

2016 No. 264

REPRESENTATION OF THE PEOPLE

The Representation of the People (Absent Voting at Local Government Elections) (Scotland) Amendment (No. 2) Regulations 2016

<i>Made</i>	- - - -	<i>12th September 2016</i>
<i>Laid before the Scottish Parliament</i>		<i>14th September 2016</i>
<i>Coming into force</i>	- -	<i>1st December 2016</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 33 and 61(2) of the Local Electoral Administration and Registration Services (Scotland) Act 2006(a) and all other powers enabling them to do so.

Citation, commencement and transitional provision

1.—(1) These Regulations may be cited as the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Amendment (No. 2) Regulations 2016 and come into force on 1st December 2016.

(2) The amendments made by these Regulations do not apply in relation to an election for which the date of poll is before 4th May 2017.

Amendment of the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Regulations 2007

2. The Representation of the People (Absent Voting at Local Government Elections) (Scotland) Regulations 2007(b) are amended as follows.

3. In regulation 10 (additional requirements for applications for a proxy vote in respect of a particular election), after paragraph (5) insert—

“(5A) Where an application under paragraph 4(2) of Schedule 4 is made on grounds relating to the applicant’s occupation, service or employment and it is made after 5pm 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 paragraph (1), state—
 - (i) where the applicant is self-employed, that fact, and, in any other case, the name of the applicant’s employer;

(a) 2006 asp 14.

(b) S.S.I. 2007/170, amended by S.I. 2009/1182, S.S.I. 2009/35, S.S.I. 2009/94, S.I. 2011/2085, S.S.I. 2011/211, S.S.I. 2011/399, S.I. 2012/1479, S.S.I. 2013/142 and S.S.I. 2016/8.

- (ii) that the reason provided in accordance with 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 paragraphs (5B) to (5D), unless the applicant is or will be registered as a service voter.
- (5B) An application to which paragraph (5A) 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.
- (5C) The person ("P") attesting an application under paragraph (5B) must certify that the statements required by paragraph (5A)(a) and the information required by paragraph (1) are true to the best of P's knowledge and belief.
- (5D) 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."

4. After regulation 19, insert—

"Notification of a rejected postal voting statement

20.—(1) Where the registration officer receives from a returning officer a copy of a list of rejected postal voting statements compiled under regulation 27(4) of the Representation of the People (Postal Voting for Local Government Elections) (Scotland) Regulations 2007^(a), the registration officer must use that information for the purposes of paragraph (2) and regulation 21, 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 registration officer must notify the absent voter (and the elector if the absent voter is a proxy) that the ballot paper concerned was rejected because the returning officer was not satisfied that the postal voting statement issued for that ballot paper was duly completed;
 - (b) the registration officer 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 regulation 27(5) of the Representation of the People (Postal Voting for Local Government Elections) (Scotland) Regulations 2007 applied to the absent voter's postal voting statement.
- (3) The registration officer is not obliged to send notification—
 - (a) to any person who is no longer shown as voting by post in the records kept under paragraph 3(4) or 7(6) of Schedule 4 at the time the registration officer proposes to send out the notification; or

^(a) S.S.I. 2007/263; there are relevant amendments to regulation 27 contained in the (draft) Representation of the People (Postal Voting for Local Government Elections) (Scotland) Amendment Regulations 2016 laid before the Scottish Parliament on 15th September 2016.

- (b) where the registration officer 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 paragraph (2) may also include any other information that the registration officer considers appropriate, but must not include information held on the personal identifiers record.

(5) No person is to be allowed to inspect the copy of the list received by the registration officer, and that officer must cause it to be destroyed as soon as practicable after the purposes in paragraph (2) and regulation 21 have been served and, in any event, within four months of its receipt.

Requirement to provide fresh signatures following rejection of a postal voting statement

21.—(1) Where an absent voter is notified under regulation 20 that the signature does not match the example held on the personal identifiers record, and the absent voter continues to be shown on the relevant record as voting by post, the registration officer may require the absent voter to provide a fresh signature for the personal identifiers record.

(2) In doing so, the registration officer must—

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

(3) The registration officer 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) The notice and any copy must be sent by the registration officer to the current or last known address of the absent voter.

(5) Where a notice or copy of a notice is sent by post, the registration officer may use—

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

and postage must be prepaid.

(6) A notice or copy of a notice sent to an absent voter in accordance with paragraph (2) 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.

(7) Following the date specified in the notice sent to the absent voter, the registration officer must determine whether the absent voter has failed or refused to provide a fresh signature.

(8) Where the registration officer determines that the absent voter has refused or failed to provide a fresh signature, the registration officer must remove that person's entry from—

- (a) the records kept pursuant to paragraph 3(4) or 7(6) of Schedule 4; and
- (b) the postal voters list or proxy postal voters list (as the case may be) kept under paragraph 5(2) or 7(8) of that Schedule.

(9) Where a registration officer removes an absent voter's entry in the circumstances to which paragraph (8) refers—

- (a) the registration officer is to inform the absent voter, where appropriate, of the location of the polling station allotted or likely to be allotted to the voter under the appropriate rules (as defined in paragraph 1 of Schedule 4);
- (b) regulations 12(4) and 13 are to apply as if the registration officer were refusing an application under Schedule 4; and
- (c) in the case of an entry removed from the proxy postal voters list, the registration officer must also notify the elector who appointed the proxy whose entry has been removed.

(10) The registration officer must include in the notice to be sent to an absent voter regarding that person's removal from the records kept pursuant to paragraph 3(4) or 7(6) of Schedule 4 and from the postal voters list or proxy postal voters list (as the case may be) kept under paragraph 5(2) or 7(8) of that Schedule, information—

- (a) explaining the effect of such removal; and
- (b) reminding the absent voter that he or she may make a fresh application under Schedule 4 to vote by post or by proxy (as the case may be).

(11) Where an absent voter has provided a registration officer with a fresh signature in response to a notice issued by the registration officer under this paragraph, or in response to a notice issued by the registration officer under any other enactment following the rejection of the absent voter's postal voting statement at an election or referendum, the registration officer may use that signature and enter it in the records kept in accordance with regulation 18A and paragraphs 3(4), 4(6) and 7(12) of Schedule 4.”.

JOE FITZPATRICK

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
12th September 2016

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Regulations 2007 (“the 2007 Regulations”). Regulation 3 makes provision in relation to additional requirements for a proxy vote at a particular election. Regulation 4 inserts into the 2007 Regulations new regulations dealing with notification of a rejected postal voting statement and a requirement to provide fresh signatures following rejection of such a statement.

The changes made by these Regulations apply in relation to the local government elections due to be held on 4th May 2017 and subsequent elections.

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