



Referendums (Scotland) Act 2020

2020 asp 2

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.
- (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,
- 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.