



# Scottish Independence Referendum Act 2013

2013 asp 14

## *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—
  - (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—
  - (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.
- (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,

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*Status: This is the original version (as it was originally enacted).*

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- (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).