

SCHEDULE 3

Article 12(2)

ABSENT VOTING

ARRANGEMENT OF PARAGRAPHS

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Explanatory Note

**General requirements for applications**

1.—(1) Applications under article 8, 9, 10, or 11 shall, in addition to the address which is required by article 8(7), 9(5) or 11(12) (as the case may be) in the case of a person applying to vote by post, state—

- (a) the applicant’s full name;
- (b) except in the case of an application under article 11, the address in respect of which the applicant is or will be registered in the register;
- (c) in the case of an application under article 11, the address of the applicant, together with the name of the elector for whom he acts as proxy and the address of that elector for the purposes of sub-sub-paragraph (b) above; and
- (d) in the case of an application under article 8(1), 9(1) or 11(4) or (7), the grounds on which the applicant claims to be entitled to an absent vote,

and the application shall be signed by the applicant and made and sent or delivered in accordance with article 92.

(2) For the purposes of paragraph (1)(b) above, the address in respect of which the applicant is or will be registered includes—

- (a) in the case of a service voter, the address given in the service declaration in accordance with section 16(d) of the 1983 Act; and

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- (b) in the case of a voluntary mental patient, the address given in the patient's declaration in accordance with section 7(4)(d)(iv) of the 1983 Act.
- (3) An application under article 9(1) or (2), 10(7) or 11(7) or (8) shall specify the election in respect of which it is made.
- (4) An application to vote by proxy under article 8(1) or (6) or 9(1) or (2) shall include an application for the appointment of a proxy which meets the requirements of paragraph 6 below.
- (5) An application under article 8, 9, 10, or 11 shall comply with such further requirements of this Schedule as apply to such an application including the requirements as to time set out by paragraph 8 below.

#### **Additional requirements for applicant no longer resident at qualifying address**

- 2. An application under article 8(2)(b) shall specify the address, if any, at which the applicant is resident at the date of the application.

#### **Additional requirements for applications on grounds of physical incapacity**

- 3.—(1) An application under article 8(2)(c) shall specify the physical incapacity by reason of which the application is made.

- (2) Subject to sub-paragraphs (3) and (5) below, such an application shall be attested and signed by—

- (a) a registered medical practitioner;
- (b) a registered nurse within the meaning of section 10(7) of the Nurses, Midwives and Health Visitors Act 1979(1); or
- (c) a Christian Science practitioner;
- (d) in the case of an application in which the applicant states that he is resident in an establishment within the meaning of section 61 of the Social Work (Scotland) Act 1968(2) in respect of which a person is required to be registered under that section, that person,
- (e) in the case of an application in which the applicant states that he is resident in residential accommodation provided by a local authority under section 59(2) of the Social Work (Scotland) Act 1968 the matron or other person in charge of that accommodation;
- (f) in the case of an application in which the applicant states that he resides in premises forming one of a group of premises—
  - (i) which are provided for persons of pensionable age or physically disabled persons; and
  - (ii) for which there is a resident warden,that warden.

- (3) But a person may not attest an application under article 8(2)(c) by virtue of sub-paragraphs (2)(a), (b) or (c) above, unless he is treating the applicant for the physical incapacity specified in accordance with sub-paragraph (1) above or the applicant is receiving care from him in respect of that incapacity.

- (4) The person attesting an application under sub-paragraph (2) above shall state—

- (a) his name and address and the qualification by virtue of which he is authorised to attest the application and, where the person attests the application by virtue sub-paragraphs (2) (a), (b) or (c) above, that he is treating the applicant for the physical incapacity specified

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(1) 1979 c. 36.  
(2) 1968 c. 49

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- in accordance with sub-paragraph (1) above or the applicant is receiving care from him in respect of that incapacity;
- (b) that, to the best of his knowledge and belief, the applicant is suffering from the physical incapacity specified in the application and that he cannot reasonably be expected to go in person to his allotted polling station or to vote unaided there, by reason of that incapacity; and
  - (c) that, to the best of his knowledge and belief, the physical incapacity specified in the application is likely to continue either indefinitely or for a period specified by the person attesting the application.
- (5) Sub-paragraphs (2) and (4) above shall not apply where—
- (a) the application is based on the applicant’s blindness and the applicant is registered as a blind person by a local authority, or by a local society for the blind, which is specified in the application;
  - (b) the application states that the applicant is (under section 73 of the Social Security Contributions and Benefits Act 1992<sup>(3)</sup>) in receipt of the higher rate of the mobility component of a disability living allowance (payable under section 71 of that Act) because of the physical incapacity specified in the application in pursuance of sub-paragraph (1) above.
- (6) The fact that an applicant is registered with a local authority or local society for the blind shall be deemed sufficient evidence that he is eligible for an absent vote on the grounds set out article 8(2)(c).
- (7) In this paragraph and paragraphs 4 and 5 below, “his allotted polling station”, in relation to an elector, means the polling station allotted or likely to be allotted to him under this Order.

#### **Additional requirements for applications based on occupation, service or employment**

- 4.—(1) An application under article 8(2)(d) shall state—
- (a) whether the occupation, service or employment, in respect of which it is made, is that of the applicant or his spouse;
  - (b) the nature of the occupation, service or employment in respect of which it is made;
  - (c) where the person in respect of whose occupation, service or employment it is made; (in this paragraph referred to as “the employed person”) is self-employed, that fact and, in any other case, the name of that person’s employer, and
  - (d) why the applicant cannot reasonably be expected to go in person to his allotted polling station by reason of the general nature of the occupation, service or employment referred to in sub-sub-paragraph (b) above.
- (2) Such an application shall be attested and signed—
- (a) where the employed person is self-employed, by a person who—
    - (i) is aged 18 years or over;
    - (ii) knows the employed person; and
    - (iii) is not related to him; and
  - (b) in any other case, by the employer of the employed person or by another employee to whom this function is delegated by the employer.

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(3) 1992 c. 4.

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(3) For the purposes of sub-paragraph(2)(a) above and of sub-paragraph (4)(i) below, one person is related to another if he is the husband, wife, parent, grandparent, brother, sister, child or grandchild of the other.

(4) The person attesting an application under sub-paragraph (2) above shall—

(a) where the applicant is the employed person, certify that the statements included in the application in accordance with the requirements of sub-paragraph (1)(a) to (d) above are true; or

(b) where the applicant is the spouse of the employed person, certify that the statements included in the application in accordance with the requirements of sub-paragraphs (1)(a) to (c) above are true,

and, in addition, he shall state—

(i) in the case of a person who attests an application under sub-paragraph (2)(a) above, his name and address, and that he is aged 18 years or over, knows the employed person, but is not related to him; or

(ii) in the case of a person who attests an application under sub-paragraph (2)(b) above, either that he is the employer of the employed person or the position he holds in the employment of that employer.

#### **Additional requirements for applications in respect of a particular election**

**5.—(1)** An application under article 9(1) shall set out why the applicant’s circumstances on the date of the poll for the election in respect of which it is made will be or are likely to be such that he cannot reasonably be expected to vote in person at his allotted polling station.

(2) Such an application—

(a) which is received by the registration officer after 5pm on the eleventh day (calculated in accordance with paragraph 8(5) below) before the date of the poll at the election in question (“the standard closing date for applications”) but before 5pm on the sixth day (so calculated) before the date of that poll; and

(b) in which the circumstances set out in accordance with sub-paragraph (1) above relate to the applicant’s health,

shall—

(i) include a statement to the effect that, before the standard closing date for applications, the applicant could not have reasonably foreseen that those circumstances would, or would be likely to, exist on the date of the poll; and

(ii) be attested in accordance with sub-paragraph (3) below and signed by one of the persons specified in paragraph 3(2) (a), (b) and (c) above.

(3) The person attesting an application under sub-paragraph (2) above shall state—

(a) his name and address and the qualification by virtue of which he is authorised to attest it; and

(b) that, so far as he is aware, the statement included in the application in pursuance of sub-paragraph (2)(i) above is true.

(4) An application under article 9(1)—

(a) which is received by the registration officer between the times specified in sub-paragraph (2)(a) above; and

(b) in which the circumstances set out in accordance with sub- paragraph (1) above relate to the applicant’s employment either as a constable or by a returning officer on the date of the poll at the election for which the application is made for a purpose connected with that

election or some other election (including, for these purposes, a parliamentary, European Parliamentary or local government election) the poll for which is held on the same day, shall—

- (i) state the employment in question, and
- (ii) in addition to the applicant's signature, be signed, in the case of a constable, by an officer of a police force of or above the rank of inspector or, in the case of a person employed by a returning officer, by that returning officer.

#### **Additional requirements for applications for appointment of a proxy**

6. An application for the appointment of a proxy under article 10(6) or (7) shall state the full name and address of the person whom the applicant wishes to appoint as his proxy, together with his family relationship, if any, with the applicant, and—

- (a) if it is signed only by the applicant, shall contain a statement by him that he has consulted the person so named and that that person is capable of being and willing to be appointed to vote as his proxy, or
- (b) if it is also signed by the person to be appointed, shall contain a statement by that person that he is capable of being and willing to be appointed to vote as the applicant's proxy.

#### **Additional requirements for applications by proxies to vote by post at a particular election**

7. An application under article 11(7) shall set out why the applicant's circumstances on the date of the poll for the election in respect of which it is made will be or are likely to be such that he cannot reasonably be expected to vote in person at the polling station allotted or likely to be allotted to the elector under this Order.

#### **Closing dates for applications**

8.—(1) An application—

- (a) to vote by post or proxy under article 8(1);
- (b) by an absent voter to alter his choice as to the manner of absent voting under article 8(6);
- (c) for the appointment of a proxy under article 10(6); or
- (d) from a proxy to vote by post under article 11(4),

shall be disregarded for the purposes of any particular election if it is received by the registration officer after 5pm on the eleventh day before the date of the poll at that election.

(2) Subject to sub-paragraph (3) below, an application—

- (a) to vote by post or proxy under article 9(1);
- (b) by a postal voter for his ballot papers to be sent to a different address or to vote instead by proxy at a particular election under article 9(2);
- (c) for the appointment of a proxy under article 10(7);
- (d) from a proxy to vote by post under article 11(7); or
- (e) from a postal proxy for his ballot papers to be sent to a different address at a particular election under article 11(8),

shall be disallowed if it is received by the registration officer after 5pm on the eleventh day before the date of the poll at the election for which it was made.

(3) Sub-paragraph (2) above shall not apply to an application which satisfies the requirements of either sub-paragraphs (2) and (3) of paragraph 5 above or sub-paragraph (4) of paragraph 5 above;

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and such an application shall be disallowed if it is received by the registration officer after 5pm on the sixth day before the date of the poll at the election for which it was made.

(4) The following, namely—

- (a) an application under article 8(5)(a) by an elector to be removed from the record kept under article 8(4);
- (b) an application under article 11(11)(a) by a proxy to be removed from the record kept under article 11(6); and
- (c) a notice under article 10(9) of the cancellation of a proxy's appointment,

may be disregarded for the purposes of any particular election if it is received by the registration officer after 5pm on the eleventh day before the date of the poll at that election.

(5) In computing a period of days for the purposes of paragraph 5 above and this paragraph—

- (a) a Saturday or a Sunday;
- (b) Christmas Eve, Christmas Day, Easter Monday or Good Friday; or
- (c) a day which is a bank holiday in Scotland under the Banking and Financial Dealings Act 1971,

shall be disregarded.

### **Grant or refusal of applications**

9.—(1) Where the registration officer grants an application under article 8, 9, 10 or 11 he shall, where practicable, notify the applicant of his decision.

(2) The proxy paper to be issued by the registration officer on the appointment of a proxy may be combined with another form of proxy paper if the registration officer is issuing a proxy paper appointing that person as proxy for the same elector in respect of another election or other elections.

(3) Where the registration officer disallows an application under article 8, 9, 10 or 11, he shall notify the applicant of his decision and, in the case of an application under article 8(1) or 11(4), of the reason for his decision; and he shall date such notification.

(4) Where under paragraph 8(1) or (4) above the registration officer disregards an application for the purposes of any particular election, he shall, where practicable, notify the applicant of this.

### **Notice of appeal**

10.—(1) A person desiring to appeal under article 4(1) against the decision of a registration officer must give notice of the appeal to the registration officer within 14 days of the receipt of the notice given under paragraph 9(3) above, specifying the grounds of the appeal.

(2) The registration officer shall forward any such notice to the sheriff with a statement of the material facts which in his opinion have been established in the case, of his decision upon the whole case, and on any point which may be specified as a ground of appeal and shall also give to the sheriff any other information which the sheriff may require and which the registration officer is able to give.

(3) Where it appears to the registration officer that any notices of appeal given to him are based on similar grounds, he shall inform the sheriff so that the sheriff may consolidate the appeals or select a case as a test case.

### **Cancellation of proxy appointment**

11. Where the appointment of a proxy is cancelled by notice given to the registration officer under article 10(9) or ceases to be in force under that provision or is no longer in force under article 10(10)(b), the registration officer shall—

- (a) notify the person whose appointment as proxy has been cancelled or ceases to be or is no longer in force, unless the registration officer has previously been notified by that person that he no longer wishes to act as proxy; and
- (b) remove his name from the record kept under article 8(4).

### **Inquiries by registration officer**

**12.**—(1) The registration officer may, at such times as he thinks fit, make inquiries of a person—

- (a) who is shown in the record kept under article 8(4) by virtue of an application under that article on the grounds set out in article 8(2)(c) or (d);
- (b) who is shown in that record by virtue of an application having been treated as granted under paragraph 16(1) below but who immediately before the commencement date was shown in a record kept under section 6(3) of the 1985 Act by virtue of an application under that section on the grounds set out in of section 6(2) (b) or (c) of that Act, for the purpose of determining whether there has been a material change of circumstances.

(2) In the case of a person who is shown in the record kept under article 8(4) by virtue of an application under that article on the grounds set out in article 8(2)(d), to whom sub-paragraph (1) (b) above applies and who immediately before the commencement date was shown in a record kept under section 6(3) of the 1985 Act by virtue of an application under that section on the grounds set out in section 6(2)(c) of that Act, the registration officer shall make the inquiries referred to in sub-paragraph (1) above not later than three years after the date of the granting of the application or the last such inquiries, as the case may be.

(3) In respect of a person to whom sub-paragraph (1)(b) above applies, the date of commencement shall be treated as the date of the granting of the application.

(4) The registration officer may treat the failure by a person of whom inquiries have been made under sub-paragraph (1) or (2) above to respond to such inquiries within one month of the date on which they were made as sufficient evidence of a material change in circumstances.

(5) In this paragraph “commencement date” means the date on which this Order comes into force.

### **Records and lists kept under articles 8, 9 and 11**

**13.**—(1) Subject to the provisions of this paragraph, the records kept under articles 8(4) and 11(6) and the lists kept under articles 9(4) and 11(9) shall be in such form as the registration officer thinks fit.

(2) In that part of the absent voters list referred to in article 9(4)(a), the address to which a ballot paper shall be sent to a person who is entitled to vote by post as an elector shall be placed on the right hand side of his name and electoral number.

(3) In that part of the absent voters list referred to in article 9(4)(b) (the list of proxies), the name and address of the proxy shall be placed on the right hand side of the elector’s name and electoral number.

(4) In the list kept under article 11(9) (those proxies who are entitled to vote by post), the name of the proxy, together with the address to which his ballot paper shall be sent, shall be placed on the right hand side of the elector’s name and electoral number.

(5) The registration officer shall make available for inspection at his office a copy of the records kept under articles 8(4) and 11(6).

(6) As soon as practicable after the day referred to in paragraph 8(1) above, the registration officer shall publish the lists kept under articles 9(4) and 11(9) by making a copy of them available for inspection at his office; and he shall continue to make a copy of those lists so available until the date of the poll.

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(7) Subject to sub-paragraph (8) below, as soon as practicable after the publication of the lists referred to in sub-paragraph (6) above, the registration officer shall, on request, supply free of charge a copy of them to each—

- (a) candidate for return as a constituency member, or his election agent; or
- (b) individual candidate for return as a regional member or nominating officer of a party standing nominated or the election agent of such a candidate or party.

(8) But if such a request is made before any issue of postal ballot papers, he shall before that issue supply a copy of those lists or so much of them as relates to that issue.

(9) In this paragraph, “electoral number” means a person’s number in the register to be used at the election or, pending publication of the register, his number (if any) in the electors lists for that register.

#### **Marked register for polling stations**

14. To indicate that an elector or his proxy is entitled to vote by post and is for that reason not entitled to vote in person, the letter “A” shall be placed against the name of that elector in any copy of the register, or part of it, provided for a polling station.

#### **Certificate of employment at an election**

15. The certificate as to the employment of constables and persons employed by a returning officer on the date of the poll at an election (to enable such a constable or person to vote elsewhere than at his own polling station) shall be in the form U set out in the Appendix and shall be signed, in the case of a constable, by an officer of a police force of or above the rank of inspector.

#### **Transitional provision for absent voters**

16.—(1) In relation to any person who, immediately before the commencement date, was entitled—

- (a) under the 1985 Act to be treated as an absent voter for an indefinite period; and
- (b) to vote by post or by proxy at local government elections,

articles 8 to 12 shall have effect—

- (i) as if an application by him under article 8 so to vote at Scottish parliamentary elections had been granted on that date;
- (ii) where, immediately before that date, an appointment of a person to vote for him as proxy at local government elections was in force, as if the appointment had been made under article 10 on that date in respect of Scottish parliamentary elections; and
- (iii) where the application treated as granted by virtue of sub-sub-paragraph (i) above is an application to vote by post, as if he had specified in the application as the address to which his ballot papers are to be sent the address provided by him for the purpose of those other elections.

(2) Where an appointment of a person to vote as proxy for another at local government elections is treated by virtue of sub-paragraph (1) above as made under article 10 and immediately before the commencement date the proxy was entitled—

- (a) under the 1985 Act so to vote for an indefinite period; and
- (b) to vote by post at such elections,

article 11 shall have effect—



- (i) where the proxy's entitlement was based on his entitlement as elector to vote by post, as if an application by him under article 11(4)(a) to vote by post as proxy at Scottish parliamentary elections had been granted on that date; and
  - (ii) where the proxy's entitlement was based on the situation of the address to which his ballot paper was to be sent, as if an application by him under article 11(4)(b) to vote by post as proxy at Scottish parliamentary elections had been granted on that date.
- (3) In this paragraph—
- (a) “commencement date” means the on which this Order comes into force; and
  - (b) references to—
    - (i) in entitlement to vote by post or by proxy; or
    - (ii) an appointment to vote as proxy for another,at local government elections include such an entitlement or appointment where it also entitles or appoints a person so to vote at parliamentary elections.