

2021 No. 391

POLICE, ENGLAND AND WALES

REPRESENTATION OF THE PEOPLE

**The Representation of the People (Proxy Vote Applications)
(Coronavirus) Regulations 2021**

Made - - - - 23rd March 2021

Coming into force - - 24th March 2021

The Minister for the Cabinet Office makes the following Regulations in exercise of the powers conferred by section 53(1) of the Representation of the People Act 1983(a) (“the 1983 Act”), paragraphs 3(2), 4(2) and 6(7) of Schedule 4 to the Representation of the People Act 2000(b) and section 58(1) of the Police Reform and Social Responsibility Act 2011(c) (“the 2011 Act”), and now vested in the Minister(d).

The Minister for the Cabinet Office has consulted the Electoral Commission in accordance with section 7(1) and (2)(e) and (hc) of the Political Parties, Elections and Referendums Act 2000(e).

In accordance with section 201(2) of the 1983 Act(f) and section 154(2) of the 2011 Act, a draft of these Regulations has been laid before and approved by a resolution of each House of Parliament.

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- (a) 1983 c. 2. Section 53(1) was amended by the Representation of the People Act 1985 (c. 50), Schedule 4, paragraph 13, and Schedule 5, and by the Representation of the People Act 2000 (c. 2), Schedule 1, paragraph 13.
- (b) 2000 c. 2. Paragraph 3 of Schedule 4 was amended by the Civil Partnership Act 2004 (c. 33), Schedule 27, paragraph 164; by the Electoral Administration Act 2006 (c. 22), section 14 and Schedule 1, paragraphs 19, 20 and 137; by the Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14), sections 20(c) and 34(5) and by the Scottish Elections (Franchise and Representation) Act 2020 (asp 6). Paragraph 4 of Schedule 4 was amended by the Electoral Administration Act 2006, section 14(2) and (8) and Schedule 1, paragraphs 19 and 21, and by the Local Electoral Administration and Registration Services (Scotland) Act 2006, section 20(c). For the meaning of “prescribed” see section 202(1) of the Representation of the People Act 1983, which applies by virtue of paragraph 1(2) of Schedule 4 to the 2000 Act.
- (c) 2011 c. 13. Section 58(1) was amended by S.I. 2014/268 and 2016/997.
- (d) The Secretary of State’s functions under sections 53 and 201 of the Representation of the People Act 1983, and under the Representation of the People Act 2000, were exercisable concurrently with the Lord President of the Council by virtue of S.I. 2010/1837. By virtue of S.I. 2015/1376, the Secretary of State’s functions which were exercisable concurrently with the Lord President ceased to be so exercisable and were instead exercisable with the Chancellor of the Duchy of Lancaster. By virtue of S.I. 2016/997, the Secretary of State’s functions which were exercisable concurrently with the Chancellor of the Duchy of Lancaster ceased to be so exercisable and are instead exercisable concurrently with the Minister of the Cabinet Office.
- (e) 2000 c. 41. Section 7(2)(hc) was inserted by the Police Reform and Social Responsibility Act 2011, Schedule 10, paragraphs 8 and 11.
- (f) Section 201(2) was substituted by the Representation of the People Act 1985, Schedule 4, paragraph 69, and was amended by the Political Parties, Elections and Referendums Act 2000, Schedule 21, paragraph 6; by the Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), section 13, and by S.I. 1991/1728.

Citation, commencement, extent and application

1.—(1) These Regulations may be cited as the Representation of the People (Proxy Vote Applications) (Coronavirus) Regulations 2021 and come into force on the day after the day on which they are made.

(2) Amendments made by these Regulations have the same extent and application as the instruments they are amending, except for—

- (a) regulation 3, which does not apply in relation to a local government election in Wales, and
- (b) regulation 4, which does not apply in relation to a local government election in Scotland.

Expiry and savings provision

2.—(1) Regulations 3 to 5, except for regulations 3(1) and (2)(a) to (c) and 4(1) and (2)(a) to (c), expire at the end of 28th February 2022.

(2) Despite paragraph (1), those regulations continue to have effect after that date in relation to an application made in respect of a relevant election or referendum where—

- (a) the notice of the election or referendum is published before 1st March 2022, and
- (b) the poll for that election or referendum takes place on or after that date.

(3) In this regulation, “relevant election or referendum” means—

- (a) a parliamentary election;
- (b) an election of a police and crime commissioner under Chapter 6 of Part 1 of the Police Reform and Social Responsibility Act 2011(a);
- (c) a local government election (within the meaning of section 203(1) of the Representation of the People Act 1983)(b);
- (d) any other election or referendum to which Part 4 of the Representation of the People (England and Wales) Regulations 2001(c) is applied (with or without modifications) by another enactment.

Amendment of the Representation of the People (England and Wales) Regulations 2001

3.—(1) The Representation of the People (England and Wales) Regulations 2001 are amended as follows.

(2) In regulation 52 (additional requirements for applications for the appointment of a proxy)—

- (a) the existing text becomes paragraph (1);
- (b) before that paragraph insert—

“(A1) Paragraph (1) applies to an application for the appointment of a proxy for the purposes of voting by proxy at a parliamentary election, or at a local government election in England, where that application is—

- (a) included in an application under paragraph 3 or 4 of Schedule 4 in accordance with regulation 51(6), or
- (b) otherwise made under paragraph 6(7) of Schedule 4.”;

(a) Chapter 6 was amended by the Crime and Courts Act 2013 (c. 22), Schedule 8, paragraph 184; by the Local Government (Democracy) Wales Act 2013 (anaw 4), Schedule 1, paragraph 5; by the Policing and Crime Act 2017 (c. 3), section 122(1), Schedule 1, paragraphs 86 and 90, Schedule 2, paragraph 117, and Schedule 9, paragraph 73; by the Wales Act 2017 (c. 4), section 8, and by S.I. 2014/268, 2015/1376, 1526, 2016/997, 2017/470 and 2018/1310.

(b) The definition of “local government election” was amended by the Greater London Authority Act 1999 (c. 29), Schedule 3, paragraphs 1 and 39(1) and (4).

(c) S.I. 2001/341; relevant amending instruments are S.I. 2001/1700, 2005/2114, 2006/752, 2910, 2007/1025, 2009/1182, 2010/231, 2012/1479, 2013/388, 591, 3198, 2015/643, 1971, 2016/211, 694, 2017/52, 2018/48, 1310 and 2020/1399 (W. 310).

- (c) in that paragraph, omit “for the appointment of a proxy under paragraphs 3 and 4 of Schedule 4”;
- (d) after that paragraph insert—
 - “(2) An application under paragraph 6(7) of Schedule 4 for the appointment of a proxy for the purposes of voting by proxy at a parliamentary election or at a local government election in England, which is made in the circumstances set out in regulation 56(2B), must state that it is so made.”.
- (3) In regulation 55 (additional requirements for applications for a proxy vote for a particular election), after paragraph (3) insert—
 - “(3ZA) For the purposes of paragraphs (2) and (3), an application on grounds of the applicant’s disability does not include an application on grounds relating to coronavirus within the meaning of regulation 56(3AA)(a), (b) or (c).”.
- (4) In regulation 56 (closing date for applications)—
 - (a) in paragraph (2), before “An application” insert “Subject to paragraph (2A),”;
 - (b) after paragraph (2) insert—
 - “(2A) An application under paragraph 6(7) of Schedule 4 which is made in the circumstances set out in paragraph (2B) shall be disregarded for the purposes of a particular parliamentary election, or a particular local government election in England, if it is received by the registration officer after 5 pm on the day of the poll at that election.
 - (2B) The circumstances are that—
 - (a) the applicant is, at the time the application is made, included in the register kept under paragraph 3 of Schedule 4, and
 - (b) the person already appointed as the applicant’s proxy at the time the application is made (“P”) considers that they are, or are likely to be, unable to attend the allotted polling station on the day of the poll referred to in paragraph (2A)—
 - (i) for reasons relating to compliance by P with a legal requirement to self-isolate;
 - (ii) because P has been notified that they are clinically extremely vulnerable in respect of coronavirus or (as the case may be) at the highest risk of severe illness from coronavirus, or because attendance would otherwise be contrary to coronavirus advice given to P;
 - (iii) because, due to P’s particular circumstances, attendance would give rise to a risk of transmission of coronavirus by P to another person.”;
 - (c) in paragraph (3A), after sub-paragraph (a) insert—
 - “(aza) in respect of an election other than a local government election in Wales, on grounds relating to coronavirus; or”;
 - (d) after paragraph (3A) insert—
 - “(3AA) For the purposes of paragraph (3A)(aza) an application is made on grounds relating to coronavirus if it is made—
 - (a) because the applicant (“A”) considers that attendance at the allotted polling station would not be permitted due to A’s need to comply with a legal requirement to self-isolate;
 - (b) because A has been notified that they are clinically extremely vulnerable in respect of coronavirus or (as the case may be) at the highest risk of severe illness from coronavirus, or because A considers that attendance at the allotted polling station would otherwise be contrary to coronavirus advice given to A;
 - (c) because A considers that, due to A’s particular circumstances, attendance at the allotted polling station would give rise to a risk of transmission of coronavirus by A to another person;

- (d) where A already has a person appointed as proxy under paragraph 6(8) of Schedule 4 (“P”), on the ground that P considers that they are, or are likely to be, unable to attend the allotted polling station because any of sub-paragraphs (a), (b) or (c) applies (reading references in those sub-paragraphs to A as references to P).

(3AB) In this regulation—

“coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);

“coronavirus advice” means advice relating to coronavirus given by a registered medical practitioner or a registered nurse.”.

Amendment of the Representation of the People (Scotland) Regulations 2001

4.—(1) The Representation of the People (Scotland) Regulations 2001^(a) are amended as follows.

(2) In regulation 52 (additional requirements for applications for the appointment of a proxy)—

(a) the existing text becomes paragraph (1);

(b) before that paragraph insert—

“(A1) Paragraph (1) applies to an application for the appointment of a proxy for the purposes of voting by proxy at a parliamentary election, where that application is—

(a) included in an application under paragraph 3 or 4 of Schedule 4 in accordance with regulation 51(6), or

(b) otherwise made under paragraph 6(7) of Schedule 4.”;

(c) in that paragraph, omit “for the appointment of a proxy under paragraphs 3 and 4 of Schedule 4”;

(d) after that paragraph insert—

“(2) An application under paragraph 6(7) of Schedule 4 for the appointment of a proxy for the purposes of voting by proxy at a parliamentary election, which is made in the circumstances set out in regulation 56(2B), must state that it is so made.”.

(3) In regulation 55 (additional requirements for applications for a proxy vote for a particular election), after paragraph (3) insert—

“(3ZA) For the purposes of paragraphs (2) and (3), an application on grounds of the applicant’s disability does not include an application on grounds relating to coronavirus within the meaning of regulation 56(3B)(a), (b) or (c).”.

(4) In regulation 56 (closing date for applications)—

(a) in paragraph (2), before “An application” insert “Subject to paragraph (2A),”;

(b) after paragraph (2) insert—

“(2A) An application under paragraph 6(7) of Schedule 4 which is made in the circumstances set out in paragraph (2B) shall be disregarded for the purposes of a particular parliamentary election if it is received by the registration officer after 5pm on the day of the poll at that election.

(2B) The circumstances are that—

(a) the applicant is, at the time the application is made, included in the register kept under paragraph 3 of Schedule 4, and

(b) the person already appointed as the applicant’s proxy at the time the application is made (“P”) considers that they are, or are likely to be, unable to attend the allotted polling station on the day of the poll referred to in paragraph (2A)—

(i) for reasons relating to compliance by P with a legal requirement to self-isolate;

(a) S.I. 2001/497; relevant amending instruments are S.I. 2001/1749, 2006/834, 2007/925, 2013/3206.

- (ii) because P has been notified that they are clinically extremely vulnerable in respect of coronavirus or (as the case may be) at the highest risk of severe illness from coronavirus, or because attendance would otherwise be contrary to coronavirus advice given to P;
- (iii) because, due to P’s particular circumstances, attendance would give rise to a risk of transmission of coronavirus by P to another person.”;
- (c) in paragraph (3A), after sub-paragraph (a) insert—
 - “(aza) on grounds relating to coronavirus; or”;
- (d) after paragraph (3A) insert—
 - “(3B) For the purposes of paragraph (3A)(aza) an application is made on grounds relating to coronavirus if it is made—
 - (a) because the applicant (“A”) considers that attendance at the allotted polling station would not be permitted due to A’s need to comply with a legal requirement to self-isolate;
 - (b) because A has been notified that they are clinically extremely vulnerable in respect of coronavirus or (as the case may be) at the highest risk of severe illness from coronavirus, or because A considers that attendance at the allotted polling station would otherwise be contrary to coronavirus advice given to A;
 - (c) because A considers that, due to A’s particular circumstances, attendance at the allotted polling station would give rise to a risk of transmission of coronavirus by A to another person;
 - (d) where A already has a person appointed as proxy under paragraph 6(8) of Schedule 4 (“P”), on the ground that P considers that they are, or are likely to be, unable to attend the allotted polling station because any of sub-paragraphs (a), (b) or (c) applies (reading references in those sub-paragraphs to A as references to P).
- (3C) In this regulation—
 - “coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);
 - “coronavirus advice” means advice relating to coronavirus given by a registered medical practitioner or a registered nurse.”.

Amendment of the Police and Crime Commissioner Elections Order 2012

5.—(1) Schedule 2 to the Police and Crime Commissioner Elections Order 2012 (absent voting in PCC elections)(a) is amended as follows.

(2) In paragraph 14 (additional requirements: applications for the appointment of a proxy for a particular PCC election), after sub-paragraph (5) insert—

“(5ZA) For the purposes of sub-paragraphs (4) and (5), an application on grounds of the applicant’s disability does not include an application on grounds relating to coronavirus within the meaning of paragraph 16(2A)(a), (b) or (c).”.

(3) In paragraph 16 (closing dates for applications)—

(a) in sub-paragraph (2), after paragraph (a) insert—

“(aza) on grounds relating to coronavirus, or”;

(b) after sub-paragraph (2) insert—

“(2A) For the purposes of sub-paragraph (2)(aza), an application is made on grounds relating to coronavirus if it is made—

(a) because the applicant (“A”) considers that attendance at the allotted polling station would not be permitted due to A’s need to comply with a legal requirement to self-isolate;

(a) S.I. 2012/1917; relevant amending instruments are S.I. 2014/921, 2018/1310.

- (b) because A has been notified that they are clinically extremely vulnerable in respect of coronavirus or (as the case may be) at the highest risk of severe illness from coronavirus, or because A considers that attendance at the allotted polling station would otherwise be contrary to coronavirus advice given to A;
- (c) because A considers that, due to A’s particular circumstances, attendance at the allotted polling station would give rise to a risk of transmission of coronavirus by A to another person;
- (d) where A already has a person appointed as proxy under paragraph 5 (“P”), on the ground that P considers that they are, or are likely to be, unable to attend the allotted polling station because any of paragraphs (a), (b) or (c) applies (reading references in those paragraphs to A as references to P).

(2B) In this paragraph—

“coronavirus” means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);
“coronavirus advice” means advice relating to coronavirus given by a registered medical practitioner or a registered nurse.”.

Chloe Smith
Minister of State for the Constitution and Devolution
Cabinet Office

23rd March 2021

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the rules on proxy vote applications and deadlines for certain elections to expand eligibility for those affected by coronavirus. Regulation 2 provides that most of the amendments will expire automatically at the end of 28th February 2022, subject to a savings provision for polls which have already been notified on or before that date.

Regulation 3 amends the Representation of the People (England and Wales) Regulations 2001 (S.I. 2001/341) which apply to UK parliamentary elections and certain local government elections in England and Wales and (by virtue of being applied by other legislation) to certain other local elections and referendums in England. The amendments made do not apply to Welsh local government elections.

The amendments to regulation 52 firstly clarify that it applies to applications to appoint a proxy under paragraph 6(7) of Schedule 4 to the Representation of the People Act 2000 (“the 2000 Act”), and secondly insert a new requirement that late applications to change a proxy because they are affected by coronavirus must state that information.

The amendment to regulation 55 ensures that the requirement for medical attestation of an application does not apply where it is made on coronavirus grounds.

The amendments to regulation 56 ensure that an application by someone with a long-term proxy arrangement to change the person who is appointed as their proxy, and an application for an emergency proxy, can both be done up to 5pm on the day of the poll, where made on coronavirus grounds. Those grounds include where a person is self-isolating due to having coronavirus, or being at risk of having it, or where a person who has already been appointed as an applicant’s proxy is similarly affected by coronavirus.

Regulation 4 makes the same changes to the Representation of the People (Scotland) Regulations 2001 (S.I. 2001/497) in respect of applications to vote by proxy in UK parliamentary elections and by-elections in Scotland.

Regulation 5 makes the same changes to the Police and Crime Commissioner Elections Order 2012 (S.I. 2012/1917) in respect of emergency applications to vote by proxy in a police and crime commissioner election.

An impact assessment has not been produced for this instrument as no, or no significant, impact on business, charities or the public or voluntary sector is foreseen.

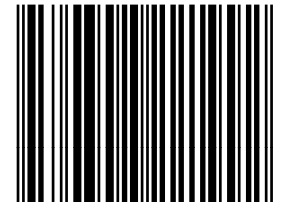
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