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*Changes to legislation: There are currently no known outstanding effects for the Referendums (Scotland) Act 2020, PART 1. (See end of Document for details)*

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## SCHEDULE 1 FURTHER PROVISION ABOUT VOTING IN THE REFERENDUM

### PART 1

#### MANNER OF VOTING

##### *Manner of voting*

- 1 (1) This paragraph applies to determine the manner of voting of a voter.
- (2) A voter may vote in person at the polling station allotted to the voter under rule 9(1)(b) of the conduct rules unless the voter is entitled to an absent vote in the referendum.
- (3) A voter may vote by post if the voter is entitled to vote by post in the referendum.
- (4) If a voter is entitled to vote by proxy in the referendum, the voter may so vote unless, before a ballot paper is issued for the voter to vote by proxy, the voter applies at the polling station allotted to the voter under rule 9(1)(b) of the conduct rules for a ballot paper for the purpose of voting in person, in which case the voter may vote in person there.
- (5) If a voter—
  - (a) is not entitled to an absent vote in the referendum, and
  - (b) cannot reasonably be expected to go in person to the polling station allotted to the voter under rule 9(1)(b) of the conduct rules because of the particular circumstances of the voter's employment, either as a constable or by the counting officer, on the date of the referendum for a purpose connected with the referendum,the voter may vote in person at any polling station in the local government area in which the polling station allotted to the voter is situated.
- (6) Nothing in sub-paragraphs (1) to (5) applies to—
  - (a) a voter to whom section 7 of the 1983 Act (mental patients who are not detained offenders) applies and who is liable, by virtue of any enactment, to be detained in the mental hospital in question, whether the voter is registered by virtue of that provision or not, and such a voter may vote—
    - (i) in person at the polling station allotted to the voter under rule 9(1)(b) of the conduct rules (if granted permission to be absent from the hospital and voting in person does not breach any condition attached to the permission), or
    - (ii) by post or by proxy (if entitled so to vote in the referendum), or
  - (b) a voter to whom section 7A of that Act (person remanded in custody) applies, whether the voter is registered by virtue of that provision or not, and such a voter may only vote by post or by proxy (if entitled so to vote in the referendum).
- (7) Sub-paragraph (2) does not prevent a voter, at the polling station allotted to the voter under rule 9(1)(b) of the conduct rules, marking a tendered ballot paper in pursuance of rule 24 of those rules.
- (8) For the purposes of this Act—

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- (a) references to a voter being entitled to an absent vote in the referendum are references to the voter being entitled to vote by post or by proxy in the referendum, and
- (b) a voter is entitled to vote—
  - (i) by post in the referendum if the voter is shown in the postal voters list (see paragraph 4(2)) for the referendum as so entitled,
  - (ii) by proxy in the referendum if the voter is shown in the list of proxies (see paragraph 4(3)) for the referendum as so entitled.

*Existing absent voters*

- 2 (1) A person is taken to have been granted a vote by post in the referendum if the person is—
  - (a) shown in the record maintained under paragraph 3(4) of schedule 4 of the Representation of the People Act 2000 as voting by post at local government elections for an indefinite period or for a period which extends beyond the date of the referendum, or
  - (b) shown in the record maintained by the registration officer of persons entitled to vote by post at Scottish parliamentary elections for an indefinite period or for a period which extends beyond the date of the referendum.
- (2) Such a person is referred to in this schedule as an “existing postal voter”.
- (3) A person is taken to have been granted a vote by proxy in the referendum if the person is—
  - (a) shown in the record maintained under paragraph 3(4) of schedule 4 of the Representation of the People Act 2000 as voting by proxy at local government elections for an indefinite period or for a period which extends beyond the date of the referendum, or
  - (b) shown in the record maintained by the registration officer of persons entitled to vote by proxy at Scottish parliamentary elections for an indefinite period or for a period which extends beyond the date of the referendum.
- (4) Such a person is referred to in this schedule as an “existing proxy voter”.
- (5) Sub-paragraph (1) does not apply to a person if the person is granted a vote by proxy by virtue of an application under paragraph 3.
- (6) Sub-paragraph (3) does not apply to a person if the person is granted a vote by post by virtue of an application under paragraph 3.

*Applications for absent vote*

- 3 (1) Where a person applies to the registration officer to vote by post in the referendum, the registration officer must grant the application if—
  - (a) the registration officer is satisfied that the applicant is registered in the register of local government electors maintained by the officer or will be registered in that register on the date of the referendum, and
  - (b) the application meets the requirements set out in paragraph 7.
- (2) Where a person applies to the registration officer to vote by proxy in the referendum, the registration officer must grant the application if—

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- (a) the registration officer is satisfied that the applicant's circumstances on the date of the referendum will be or are likely to be such that the applicant cannot reasonably be expected to vote in person at the polling station allotted, or likely to be allotted, to the applicant under rule 9(1)(b) of the conduct rules,
  - (b) the registration officer is satisfied that the applicant is registered in the register of local government electors maintained by the officer or will be registered in that register on the date of the referendum, and
  - (c) the application meets the requirements set out in paragraph 7.
- (3) Where a person who has an anonymous entry in the register of local government electors maintained by a registration officer applies to the registration officer to vote by proxy in the referendum, the registration officer must grant the application if it meets the requirements set out in paragraph 7.
- (4) Sub-paragraphs (1) and (2) do not apply to a person who is an existing postal voter or an existing proxy voter.
- (5) If an existing postal voter applies to the appropriate registration officer for the person's ballot paper to be sent to a different address from that shown in the record referred to in paragraph 2(1) in relation to that existing postal voter, the registration officer must grant the application if it meets the requirements set out in paragraph 7.
- (6) If an existing postal voter applies to the appropriate registration officer to vote by proxy in the referendum, the registration officer must grant the application if—
- (a) the registration officer is satisfied that the applicant's circumstances on the date of the referendum will be or are likely to be such that the person cannot reasonably be expected to vote in person at the polling station allotted, or likely to be allotted, to the person under rule 9(1)(b) of the conduct rules, and
  - (b) the application meets the requirements set out in paragraph 7.
- (7) If an existing proxy voter applies to the appropriate registration officer to vote by post in the referendum, the registration officer must grant the application if it meets the requirements set out in paragraph 7.
- (8) In sub-paragraphs (5) to (7), “appropriate registration officer” means, in relation to an existing postal voter or an existing proxy voter, the registration officer responsible for keeping the record mentioned in paragraph 2(1) or (3) by virtue of which the person is such a voter.

#### *Absent voters lists*

- 4 (1) Each registration officer must keep the 2 lists mentioned in sub-paragraphs (2) and (3).
- (2) The first list (the “postal voters list”) is a list of—
- (a) those who are existing postal voters by reason of an entry in a record mentioned in paragraph 2(1) kept by the registration officer, together with the addresses—
    - (i) shown in the record mentioned in that paragraph, or
    - (ii) provided in any application by them under paragraph 3(5),as the addresses to which their ballot papers are to be sent, and

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- (b) those granted a vote by post in the referendum by the registration officer by virtue of an application under paragraph 3 together with the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent.
- (3) The second list (the “list of proxies”) is a list of—
- (a) those who are existing proxy voters by reason of an entry in a record mentioned in paragraph 2(3) kept by the registration officer, and
  - (b) those granted a vote by proxy in the referendum by the registration officer by virtue of an application under paragraph 3,
- together (in each case) with the names and addresses of those appointed as their proxies.
- (4) In the case of a person who has an anonymous entry in the register of local government electors, any entry in the postal voters list or list of proxies must show in relation to the person only the person's voter number.
- (5) Where a person is removed from the postal voters list or the list of proxies, the registration officer must, where practicable, notify the person of the removal and the reason for it.

#### *Proxies*

- 5
- (1) Subject to the provisions of this paragraph, any person is capable of being appointed as proxy to vote for another in the referendum and may vote in pursuance of the appointment.
  - (2) A person (“A”) cannot have more than one person at a time appointed as proxy to vote for A in the referendum.
  - (3) A person is not capable of being appointed to vote, or of voting, as proxy at the referendum—
    - (a) if the person is subject to any legal incapacity (age apart) to vote in the referendum, or
    - (b) if the person is not a Commonwealth citizen, a citizen of the Republic of Ireland or a relevant citizen of the European Union.
  - (4) A person is not capable of being appointed to vote, or of voting, as proxy unless the registration officer is satisfied that the person is or will be registered in the register of local government electors.
  - (5) A person is not capable of voting as a proxy in the referendum unless, on the date of the referendum, the person is of voting age.
  - (6) A person is not entitled to vote as proxy in the referendum on behalf of more than 2 others of whom that person is not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild.
  - (7) If there is an existing proxy for an existing proxy voter, the existing proxy is taken to have been appointed as proxy to vote for the existing proxy voter in the referendum.
  - (8) In sub-paragraph (7), “existing proxy” means, in relation to an existing proxy voter—
    - (a) a person appointed under paragraph 6(7) of schedule 4 of the Representation of the People Act 2000 as proxy to vote for the existing proxy voter at local government elections, or

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- (b) if there is no such person, a person appointed as proxy to vote for the existing proxy voter at Scottish parliamentary elections for an indefinite period or for a period which extends beyond the date of the referendum.
- (9) Where a person applies to the registration officer for the appointment of a proxy to vote for the person in the referendum, the registration officer must make the appointment if—
- (a) the registration officer is satisfied that the applicant is or will be—
    - (i) registered in the register of local government electors maintained by the officer, and
    - (ii) entitled to vote by proxy in the referendum by virtue of paragraph 2(3) or an application under paragraph 3,
  - (b) the registration officer is satisfied that the proxy is capable of being and willing to be appointed, and
  - (c) the application meets the requirements in paragraph 7.
- (10) The appointment of a proxy under this paragraph is to be made by means of a proxy paper issued by the registration officer.
- (11) The appointment of a proxy to vote for a person (“A”) in the referendum—
- (a) may be cancelled by A by giving notice to the registration officer, and
  - (b) ceases to have effect on the issue of a proxy paper appointing a different person to vote for A in the referendum.

#### *Voting as proxy*

- 6
- (1) A person entitled to vote as proxy for another (“A”) in the referendum may do so in person at the polling station allotted to A under rule 9(1)(b) of the conduct rules unless the person is entitled to vote by post as proxy in the referendum, in which case the person may vote by post.
  - (2) Where a person is entitled to vote by post as proxy for another (“A”) in the referendum, A may not apply for a ballot paper for the purpose of voting in person at the referendum.
  - (3) For the purposes of this schedule, a person entitled to vote as proxy for another in the referendum is entitled so to vote by post if the person is included in the proxy postal voters list (see sub-paragraph (7)).
  - (4) An existing proxy is taken to have been granted a vote by post as proxy if the existing proxy is—
    - (a) shown in the record kept under paragraph 7(6) of schedule 4 of the Representation of the People Act 2000 as voting by post as proxy at local government elections for an indefinite period or for a period which extends beyond the date of the referendum, or
    - (b) shown in the record maintained by the registration officer of persons entitled to vote by post as proxy at Scottish parliamentary elections for an indefinite period or for a period which extends beyond the date of the referendum.
  - (5) In sub-paragraph (4), “existing proxy” means a person who is taken to have been appointed as proxy by virtue of paragraph 5(7).
  - (6) Where a person applies to the registration officer to vote by post as proxy for another (“A”) in the referendum, the registration officer must grant the application if—

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- (a) the registration officer is satisfied that A is registered in the register of local government electors maintained by the officer or will be registered in that register on the date of the referendum,
  - (b) there is in force an appointment of the applicant as A's proxy to vote for A in the referendum, and
  - (c) the application meets the requirements in paragraph 7.
- (7) The registration officer must keep a special list (the “proxy postal voters list”) of—
- (a) those taken to have been granted a vote by post as proxy by virtue of sub-paragraph (4) by reason of an entry in a record mentioned in that sub-paragraph kept by the registration officer, together with the addresses shown in the record as the addresses to which their ballot papers are to be sent, and
  - (b) those whose applications under sub-paragraph (6) have been granted by the registration officer, together with the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent.
- (8) Where a person to be included in the proxy postal voters list applies to the registration officer for the person's ballot paper to be sent to a different address, the registration officer must grant the application if it meets the requirements in paragraph 7.
- (9) In the case of a person who has an anonymous entry in the register of local government electors, the proxy postal voters list must contain only the person's voter number.
- (10) The registration officer must keep a record in relation to those whose applications under sub-paragraph (6) have been granted showing—
- (a) their dates of birth, and
  - (b) except in cases where the registration officer in pursuance of paragraph 7(6) (or other provision to like effect) has dispensed with the requirement to provide a signature, their signatures.
- (11) The registration officer must retain the record kept under sub-paragraph (10) for the period of one year following the date of the referendum.
- (12) Sub-paragraph (2) does not prevent a person (“A”), at the polling station allotted to A under rule 9(1)(b) of the conduct rules, from marking a tendered ballot paper in pursuance of rule 24 of those rules.

*Requirements as to applications*

- 7 (1) This paragraph applies in relation to applications under paragraph 3, 5(9) or 6(6) or (8).
- (2) An application must—
- (a) be made in writing,
  - (b) state the date on which it is made, and
  - (c) be made before the cut-off date.
- (3) An application to vote by post (including an application to vote by post as a proxy) must contain—
- (a) the applicant's full name and date of birth,
  - (b) the applicant's signature, and
  - (c) the address to which the ballot paper is to be sent.

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- (4) An application to vote by proxy must contain—
- (a) the applicant's full name and date of birth,
  - (b) the applicant's signature,
  - (c) a statement of the reasons why the applicant's circumstances on the date of the referendum will be or are likely to be such that the applicant cannot reasonably be expected to vote in person at the polling station allotted or likely to be allotted to the applicant under rule 9(1)(b) of the conduct rules, and
  - (d) an application under paragraph 5(9) for the appointment of a proxy.
- (5) An application to vote by proxy made as described in sub-paragraph (9)(a) must also meet any applicable additional requirements set out in paragraph 8.
- (6) The registration officer may, in relation to any application to which sub-paragraph (3) or (4) applies, dispense with the requirement to include the applicant's signature if the officer is satisfied that the applicant is unable—
- (a) to provide a signature because—
    - (i) of any disability that the applicant has, or
    - (ii) the applicant is unable to read or write, or
  - (b) to sign in a consistent and distinctive way because of any such disability or inability.
- (7) For the purposes of sub-paragraphs (3)(a) and (b) and (4)(a) and (b), the applicant's date of birth and signature must be set out in a manner that is sufficiently clear and unambiguous as to be capable of electronic scanning and, in particular—
- (a) the date of birth must be set out numerically in the sequence day, month, year (for example, the date 30 July 1965 must be set out 30071965),
  - (b) the signature must be written within an area of white, unlined paper no smaller than 5 centimetres by 2 centimetres.
- (8) An application for the appointment of a proxy must state the full name and address of the person whom the applicant wishes to appoint as proxy, together with that person's family relationship, if any, with the applicant and—
- (a) if the application is signed only by the applicant, the application must contain a statement signed by the applicant that the applicant has consulted the person so named and that that person is capable of being and willing to be appointed to vote as the applicant's proxy, or
  - (b) if the application is signed also by the person to be appointed as proxy, must contain a statement by that person that the person is capable of being and willing to be appointed to vote as the applicant's proxy.
- (9) Sub-paragraph (10) applies in relation to an application to vote by proxy (and an application under paragraph 5(9) for the appointment of a proxy contained in such an application to vote by proxy)—
- (a) made after the cut-off date and on the grounds that the applicant cannot reasonably be expected to vote in person at the polling station allotted under rule 9(1)(b) of the conduct rules because—
    - (i) of a disability suffered before that date, in circumstances where the disability means that the application could not reasonably have been made before that date,
    - (ii) of a disability suffered after that date, or

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- (iii) of reasons relating to the applicant's occupation, service or employment, of which the applicant only became aware after the cut-off date, or
  - (b) by a person to whom paragraph 1(6)(a) applies.
- (10) Sub-paragraph (2)(c) does not apply in relation to the application and instead the application must be made before 5pm on the date of the referendum.
- (11) Sub-paragraph (12) applies in relation to an application under paragraph 3(5) or 6(8) for the person's ballot paper to be sent to a different address.
- (12) Subject to sub-paragraph (13), the application must set out why the applicant's circumstances will be or are likely to be such that the applicant requires the ballot paper to be sent to that address.
- (13) The requirement in sub-paragraph (12) does not apply where an applicant has, or has applied for, an anonymous entry.

*Additional requirements as to certain applications to vote by proxy*

- 8 (1) Sub-paragraphs (3) to (7) apply in relation to an application to vote by proxy made as described in paragraph 7(9)(a)(i).
- (2) Sub-paragraphs (4) to (7) apply in relation to an application to vote by proxy made as described in paragraph 7(9)(a)(ii).
- (3) The application must contain a statement of the reasons why the applicant did not apply before the cut-off date.
- (4) The application must contain a statement of the date on which the applicant became aware of the reasons given in the statement required by paragraph 7(4)(c).
- (5) Where the application is made on or after the fifth day before the date of the referendum, the application must be signed by a person who—
- (a) is aged 16 or over,
  - (b) knows the applicant, and
  - (c) is not related to the applicant.
- (6) The person who signs the application in accordance with sub-paragraph (5) must certify in the application that the following information is true to the best of the person's knowledge and belief—
- (a) the information given in the statement required by sub-paragraph (4), and
  - (b) the reasons given in the statement required by paragraph 7(4)(c).
- (7) That person must also state in the application—
- (a) the person's name and address,
  - (b) that the person—
    - (i) is aged 16 or over,
    - (ii) knows the applicant, and
    - (iii) is not related to the applicant.
- (8) Sub-paragraphs (10) to (13) apply in relation to an application to vote by proxy made as described in paragraph 7(9)(a)(iii).

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- (9) But sub-paragraphs (11) to (13) do not apply if the applicant is or will be registered as a service voter.
- (10) The application must contain a statement of—
- (a) where the applicant is an employee, the name of the applicant's employer,
  - (b) where the applicant is not an employee, details of the applicant's occupation or service,
  - (c) the date on which the applicant became aware of the reasons given in the statement required by paragraph 7(4)(c).
- (11) Where the application is made on or after the fifth day before the date of the referendum, the application must be signed—
- (a) where the applicant is an employee, by—
    - (i) the applicant's employer, or
    - (ii) another employee to whom this function is delegated by the employer,
  - (b) where the applicant is not an employee, by a person who—
    - (i) is aged 16 or over,
    - (ii) knows the applicant, and
    - (iii) is not related to the applicant.
- (12) The person who signs the application in accordance with sub-paragraph (11) must certify in the application that the following information is true to the best of the person's knowledge and belief—
- (a) the information given in the statement required by sub-paragraph (10), and
  - (b) the reasons given in the statement required by paragraph 7(4)(c).
- (13) That person must also state in the application—
- (a) the person's name and address,
  - (b) if the applicant is an employee, either (as the case may be)—
    - (i) that the person is the applicant's employer, or
    - (ii) the position that the person holds in the employment of the applicant's employer,
  - (c) if the applicant is not an employee, that the person—
    - (i) is aged 16 or over,
    - (ii) knows the applicant, and
    - (iii) is not related to the applicant.
- (14) For the purposes of this paragraph—
- (a) a person (“A”) is related to another person (“B”) if A is the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild of B,
  - (b) a person is registered as a service voter if the person has made a service declaration under section 15 of the 1983 Act and is registered in the register of local government electors in pursuance of it.
- (15) For the purposes of sub-paragraphs (5) and (11), the following days are to be disregarded—
- (a) a Saturday or Sunday,
  - (b) Christmas Eve, Christmas Day or Easter Monday,

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- (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.

*Grant or refusal of applications*

- 9 (1) This paragraph applies in relation to applications under paragraph 3, 5(9) or 6(6) or (8).
- (2) Where the registration officer grants an application, the officer must notify the applicant.
- (3) Where the registration officer refuses an application, the officer must notify the applicant of the decision and of the reason for it.
- (4) Where an application under paragraphs 3(2) and 5(9) is granted, the registration officer must, where practicable, notify the voter of—
- (a) the appointment of the proxy, and
  - (b) the name and address of the proxy.

*Forms*

- 10 (1) The registration officer must, on request, provide free of charge to any person who satisfies the officer of the person's intention to use the forms in connection with the referendum as many forms for use in connection with—
- (a) applications to register as a voter at the referendum, and
  - (b) applications for an absent vote at the referendum,
- as appear to the registration officer to be reasonable in the circumstances.
- (2) The forms provided under sub-paragraph (1)(b) are to be in the form prescribed.

*Personal identifiers record*

- 11 (1) Each registration officer must keep a record in relation to persons granted applications to which paragraph 7(3) or (4) applies showing—
- (a) their dates of birth, and
  - (b) except in cases where the officer has under paragraph 7(6) dispensed with the requirement for a signature, their signatures.
- (2) The registration officer must, as soon as possible after the cut-off date, either—
- (a) provide the relevant counting officer with a copy of the information contained in the record, or
  - (b) give the relevant counting officer access to the information.
- (3) A registration officer may disclose information contained in the record to any other registration officer if the registration officer disclosing it thinks that to do so would assist the other registration officer in the carrying out of the other officer's functions.
- (4) A counting officer may disclose information contained in the record to any other person if the counting officer thinks that to do so would assist the other person in ascertaining whether postal ballot papers have been returned in accordance with rule 30(4) of the conduct rules.

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*Marked lists for polling stations*

- 12 To indicate that a voter or a voter's proxy is entitled to vote by post and is for that reason not entitled to vote in person, the letter “A” is to be placed against the entry of that voter in any list of voters (or any part of a list) provided for a polling station.

*Appeals*

- 13 (1) Where an appeal under section 56 of the 1983 Act (registration appeals) is pending when notice of the referendum is given—
- (a) the appeal does not prejudice the operation as respects the referendum of the decision appealed against, and
  - (b) anything done in pursuance of the decision is as good as if no such appeal had been brought and is not affected by the decision on the appeal.
- (2) Where, as a result of the decision on an appeal under section 56 of the 1983 Act, an alteration in the register of local government electors is made which takes effect under section 13(5), 13A(2), 13AB(3) or 13B(3) or (3B) of the 1983 Act on or before the date of the referendum, sub-paragraph (1) does not apply to the appeal.

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