



# Referendums (Scotland) Act 2020

## 2020 asp 2

### *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.
- (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.

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

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- (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.
- (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.

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- (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 [F1Scottish parliamentary elections and] local government elections in Scotland) applies in relation to the referendum as it applies in relation to [F2Scottish 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,
- (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

- F1** 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.
- F2** 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.

**Changes to legislation:**

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