



# Scottish Independence Referendum Act 2013

2013 asp 14

## *Referendum*

### **1 Referendum on Scottish independence**

- (1) A referendum is to be held in Scotland on a question about the independence of Scotland.
- (2) The question is—

“Should Scotland be an independent country?”.
- (3) The ballot paper to be used for the purpose of the referendum is to be printed—
  - (a) in the form set out in schedule 1, and
  - (b) according to the directions set out in that schedule.
- (4) The date on which the poll at the referendum is to be held is 18 September 2014, unless before then an order is made under subsection (6).
- (5) Subsection (6) applies if the Scottish Ministers are satisfied—
  - (a) that it is impossible or impracticable for the poll at the referendum to be held on 18 September 2014, or
  - (b) that it cannot be conducted properly if held on that date.
- (6) The Scottish Ministers may by order appoint a later day (being no later than 31 December 2014) as the day on which the poll at the referendum is to be held.
- (7) An order under subsection (6)—
  - (a) may include supplementary or consequential provision,
  - (b) may modify any enactment (including this Act), and
  - (c) is subject to the affirmative procedure.

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## *Franchise*

### **2 Those who are entitled to vote**

Provision about who is entitled to vote in the referendum is made by the Scottish Independence Referendum (Franchise) Act 2013.

### **3 Declarations of local connection and service declarations: further provision**

- (1) The Scottish Independence Referendum (Franchise) Act 2013 is amended as follows.
- (2) In section 7 (declaration of local connection: additional ground for young people), after subsection (5) insert—
  - “(6) For the purposes of section 5(1)(b), a declaration of local connection made by virtue of this section is to be treated as having effect also for the purpose of meeting any residence requirement for registration in a register of local government electors.”.
- (3) After section 7 insert—

#### **“7A Children etc. of people with a service qualification**

- (1) This section applies for the purposes of sections 14 to 17 of the 1983 Act (service declarations), as applied by this Act in relation to registration in the register of young voters.
- (2) An eligible child has a service qualification for those purposes.
- (3) Accordingly, any reference in an applied enactment to a person having a service qualification is to be read as including an eligible child.
- (4) An “eligible child” is a person—
  - (a) who will be aged 16 or 17 on the date on which the poll at an independence referendum is to be held,
  - (b) a parent or guardian of whom has a service qualification under any of paragraphs (a) to (e) of section 14(1) of the 1983 Act, and
  - (c) who is residing at a particular place in order to be with that parent or guardian.
- (5) Section 16 of the 1983 Act (contents of service declaration), as applied by this Act, has effect for the purposes of a service declaration by an eligible child subject to the following modifications—
  - (a) the references in paragraphs (b) and (d) to the United Kingdom are to be read as references to Scotland,
  - (b) the words from “and (except where)” to the end of the section are omitted.
- (6) Regulation 15 of the Representation of the People (Scotland) Regulations 2001 (contents of service declaration), as applied by this Act, has effect for the purposes of a service declaration by an eligible child as if the references in paragraphs (2), (3) and (4) to the spouse or civil partner of a person included references to—
  - (a) a child of the person,

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- (b) a child for whom the person acts as guardian,
  - (c) a child of the spouse or civil partner of the person,
  - (d) a child for whom the spouse or civil partner of the person acts as guardian.
- (7) For the purposes of section 5(1)(b), a service declaration made by virtue of this section is to be treated as having effect also for the purpose of meeting any residence requirement for registration in a register of local government electors.”.
- (4) In Part 2 of schedule 1 (application of provisions of the 1983 Act), for the entry relating to section 16 of the 1983 Act, substitute—

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“Section 16 (contents of service declaration)	For paragraph (f) substitute— “(f) the declarant's date of birth.””
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*Voting etc.*

**4 Provision about voting etc.**

Schedule 2 makes provision about voting in the referendum, including—

- (a) provision about the manner of voting (including provision for absent voting),
- (b) provision about the register of electors,
- (c) provision about postal voting, and
- (d) provision about the supply of certain documents.

*Conduct*

**5 Chief Counting Officer**

- (1) The Scottish Ministers must, in writing, appoint a Chief Counting Officer for the referendum.
- (2) The Chief Counting Officer is to be the person who, immediately before this section comes into force, is the person appointed as the convener of the Electoral Management Board for Scotland by virtue of section 2 of the Local Electoral Administration (Scotland) Act 2011.
- (3) But subsection (2) does not apply if—
  - (a) there is no person appointed as convener at that time, or
  - (b) that person is unable or unwilling to be appointed as the Chief Counting Officer.
- (4) The Chief Counting Officer may resign by giving notice in writing to the Scottish Ministers.
- (5) The Scottish Ministers may, by notice in writing, remove the Chief Counting Officer from office if—
  - (a) the Chief Counting Officer is convicted of any criminal offence, or

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- (b) they are satisfied that the Chief Counting Officer is unable to perform the Chief Counting Officer's functions by reason of any physical or mental illness or disability.
- (6) If the Chief Counting Officer dies, resigns or is removed from office, the Scottish Ministers must appoint another person to be the Chief Counting Officer.
- (7) The Chief Counting Officer may, in writing, appoint deputies to carry out some or all of the officer's functions and, so far as necessary for the purposes of carrying out those functions, any reference in this Act to the Chief Counting Officer is to be read as including a deputy.
- (8) A person may be appointed to be—
  - (a) the Chief Counting Officer,
  - (b) a deputy of the Chief Counting Officer,
 only if the person is or has been a returning officer appointed under section 41(1) of the 1983 Act.

## **6 Other counting officers**

- (1) The Chief Counting Officer must, in writing, appoint a counting officer for each local government area.
- (2) The Chief Counting Officer must notify the Scottish Ministers of each appointment made under subsection (1).
- (3) A counting officer may resign by giving notice in writing to the Chief Counting Officer.
- (4) The Chief Counting Officer may, by notice in writing, remove a counting officer from office if—
  - (a) the Chief Counting Officer is satisfied that the counting officer is for any reason unable to perform the counting officer's functions, or
  - (b) the counting officer fails to comply with a direction given or requirement imposed by the Chief Counting Officer.
- (5) If the counting officer for an area dies, resigns or is removed from office, the Chief Counting Officer must appoint another person to be the counting officer for the area.
- (6) A counting officer may, in writing, appoint deputies to carry out some or all of the officer's functions and, so far as necessary for the purposes of carrying out those functions, any reference in this Act to a counting officer is to be read as including a deputy.

## **7 Functions of the Chief Counting Officer and other counting officers**

- (1) The Chief Counting Officer is responsible for ensuring the proper and effective conduct of the referendum, including the conduct of the poll and the counting of votes, in accordance with this Act.
- (2) Each counting officer must—
  - (a) conduct the poll and the counting of votes cast in the local government area for which the officer is appointed in accordance with this Act, and
  - (b) certify—

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- (i) the number of ballot papers counted by the officer,
  - (ii) the number of votes cast in the area in favour of each answer to the referendum question, and
  - (iii) the number of rejected ballot papers.
- (3) A counting officer—
  - (a) must consult the Chief Counting Officer before making a certification under subsection (2)(b), and
  - (b) must not make the certification or any public announcement of the result of the count until authorised to do so by the Chief Counting Officer.
- (4) The Chief Counting Officer must, for the whole of Scotland, certify—
  - (a) the total number of ballot papers counted,
  - (b) the total number of votes cast in favour of each answer to the referendum question, and
  - (c) the total number of rejected ballot papers.
- (5) A counting officer must give the Chief Counting Officer any information which the Chief Counting Officer requires for the carrying out of the Chief Counting Officer's functions.
- (6) A counting officer must carry out the counting officer's functions under this Act in accordance with any directions given by the Chief Counting Officer.
- (7) The Chief Counting Officer must not impose a requirement or give a direction that is inconsistent with this Act.
- (8) The Chief Counting Officer may—
  - (a) appoint such staff,
  - (b) require a council to provide, or ensure the provision of, such property, staff and services,as may be required by the Chief Counting Officer for the carrying out of the Chief Counting Officer's functions.
- (9) The council for the local government area for which a counting officer is appointed must provide, or ensure the provision of, such property, staff and services as may be required by the counting officer for the carrying out of the counting officer's functions.

## **8 Correction of procedural errors**

- (1) The Chief Counting Officer or a counting officer may take such steps as the officer thinks appropriate to remedy any act or omission on the officer's part, on the part of a deputy of the officer, or on the part of a relevant person, which—
  - (a) arises in connection with any function the Chief Counting Officer, counting officer or relevant person (as the case may be) has in relation to the referendum, and
  - (b) is not in accordance with the requirements of this Act relating to the conduct of the referendum.
- (2) But the Chief Counting Officer or a counting officer may not under subsection (1) recount the votes cast in the referendum after the result has been declared.
- (3) For the purposes of subsection (1), each of the following is a relevant person—

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- (a) in relation to the Chief Counting Officer, a counting officer or a deputy of a counting officer,
  - (b) a registration officer,
  - (c) a presiding officer,
  - (d) a person providing goods or services to the counting officer,
  - (e) a deputy of any registration officer or presiding officer,
  - (f) a person appointed to assist or, in the course of the person's employment, assisting any person mentioned in paragraphs (b) to (d) in connection with any function that person has in relation to the referendum.
- (4) The Chief Counting Officer or a counting officer does not commit an offence under paragraph 5 of schedule 7 by virtue of an act or omission in breach of the officer's official duty if the officer remedies that act or omission in full by taking steps under subsection (1).
- (5) Subsection (4) does not affect any conviction, or any penalty imposed, before the date on which the act or omission is remedied in full.

## **9 Expenses of counting officers**

- (1) The Chief Counting Officer is entitled to recover from the Scottish Ministers charges for, and any expenses incurred in connection with, the exercise by the Chief Counting Officer of functions under this Act.
- (2) A counting officer is entitled to recover from the Scottish Ministers charges for, and any expenses incurred in connection with, the exercise by the counting officer of functions under this Act.
- (3) The amount of charges and expenses recoverable under this section is not to exceed such maximum amount as is specified in, or determined under, an order made by the Scottish Ministers.
- (4) An order under subsection (3)—
  - (a) may make different provision for different functions, cases or areas,
  - (b) may include incidental and supplementary provision.
- (5) If the Chief Counting Officer or a counting officer requests from the Scottish Ministers an advance on account of any charges or expenses recoverable by the officer from the Scottish Ministers under this section, the Scottish Ministers may make such advance on such terms as they think fit.

## **10 Conduct rules**

Schedule 3 makes provision about the conduct of the referendum.

### *Campaign*

## **11 Campaign rules**

Schedule 4 makes provision about the conduct of campaigning in the referendum, including provision—

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- (a) limiting the amount of expenses that can be incurred by those campaigning in the referendum,
- (b) restricting the publication of certain material,
- (c) controlling donations, and the provision of loans and credit, to those campaigning in the referendum.

## **12 Monitoring and securing compliance with the campaign rules**

- (1) The Electoral Commission must—
  - (a) monitor compliance with the restrictions and other requirements imposed by schedule 4, and
  - (b) take such steps as they consider appropriate with a view to securing compliance with those restrictions and requirements.
- (2) The Electoral Commission may prepare and publish guidance setting out, in relation to any restriction or requirement imposed by schedule 4, their opinion on any of the following matters—
  - (a) what it is necessary, or is sufficient, to do (or avoid doing) in order to comply with the restriction or requirement,
  - (b) what it is desirable to do (or avoid doing) in view of the purpose of the restriction or requirement.
- (3) Subsection (2) does not affect the generality of section 24(4).
- (4) Schedule 5 makes provision about the investigatory powers of the Electoral Commission for the purpose of subsection (1).
- (5) Schedule 6 makes provision for civil sanctions in relation to—
  - (a) the commission of campaign offences,
  - (b) the failure to comply with certain requirements imposed by schedule 4.
- (6) In this section, “restriction” includes a prohibition.

## **13 Inspection of Electoral Commission's registers etc.**

- (1) This section applies to any register kept by the Electoral Commission under paragraph 5 of schedule 4.
- (2) The Commission must make a copy of the register available for public inspection during ordinary office hours, either at the Commission's offices or at some convenient place appointed by them.
- (3) The Commission may make other arrangements for members of the public to have access to the contents of the register.
- (4) If requested to do so by any person, the Commission must supply the person with a copy of the register or any part of it.
- (5) The Commission may charge such reasonable fee as they may determine in respect of—
  - (a) any inspection or access allowed under subsection (2) or (3), or
  - (b) any copy supplied under subsection (4).

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- (6) Subsections (2) to (5) apply in relation to any document a copy of which the Commission are for the time being required to make available for public inspection by virtue of paragraph 25, 44 or 62 of schedule 4 as they apply in relation to any register falling within subsection (1).
- (7) Where any register falling within subsection (1) or any document falling within subsection (6) is held by the Commission in electronic form, any copy—
  - (a) made available for public inspection under subsection (2), or
  - (b) supplied under subsection (4),
 must be made available, or (as the case may be) supplied, in a legible form.

## 14 Campaign rules: general offences

- (1) A person commits an offence if—
  - (a) the person—
    - (i) alters, suppresses, conceals or destroys any document to which this subsection applies, or
    - (ii) causes or permits the alteration, suppression, concealment or destruction of any such document, and
  - (b) the person does so with the intention of falsifying the document or enabling any person to evade any of the provisions of schedules 4 to 6.
- (2) Subsection (1) applies to any book, record or other document which is or is liable to be required to be produced for inspection under paragraph 1 or 3 of schedule 5.
- (3) Subsection (4) applies where the relevant person in the case of a supervised organisation, or a person acting on behalf of the relevant person, requests a person holding an office in any such organisation (“the office-holder”) to supply the relevant person with any information which the relevant person reasonably requires for the purposes of any of the provisions of schedules 4 to 6.
- (4) The office-holder commits an offence if—
  - (a) without reasonable excuse, the office-holder fails to supply the relevant person with that information as soon as is reasonably practicable, or
  - (b) in purporting to comply with the request, the office-holder knowingly supplies the relevant person with any information which is false in a material particular.
- (5) A person commits an offence if, with intent to deceive, the person withholds—
  - (a) from the relevant person in the case of a supervised organisation, or
  - (b) from a supervised individual,
 any information required by the relevant person or that individual for the purposes of any of the provisions of schedules 4 to 6.
- (6) In subsections (1) to (5) any reference to a supervised organisation or individual includes a reference to a former supervised organisation or individual.
- (7) A person who commits an offence under subsection (1), (4)(b) or (5) is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum (or both),
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 12 months or to a fine (or both).



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- (8) A person who commits an offence under subsection (4)(a) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (9) In this section—
- “supervised individual” means an individual who is a permitted participant,
  - “supervised organisation” means a permitted participant other than an individual,
  - “relevant person” means a person who is (or has been), in relation to a permitted participant, the responsible person for the purposes of this Act.

## **15 Campaign offences: summary proceedings**

- (1) Summary proceedings for a campaign offence may, without prejudice to any jurisdiction exercisable apart from this subsection, be taken—
- (a) against any body, including an unincorporated association, at any place at which it has a place of business, and
  - (b) against an individual at any place at which the individual is for the time being.
- (2) Despite anything in section 136 of the Criminal Procedure (Scotland) Act 1995 (time limit for certain offences), summary proceedings for a campaign offence may be commenced at any time within 3 years after the commission of the offence and within 6 months after the relevant date; and subsection (3) of that section applies for the purposes of this subsection as it applies for the purposes of that section.
- (3) In this section “the relevant date” means the date on which evidence sufficient in the opinion of the prosecutor to justify proceedings comes to the prosecutor's knowledge.
- (4) For the purposes of subsection (3) a certificate of any prosecutor as to the date on which such evidence as is there mentioned came to the prosecutor's knowledge is conclusive evidence of that fact.

## **16 Duty of court to report convictions to the Electoral Commission**

The court by or before which a person is convicted of a campaign offence must notify the Electoral Commission of the conviction as soon as is practicable.

### *Referendum agents*

## **17 Referendum agents**

- (1) A permitted participant may, for any local government area, appoint an individual (who may be the responsible person) to be the permitted participant's agent (“referendum agent”).
- (2) If a permitted participant appoints a referendum agent for a local government area, the responsible person must give the counting officer for that area notification of the name and address of—
- (a) the permitted participant, and
  - (b) the referendum agent.
- (3) The notification must be—
- (a) in writing,
  - (b) signed by the responsible person, and

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- (c) given before noon on the twenty-fifth day before the date of the referendum.
- (4) For the purpose of subsection (3)(c), the following days are to be disregarded—
  - (a) a Saturday or Sunday,
  - (b) Christmas Eve or Christmas Day,
  - (c) a day which is a bank holiday in Scotland under the Banking and Financial Dealings Act 1971,
  - (d) a day appointed for public thanksgiving or mourning.
- (5) The duties imposed on a responsible person by this section may be discharged by any person authorised in writing by the responsible person.
- (6) A counting officer who receives a notification under subsection (2) must, as soon as practicable, publish notice of—
  - (a) the name of the permitted participant, and
  - (b) the name and address of the referendum agent.
- (7) If—
  - (a) a permitted participant revokes the appointment of a referendum agent or a referendum agent dies, and
  - (b) the permitted participant has notified the counting officer of the appointment of a polling or counting agent under rule 14 of the conduct rules,
 the permitted participant must, as soon as practicable, appoint another referendum agent under subsection (1).
- (8) The notification under subsection (2) must be made as soon as practicable after the appointment of the new referendum agent (and subsection (3)(c) does not apply to that notification).

### *Observers*

## **18 Attendance of Electoral Commission at proceedings and observation of working practices**

- (1) A representative of the Electoral Commission may attend proceedings relating to the referendum that are the responsibility of—
  - (a) the Chief Counting Officer, or
  - (b) a counting officer.
- (2) The right conferred by subsection (1) is subject to any other provision of this Act which regulates attendance at the proceedings in question.
- (3) A representative of the Electoral Commission may observe the working practices of each of the following in carrying out functions under this Act—
  - (a) a registration officer,
  - (b) the Chief Counting Officer,
  - (c) a counting officer,
  - (d) any person acting under the direction of a person mentioned in paragraphs (a) to (c).
- (4) In this section, “representative of the Electoral Commission” means any of the following—

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- (a) a member of the Electoral Commission,
- (b) a member of staff of the Electoral Commission,
- (c) a person appointed by the Electoral Commission for the purposes of this section.

## **19 Accredited observers: individuals**

- (1) A person who is aged 16 or over may apply to the Electoral Commission to be an accredited observer at any of the following proceedings relating to the referendum—
  - (a) proceedings at the issue or receipt of postal ballot papers,
  - (b) proceedings at the poll,
  - (c) proceedings at the counting of votes.
- (2) If the Commission grant the application, the accredited observer may attend the proceedings in question.
- (3) An application under subsection (1) must be made in the manner specified by the Commission.
- (4) The Commission may at any time revoke the grant of an application under subsection (1).
- (5) If the Commission—
  - (a) refuse an application under subsection (1), or
  - (b) revoke the grant of any such application,they must give their decision in writing and must, when doing so, give reasons for the refusal or revocation.
- (6) The right conferred on an accredited observer by this section is subject to any provision of this Act which regulates attendance at the proceedings in question.

## **20 Accredited observers: organisations**

- (1) An organisation may apply to the Electoral Commission to be accredited for the purpose of nominating observers at any of the following proceedings relating to the referendum—
  - (a) proceedings at the issue or receipt of postal ballot papers,
  - (b) proceedings at the poll,
  - (c) proceedings at the counting of votes.
- (2) If the Commission grant the application the organisation may nominate members who may attend the proceedings in question.
- (3) The Commission, in granting the application, may specify a limit on the number of observers nominated by the organisation who may attend, at the same time, specified proceedings by virtue of this section.
- (4) An application under subsection (1) must be made in the manner specified by the Commission.
- (5) The Commission may at any time revoke the grant of an application under subsection (1).
- (6) If the Commission—

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- (a) refuse an application under subsection (1), or
  - (b) revoke the grant of any such application,
- they must give their decision in writing and must, when doing so, give reasons for the refusal or revocation.

- (7) The right conferred by this section is subject to any provision of this Act which regulates attendance at the proceedings in question.

## **21 Attendance and conduct of accredited observers**

- (1) A relevant officer may limit the number of persons who may be present at any proceedings at the same time by virtue of section 19 or 20.
- (2) If a person who is entitled to attend any proceedings by virtue of section 19 or 20 commits misconduct while attending the proceedings, the relevant officer may cancel the person's entitlement.
- (3) Subsection (2) does not affect any power that a relevant officer has by virtue of any enactment or rule of law to remove a person from any place.
- (4) A relevant officer is—
  - (a) in the case of proceedings at a polling station, the presiding officer,
  - (b) in the case of any other proceedings at a referendum, the Chief Counting Officer or a counting officer,
  - (c) any other person authorised by a person mentioned in paragraph (a) or (b) for the purposes of the proceedings mentioned in that paragraph.

## **22 Code of practice on attendance of observers**

- (1) The Electoral Commission must prepare a code of practice on the attendance of—
  - (a) representatives of the Commission,
  - (b) accredited observers, and
  - (c) nominated members of accredited organisations,
 at proceedings relating to the referendum.
- (2) The code must in particular—
  - (a) specify the manner in which applications under section 19(1) or 20(1) are to be made to the Commission,
  - (b) specify the criteria that the Commission will take into account in determining such applications,
  - (c) give guidance to relevant officers as to the exercise of the powers conferred by section 21(1) and (2),
  - (d) give guidance to such officers as to the exercise, in relation to a person entitled to attend any proceedings by virtue of section 19 or 20, of any other power under this Act to control the number of persons present at any proceedings relating to the referendum,
  - (e) give guidance to representatives of the Commission, accredited observers and nominated members of accredited organisations as to the exercise of the rights conferred by sections 18, 19 and 20.
- (3) The code may make different provision for different purposes.

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- (4) Before preparing the code, the Commission must consult the Scottish Ministers.
- (5) The Commission must lay the code before the Scottish Parliament.
- (6) The Commission must publish the code in such manner as they may determine.
- (7) The following persons must have regard to the code in exercising any function or right conferred by section 18, 19, 20 or 21—
  - (a) the Commission,
  - (b) representatives of the Commission,
  - (c) relevant officers.
- (8) The Commission may at any time revise the code.
- (9) Subsections (4) to (7) apply to a revision of the code as they apply to the code.
- (10) In this section—
  - “accredited observer” is to be construed in accordance with section 19,
  - “accredited organisation” is to be construed in accordance with section 20, and
  - “nominated member” is to be construed accordingly,
  - “relevant officer” has the meaning given in section 21(4),
  - “representative of the Commission” means a representative of the Electoral Commission within the meaning of section 18(4).

*Information, guidance, advice and encouragement*

**23 Information for voters**

The Electoral Commission must take such steps as they consider appropriate to promote public awareness and understanding in Scotland about—

- (a) the referendum,
- (b) the referendum question, and
- (c) voting in the referendum.

**24 Guidance**

- (1) The Electoral Commission may issue guidance to the Chief Counting Officer about the exercise of the Chief Counting Officer's functions under this Act.
- (2) The Chief Counting Officer may issue guidance to counting officers and registration officers about the exercise of their respective functions under this Act.
- (3) The Electoral Commission may, with the consent of the Chief Counting Officer, issue guidance to counting officers about the exercise of their functions under this Act.
- (4) The Electoral Commission may issue guidance to permitted participants and persons who may become permitted participants about the provisions set out in schedule 4 to this Act.
- (5) Guidance issued under subsection (4) must include information on what may constitute a common plan or other arrangement for the purposes of paragraph 20 of schedule 4.

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## **25 Advice**

The Electoral Commission may, if asked to do so by any person, provide the person with advice about—

- (a) the application of this Act,
- (b) any other matter relating to the referendum.

## **26 Encouraging participation**

- (1) The Chief Counting Officer must take whatever steps the Chief Counting Officer considers appropriate to—
  - (a) encourage participation in the referendum, and
  - (b) facilitate co-operation among officers taking steps under this section.
- (2) A counting officer must take whatever steps the counting officer considers appropriate to encourage participation in the referendum in the local government area for which the officer is appointed.

### *Report on referendum*

## **27 Report on the conduct of the referendum**

- (1) As soon as reasonably practicable after the referendum, the Electoral Commission must prepare and lay before the Scottish Parliament a report on the conduct of the referendum.
- (2) The report must include a summary of—
  - (a) how the Commission have carried out their functions under this Act,
  - (b) the expenditure incurred by the Commission in carrying out those functions.
- (3) The Chief Counting Officer must provide the Commission with such information as they may require for the purposes of the report.
- (4) On laying the report, the Commission must publish the report in such manner as they may determine.
- (5) In the 2000 Act, in Schedule 1, in paragraph 20(1) (report on Electoral Commission's functions), the reference to the Commission's functions does not include a reference to the Commission's functions under this Act.

### *Electoral Commission: administrative provision*

## **28 Reimbursement of Commission's costs**

- (1) The SPCB must reimburse the Electoral Commission for any expenditure incurred by the Commission that is attributable to the carrying out of the Commission's functions under this Act.
- (2) In the 2000 Act, in Schedule 1, paragraph 14(1) (financing of the Electoral Commission) has effect as if paragraph (a) included a reference to expenditure reimbursed under subsection (1) of this section.

## **29 Estimates of expenditure**

- (1) The Electoral Commission must, before the start of each financial year—
  - (a) prepare an estimate of the Commission's expenditure for the year that is attributable to the carrying out of their functions under this Act, and
  - (b) send the estimate to the SPCB for approval.
- (2) The Commission may, in the course of a financial year, prepare a revised estimate for the remainder of the year and send it to the SPCB for approval.
- (3) The period from the commencement of this Act until the following 31 March is treated, for the purposes of this section, as the first financial year.
- (4) Subsection (1) has effect in relation to the first financial year as if the reference to the start of the financial year were a reference to the end of the period of one month beginning with the date of the commencement of this Act.
- (5) In the 2000 Act, in Schedule 1, paragraph 14(2) (Commission to prepare estimates of income and expenditure) does not apply in relation to income and expenditure of the Commission that is attributable to the exercise of their functions under this Act.

## **30 Maladministration**

In the Scottish Public Services Ombudsman Act 2002, in section 7 (restrictions on investigations), subsection (6D) does not prevent the investigation under that Act of action taken by or on behalf of the Electoral Commission in the exercise of the Commission's functions under this Act.

## *Offences*

## **31 Offences**

Schedule 7 makes provision about offences in or in connection with the referendum.

## **32 Offences by bodies corporate etc.**

- (1) Subsection (2) applies where—
  - (a) an offence under this Act has been committed by—
    - (i) a body corporate,
    - (ii) a Scottish partnership, or
    - (iii) an unincorporated association other than a Scottish partnership, and
  - (b) it is proved that the offence was committed with the consent or connivance of, or was attributable to neglect on the part of—
    - (i) a relevant individual, or
    - (ii) an individual purporting to act in the capacity of a relevant individual.
- (2) The individual (as well as the body corporate, partnership or (as the case may be) association) commits the offence and is liable to be proceeded against and punished accordingly.
- (3) In subsection (1), “relevant individual” means—
  - (a) in relation to a body corporate (other than a limited liability partnership)—

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

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- (i) a director, manager, secretary or other similar officer of the body,
- (ii) where the affairs of the body are managed by its members, a member,
- (b) in relation to a limited liability partnership, a member,
- (c) in relation to a Scottish partnership, a partner,
- (d) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

*Power to make supplementary etc. provision and modifications*

### **33 Power to make supplementary etc. provision and modifications**

- (1) The Scottish Ministers may by order make such supplementary, incidental or consequential provision as they consider appropriate for the purposes of, in consequence of, or for giving full effect to, any provision of this Act.
- (2) The power in subsection (1) includes power to make provision in consequence of, or in connection with, any modification or proposed modification, of any enactment relating to—
  - (a) the conduct of any referendum or campaigning in any referendum,
  - (b) the conduct of elections or campaigning in elections.
- (3) An order under subsection (1) may—
  - (a) modify any enactment (including this Act),
  - (b) apply any provision of any enactment (either with or without modifications),
  - (c) include supplementary, incidental, consequential, transitory or transitional provision or savings.
- (4) An order under subsection (1) is subject to the affirmative procedure.

*Legal proceedings*

### **34 Restriction on legal challenge to referendum result**

- (1) No court may entertain any proceedings for questioning the number of ballot papers counted or votes cast as certified by a counting officer or by the Chief Counting Officer under section 7(2)(b) or (as the case may be) (4) unless—
  - (a) the proceedings are brought by way of a petition for judicial review, and
  - (b) the petition is lodged before the end of the permitted period.
- (2) In subsection (1)(b) “the permitted period” means the period of 6 weeks beginning with—
  - (a) the day on which the officer in question makes the certification as to the number of ballot papers counted and votes cast in the referendum, or
  - (b) if the officer makes more than one such certification, the day on which the last is made.
- (3) In subsection (1), references to a petition for judicial review are references to an application to the supervisory jurisdiction of the Court of Session.



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*Final provisions*

**35 Interpretation**

Schedule 8 provides definitions for words and expressions used in this Act.

**36 Commencement**

This Act comes into force on the day after Royal Assent.

**37 Short title**

The short title of this Act is the Scottish Independence Referendum Act 2013.

**Changes to legislation:**

There are currently no known outstanding effects for the Scottish Independence Referendum Act 2013.