



# 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.

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

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(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.

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- (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.

**Changes to legislation:**

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