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SCOTTISH STATUTORY INSTRUMENTS

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**2020 No. 426**

**The Scottish Parliament (Elections etc.)  
(Miscellaneous Amendments) Order 2020**

**Amendment of the Scottish Parliament (Elections etc.) Order 2015**

- 16.**—(1) Schedule 3 (absent voting) is amended as follows.
- (2) In paragraph 1(4)(c) (general requirements for applications), omit “and”.
- (3) After paragraph 1(4)(d) (general requirements for applications) insert—
- “(e) in the case of a person to whom section 3(1A) of the 1983 Act (exception to disenfranchisement for offenders sentenced to term not exceeding 12 months) applies, the address shown on the declaration of local connection in accordance with section 7B(3) (d) of that Act.”.
- (4) After paragraph 7(2) (additional requirements for applications for a proxy vote in respect of a particular election) insert—
- “(2A) Sub-paragraph (2B) applies where such an application (or an application under article 10(7) made by virtue of that application) is made after 5 pm on the sixth day before the date of a poll at the election for which it is made and on the grounds that the applicant cannot reasonably be expected to vote in person at the applicant’s allotted polling station because—
- (a) of a disability suffered before that date, in circumstances where the disability means that the application could not reasonably have been made before that date, or
- (b) of a disability suffered after that date.
- (2B) The application must, in addition to providing the information required by sub-paragraph (1)—
- (a) state the reasons why the applicant was unable to make the application before 5 pm on the sixth day before the date of the poll at the election for which it was made, and
- (b) satisfy the requirements of paragraph 5(2).
- (2C) In sub-paragraph (2A) “disability” has the same meaning as in the Equality Act 2010(1) (see section 6 of that Act).”.
- (5) For paragraph 9(4) (closing date for applications) substitute—
- “(4) Where an application to vote by proxy under article 9(2) is made—
- (a) on the grounds set out in paragraph 7(2) or (2A) and the applicant—
- (i) became disabled after 5 pm on the sixth day before the date of the poll at the election for which it is made, or

- (ii) could not be reasonably expected to have made an application before 5 pm on the sixth day before the date of the poll at the election for which it is made by virtue of a disability suffered before that date,
- (b) on the grounds set out in paragraph 7(4) and the applicant became aware of those grounds after 5 pm on the sixth day before the date of the poll at the election for which it is made,
- (c) on the grounds set out in paragraph 7(7A) and the applicant became detained in a penal institution after 5 pm on the sixth day before the date of the poll at the election for which it is made,
- (d) on the ground set out in sub-paragraph (4A) and the applicant became aware of that ground after 5 pm on the sixth day before the date of the poll at the election for which it is made, or
- (e) by a person to whom paragraph 2(5A) of schedule 4 of the 2000 Act (mental patients who are not detained offenders) applies,

the application, or an application under article 10(7) made by virtue of that application, must be refused if it is received after 5 pm on the day of the poll at that election.”

(6) After paragraph 9(4) insert—

“(4A) The ground referred to in sub-paragraph (4)(d) is that the applicant’s circumstances on the date of the poll will or are likely to be such that the applicant cannot reasonably be expected to vote in person at the polling station allotted or likely to be allotted to the applicant under the appropriate rules as a result of following Scottish Government advice or the advice of a registered medical practitioner in relation to coronavirus.

(4B) In sub-paragraph (4A) “coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

(4C) The Scottish Ministers must review the need for the provision made by sub-paragraphs (4A) and (4B) at least once every year, with the first review being carried out within one year of the Scottish Parliament (Elections etc.) (Miscellaneous Amendments) Order 2020(2) coming into force.

(4D) Sub-paragraphs (4A) and (4B) cease to have effect at the end of the period of 2 years beginning with the day on which that Order comes into force.”