
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Representation of the People (Scotland) Regulations 2001 (“the principal Regulations”)(1).

Regulation 2 amends the provisions of the principal Regulations about applications for registration to require an application for registration as an elector, except in specified circumstances, to include a statement as to the applicant’s nationality.

Regulation 3 amends regulation 51 of the principal Regulations to allow voters to apply for a postal vote at the same time as they apply to be registered to vote.

Regulation 4 inserts regulations 51A and 51B in the principal Regulations. Regulation 51(3) of the principal Regulations requires an application for an absent vote to be signed by the applicant. Regulation 51A provides that the registration officer may satisfy himself that the application has been signed by the applicant by referring to any signature previously provided to the registration officer or the returning officer which the applicant has previously provided to them.

Regulation 51B requires that an application by a person for their ballot paper to an address different to that shown in the record for the purposes of a particular election must set out why the person requires their ballot paper to be sent to that address.

Regulation 5 replaces regulation 55 of the principal Regulations concerning additional requirements for applications for a proxy vote in respect of a particular election. In addition to the current requirements in the principal Regulations, the application, if made by reason of the applicant’s physical incapacity and if made after 5 p.m. on the sixth working day before the date of the poll, will be subject to the requirements in regulation 53 of the principal Regulations. The changes do not apply to local government elections in Scotland, arrangements at these elections being a matter within the competence of the Scottish Parliament.

Regulation 53 of the principal Regulations provides for additional requirements for applications to vote by proxy for a definite or indefinite period on grounds of physical incapacity or blindness. Amongst other things, regulation 53 prescribes the information to be provided by a person attesting an application for a proxy vote on the grounds of the applicant’s physical incapacity. If the application is made after 5 p.m. on the sixth working day before the date of the poll, the person attesting the application will also now be required to state the date upon which the applicant became physically incapacitated.

Regulation 6 amends the provisions in regulation 56 of the principal Regulations concerning closing dates for an application for an absent vote, again other than in relation to Scottish local government elections (for which paragraph (6) maintains the status quo). Regulation 56 now requires that, except in the case of applications to vote by proxy, the application must be received by the registration officer not later than 5 p.m. on the eleventh working day before the date of the poll at a relevant election.

Where a person applies to vote by proxy at a specific election, the application must be received by not later than 5 p.m. on the sixth working day before the date of the poll at the relevant election. However, where a person applies to vote by proxy at a particular election on the grounds of physical incapacity and the applicant became incapacitated after 5 p.m. on the sixth working day before the

(1) S.I. 2001/497; which was amended by S. I. 2001/1749, S.I. 2002/1872, S.I. 2003/3075, S.I. 2004/1771 and S.I 2004/1960.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

date of the poll, the application, or an application for the appointment of a proxy made by virtue of that application, must be received by not later than 5 p.m. on the date of the poll.

Regulation 7 amends regulation 57 of the principal Regulations concerning notification requirements to require that where a registration officer grants an application for a postal vote, he must notify the applicant of his decision. Further, where for the purposes of a particular election (again, other than a Scottish local government election, for which paragraph (4) maintains the status quo) a person applies for their postal ballot paper to be sent to an address different from that shown in the record, the registration officer must notify them if the application is granted. He is also required to notify a person removed from the record of absent voters for a definite or indefinite period, with the reason for the removal. Similarly, where the appointment of a proxy is cancelled by the elector or otherwise ceases to be in force, the registration officer must confirm the cancellation or notify the elector that the appointment is no longer in force, with the reason for this.

Regulation 8 amends regulation 77 of the principal Regulations to allow applications for replacement ballot papers in the case of spoiled declarations of identity. Previously a ballot paper could only be replaced if the ballot paper itself had been spoiled. An application for a replacement ballot paper in these circumstances can now be made up until 5 p.m. on the day of the poll. However, after 5 p.m. on the day before the day of the poll applications for replacement ballot papers may only be made in person.

Regulation 9 amends regulation 78 of the principal Regulations to allow applications for replacement ballot papers where the voter claims to have lost or not received his ballot paper, the declaration of identity or the envelopes supplied for their return. Previously a ballot paper could only be replaced if the ballot paper itself had been lost. Identical deadlines will apply to applications under this regulation as will apply to applications under Regulation 77.

Regulation 10 amends regulation 79 of the principal Regulations to enable the returning officer to collect postal ballot papers from polling stations when they have been returned there.

Regulation 11 amends regulation 91 of the principal Regulations. Previously the regulation required the returning officer at a parliamentary election to send to the Secretary of State a copy of the completed statement as to the number of postal ballot papers issued. As amended the regulation requires the returning officer to send a copy of the completed statement to the Secretary of State and to the Electoral Commission, ten to fifteen working days following the date of the poll.

The principal Regulations were amended by the Representation of the People (Scotland) (Amendment) Regulations 2002 (“the 2002 Regulations”)(2). The main change made by the 2002 Regulations was to make fresh provision in respect of the free supply and sale of the register of electors. Regulation 93 of the principal Regulations as amended by the 2002 Regulations provides for an edited version of the register of electors which does not contain the names of persons who have requested exclusion of their names from that version of the register. Under Regulation 109 of the principal Regulations as so amended, the edited version of the register is available for sale without restriction. The 2002 Regulations introduced new restrictions on the sale and supply free of charge of the full version of the register (“the full register”) and its use. Breach of the restrictions was made an offence under regulation 115 of the principal Regulations as amended. The following changes made by these Regulations amend those restrictions.

Regulation 12 adds definitions to regulation 92 of the principal Regulations to give effect to other amendments made by these Regulations.

Regulation 13 amends regulation 95 of the principal Regulations to confirm that where the full register is made available for inspection under supervision the information so obtained shall not be used for direct marketing purposes.

Regulation 14 amends regulation 96 of the principal Regulations to provide that copies of the full register should be provided to the National Library of Scotland and the British Library in both printed

(2) [S.I. 2002/1872](#).

and data form. There is an additional restriction upon access to the effect that, where the register is made available for inspection under supervision in an electronic format, the format must prevent it from being copied or from being searched by electronic means by reference to the name of any person. It further provides that, once the register is over 10 years old, the full register, or information contained in it, held by the National Library of Scotland and the British Library may be provided for research purposes that are in compliance with the relevant conditions (within the meaning of section 33(1) of the Data Protection Act 1998⁽³⁾). For the avoidance of doubt, it is made clear that the conditions in Regulation 96 of the principal Regulations also apply to such material when it is supplied to the National Library of Scotland by registration officers in England and Wales.

Regulation 15 provides for the supply of a free copy of the full register for use in connection with the election of certain members of National Parks. There are currently two such Parks in Scotland, each of which has a proportion of its members elected by a postal ballot of the local electorate. These changes are to ensure that an Electoral Registration Officer makes a register available for that purpose.

Regulation 16 provides that the General Register Office for Scotland shall be entitled to a free copy of the full register, on the same basis as one is currently provided to the Office for National Statistics. Regulation 16 also makes provision regarding access to copies of the full register held by both these organisations, similar to the conditions that apply to the National Library of Scotland and the British Library by reason of Regulation 96 of the principal Regulations.

Regulation 17 provides an exception from an offence that would otherwise be committed. This is where a copy of the full register is supplied by a councillor or council employee, or information from it disclosed, for use in connection with a local referendum being conducted by the returning officer for the council's area.

Regulation 18 amends regulation 108 of the principal Regulations. It provides that a copy of the full register may be supplied to the Security Service, Government Communications Headquarters and the Secret Intelligence Service for use in respect of their statutory functions. It also provides that police forces and organisations may use the register for the purpose of the vetting of constables, officers and employees for the purposes of safeguarding national security.

Regulation 19 inserts regulation 108A into the principal Regulations. This provides that a copy of the full register may be supplied to a statutory library authority or to an archives service of a Scottish local authority. Restrictions on access to it are provided, similar to those that apply in the case of the National Library for Scotland and the British Library.

Regulation 20 amends regulation 110(7) of the principal Regulations. Its effect is to confirm that any notice issued by an electoral register officer under section 13A(2) or 13B(3) of the Representation of the People Act 1983⁽⁴⁾ which is sold in accordance with the principal Regulations shall be marked to show any name that is not included in the edited register, in the same way as copies of the full register which are sold are required to be so marked.

Regulation 21 amends regulation 112 of the principal Regulations. It specifies that, in addition to the authorised sale of a copy of the full register to government departments (subject to restrictions as to the use of it) under the principal Regulations, it may also be sold to the Scottish Environment Protection Agency and the Financial Services Authority subject to the same restrictions. In addition, those restrictions are relaxed to a limited extent to allow the use of the register for the vetting of persons for the purposes of safeguarding national security. Other bodies which carry out such vetting will also be entitled to purchase a copy of the register for that purpose.

Regulation 22 amends regulation 114 of the principal Regulations to provide that one of the organisations entitled to obtain the full register may procure a data processor which already has a

(3) 1998 c. 29.

(4) 1983 c. 2; sections 13A and 13B were inserted by Schedule 1 to the Representation of the People Act 2000 (c. 2).

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

copy to process and provide that organisation with a copy, without first being required to supply a copy to the data processor.

Regulation 23 updates references in regulation 115(2) of the principal Regulations which specify the provisions for which a breach would amount to an offence, including new provisions contained in the other amendments made by these Regulations