
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under powers in section 33 and 61(2) of the Local Electoral Administration and Registration Services (Scotland) Act 2006 (“the 2006 Act”). These Regulations amend the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Regulations 2007 (“the 2007 Regulations”) to provide procedures for emergency applications to vote by proxy at a local government election or to appoint a proxy to vote at a local government election. These emergency absent voting applications are made after 5 p.m. on the sixth day before the election but before 5 p.m. on the date of the election.

Section 31 of the 2006 Act enables the Scottish Ministers to make provision with respect to the procedure to be followed in the preparation of any special lists of records required by the Representation of the People Act 1983 (“the 1983 Act”) in connection with a Scottish local government election. Section 12 and schedule 4 of the Representation of the People Act 2000 (“the 2000 Act”) make provision for absent voting at Scottish local government elections and the keeping of lists and records of absent voters. Paragraph 1(2) of schedule 4 of the 2000 Act provides that the 1983 Act and schedule 4 are to have effect as if schedule 4 were contained in Part 1 of the 1983 Act. The 2007 Regulations are made under sections 33 and 61(2) of the 2006 Act and create procedures for absent voting applications under schedule 4 of the 2000 Act – lists of absent voters being required under the 1983 Act by virtue of paragraph 1(2) of schedule 4 of the 2000 Act.

Regulation 3 amends regulation 10 of the 2007 Regulations so that if a person is applying for a vote by proxy on the grounds of disability, and the application does not meet the deadline in regulation 11(3) of the 2007 regulations, the application must state the reasons why the applicant was unable to meet that deadline. This is an additional requirement to what already exists in regulation 10 of the 2007 Regulations.

Regulation 3 also amends regulation 11(4) of the 2007 Regulations to add a further ground on which an emergency application to vote by proxy (under paragraph 4(2) of schedule 4 of the 2000 Act) can be made. Regulation 3 enables an emergency application to vote by proxy on grounds of the applicant’s disability to be made where the applicant’s disability arose prior to the deadline which is set in regulation 11(3) of the 2007 Regulations but, by reason of the disability, the applicant could not reasonably be expected to have made the application before then.

Regulation 4 replaces regulation 7 of the 2007 Regulations to clarify the additional requirements for applications for the appointment of a proxy under paragraph 6 of schedule 4 of the 2000 Act. An additional requirement is made in new regulation 7(d) whereby an emergency application to appoint a proxy is made as the appointed proxy cannot reasonably be expected to vote in person. In these circumstances the application must state the reasons why the appointed proxy cannot reasonably be expected to vote in person.

Regulation 5 amends regulation 11 of the 2007 Regulations to provide a deadline for an emergency application to appoint a proxy under paragraph 6 of schedule 4 of the 2000 Act where the appointed proxy cannot reasonably be expected to vote in person. An emergency application in these circumstances is not subject to the deadline set in regulation 11(2) or (3) and is instead subject to a deadline of 5 p.m. on the day of the election.

Regulation 6 amends regulation 10 of the 2007 Regulations so as to provide that where an application is made under paragraph 4(2) of schedule 4 of the 2000 Act on grounds of a person’s detention, the application must state where the applicant is being detained. Regulation 6 also amends regulation 11 of the 2007 Regulations to provide that an application made by a detained person under paragraph

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4(2) of schedule 4 of the 2000 Act must be refused where it is made after 5 p.m. on the day of the election.