



Scottish Independence Referendum Act 2013

2013 asp 14

SCOTTISH INDEPENDENCE REFERENDUM ACT 2013

Referendum

- 1 Referendum on Scottish independence

Franchise

- 2 Those who are entitled to vote
- 3 Declarations of local connection and service declarations: further provision

Voting etc.

- 4 Provision about voting etc.

Conduct

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

Campaign

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

Status: Point in time view as at 18/12/2013.

Changes to legislation: There are currently no known outstanding effects for the Scottish Independence Referendum Act 2013. (See end of Document for details)

Referendum agents

- 17 Referendum agents

Observers

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

Information, guidance, advice and encouragement

- 23 Information for voters
24 Guidance
25 Advice
26 Encouraging participation

Report on referendum

- 27 Report on the conduct of the referendum

Electoral Commission: administrative provision

- 28 Reimbursement of Commission's costs
29 Estimates of expenditure
30 Maladministration

Offences

- 31 Offences
32 Offences by bodies corporate etc.

Power to make supplementary etc. provision and modifications

- 33 Power to make supplementary etc. provision and modifications

Legal proceedings

- 34 Restriction on legal challenge to referendum result

Final provisions

- 35 Interpretation
36 Commencement
37 Short title

SCHEDULE 1 — Form of ballot paper

SCHEDULE 2 — Further provision about voting in the referendum

PART 1 — MANNER OF VOTING

Status: Point in time view as at 18/12/2013.

Changes to legislation: There are currently no known outstanding effects for the Scottish Independence Referendum Act 2013. (See end of Document for details)

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 (2) to (5) 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 provide free of charge to...

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 electors or...

Effect of misdescription

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

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Carrying out of registration functions

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

Alterations in the register of electors

- 17 (1) An alteration in the register of electors under section...

Preparation of the Polling List

- 18 (1) Each registration officer must prepare, in accordance with this...

The cut-off date

- 19 (1) In this Act, the cut-off date means 5pm on...
PART 3 — POSTAL VOTING: ISSUE AND RECEIPT OF BALLOT PAPERS

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

- 20 (1) Without prejudice to sections 18 to 20, no person...

Notification of requirement of secrecy

- 21 The counting officer must make such arrangements as are reasonably...

Time when postal ballot papers are to be issued

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

Issue of postal ballot papers

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

Refusal to issue postal ballot paper

- 24 Where a counting officer is satisfied that two or more...

Envelopes

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

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

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

Payment of postage on postal ballot papers

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

Spoilt postal ballot papers

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

Lost postal ballot papers

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

Superseded postal ballot papers

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

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Notice of opening of postal ballot paper envelopes

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

Boxes and receptacles

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

Receipt of covering envelopes and collection of postal votes

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

Opening of postal voters box

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

Opening of covering envelopes

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

Confirmation of receipt of postal voting statement

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

Procedure in relation to postal voting statements

37 (1) This paragraph applies to any postal voting statement contained...

Procedure in relation to postal voting statements: personal identifier verification

38 (1) This paragraph applies to any postal voting statement contained...

Postal voting statements: additional personal identifier verification

39 (1) A counting officer may on any occasion on which...

Opening of ballot paper envelopes

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

Retrieval of cancelled postal ballot papers

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

Lists of provisionally rejected postal ballot papers

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

Checking of lists kept under paragraph 42

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

Sealing of receptacles

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

Forwarding of documents

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

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Power of Chief Counting Officer to prescribe

- 46 (1) In paragraphs 10(2) and 45(1)(b), “prescribed” means prescribed by...

Interpretation of Part

- 47 In this Part— “postal ballot paper” means a ballot paper...
PART 4 — SUPPLY OF POLLING LIST ETC.

Supply of free copy of Polling List etc. to counting officers

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

Supply of free copy of Polling List etc. to Electoral Commission

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

Supply of free copy of edited Polling List etc. to designated organisations

- 50 (1) If a designated organisation so requests, the registration officer...

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

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

Supply of data

- 52 A duty of a registration officer to supply data under...

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

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

Offence in relation to disclosure of registration documents

- 54 (1) A person (“A”) commits an offence—

Destruction of copies of the Polling List etc.

- 55 (1) This paragraph applies to any person holding a copy...
PART 5 — SUPPLY OF MARKED POLLING LIST ETC.

Supply of marked Polling List etc. to designated organisations

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

Fee for supply of marked Polling List etc.

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

SCHEDULE 3 — 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.

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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 reasonably practicable...

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 in polling station

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

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Sealing of ballot boxes

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

Questions to be put to voters

- 19 (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 reasonably practicable after the close of...

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...

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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 7(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 4 — 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—...

Further provision about responsible persons

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

Register of declarations under paragraph 2

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

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Designated organisations

- 6 (1) The Electoral Commission may, in relation to each of...

Applications for designation under paragraph 6

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

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

- 8 (1) Subject to the provisions of this paragraph, persons authorised...

Supplementary provisions about use of rooms for public meetings

- 9 (1) This paragraph has effect with respect to the rights...

PART 3 — REFERENDUM EXPENSES

Referendum expenses

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

Expenses qualifying where incurred for referendum purposes

- 11 (1) For the purposes of paragraph 10(2)(a) the expenses falling...

Notional referendum expenses

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

Restriction on incurring referendum expenses

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

Restriction on payments in respect of referendum expenses

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

Restriction on making claims in respect of referendum expenses

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

Disputed claims

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

Rights of creditors

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

General restriction on referendum expenses

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

Special restrictions on referendum expenses by permitted participants

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

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Referendum expenses incurred as part of common plan

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

Returns as to referendum expenses

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

Auditor's report on return

- 22 (1) Where the return prepared under paragraph 21 in respect...

Delivery of returns to Electoral Commission

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

Declaration of responsible person as to return under paragraph 21

- 24 (1) Each return prepared under paragraph 21 in respect of...

Public inspection of returns under paragraph 21

- 25 (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.

- 26 (1) This paragraph applies to any material which—

Details to appear on referendum material

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

Display of advertisements

- 28 The Town and Country Planning (Control of Advertisements) (Scotland) Regulations...

PART 5 — CONTROL OF DONATIONS

Operation and interpretation of this Part

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

Donations: general rules

- 30 (1) “Donation”, in relation to a permitted participant, means (subject...

Sponsorship

- 31 (1) For the purposes of this schedule sponsorship is provided...

Payments etc. not to be regarded as donations

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

Value of donations

- 33 (1) The value of any donation falling within paragraph 30(1)(a)...

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Prohibition on accepting donations from impermissible donors

34 (1) A relevant donation received by a permitted participant must...

Acceptance or return of donations

35 (1) Sub-paragraph (2) applies where— (a) a donation is received...

Return of donation where donor unidentifiable

36 (1) For the purposes of paragraph 35(3)(b), the required steps...

Forfeiture of donations made by impermissible or unidentifiable donors

37 (1) This paragraph applies to any donation received by a...

Evasion of restrictions on donations

38 (1) A person commits an offence if the person—

Statement of relevant donations

39 The responsible person in relation to a permitted participant must...

Donations from permissible donors

40 (1) The statement must record, in relation to each relevant...

Donations from impermissible or unidentifiable donors

41 (1) This paragraph applies to relevant donations falling within paragraph...

Donation reports during referendum period

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

Declaration of responsible person as to donation reports under paragraph 42

43 (1) Each report prepared under paragraph 42 in respect of...

Public inspection of donation reports under paragraph 42

44 (1) Where the Electoral Commission receive a report under paragraph...
PART 6 — CONTROL OF LOANS AND CREDIT

Operation of Part

45 (1) This Part has effect for controlling regulated transactions entered...

Regulated transactions

46 (1) An agreement between a permitted participant and another person...

Valuation of regulated transaction

47 (1) The value of a regulated transaction which is a...

Status: Point in time view as at 18/12/2013.

Changes to legislation: There are currently no known outstanding effects for the Scottish Independence Referendum Act 2013. (See end of Document for details)

Authorised participants

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

Regulated transaction involving unauthorised participant

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

Guarantees and securities: unauthorised participant

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

Transfer to unauthorised participant invalid

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

Offences

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

Penalties

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

Statement of regulated transactions

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

Identity of authorised participants

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

Identity of unauthorised participants

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

Details of transaction

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

Changes

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

Total value of non-recordable transactions

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

Transaction reports during referendum period

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

Declaration of responsible person as to transaction reports under paragraph 60

61 (1) Each report prepared under paragraph 60 in respect of...

Public inspection of transaction reports under paragraph 60

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

*Status: Point in time view as at 18/12/2013.**Changes to legislation: There are currently no known outstanding effects for the Scottish Independence Referendum Act 2013. (See end of Document for details)**Non-disclosure with intent to conceal*

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

Proceedings under paragraphs 49 and 63

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

Interpretation

65 (1) In this Part— “authorised participant” is to be construed...

SCHEDULE 5 — Campaign rules: investigatory powers of the Electoral Commission

Power to require disclosure

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

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...

Court order for delivery of documents or provision of information etc.

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

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...

Status: Point in time view as at 18/12/2013.

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Offences

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

Guidance by Commission

- 13 (1) Guidance (and revised guidance) published by the Electoral Commission...

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 6 — 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...

Discretionary requirements: criminal conviction

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

Status: Point in time view as at 18/12/2013.

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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

- 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

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...

Status: Point in time view as at 18/12/2013.

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Unincorporated associations

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

Guidance as to enforcement

26 (1) Guidance (and revised guidance) published by the Electoral Commission...

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

The following table lists campaign offences for the purposes of...

SCHEDULE 7 — 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...

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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...

Prosecutions 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—

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SCHEDULE 8 — Interpretation

In this Act— “the 1983 Act” means the Representation of...

Status:

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Changes to legislation:

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