure or refusal to provide a fresh signature.

(2) The notice must be sent by the ERO to the current or last known address of the absent voter.

(3) The ERO must, if the absent voter has not responded to the notice within three weeks from the date on which the notice was sent, as soon as practicable send a copy of the notice to the absent voter.

(4) Where a notice or copy of a notice is sent by post, the ERO may use—

- (a) a universal postal service provider; or
- (b) a commercial delivery firm,

and postage shall be prepaid.

(5) A notice or copy of a notice sent to an absent voter in accordance with sub-paragraph (1) or (3) must be accompanied by a pre-addressed reply envelope and, in the case of any notice or copy of a notice sent to an address in the United Kingdom, return postage must be prepaid.

(6) The ERO must, no later than the date specified in the notice sent to the absent voter in accordance with sub-paragraph (1), determine whether the absent voter has failed or refused to provide a fresh signature.

(7) Where the ERO determines that the absent voter has failed or refused to provide a fresh signature the ERO must from the date specified in the notice sent to the absent voter in accordance with sub-paragraph (1) remove that person's entry from the records kept under article 8(4) or 11(5) and from the postal voters list, list of proxies or proxy postal voters list (as the case may be).

(8) Where an ERO removes an absent voter's entry in the circumstances to which sub-paragraph (7) refers—

- (a) the ERO shall inform the absent voter of the location of the polling station to which the absent voter has been allotted or is likely to be allotted under rule 35 of the Scottish Parliamentary Election Rules, unless that voter is not likely to be allotted to a polling station;
- (b) paragraph 10(4) and sub-paragraph (9) shall apply as if the ERO were refusing an application under article 8, 9, 10 or 11; and

- (c) in the case of an entry removed from the proxy postal voters list, the ERO must also notify the elector who appointed the proxy whose entry has been removed.

(9) The ERO shall include in the notice to be sent to an absent voter regarding the absent voter's removal from the records kept under article 8(4) or 11(5) and (as the case may be) from the postal voters list, the list of proxies or the proxy postal voters list, information—

- (a) explaining the effect of such removal; and
- (b) reminding the absent voter that the absent voter may make a fresh application under article 8, 9, 10 or 11 to vote by post or by proxy (as the case may be).

#### **Absent voting lists: form**

**15.**—(1) Subject to the provisions of this paragraph, the records kept under articles 8(4) and 11(5) and the postal voters list, list of proxies and proxy postal voters list<sup>(19)</sup> shall be in such form as the ERO thinks fit.

(2) In the postal voters list the address to which a ballot paper shall be sent to a person who is entitled to vote by post as an elector shall be placed on the right hand side of the person's name and electoral number (except in the case of a person to whom article 9(6) applies).

(3) In the list of proxies, the name and address of the proxy shall be placed on the right hand side of the elector's name and electoral number (except in the case of a person to whom article 9(6) applies).

(4) In the proxy postal voters list the name of the proxy, together with the address to which the proxy's ballot paper shall be sent, shall be placed on the right hand side of the elector's name and electoral number (except in the case of a person to whom article 11(8) applies).

(5) In this paragraph, "electoral number" means a person's number in the register to be used at the election.

#### **Absent voting lists: supply of copies, etc.**

**16.**—(1) Any person entitled to be supplied, in accordance with any of the provisions specified in sub-paragraph (2), with copies of the full register is also a person entitled, subject to this paragraph and paragraph 20, to request that the ERO supply, free of charge, the relevant part (within the meaning of those provisions) of a copy of any of the following information which the ERO keeps—

- (a) the current version of the information which would, in the event of a particular Scottish parliamentary election, be included in the postal voters list, the list of proxies or the proxy postal voters list;
- (b) the current or final version of the postal voters list, the list of proxies or the proxy postal voters list.

(2) The provisions referred to in sub-paragraph (1) are—

- (a) paragraph 3 of Schedule 1 (supply of full register etc. to elected representatives for electoral purposes and restrictions on use);
- (b) paragraph 4 of Schedule 1 (supply of full register etc. to certain candidates and restrictions on use); and
- (c) the following provisions of the 2001 Regulations—
  - (i) regulation 104<sup>(20)</sup> (supply of full register etc. to local constituency parties and restrictions on use); and

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<sup>(19)</sup> The postal voters list is the special list kept under article 9(5)(a), the list of proxies is kept under 9(5)(b) and the proxy postal voters list is kept under article 11(7). These terms are defined in article 2.

<sup>(20)</sup> Regulation 104 was inserted by [S.I. 2002/1872](#).

- (ii) regulation 105(21) (supply of full register etc. to registered political parties etc. and restrictions on use).
- (3) A request under sub-paragraph (1) shall be made in writing and shall specify—
  - (a) the information (or the relevant parts of the information) requested;
  - (b) whether the request is made only in respect of the current lists or whether it includes a request for the supply of any final list; and
  - (c) whether a printed copy of the records or lists is requested or a copy in data form.
- (4) A person who obtains any information under this paragraph may use it only for—
  - (a) research purposes within the meaning of that term in section 33 of the Data Protection Act 1998(22); or
  - (b) electoral purposes,

and such use shall be subject to any restrictions specified in paragraph 20 or, where the request for entitlement is made by reference to entitlement under the provisions specified in sub-paragraph (2), subject to any restrictions which would apply to the use of the full register under whichever of those provisions entitled that person to obtain that information.

(5) The ERO shall supply the current copy of the information requested under sub-paragraph (1), as soon as practicable after receipt of a request that is duly made.

(6) The ERO shall supply a copy of the postal voters list or the proxy postal voters list as soon as practicable after 5 pm on the eleventh day before the day of the poll, in response to a request under sub-paragraph (1) that has been duly made.

- (7) As soon as practicable after 5 pm on the sixth day before the day of the poll the ERO shall –
  - (a) make a copy of the postal voters list, the list of proxies and the proxy postal voters list available for inspection at the ERO’s office in accordance with paragraph 17;
  - (b) if the ERO is not the CRO for any constituency or part of a constituency in the area for which the ERO is the ERO, send to the CRO a copy of those lists; and
  - (c) supply a final copy of the postal voters list, the list of proxies or the proxy postal voters list in response to every request under sub-paragraph (1) that has been duly made.

(8) The ERO shall supply a final copy of the list of proxies, updated to include any additions to that list made in consequence of any applications granted in accordance with paragraph 9(4), as soon as practicable after 5 pm on the day of the poll, to every person who received that list in accordance with sub-paragraph (7)(c).

(9) Any person who has obtained or is entitled to obtain a copy of information covered by sub-paragraph (1) may—

- (a) supply a copy of the information to a processor for the purpose of processing the information; or
- (b) procure that a processor processes and supplies to that person any copy of the information which the processor has obtained under this paragraph,

for use in respect of the purposes for which that person is entitled to obtain such information.

(10) A processor may not disclose the information covered by sub-paragraph (1) except to the person who supplied it to the processor or any other person, or an employee of such a person, who is entitled to obtain a copy of that information under this paragraph.

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(21) Regulation 105 was inserted by [S.I. 2002/1872](#).

(22) [1998 c.29](#).

### **Absent voting lists: inspection**

17.—(1) Any person is entitled to request that the ERO make available for inspection a copy of any of the information specified in paragraph 16(1).

(2) A request under sub-paragraph (1) shall be in writing and shall specify—

- (a) the information (or the parts of the information) requested;
- (b) whether the request is made only in respect of the current lists or whether it includes a request for inspection of any final list;
- (c) who will inspect the information;
- (d) the date on which the person wishes to inspect the information; and
- (e) whether the person would prefer to inspect the information in a printed or data form.

(3) The ERO shall make a copy of the information available for inspection under supervision on the date requested or as soon as practicable thereafter, if the request under sub-paragraph (1) has been duly made.

(4) Where inspection requested under sub-paragraph (1) takes place by providing a copy of the information on the computer screen or otherwise in data form, the ERO shall ensure that the manner in, and equipment on, which that copy is provided do not permit any person consulting that copy to—

- (a) search it by electronic means by reference to the name of any person; or
- (b) copy or transmit any part of that copy by electronic, or any other means.

(5) A person who inspects a copy of information provided under sub-paragraph (3), whether in printed or in data form, may not—

- (a) make copies of any part of it; or
- (b) record any particulars in it,

otherwise than by means of handwritten notes.

(6) Any duty on an ERO to supply a copy or make information available for inspection under this paragraph imposes only a duty to provide that information in the form in which the ERO holds it.

### **Supply and inspection of absent voting lists: general provisions**

18.—(1) For the purposes of paragraphs 16 and 17—

- (a) a “current” copy of records or lists is a copy of the records or lists as kept by the ERO at the beginning of the day it is supplied;
- (b) “processor” means a person who provides a service which consists of putting information into a data form and any reference to a processor includes a reference to the processor’s employees; and
- (c) any period of days shall be calculated in accordance with paragraph 9(7).

(2) The ERO must ensure that where the ERO supplies or discloses information covered by paragraph 16(1)(a) in accordance with paragraph 16 or 17, the ERO does not supply or disclose any record relating to—

- (a) a person who has an anonymous entry; or
- (b) the proxy of a person who has an anonymous entry.

(3) The ERO must ensure that any absent voting list supplied in accordance with paragraph 16 or 17 does not include any details of a person aged under 16 years of age, unless—

- (a) the list has been requested for the purposes of an election;

**Draft Legislation:** This is a draft item of legislation and has not yet been made as a Scottish Statutory Instrument. This draft has been replaced by a new draft, The Scottish Parliament (Elections etc.) Order 2015 ISBN 978-0-11-102991-6

- (b) the notice of poll for that election has been published in accordance with rule 33 of the Scottish Parliamentary Election Rules;
- (c) the information is needed for the purposes of, or in connection with, that election; and
- (d) that person will have attained the age of 16 on or before the date of the poll for that election.

### **Conditions on the use, supply and inspection of absent voter lists**

**19.**—(1) This paragraph applies to—

- (a) the ERO; and
- (b) any person appointed to assist any such officer or who in the course of that person’s employment is assigned to assist any such officer in that officer’s registration duties.

(2) Where the ERO is also the CRO at a Scottish parliamentary election (and thereby has access to the information covered by paragraph 16(1) without being supplied with a copy of it) this paragraph also applies to—

- (a) the ERO acting in that other capacity; and
- (b) any person appointed to assist the CRO or who in the course of that person’s employment is assigned to assist that officer in that officer’s duties in respect of the Scottish parliamentary election.

(3) No person to whom this paragraph applies may—

- (a) supply to any person a copy of the information covered by paragraph 16(1); or
- (b) disclose any of that information,

otherwise than in accordance with an enactment, including this Order.

(4) Nothing in sub-paragraph (3) applies to the supply or disclosure by a person to whom this paragraph applies to another such person in connection with that other person’s registration duties or for the purposes of an election or referendum.

**20.**—(1) This paragraph applies to any person who has obtained access to the information covered by paragraph 16(1) by any means.

(2) No person to whom this paragraph applies may—

- (a) supply a copy of the information or any part of that information;
- (b) disclose any of that information; or
- (c) make use of any such information,

other than for a permitted purpose construed in accordance with sub-paragraph (3).

(3) The “permitted purpose” shall mean either—

- (a) research purposes within the meaning of that term in section 33 of the Data Protection Act 1998; or
- (b) electoral purposes.

### **Supply and inspection of absent voting lists: offences**

**21.**—(1) A person (“P”) is guilty of an offence—

- (a) if P contravenes paragraph 16(4), 17(5), 19(3) or 20(2); or
- (b) if P is an appropriate supervisor of a person (“Q”) who contravenes any of those provisions and P failed to take appropriate steps.

(2) Q is not guilty of an offence under sub-paragraph (1) if—

- (a) Q had an appropriate supervisor, and
  - (b) Q has complied with all the requirements imposed on Q by Q's appropriate supervisor.
- (3) A person ("R") who is not Q or an appropriate supervisor is not guilty of an offence under sub-paragraph (1) if R takes all reasonable steps to ensure that R complies with the provisions specified in sub-paragraph (1)(a).
- (4) In sub-paragraphs (1)(b), (2) and (3)—
- (a) an appropriate supervisor is a person who is a director of a company or concerned in the management of an organisation in which Q is employed or under whose direction or control Q is;
  - (b) appropriate steps are such steps as it was reasonable for the appropriate supervisor to take to secure the operation of procedures designed to prevent, so far as reasonably practicable, the occurrence of a failure to comply with the provisions specified in sub-paragraph (1)(a).
- (5) A person guilty of an offence as mentioned in sub-paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **The personal identifiers record**

**22.**—(1) The ERO shall maintain a record ("the personal identifiers record"), apart from the other records and lists which the ERO is required to keep under articles 8, 9 and 11, of the signatures and dates of birth provided by persons whose applications under article 8(1) or (2), article 9(1) or (2) or article 11(4) were granted, until the expiry of twelve months from—

- (a) the date on which a person is removed from the record kept pursuant to article 8(4) or article 11(5); or
  - (b) the date of the poll for the purposes of which the person's application to vote by post or by proxy or to vote by post as proxy was granted under article 9(1) or (2) or article 11(4).
- (2) The personal identifiers record shall contain the following information in respect of each absent voter on the postal voters list, the list of proxies or the proxy postal voters list—
- (a) the absent voter's name;
  - (b) the absent voter's date of birth; and
  - (c) the absent voter's signature, or a record of the waiver by the ERO of the requirement for a signature.
- (3) The CRO may disclose information held in the personal identifiers record to—
- (a) any candidate or agent attending proceedings on receipt of postal ballot papers, in accordance with, and for the purposes of, paragraph 22(4) of Schedule 4;
  - (b) any person attending proceedings on receipt of postal ballot papers, who is entitled to do so by virtue of any of sections 6A to 6D of the 2000 Political Parties Act<sup>(23)</sup> (representatives of the Electoral Commission and accredited observers), but only to the extent required to permit them to observe the proceedings.

### **Use of personal identifier information**

- 23.**—(1) The ERO must either—
- (a) provide the CRO for an election with a copy of the information contained in records kept by the ERO in pursuance of articles 8(9), 9(8) and 11(12) in relation to electors at the election; or
  - (b) give the CRO access to such information.

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(23) Sections 6A to 6D were inserted by the 2006 Act, section 29.

(2) Information contained in records kept by an ERO in pursuance of articles 8(9), 9(8) and 11(12) may be disclosed by the ERO to—

- (a) any other ERO if the first ERO thinks that to do so will assist the other ERO in the performance of the other ERO's duties; or
- (b) any other person exercising functions in relation to the preparation or conduct of legal proceedings under this Order.

### **Marked register for polling stations**

**24.** To indicate that an elector or the elector's proxy is entitled to vote by post and is for that reason not entitled to vote in person, the letter "A" shall be placed against the entry of that elector in any copy of the register, or part of it, provided for a polling station.

### **Notification of a rejected postal voting statement**

**25.**—(1) Where the ERO receives a copy of a list of rejected postal voting statements compiled under paragraph 25(4) of Schedule 4 from a CRO, the ERO must use that information for the purposes of sub-paragraphs (2) and (5), and must not use that information for any other purpose.

(2) Where an absent voter (whether an elector or a proxy) appears on that list—

- (a) the ERO must notify the absent voter (and the elector if the absent voter is a proxy) that the ballot paper concerned was rejected because the CRO was not satisfied that the postal voting statement issued for that ballot paper was duly completed;
- (b) the ERO must send the notification within the period of three months beginning with the date of the poll at which the ballot paper was rejected; and
- (c) the notification must include information as to which of the specified reasons referred to in paragraph 25(5) applied to the absent voter's postal voting statement.

(3) The ERO is not obliged to send notification—

- (a) to any person who is no longer shown as voting by post in the records kept under article 8(4) or article 11(5) at the time the ERO proposes to send out the notification; or
- (b) where the ERO suspects that an offence may have been committed in relation to the postal ballot paper, postal voting statement or the absent voter's registration as an elector.

(4) A notification under sub-paragraph (2) may also include any other information that the ERO considers appropriate, but must not include information held on the personal identifiers record.

(5) Where an absent voter is notified that the reason for rejection of their postal voting statement was that the signature did not match the example held on the personal identifiers record, the ERO may request a fresh signature from the absent voter.

(6) No person is to be allowed to inspect the copy of the list received by the ERO, and the ERO must cause it to be destroyed as soon as practicable after the purposes in sub-paragraphs (2) and (5) have been served and, in any event, within four months of its receipt.