



Referendums (Scotland) Act 2020

2020 asp 2

Referendums

1 Referendums to which this Act applies

- (1) This Act applies to any referendum held throughout Scotland in pursuance of provision made by or under an Act of the Scottish Parliament.
- (2) In this Act—
 - (a) references to “the referendum” mean any referendum held—
 - (i) in pursuance of any provision made by or under an Act of the Scottish Parliament,
 - (ii) on one or more questions specified in or in accordance with any such provision,
 - (b) “question” includes proposition (and “answer” accordingly includes response).

2 Referendum questions

- (1) Subsections (2) and (3) apply where—
 - (a) provision is made by or under an Act of the Scottish Parliament for the holding of a referendum throughout Scotland, and
 - (b) the wording of any question in the referendum is to be specified in subordinate legislation.
- (2) If the subordinate legislation is subject to the affirmative procedure, the Scottish Ministers must consult the Electoral Commission on the wording of the question before a draft of any instrument containing the subordinate legislation is laid before the Scottish Parliament.
- (3) If the subordinate legislation is subject to the negative procedure, the Scottish Ministers must consult the Electoral Commission on the wording of the question before making the subordinate legislation.
- (4) Subsection (5) applies where a Bill is introduced to the Scottish Parliament which—
 - (a) provides for the holding of a referendum throughout Scotland, and
 - (b) specifies the wording of the question.

Changes to legislation: There are currently no known outstanding effects for the Referendums (Scotland) Act 2020. (See end of Document for details)

- (5) The Electoral Commission must—
 - (a) consider the wording of the question, and
 - (b) publish a statement of any views of the Commission as to the intelligibility of the question—
 - (i) as soon as reasonably practicable after the Bill is introduced, and
 - (ii) in such manner as they may determine.
- (6) Where the Bill or subordinate legislation specifies not only the question but also any statement which is to precede the question on the ballot paper at the referendum, any reference in subsection (2), (3) or, as the case may be, (5) to the question is to be read as a reference to the question and the statement taken together.
- (7) This section does not apply in relation to a question or statement if the Electoral Commission have, in the validity period—
 - (a) published a report setting out their views as to the intelligibility of the question or statement, or
 - (b) recommended the wording of the question or statement.
- (8) In subsection (7), the “validity period” means—
 - (a) the period composed of the session of the Scottish Parliament in which the proposed date of the referendum falls, or
 - (b) if subsection (9) applies, the period composed of the session of the Scottish Parliament in which the proposed date of the referendum falls and the preceding session.
- (9) This subsection applies if the Scottish Parliament, on a motion by a member of the Scottish Government, resolves that the validity period mentioned in subsection (8)(b) should apply in relation to the question or statement.
- (10) Before lodging a motion referred to in subsection (9), the Scottish Ministers must consult the Electoral Commission.
- (11) At the same time as lodging a motion referred to in subsection (9), the Scottish Ministers must lay before the Scottish Parliament a document setting out the reasons why they consider the validity period mentioned in subsection (8)(b) should apply in relation to the question or statement.
- (12) In subsection (8), for the purpose of reckoning the number of sessions in a period, any extraordinary general election in that period is to be disregarded unless it is one which results in section 3(3) of the Scotland Act 1998 having effect.
- (13) As soon as reasonably practicable after being consulted under subsection (2), (3) or (10), the Electoral Commission must—
 - (a) lay before the Scottish Parliament a statement of any views of the Commission on the matter, and
 - (b) publish the statement in such manner as the Commission may determine.
- (14) If the Scottish Parliament resolves to consult the Electoral Commission on the wording of a question or statement in a referendum, the Commission must, as soon as reasonably practicable—
 - (a) lay before the Scottish Parliament a statement of any views of the Commission on that question or statement, and
 - (b) publish the statement in such manner as the Commission may determine.

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Power to change date of referendum if UK election on same date

3 Power to change date of referendum if UK election on same date

- (1) The date of a referendum must not be the same as the date on which any other election or poll is scheduled to be held throughout Scotland.
- (2) If the date of a referendum is the same as the date of a UK [^{F1}parliamentary general] election, the Presiding Officer may appoint a later date on which the poll at that referendum is to be held.
- (3) The date appointed under subsection (2) may not be more than 6 weeks later.
- (4) The Presiding Officer may appoint a date under subsection (2) only if the Scottish Parliament is dissolved or in recess.
- (5) Before appointing a date under subsection (2), the Presiding Officer must consult the Electoral Commission.
- (6) The Presiding Officer must publish a statement of the date appointed under subsection (2).
- (7) In this section—
“date of a referendum” means the date on which the poll at a referendum is to be held in pursuance of provision made by or under an Act of the Scottish Parliament,
^{F2} ...

Textual Amendments

- F1** Words in s. 3(2) inserted (24.3.2022) by [Dissolution and Calling of Parliament Act 2022 \(c. 11\)](#), s. 6(3), [Sch. para. 33\(a\)](#)
- F2** Words in s. 3(7) omitted (24.3.2022) by virtue of [Dissolution and Calling of Parliament Act 2022 \(c. 11\)](#), s. 6(3), [Sch. para. 33\(b\)](#)

Franchise

4 Those who are entitled to vote

A person is entitled to vote in the referendum if, on the date on which the poll at the referendum is held, the person is—

- (a) aged 16 or over,
- (b) registered in the register of local government electors maintained under section 9(1)(b) of the Representation of the People Act 1983 for any area in Scotland,
- (c) not subject to any legal incapacity to vote (age apart) (see section 5), and
- (d) a Commonwealth citizen, a citizen of the Republic of Ireland or a relevant citizen of the European Union.

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5 Those who are subject to a legal incapacity to vote

For the purposes of this Act, a person is, on any date, subject to a legal incapacity to vote if the person would be legally incapable (whether by virtue of any enactment or any rule of law) of voting at a local government election in Scotland held on that date.

Voting etc.

6 Provision about voting etc.

Schedule 1 makes provision about voting in the referendum, including—

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

Conduct

7 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 the coming into force of the Act of the Scottish Parliament referred to in section 1(2) or regulations made under that Act, 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,
 - (b) that person is unable or unwilling to be appointed as the Chief Counting Officer,
 - (c) that person has been removed from office as the Chief Counting Officer under subsection (5),(in which case the Scottish Ministers must appoint such person as they consider appropriate).
- (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) where subsection (2) applies, the Chief Counting Officer ceases to be the convener of the Electoral Management Board for Scotland,
 - (b) the Chief Counting Officer is convicted of any offence, or
 - (c) 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.

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- (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.

8 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.

9 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—
 - (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—

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- (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) Before giving a direction to a counting officer, the Chief Counting Officer must consult the Electoral Commission.
- (8) The Chief Counting Officer must not impose a requirement or give a direction that is inconsistent with this Act.
- (9) 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.
- (10) 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.

10 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—
- (a) in relation to the Chief Counting Officer, a counting officer or a deputy of a counting officer,
 - (b) a registration officer,

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- (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 6 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.

11 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, regulations made by the Scottish Ministers.
- (4) However the Scottish Ministers may pay an amount of charges or expenses that exceeds that maximum amount if they consider—
- (a) that it was reasonable for the Chief Counting Officer or, as the case may be, the counting officer, to incur the charges or expenses, and
 - (b) that the amount of the charges or expenses is reasonable.
- (5) Regulations under subsection (3) may include provision for the submission by the Chief Counting Officer and counting officers to the Scottish Ministers of accounts of charges and expenses before payments are made by the Scottish Ministers, including provision about—
- (a) the time by which accounts are to be submitted,
 - (b) the form and manner in which they are to be submitted.
- (6) Regulations under subsection (3)—
- (a) may make different provision for different functions, cases or areas,
 - (b) may include incidental and supplementary provision.
- (7) 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.

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12 Conduct rules

Schedule 2 makes provision about the conduct of the referendum.

Campaign

13 Campaign rules

Schedule 3 makes provision about the conduct of campaigning in the referendum, including provision—

- (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.

14 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 3, 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 3, 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 26(4).
- (4) Schedule 4 makes provision about the investigatory powers of the Electoral Commission for the purpose of subsection (1).
- (5) Schedule 5 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 3.
- (6) In this section, “restriction” includes a prohibition.

15 Inspection of Electoral Commission's registers etc.

- (1) This section applies to any register kept by the Electoral Commission under paragraph 6 of schedule 3.
- (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.

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- (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).
- (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 26, 45 or 63 of schedule 3 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.

16 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 3 to 5.
- (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 4.
- (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 3 to 5.
- (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 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,

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any information required by the relevant person or that individual for the purposes of any of the provisions of schedules 3 to 5.

- (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)(a) or (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).
- (8) 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.

17 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 within the period of 6 months after the relevant date but no later than 3 years after the date of commission of the offence; 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.

18 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 practicable.

Referendum agents

19 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”).

Changes to legislation: There are currently no known outstanding effects for the Referendums (Scotland) Act 2020. (See end of Document for details)

- (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
 - (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, Christmas Day or Easter Monday,
 - (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) Where subsection (7) applies, 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

20 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.

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- (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.

21 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.

22 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.

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- (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.

23 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 21 or 22.
- (2) If a person who is entitled to attend any proceedings by virtue of section 21 or 22 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 the 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.

24 Code of practice on attendance of observers

Section 6G of the 2000 Act (code of practice on attendance of observers at [^{F3}Scottish parliamentary elections and] local government elections in Scotland) applies in relation to the referendum as it applies in relation to [^{F4}Scottish Parliamentary general elections, elections under section 9 of the Scotland Act 1998 (constituency vacancies) and] local government elections in Scotland (and accordingly the code prepared under that section applies in relation to the referendum), but as if—

- (a) references to accredited observers were to be construed in accordance with section 21 of this Act,
- (b) references to accredited organisations and a nominated member were to be construed in accordance with section 22 of this Act,

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- (c) references to representatives of the Commission were to be construed in accordance with section 20(4) of this Act,
- (d) the reference in subsection (2)(a) to section 6C(1) and 6D(1) of the 2000 Act were a reference to section 21(1) and 22(1) of this Act,
- (e) the reference in subsection (2)(c) to section 6E of the 2000 Act were a reference to section 23 of this Act,
- (f) the reference in subsection (2)(f) to sections 6A, 6B, 6C and 6D of the 2000 Act were a reference to sections 20, 21 and 22 of this Act,
- (g) in subsection (7)—
 - (i) the reference to section 6A, 6B, 6C, 6D or 6E of the 2000 Act were a reference to sections 20, 21, 22 and 23 of this Act,
 - (ii) the reference to section 6E of the 2000 Act were a reference to section 23 of this Act.

Textual Amendments

- F3** Words in s. 24 inserted (1.10.2020) by [Scottish Elections \(Reform\) Act 2020 \(asp 12\)](#), **ss. 11(6)(a)**, 35; [S.S.I. 2020/278](#), reg. 2, sch.
- F4** Words in s. 24 inserted (1.10.2020) by [Scottish Elections \(Reform\) Act 2020 \(asp 12\)](#), **ss. 11(6)(b)**, 35; [S.S.I. 2020/278](#), reg. 2, sch.

Information, guidance, advice and encouragement

25 Information for voters

- (1) 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.
- (2) Each Scottish public authority must take such steps as it considers appropriate to—
 - (a) encourage people entitled to vote in the referendum to register to vote,
 - (b) promote public awareness and understanding in Scotland about—
 - (i) registering to vote,
 - (ii) the manner of voting, including how and when to vote, and
 - (iii) any such other matter about voting in the referendum as it considers appropriate.

26 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.

Changes to legislation: There are currently no known outstanding effects for the Referendums (Scotland) Act 2020. (See end of Document for details)

- (4) The Electoral Commission may issue guidance to permitted participants and persons who may become permitted participants about the provisions set out in schedule 3 of 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 21 of schedule 3.

27 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.

28 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.
- (3) A registration officer must take whatever steps the registration officer considers appropriate to encourage participation in the referendum in the area for which the officer acts.

Report on referendum

29 Report on the conduct of the referendum

- (1) As soon as 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) In preparing the report, the Commission must consult such persons as they consider appropriate.
- (5) On laying the report, the Commission must publish the report in such manner as they may determine.
- (6) 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.

Changes to legislation: There are currently no known outstanding effects for the Referendums (Scotland) Act 2020. (See end of Document for details)

Electoral Commission: administrative provision

30 Reimbursement of Commission's costs

- (1) The SPCB must reimburse the Electoral Commission for any expenditure properly incurred by the Commission that is attributable to the carrying out of the Commission's functions under this Act.
- (2) Subsection (1) does not require the SPCB to reimburse any expenditure which exceeds or is otherwise not covered by an estimate or, as the case may be, a revised estimate approved under section 31.
- (3) However, the SPCB may reimburse that expenditure.
- (4) 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) or (3) of this section.

31 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 carrying out of their functions under this Act.

32 Maladministration

In the Scottish Public Services Ombudsman Act 2002, in section 7(6D) (restrictions on investigations), after “Scotland”, insert “ or the exercise of the Commission's functions under the Referendums (Scotland) Act 2020 ”.

Registration

33 Information about persons aged under 16

- (1) Section 14 of the Scottish Elections (Reduction of Voting Age) Act 2015 (exceptions from prohibition on disclosure of information about persons aged under 16) is amended as follows.
- (2) In subsection (1)—

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- (a) omit the “or” following paragraph (a),
 - (b) after paragraph (b) insert “, or
 - (c) the conduct of a referendum in accordance with the Referendums (Scotland) Act 2020.”.
- (3) In subsection (3), after “election” insert “ or referendum ”.
- (4) In subsection (4), after paragraph (h) insert—
- “(i) the Referendums (Scotland) Act 2020.”.
- (5) In subsection (5)—
- (a) omit the “or” following paragraph (a),
 - (b) after paragraph (b) insert “, or
 - (c) the conduct of a referendum in accordance with the Referendums (Scotland) Act 2020.”.

34 Registration officers' expenses

- (1) A registration officer is entitled to recover from the Scottish Ministers any expenses incurred by the registration officer that are attributable specifically to the exercise of the registration officer's functions under this Act.
- (2) The amount of expenses recoverable under this section is not to exceed such maximum amount as is specified in, or determined under, regulations made by the Scottish Ministers.
- (3) However the Scottish Ministers may pay an amount of expenses that exceeds that maximum amount if they consider—
 - (a) that it was reasonable for the registration officer to incur the expenses, and
 - (b) that the amount of the expenses is reasonable.
- (4) Regulations under subsection (2) may include provision for the submission by registration officers to the Scottish Ministers of accounts of expenses before payments are made by the Scottish Ministers, including provision about—
 - (a) the time by which accounts are to be submitted,
 - (b) the form and manner in which they are to be submitted.
- (5) Regulations under subsection (2)—
 - (a) may make different provision for different functions, cases or areas,
 - (b) may include incidental and supplementary provision.

Offences

35 Offences

Schedule 6 makes provision about offences in or in connection with the referendum.

36 Individual culpability for offending by an organisation

- (1) Subsection (2) applies where—
 - (a) an offence under this Act is committed by—
 - (i) a body corporate,

Changes to legislation: There are currently no known outstanding effects for the Referendums (Scotland) Act 2020. (See end of Document for details)

- (ii) a Scottish partnership, or
 - (iii) an unincorporated association other than a Scottish partnership, and
 - (b) the commission of the offence involves the connivance or consent of, or is attributable to the neglect 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.
- (3) In subsection (1), “relevant individual” means—
 - (a) in relation to a body corporate (other than a limited liability partnership)—
 - (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 modify this Act

37 Power to modify this Act

- (1) The Scottish Ministers may by regulations make such modifications of this Act as they consider necessary or expedient—
 - (a) in consequence of or in connection with any modification of any other enactment relating to—
 - (i) the conduct of referendums or campaigning in any referendum,
 - (ii) the conduct of elections or campaigning in elections,
 - (iii) entitlement to vote at any referendum or any election,
 - (b) to give effect to recommendations of the Electoral Commission.
- (2) Regulations under subsection (1) may include incidental, supplementary, consequential, transitional, transitory or saving provision.
- (3) Regulations under subsection (1) are subject to the affirmative procedure.
- (4) The Scottish Ministers must consult the Electoral Commission and such other persons as they consider appropriate before laying a draft Scottish statutory instrument containing regulations under subsection (1) before the Scottish Parliament for approval.
- (5) When laying a draft Scottish statutory instrument containing regulations under subsection (1) before the Scottish Parliament, the Scottish Ministers must also lay before the Parliament a document giving details of—
 - (a) the consultation carried out under subsection (4),
 - (b) any representations received as a result of the consultation, and
 - (c) the changes (if any) made to the proposed draft regulations as a result of those representations.

Changes to legislation: There are currently no known outstanding effects for the Referendums (Scotland) Act 2020. (See end of Document for details)

38 Power to vary specified sums

- (1) The Scottish Ministers may by regulations vary any sum for the time being specified in this Act.
- (2) The Scottish Ministers may make regulations under subsection (1)—
 - (a) where they consider it expedient to do so in consequence of changes in the value of money, or
 - (b) in order to give effect to a recommendation of the Electoral Commission.
- (3) Regulations under subsection (1) are—
 - (a) where subsection (2)(a) applies, subject to the negative procedure,
 - (b) where subsection (2)(b) applies, subject to the affirmative procedure.
- (4) This section does not affect the generality of the power conferred by section 37(1).

Legal proceedings

39 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 9(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 8 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.

Final provisions

40 Interpretation

Schedule 7 provides definitions for words and expressions used in this Act.

41 Commencement

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

42 Short title

The short title of this Act is the Referendums (Scotland) Act 2020.

Changes to legislation:

There are currently no known outstanding effects for the Referendums (Scotland) Act 2020.