



# 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.

- (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.

- (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 local government elections in Scotland) applies in relation to the referendum as it applies in relation to 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.