

## SCHEDULES

### SCHEDULE 10

Article 82

Access to marked registers and other documents open to public inspection after an election

#### Interpretation of this Schedule

1.—(1) In this Schedule references to the “marked register or lists” means any part of the marked copies of—

- (a) the full register,
- (b) notices amending that register under sections 13A(2), 13B(3), (3B) or (3D) or 13BB(4) or (5) of the 1983 Act<sup>(1)</sup> (alteration of registers),
- (c) the postal voters list,
- (d) the list of proxies, and
- (e) the proxy postal voters list,

which were forwarded to the relevant registration officer under paragraph 59 of Schedule 2 (retention of postal ballot papers, etc) or rule 66 of the PCC elections rules (retention of documents).

(2) In this Schedule—

- (a) “full register” and “edited register” have the same meaning as in the 2001 Regulations;
- (b) “processor” means a person who provides a service which consists of putting information into data form and any reference to a processor includes a reference to the processor’s employees;
- (c) “relevant conditions” has the same meaning as in section 33(1) of the Data Protection Act 1998<sup>(2)</sup>;
- (d) “research purposes” has the same meaning as in section 33(1) of the Data Protection Act 1998; and
- (e) any reference to an employee of any person who has access to a copy of the full register includes a reference to any person working or providing services for the purposes of that person or employed by or on behalf of, or working for, any person who is so working or who is supplying such a service.

(3) Subject to any direction given by the Secretary of State under article 6, any duty of a relevant registration officer to supply records or lists or make them available for inspection under this Schedule imposes only a duty to provide that information in the form in which the relevant registration officer holds it.

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(1) Section 13A of the Representation of the People Act 1983 was substituted by paragraph 6 of Schedule 1 to the Political Parties, Elections and Referendums Act 2000. Section 13B was inserted by paragraph 3 of Schedule 2 to the Representation of the People Act 2000 (c.2) and amended by section 11(3) of the Electoral Administration Act 2006 (c.22) and section 74 of, and paragraph 3 of Schedule 10 to, the Police Reform and Social Responsibility Act 2011 (c.13). Subsections (3B) and (3D) were inserted by section 11(4) of the Electoral Administration Act 2006. Section 13BB was inserted by section 23(1) of the Political Parties and Elections Act 2009 (c.12).

(2) 1998 c.29.

## Supply of marked registers and lists after an election

2.—(1) Any person who, in accordance with any of the provisions listed in sub-paragraph (2), is entitled to be supplied with copies of the full register at the time of a particular PCC election is also a person entitled to request that a relevant registration officer supply copies of the relevant part (within the meaning of the listed provisions) of the marked register or lists the relevant registration officer is required to keep.

(2) The listed provisions are—

- (a) paragraph 3 of Schedule 1 (supply of full register etc to police and crime commissioner and restrictions on use);
- (b) paragraph 5 of Schedule 1 (supply of full register etc to candidates and restrictions on use);
- (c) regulation 100 of the 2001 Regulations (supply of free copy of full register etc to Commission and restrictions on use);
- (d) regulation 105 of the 2001 Regulations (supply of full register etc to local constituency parties and restrictions on use);
- (e) regulation 106 of the 2001 Regulations (supply of full register etc to registered political parties and restrictions on use);
- (f) regulation 109 of the 2001 Regulations (supply of full register etc to police forces and other agencies and restrictions on use);
- (g) regulation 113 of the 2001 Regulations (sale of full register to government departments and other bodies).

(3) A person who was entitled to request copies of the marked register or lists under sub-paragraph (1) by being in a category of persons covered by sub-paragraph (2)(a), (b), (d) or (e) before a particular PCC election, is entitled to request those documents regardless of whether that person remains in an entitled category after the election for which the marked register or list was prepared.

(4) A request under sub-paragraph (1) must be made in writing and must—

- (a) specify which of the marked register or lists (or the relevant part of the register or lists) is requested,
- (b) state whether a printed copy is requested or a copy in data form, and
- (c) state the purposes for which the marked register or lists will be used and why the supply or purchase of a copy of the full register or unmarked lists would not be sufficient to achieve those purposes.

(5) The relevant registration officer must supply a copy of the relevant part of the marked register or lists where a request is duly made, and—

- (a) the relevant registration officer is satisfied that the requestor needs to see the marks on the marked register or lists in order to achieve the purpose for which it is requested, and
- (b) the relevant registration officer has received payment of a fee calculated in accordance with paragraph 6.

(6) If the relevant registration officer is not satisfied in accordance with sub-paragraph (5)(a) the relevant registration officer must inform the requestor of the relevant registration officer's decision under this paragraph; and

- (a) where the request relates to the marked register, provide the requestor with information concerning the availability of the published full register for inspection in accordance with regulation 43 of the 2001 Regulations (publication of register);
- (b) where the request relates to the marked lists, provide information concerning the availability of the unmarked lists in accordance with paragraphs 20 and 21 of Schedule 2 (absent voting lists: supply of copies and inspection).

(7) A person who obtains a copy of any part of a marked register or list under this paragraph may use it only for the permitted purposes specified in paragraph 5(3), and such use is also subject to—

- (a) any conditions specified in paragraph 5, or
- (b) where the request to the registration officer is made by reference to a provision specified in sub-paragraph (8), any conditions which would apply to the use of the full register under whichever of the listed provisions entitled that person to obtain that document.

(8) The specified provisions are—

- (a) paragraph 3(3) of Schedule 1;
- (b) paragraph 5(3) of Schedule 1;
- (c) regulation 100(3) of the 2001 Regulations;
- (d) regulation 105(4) of the 2001 Regulations;
- (e) regulation 106(3) of the 2001 Regulations;
- (f) regulation 109(3) of the 2001 Regulations;
- (g) regulation 113 of the 2001 Regulations.

(9) Where a person has been supplied with a marked register or list, or any information contained in it (that is not contained in the edited register), by a person to whom a provision specified in sub-paragraph (8) applies, the restrictions in that provision also apply to the person to whom the register, list or information was supplied, as they apply to that other person.

(10) Any person who has obtained or is entitled to obtain a copy of the marked register or lists under this paragraph may—

- (a) supply a copy of the marked register or lists to a processor for the purpose of processing the information it contains, or
- (b) procure that a processor processes and supplies to the person any copy of the information in the marked register or lists which the processor has obtained under this paragraph,

for use in respect of the purposes for which that person is entitled to obtain such copy or information (as the case may be).

(11) A processor may not disclose the marked register or lists or the information contained in them except to the person who supplied it to the processor or any other person, or an employee of such a person, who is entitled to obtain a copy of the marked register or lists under this Schedule.

### **Inspection of documents open to public inspection**

**3.—**(1) Any person is entitled to request that the relevant registration officer make available for inspection a copy of any of the following documents (referred to in this Schedule as “the documents open to public inspection”)—

- (a) the marked register or lists;
- (b) such other documents relating to a PCC election as the relevant registration officer is required by or under any enactment to retain for any period except—
  - (i) ballot papers;
  - (ii) completed corresponding number lists;
  - (iii) certificates as to employment on the day of the election.

(2) A request under sub-paragraph (1) must be made in writing and must specify—

- (a) which documents are requested,
- (b) the purposes for which the information in any document will be used,

- (c) where the request is to inspect the marked register or lists, any reason why inspecting the full register or unmarked lists would not be sufficient to achieve those purposes,
- (d) who will inspect the documents,
- (e) the date on which they wish to inspect the documents, and
- (f) whether they would prefer to inspect the documents in printed or data form.

(3) Subject to sub-paragraph (5), the relevant registration officer must make the documents open to public inspection available for inspection under supervision not later than 10 days after the date of receipt of a request that has been duly made.

(4) In computing the period referred to in sub-paragraph (3)—

- (a) a Saturday or Sunday,
- (b) Christmas Eve, Christmas Day, Good Friday or a bank holiday, or
- (c) a day appointed for public thanksgiving or mourning,

is to be disregarded.

(5) Where a request has been made to inspect copies of the marked register or lists under sub-paragraph (2) and the relevant registration officer is not satisfied that the purposes of the requestor cannot be met by inspection of the full register, the relevant registration officer must—

- (a) inform the requestor of the relevant registration officer's decision under this paragraph, and
- (b) provide the requestor with information concerning the availability of the published full register for inspection in accordance with regulation 43 of the 2001 Regulations.

(6) A person who obtains a copy of or information in any document open to public inspection under this paragraph may use it only for the permitted purposes specified in paragraph 5, and such use is also subject to—

- (a) any conditions specified in paragraph 5,
- (b) any conditions specified in sub-paragraph (8), and
- (c) any conditions which would apply to the use of the full register under regulation 109 of the 2001 Regulations where such a person had obtained a copy of that document under sub-paragraph (9).

(7) Where inspection takes place by providing the records or lists on a computer screen or otherwise in data form, the relevant registration officer must ensure that the manner in which, and equipment on which, that copy is provided do not permit any person consulting that copy to—

- (a) search it by electronic means by reference to the name of any person; or
- (b) copy or transmit any part of that copy by electronic or any other means.

(8) Subject to sub-paragraph (9), a person who inspects a copy of a document open to public inspection, whether a printed copy or in data form, may not—

- (a) make copies of any part of it, or
- (b) record any particulars in it,

except that a person who inspects a copy of the marked register or lists may make hand-written notes.

(9) The relevant registration officer must, on request, supply free of charge copies of any documents open to public inspection—

- (a) to the Security Service, the Government Communications Headquarters, or the Secret Intelligence Service;

- (b) to a person who has inspected those documents and who is entitled to be supplied with a copy of the marked register or lists by virtue of being a person to whom regulation 109 of the 2001 Regulations applies.

#### **Restrictions on use, supply and disclosure of documents by registration officer and staff**

- 4.—(1) This paragraph applies to—
- (a) the relevant registration officer,
  - (b) any deputy registration officer, and
  - (c) any person appointed to assist a relevant registration officer or who in the course of that person’s employment is assigned to assist the relevant registration officer.
- (2) A person to whom this paragraph applies must not—
- (a) supply to any person a copy of the documents open to public inspection,
  - (b) disclose information contained in those documents (and not contained in the edited register), or
  - (c) make use of any such information,

otherwise than in accordance with an enactment, including this Order.

(3) Nothing in sub-paragraph (2) applies to the supply or disclosure by a person (“P”) to whom this paragraph applies to another such person in connection with P’s registration duties or for the purposes of an election or referendum.

#### **Other restrictions on use of documents or information contained in them**

5.—(1) This paragraph applies to any person who has obtained access to a copy of the documents open to public inspection or information contained in them by any means.

- (2) No person to whom this paragraph applies may—
- (a) supply a copy of the documents open to public inspection or any part of those documents,
  - (b) disclose any information contained in those documents (that is not contained in the edited register), or
  - (c) make use of any such information,

other than for a permitted purpose specified sub-paragraph (3) or (4).

(3) Where a person obtains copies of the information in the marked register or lists in accordance with paragraph 2(1) or inspects information in accordance with paragraph 3(1), the permitted purposes are—

- (a) research purposes, or
- (b) electoral purposes.

(4) Where a copy of any information was supplied in the circumstances to which paragraph 3(9) applies, the permitted purposes are—

- (a) the prevention and detection of crime and the enforcement of the criminal law (whether in England and Wales or elsewhere), or
- (b) the vetting of a relevant person (within the meaning of regulation 109(5) of the 2001 Regulations) for the purpose of safeguarding national security.

### **Calculating the fee for supply of marked registers or lists**

6.—(1) The fee to be paid in accordance with paragraph 2(5)(b) by a person making a request for a copy of the whole or of any part of the marked register or lists is set out in sub-paragraph (2).

(2) The fee shall be the sum of £10, plus for a copy—

- (a) in printed form, £2 for each 1,000 entries (or remaining part of 1,000 entries) covered by the request, and
- (b) in data form, £1 for each 1,000 entries (or remaining part of 1,000 entries) covered by the request.

(3) For the purposes of this paragraph, a request for a copy of the whole or the same part of the marked register or lists in both a printed and data form may be treated as two separate requests.

### **Failure to comply with conditions relating to supply etc of certain documents**

7.—(1) A person is guilty of an offence—

- (a) if the person fails to comply with any of the provisions specified in sub-paragraph (2), or
- (b) if the person is an appropriate supervisor of a person (“P”) who fails to comply with such a provision and the supervisor failed to take appropriate steps.

(2) The specified provisions are paragraphs 2(7), (9) and (11), 3(6) and (8), 4(2) and 5(2).

(3) P is not guilty of an offence under sub-paragraph (1) if—

- (a) P had an appropriate supervisor, and
- (b) P has complied with all the requirements imposed on P by P’s appropriate supervisor.

(4) A person who is not P or an appropriate supervisor is not guilty of an offence under sub-paragraph (1) if the person takes all reasonable steps to ensure that he or she complies with the provisions specified in sub-paragraph (2).

(5) In sub-paragraphs (1)(b), (3) and (4)—

- (a) an appropriate supervisor is a person who is a director of a company or concerned in the management of an organisation in which P is employed or under whose direction or control P is;
- (b) appropriate steps are such steps as it was reasonable for the appropriate supervisor to take to secure the operation of procedures designed to prevent, so far as reasonably practicable, the occurrence of a failure to comply with the provisions specified in sub-paragraph (2).

(6) A person guilty of an offence as mentioned in sub-paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.