

# Referendums (Scotland) Act 2020 2020 asp 2

## **REFERENDUMS (SCOTLAND) ACT 2020**

## Referendums

- 1 Referendums to which this Act applies
- 2 Referendum questions

Power to change date of referendum if UK election on same date

3 Power to change date of referendum if UK election on same date

## Franchise

- 4 Those who are entitled to vote
- 5 Those who are subject to a legal incapacity to vote

## Voting etc.

6 Provision about voting etc.

## Conduct

- 7 Chief Counting Officer
- 8 Other counting officers
- 9 Functions of the Chief Counting Officer and other counting officers
- 10 Correction of procedural errors
- 11 Expenses of counting officers
- 12 Conduct rules

## Campaign

- 13 Campaign rules
- 14 Monitoring and securing compliance with the campaign rules
- 15 Inspection of Electoral Commission's registers etc.
- 16 Campaign rules: general offences
- 17 Campaign offences: summary proceedings
- 18 Duty of court to report convictions to the Electoral Commission

#### Referendum agents

19 Referendum agents

#### Observers

- 20 Attendance of Electoral Commission at proceedings and observation of working practices
- 21 Accredited observers: individuals
- 22 Accredited observers: organisations
- 23 Attendance and conduct of accredited observers
- 24 Code of practice on attendance of observers

## Information, guidance, advice and encouragement

- 25 Information for voters
- 26 Guidance
- 27 Advice
- 28 Encouraging participation

#### Report on referendum

29 Report on the conduct of the referendum

#### Electoral Commission: administrative provision

- 30 Reimbursement of Commission's costs
- 31 Estimates of expenditure
- 32 Maladministration

#### Registration

- 33 Information about persons aged under 16
- 34 Registration officers' expenses

#### Offences

- 35 Offences
- 36 Individual culpability for offending by an organisation

#### *Power to modify this Act*

- 37 Power to modify this Act
- 38 Power to vary specified sums

#### Legal proceedings

39 Restriction on legal challenge to referendum result

#### Final provisions

- 40 Interpretation
- 41 Commencement
- 42 Short title

SCHEDULE 1 — Further provision about voting in the referendum

#### PART 1 — MANNER OF VOTING

#### Manner of voting

1 (1) This paragraph applies to determine the manner of voting...

#### Existing absent voters

2 (1) A person is taken to have been granted a...

#### Applications for absent vote

3 (1) Where a person applies to the registration officer to...

#### Absent voters lists

4 (1) Each registration officer must keep the 2 lists mentioned...

#### Proxies

5 (1) Subject to the provisions of this paragraph, any person...

## Voting as proxy

6 (1) A person entitled to vote as proxy for another...

## Requirements as to applications

7 (1) This paragraph applies in relation to applications under paragraph...

Additional requirements as to certain applications to vote by proxy

8 (1) Sub-paragraphs (3) to (7) apply in relation to an...

#### Grant or refusal of applications

9 (1) This paragraph applies in relation to applications under paragraph...

#### Forms

10 (1) The registration officer must, on request, provide free of...

## Personal identifiers record

11 (1) Each registration officer must keep a record in relation...

## Marked lists for polling stations

12 To indicate that a voter or a voter's proxy is...

#### Appeals

13 (1) Where an appeal under section 56 of the 1983... PART 2 — REGISTRATION

#### Effect of register

14 (1) A person registered in the register of local government...

## Effect of misdescription

15 No misnomer or inaccurate description of any person or place...

#### Carrying out of registration functions

16 (1) A registration officer must carry out the registration officer's...

#### Alterations in the register of local government electors

17 (1) An alteration in the register of local government electors...

#### The cut-off date

18 (1) In this Act, the cut-off date means—
 PART 3 — POSTAL VOTING: ISSUE AND RECEIPT OF BALLOT PAPERS

Persons entitled to be present at issue and receipt of postal ballot papers

19 (1) Without prejudice to sections 20 to 22, no person...

Notification of requirement of secrecy

20 The counting officer must make such arrangements as are practicable...

## Time when postal ballot papers are to be issued

21 The counting officer is to issue postal ballot papers (and...

#### Issue of postal ballot papers

22 (1) The number of the voter as stated in the...

#### Refusal to issue postal ballot paper

23 Where a counting officer is satisfied that two or more...

#### Envelopes

24 (1) The envelope which the counting officer is required by...

Sealing up of completed corresponding number lists and security of special lists

25 (1) As soon as practicable after the issue of each...

## Payment of postage on postal ballot papers

26 (1) Where ballot papers are posted to postal voters, postage...

#### Spoilt postal ballot papers

27 (1) If a postal voter has inadvertently dealt with a...

## Lost postal ballot papers

28 (1) Where a postal voter claims either to have lost...

#### Superseded postal ballot papers

29 (1) This paragraph applies where— (a) an event mentioned in...

#### *Notice of opening of postal ballot paper envelopes*

30 (1) The counting officer must give to each of the...

#### Boxes and receptacles

31 (1) The counting officer must provide a separate box for...

Receipt of covering envelopes and collection of postal votes

32 (1) The counting officer must, immediately on receipt (whether by...

## Opening of postal voters box

33 (1) Each postal voters box must be opened by the...

Opening of covering envelopes

34 (1) When a postal voters box is opened, the counting...

## Confirmation of receipt of postal voting statement

35 (1) A voter or a voter's proxy who is shown...

#### Procedure in relation to postal voting statements: personal identifier verification

36 (1) This paragraph applies in the circumstances described in paragraph...

#### Opening of ballot paper envelopes

37 (1) The counting officer must open separately each ballot paper...

Retrieval of cancelled postal ballot papers

38 (1) Where it appears to the counting officer that a...

Lists of provisionally rejected postal ballot papers

39 (1) The counting officer must keep two separate lists of...

#### Checking of lists kept under paragraph 39

40 (1) Where the counting officer receives a valid postal voting...

#### Sealing of receptacles

41 (1) As soon as practicable after the completion of the...

#### Forwarding of documents

42 (1) The counting officer must, at the same time as...

## Power of Chief Counting Officer to prescribe

43 (1) In paragraphs 10(2) and 42(1)(b), "prescribed" means prescribed by...

#### Interpretation of Part

44 In this Part— "postal ballot paper" means a ballot paper...

PART 4 — SUPPLY OF REGISTER OF LOCAL GOVERNMENT ELECTORS ETC.

Supply of free copy of register of local government electors etc. to counting officers

45 (1) Each registration officer must, at the request of the...

Supply of free copy of register of local government electors etc. to Electoral Commission

46 (1) Each registration officer must supply free of charge to...

Supply of free copy of register of local government electors etc. to permitted participants

47 (1) If a permitted participant so requests, the registration officer...

Dates of birth to be omitted from copies of register supplied

48 A copy of the register of local government electors supplied...

## Supply of data

49 A duty of a registration officer to supply data under...

General restriction on use of registration documents and information contained in them

50 (1) This paragraph applies to— (a) any person to whom...

Offence in relation to disclosure of registration documents

51 (1) A person ("A") commits an offence—

Destruction of copies of the register of local government electors etc.

- 52 (1) This paragraph applies to any person holding a copy...
  - PART 5 SUPPLY OF MARKED REGISTER OF LOCAL GOVERNMENT ELECTORS ETC.

Supply of marked register of local government electors etc. to designated organisations

53 (1) A designated organisation may request that a counting officer...

Fee for supply of marked register of local government electors etc.

54 (1) The fee to be paid in accordance with sub-paragraph...

SCHEDULE 2 — Conduct rules

## Publication of notice of the referendum

1 (1) The counting officer must publish notice of the referendum...

Hours of polling

2 The hours of polling are between 7am and 10pm.

## The ballot

3 (1) The votes at the referendum are to be given...

#### Printing of ballot papers

4 The counting officer must arrange for the printing of the...

#### The corresponding number list

5 (1) The counting officer must prepare a list (the "corresponding...

#### Security marking

6 (1) Every ballot paper must bear or contain—

Use of schools and public rooms for polling and counting votes

7 (1) The counting officer may use, free of charge, for...

## Postal ballot papers

8 (1) The counting officer must issue to those entitled to...

## Provision of polling stations

9 (1) The counting officer must— (a) provide a sufficient number...

Appointment of presiding officers and clerks

10 (1) The counting officer must appoint and pay—

#### *Issue of poll cards*

11 (1) The counting officer must, as soon as practicable after...

#### Loan of equipment for referendum

12 (1) A council must, if requested to do so by...

#### Equipment of polling stations

13 (1) The counting officer must provide each presiding officer with...

#### Appointment of polling and counting agents

14 (1) A referendum agent may appoint— (a) polling agents to...

#### Admission to polling station

15 (1) No person other than the presiding officer and the...

## Notification of requirement of secrecy

16 (1) The counting officer must make such arrangements as are...

#### Keeping of order at polling station

17 (1) The presiding officer must keep order at the polling...

#### Sealing of ballot boxes

18 (1) Immediately before the commencement of the poll, the presiding...

19	<i>Questions to be put to voters</i> (1) At the time a voter applies for a ballot
	Challenge of voter
20	(1) A person is not to be prevented from voting
	Voting procedure
21	(1) Subject to rule 19(4), a ballot paper must be
	Votes marked by presiding officer
22	(1) On the application of a voter—
	Voting by persons with disabilities
23	(1) If a voter applies to the presiding officer to
	Tendered ballot papers
24	(1) Paragraph (6) applies if any of situations A to
	Spoilt ballot papers
25	(1) A voter who has inadvertently dealt with a ballot
	Correction of errors on polling day
26	(1) The presiding officer must keep a list of persons
	Adjournment of poll in case of riot
27	(1) Where the proceedings at any polling station are interrupted
	Procedure on close of poll
28	(1) As soon as practicable after the close of the
	Attendance at counting of votes
29	(1) The counting officer must make arrangements for counting of
	The count
30	(1) The counting officer must— (a) in the presence of
	Rejected ballot papers
31	(1) Any ballot paper to which paragraph (2) applies is
	Counting the votes
32	The counting officer must count the votes in favour of
	Decisions on ballot papers
33	The decision of the counting officer on any question arising

#### Re-counts

34 (1) The counting officer may have the votes re-counted (or...

#### Declaration of result

35 (1) After making the certification under section 9(2)(b) (results for...

#### Sealing up of ballot papers

36 (1) On the completion of the counting, the counting officer...

#### Delivery of papers

37 (1) After sealing the papers in accordance with rule 36,...

Retention and public inspection of papers

38 (1) The proper officer of the council must retain for...

Retention and public inspection of certifications

39 (1) The Chief Counting Officer must retain for one year—...

Orders for production of documents

40 (1) The Court of Session or a sheriff principal may...

Power of Chief Counting Officer to prescribe

41 (1) In this schedule, "prescribed" means prescribed by the Chief...

SCHEDULE 3 — Campaign rules PART 1 — INTERPRETATION

#### Interpretation of schedule

1 (1) In this schedule— "bequest" includes any form of testamentary... PART 2 — PERMITTED PARTICIPANTS AND DESIGNATED ORGANISATIONS

Permitted participants

2 (1) For the purposes of this schedule, a registered party,...

Further provision about declarations under paragraph 2

3 (1) A declaration under paragraph 2 by a registered party—...

Unincorporated associations with offensive or similar names

4 (1) Sub-paragraphs (2) to (4) apply to a declaration made...

Further provision about responsible persons

5 (1) A person who is the responsible person in relation...

*Register of declarations under paragraph 2* 

6 (1) The Electoral Commission must maintain a register of all...

#### Designated organisations

7 (1) The Electoral Commission may, in relation to any of...

Applications for designation under paragraph 7

8 (1) A permitted participant seeking to be designated under paragraph...

Designated organisation's right to use rooms for holding public meetings

9 (1) Persons authorised by a designated organisation are entitled, for...

Supplementary provisions about use of rooms for public meetings

10 (1) This paragraph has effect with respect to the rights... PART 3 — REFERENDUM EXPENSES

#### Referendum expenses

11 (1) The following provisions have effect for the purposes of...

Expenses qualifying where incurred for referendum purposes

12 (1) For the purposes of paragraph 11(2)(a) the expenses falling...

#### Notional referendum expenses

13 (1) This paragraph applies where, in the case of any...

Restriction on incurring referendum expenses

14 (1) No amount of referendum expenses is to be incurred...

Restriction on payments in respect of referendum expenses

15 (1) No payment (of whatever nature) may be made in...

Restriction on making claims in respect of referendum expenses

16 (1) A claim for payment in respect of referendum expenses...

#### Disputed claims

17 (1) This paragraph applies where— (a) a claim for payment...

#### Rights of creditors

18 Nothing in this schedule which prohibits— (a) payments and contracts...

## General restriction on referendum expenses

19 (1) This paragraph applies in relation to an individual or...

Special restrictions on referendum expenses by permitted participants

20 (1) The total referendum expenses incurred by or on behalf...

#### Referendum expenses incurred as part of common plan

21 (1) This paragraph applies where— (a) referendum expenses are incurred...

#### *Returns as to referendum expenses*

22 (1) The responsible person in relation to a permitted participant...

#### Auditor's report on return

23 (1) Where the return prepared under paragraph 22 in respect...

#### Delivery of returns to Electoral Commission

24 (1) Sub-paragraph (2) applies where— (a) a return falls to...

Declaration of responsible person as to return under paragraph 22

25 (1) Each return prepared under paragraph 22 in respect of...

## Public inspection of returns under paragraph 22

 26 (1) Where the Electoral Commission receive any return under paragraph...
 PART 4 — PUBLICATIONS

Restriction on publication etc. of promotional material by central and local government etc.

27 (1) This paragraph applies to any material which—

Details to appear on referendum material

28 (1) No material wholly or mainly relating to the referendum...

#### Display of advertisements

 29 The Town and Country Planning (Control of Advertisements) (Scotland) Regulations...
 PART 5 — CONTROL OF DONATIONS

#### Operation and interpretation of this Part

30 (1) This Part has effect for controlling donations to permitted...

#### Donations: general rules

31 (1) "Donation", in relation to a permitted participant, means (subject...

## Sponsorship

32 (1) For the purposes of this schedule, sponsorship is provided...

#### Payments etc. not to be regarded as donations

33 (1) None of the following is to be regarded as...

## Value of donations

34 (1) The value of any donation falling within paragraph 31(1)(a)...

	Prohibition on accepting donations from impermissible donors
35	(1) A relevant donation received by a permitted participant must
	Acceptance or return of donations
36	(1) Sub-paragraph (2) applies where— (a) a donation is received
	Return of donation where donor unidentifiable
37	(1) For the purposes of paragraph 36(3)(b), the required steps
	Forfeiture of donations made by impermissible or unidentifiable donors
38	(1) This paragraph applies to any donation received by a
	Evasion of restrictions on donations
39	(1) A person commits an offence if the person—
	Statement of relevant donations
40	The responsible person in relation to a permitted participant must
	Donations from permissible donors
41	(1) The statement must record, in relation to each relevant
	Donations from impermissible or unidentifiable donors
42	(1) This paragraph applies to relevant donations falling within paragraph
	Donation reports during referendum period
43	(1) The responsible person in relation to a permitted participant
D	eclaration of responsible person as to donation reports under paragraph 43
44	(1) Each report prepared under paragraph 43 in respect of
	Public inspection of donation reports under paragraph 43
45	<ol> <li>Where the Electoral Commission receive a report under paragraph PART 6 — CONTROL OF LOANS AND CREDIT</li> </ol>
	Operation of Part
46	(1) This Part has effect for controlling regulated transactions entered
	Regulated transactions
47	(1) An agreement between a permitted participant and another person
	Valuation of regulated transaction
48	(1) The value of a regulated transaction which is a

Authorised participants

49 (1) A permitted participant must not— (a) be a party...

Regulated transaction involving unauthorised participant

50 (1) This paragraph applies if a permitted participant is a...

Guarantees and securities: unauthorised participant

51 (1) This paragraph applies if— (a) a permitted participant and...

Transfer to unauthorised participant invalid

52 If an authorised participant purports to transfer the participant's interest...

#### Offences

53 (1) An individual who is a permitted participant commits an...

#### Penalties

54 (1) A person who commits an offence under sub-paragraph (1),...

#### Statement of regulated transactions

55 (1) The responsible person in relation to a permitted participant...

Information about authorised participants

56 (1) The statement must record, in relation to each recordable...

#### Identity of unauthorised participants

57 The statement must record, in relation to each recordable transaction...

#### Details of transactions

58 (1) The statement must record, in relation to each recordable...

#### Changes

59 (1) Where another authorised participant has become a party to...

Total value of non-recordable transactions

60 The statement must record the total value of any regulated...

Transaction reports during referendum period

61 (1) The responsible person in relation to a permitted participant...

#### Declaration of responsible person as to transaction reports under paragraph 61

62 (1) Each report prepared under paragraph 61 in respect of...

Public inspection of transaction reports under paragraph 61

63 (1) Where the Electoral Commission receive a report under paragraph...

#### Non-disclosure with intent to conceal

64 (1) This paragraph applies where, on an application made by...

#### Proceedings under paragraphs 50 and 64

65 (1) This paragraph has effect in relation to proceedings on...

#### Interpretation

- 66 (1) In this Part— "authorised participant" is to be construed...
  - SCHEDULE 4 Campaign rules: investigatory powers of the Electoral Commission

Power to require disclosure of documents etc.

1 (1) The Electoral Commission may give a disclosure notice to...

#### Inspection warrants

2 (1) This paragraph applies in relation to an organisation or...

## Powers in relation to suspected offences or contraventions

3 (1) This paragraph applies where the Electoral Commission have reasonable...

#### Document disclosure orders

4 (1) This paragraph applies where the Electoral Commission have given...

#### Information disclosure orders

5 (1) This paragraph applies where the Electoral Commission have given...

#### Retention of documents delivered under paragraph 4

6 (1) The Electoral Commission may retain any documents delivered to...

#### Power to make copies and records

7 The Electoral Commission or a person authorised by the Commission —...

## Authorisation to be in writing

8 An authorisation of a person by the Electoral Commission under...

#### Documents in electronic form

9 (1) In the case of documents kept in electronic form—...

## Legal professional privilege

10 Nothing in this schedule requires a person to produce or...

#### Admissibility of statements

11 (1) A statement made by a person ("P") in compliance...

#### Offences

12 (1) A person who fails, without reasonable excuse, to comply...

#### Guidance by Commission

13 (1) The Electoral Commission must prepare and publish guidance as...

Information about use of investigatory powers in Commission's report

14 (1) The Electoral Commission must, in accordance with this paragraph,...

#### Interpretation

- 15 In this schedule— "contravention" includes a failure to comply, and...
- SCHEDULE 5 Campaign rules: civil sanctions PART 1 — FIXED MONETARY PENALTIES

#### Imposition of fixed monetary penalties

1 (1) The Electoral Commission may by notice impose a fixed...

Representations and appeals etc.

2 (1) Where the Electoral Commission propose to impose a fixed...

Information to be included in notices under paragraph 2

3 (1) A notice under paragraph 2(1) must include information as...

#### Late payment

4 (1) A fixed monetary penalty must be paid within the...

Fixed monetary penalties: criminal proceedings and conviction

5 (1) Where a notice under paragraph 2(1) is served on... PART 2 — DISCRETIONARY REQUIREMENTS

Imposition of discretionary requirements

6 (1) The Electoral Commission may impose one or more discretionary...

Representations and appeals etc.

7 (1) Where the Electoral Commission propose to impose a discretionary...

*Information to be included in notices under paragraph 7* 

8 (1) A notice under paragraph 7(1) must include information as...

9 (1) A person on whom a discretionary requirement is imposed...

Compliance and restoration certificates

10 (1) Where, after the service of a notice under paragraph...

#### Failure to comply with discretionary requirements

11 (1) The Electoral Commission may by notice impose a monetary...

#### Late payment

12 (1) A variable monetary penalty must be paid within the... PART 3 — STOP NOTICES

#### Imposition of stop notices

13 (1) Where sub-paragraph (2) or (3) applies, the Electoral Commission...

Information to be included in stop notices

14 A stop notice must include information as to—

## Completion certificates

15 (1) Where, after the service of a stop notice on...

Appeals etc.

16 (1) A person served with a stop notice may appeal...

#### Failure to comply with stop notice

17 (1) A person served with a stop notice who does... PART 4 — ENFORCEMENT UNDERTAKINGS

#### *Enforcement undertakings*

18 (1) This paragraph applies where— (a) the Electoral Commission have...

#### Enforcement undertakings: further provision

19 (1) An enforcement undertaking must be in writing and include—...

#### *Compliance certificate*

20 (1) Where, after accepting an enforcement undertaking from a person,...

#### Appeals

21 (1) A person who has given an enforcement undertaking may... PART 5 — GENERAL AND SUPPLEMENTAL

#### Restrictions on combination of sanctions

22 (1) The Electoral Commission may not serve on a person...

Withdrawal or variation of notice

23 (1) The Electoral Commission may by notice in writing at...

#### Use of statements made compulsorily

24 (1) The Electoral Commission must not take into account a...

#### Unincorporated associations

25 Any amount that is payable under this schedule by an...

#### Guidance as to enforcement

26 (1) The Electoral Commission must prepare and publish guidance as...

#### Recovery of penalties etc.

27 The Electoral Commission may recover as a civil debt—

#### Payment of penalties etc. into Scottish Consolidated Fund

28 Where, in pursuance of any provision contained in or made...

#### Reports on use of civil sanctions

29 (1) The Electoral Commission must, in accordance with this paragraph,...

#### Disclosure of information

30 (1) Information held by or on behalf of a procurator...

#### Powers of sheriff

- 31 (1) On an appeal under paragraph 2(6) the sheriff may... PART 6 — INTERPRETATION
- 32 In this schedule— "completion certificate" has the meaning given in... PART 7 — LISTED CAMPAIGN OFFENCES

SCHEDULE 6 — Offences

#### Personation

1 (1) A person ("A") commits the offence of personation in...

#### Other voting offences

2 (1) A person ("A") commits an offence if—

#### Imitation poll cards

3 (1) A person commits an offence if the person, for...

#### Offences relating to applications for postal and proxy votes

4 (1) A person ("A") commits an offence if A—

#### Breach of official duty

5 (1) If a person to whom this paragraph applies without...

Tampering with ballot papers etc.

6 (1) A person ("A") commits an offence if, in connection...

#### Requirement of secrecy

7 (1) Every person (other than one mentioned in sub-paragraph (2))...

## Prohibition on publication of exit polls

8 (1) No person may publish before the close of the...

## Payments to voters for exhibition of referendum notices

9 (1) No payment or contract for payment may, for the...

#### Treating

10 (1) A person ("A") commits the offence of treating in...

#### Undue influence

11 (1) A person ("A") commits the offence of undue influence...

#### Bribery

12 (1) A person commits the offence of bribery in connection...

#### Disturbances at public meetings

13 (1) A person commits an offence if the person, at...

Illegal canvassing by police officers

14 (1) A person who is a constable commits an offence...

#### Penalties for corrupt practices

15 A person who commits a corrupt practice under any provision...

#### Prosecutions for illegal practices

16 (1) A person who commits an illegal practice under any...

## Conviction of illegal practice on charge of corrupt practice etc.

17 A person charged with a corrupt practice under any provision...

## Incapacity to hold public or judicial office in Scotland

18 (1) A person convicted of a corrupt or illegal practice...

Prohibition of paid canvassers

19 If a person is, whether before or during the referendum,...

Providing money for illegal purposes

20 If a person knowingly provides money— (a) for any payment...

Prosecutions for illegal employment or illegal payment

21 (1) A person who commits an offence of—

SCHEDULE 7 — Interpretation
In this Act—
"the 1983 Act" means the Representation of the People Act...

## Changes to legislation:

There are currently no known outstanding effects for the Referendums (Scotland) Act 2020.