

SCOTTISH INDEPENDENCE REFERENDUM (FRANCHISE) ACT 2013

EXPLANATORY NOTES

BACKGROUND TO THE ACT

Schedule 1, Part 3

40. *Part 3* applies (with modifications where appropriate) regulations from the Representation of the People (Scotland) Regulations 2001.¹ As with *Part 2*, in the main the modifications are made to adapt the wording of provision to the context of the RYV, rather than to make substantive changes to the arrangements that the regulations make. Omissions mainly relate to irrelevant material, such as provision that is relevant only to parliamentary or local government elections, or the registers that relate to them (for example, paragraphs (6) to (10) of regulation 26 are omitted because they relate to the full and edited versions of those registers, but there will only be one version of the RYV, and it will not be published).
41. Regulation 4 requires the ERO to provide registration forms free of charge to any persons who intend to use them in connection with an independence referendum.
42. Regulations 5 and 6 clarify that where an application, notice or objection requires to be made in writing, this includes transmitting the text electronically (as long as it is legible and is capable of later being used for reference) and that electronic signatures can be used.
43. Regulation 8 clarifies that, where time periods are referred to in other regulations, Saturdays, Sundays, Christmas Eve, Christmas Day, Good Friday and Scottish bank holidays are ignored.
44. Regulation 11 provides that damaging or removing registration notices is an offence, and on conviction a person can be fined up to £1,000.
45. Regulations 14 to 17 relate to service declarations. Regulation 14 provides that Crown servants who are posted outside the UK and whose salaries are paid in full by Parliament qualify to register by virtue of a service qualification, as members of the forces do. Regulations 15 and 16 set out the information that a service declaration must contain and that it must be transmitted to the ERO for the area containing the address specified in the declaration. Regulation 17 requires the ERO to confirm that a person's service declaration is acceptable, or to return the declaration to the applicant with reasons for its rejection.
46. Regulation 23 provides that an ERO may require any person to provide information that is needed to enable the ERO to maintain the RYV. It is an offence for a person to fail to provide such information and they would be liable to a fine of up to £1,000.

¹ [S.I. 2001/497](#). The Regulations have been extensively amended. [S.I. 2002/1872](#) and [2007/925](#) each make a large number of amendments that are significant for regulations that this Bill applies; there are also relevant amendments in [S.I. 2005/2114](#), [2006/834](#) and [S.I. 2009/725](#).

*These notes relate to the Scottish Independence Referendum (Franchise)
Act 2013 (asp 13) which received Royal Assent on 7 August 2013*

47. Regulation 24 gives an ERO the power to require a person to produce evidence of their age or nationality for registration purposes if the ERO has doubts about these matters. The ERO may require the following as evidence:
 - a birth certificate or statutory declaration of the person's date of birth;
 - a certificate of nationalisation;
 - a document showing that the person has become a Commonwealth citizen;
 - a statutory declaration that the person is a qualifying Commonwealth citizen, a citizen of the Republic of Ireland or a citizen of the EU.
48. If a fee is payable in order for one of the declarations above to be made, this is paid by the ERO and treated as part of his or her registration expenses which are reimbursed by the Scottish Ministers under section 10 of the Act. The arrangements in this regulation do not apply to applications involving service declarations. The omission of paragraphs (4) and (4A) prevents a declaration being made available for inspection at the ERO's office, to maintain the confidentiality of the RYV. That is in line with the approach taken to declarations relating to the parliamentary and local government registers, where a person either has or has sought an anonymous entry.
49. Regulation 26 sets out the information that an application for registration in the RYV must contain. This includes the applicant's full name, address, date of birth and nationality. Applications must be written, signed and dated.
50. Regulations 27 to 31A set out the arrangements for making objections to registration and applications to be registered. They also set out how these are to be handled. An objection that is invalid or of no merit may be rejected without a hearing and the application allowed. Regulation 28 is not applied, with the effect that applications and objections are not made available for inspection. This is as a result of the RYV not being published. Regulation 27(1)(d) is modified to ensure that an objection can be made by a person registered in the RYV or the register of local government electors.
51. Regulations 31B to 31F relate to procedures for determining a person's entitlement to register in the RYV, including decisions that a person has ceased to satisfy the conditions for registration. Regulation 31E(3) is omitted so that the list that EROs must keep of registrations that are under review is not made available for inspection at the ERO's office.
52. Regulations 31G to 31J relate to determination of applications for anonymous registration, including the supporting evidence and information that is required for such applications. These will operate in the same way as an application for an anonymous registration in the register of local government electors. A reason for the application must be given, with evidence of a relevant court order or a certification by an appropriate person (such as a chief social work officer) that the safety of the applicant or a member of their household would be at risk if the RYV contained the applicant's name or address.
53. Regulation 32 makes provision regarding registration appeals, including the timescales for appeal and the steps an ERO must take in the event of an appeal.
54. Regulation 32A enables representations regarding clerical errors to be made orally or in writing. It places a duty on presiding officers at a referendum to communicate any representations made to them in a polling station to the relevant ERO.
55. Regulation 35 authorises an ERO to inspect local authority records and registration records (of births, marriages and deaths) for the purposes of carrying out registration duties. This would, for example, enable an ERO to inspect records held by a council for education purposes to identify persons who appear to be eligible to register in the RYV.

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56. Regulation 36 provides that an ERO must send a copy of a notice making an alteration to the RYV to any person affected by it (unless the person has died). Paragraphs (1), (2)(a) and (2)(aa) are omitted, to remove a requirement to publish these notices, make copies available for inspection, and supply copies of notices to particular groups of people.
57. Regulation 36A requires EROs to take reasonable steps to bring to the attention of the relevant presiding officer any notices relating to alterations to the RYV that are issued on the day of a poll.
58. Regulation 37 requires an ERO who has been told of a change of address to notify the address to another ERO, if the new address is in that officer's area.
59. Regulation 40 provides for cases where the RYV need not contain a qualifying address. This may cover a situation in which a person has given an address in an electoral area for the purposes of a declaration of local connection or a service declaration, but is not actually resident there. Regulation 41 provides that no address is shown for such a person and instead the person appears at the end of the appropriate part of the register. The omission relates to overseas electors.
60. Regulation 41A provides that if a person is entered anonymously on the RYV, their entry consists only of their voter number and the letter "N".
61. Regulation 45A requires an ERO to keep a record of anonymous entries in the RYV. It prescribes that each entry in this record must include the full name of the person to whom the entry relates, their voter number, their qualifying address, and the date from which the anonymous entry took effect. If the person has been granted a postal vote, the record must also include the address to which the postal ballot paper should be sent.
62. Regulations 45B and 45C set out the duties of EROs and their staff in relation to the record of anonymous entries. It prohibits them from supplying, disclosing or making use of information contained in that record, except in accordance with an enactment or to comply with a court order or tribunal order. The record must be provided to a counting officer at an independence referendum, though the same prohibitions apply to ensure that the record is only supplied, disclosed or used for referendum purposes.
63. Regulation 45F requires an ERO to issue a certificate of anonymous registration to a person entered in the record of anonymous entries. The omission relates to the duration of such a certificate, which is not relevant given the timespan of the RYV.
64. Regulation 115 provides that a person is guilty of an offence if a person contravenes the restrictions under regulation 45C on supply, disclosure or use of information contained in the record of anonymous entries or fails to take appropriate steps to prevent a person they are responsible for supervising from failing to comply with that provision. A person guilty of such an offence is liable on summary conviction to a fine of up to £5,000.