

Status: Point in time view as at 30/01/2020.

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

SCHEDULE 1

(introduced by section 6)

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.

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- (8) For the purposes of this Act—
- (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.

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- (2) Where a person applies to the 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 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),

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- as the addresses to which their ballot papers are to be sent, and
- (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—

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- (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
 - (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.

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- (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—
 - (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.

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- (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.
- (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)—

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- (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
 - (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—

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- (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).
- (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.

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- (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,
 - (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.

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- (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.

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.

PART 2

REGISTRATION

Effect of register

- 14 (1) A person registered in the register of local government electors or entered in the list of proxies is not to be excluded from voting in the referendum on any of the grounds set out in sub-paragraph (2), but this does not affect the person's liability to any penalty for voting.
- (2) The grounds referred to in sub-paragraph (1) are—
- (a) that the person is not of voting age,
 - (b) that the person is not or was not at any particular time—
 - (i) a Commonwealth citizen,
 - (ii) a citizen of the Republic of Ireland, or
 - (iii) a relevant citizen of the European Union,
 - (c) that the person is or was at any particular time otherwise subject to any other legal incapacity to vote in the referendum.

Effect of misdescription

- 15 No misnomer or inaccurate description of any person or place named—
- (a) in the register of local government electors, or

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(b) in any list, proxy paper, ballot paper, notice or other document required for the purposes of this Act,

affects the full operation of the document with respect to that person or place in any case where the description of the person or place is such as to be commonly understood.

Carrying out of registration functions

- 16 (1) A registration officer must carry out the registration officer's functions under this Act in accordance with any directions given by the Chief Counting Officer.
- (2) Before giving a direction to a registration officer, the Chief Counting Officer must consult the Electoral Commission.
- (3) The Chief Counting Officer must not give a direction that is inconsistent with this Act or any other enactment under which a registration officer exercises functions.
- (4) Any of the functions of a registration officer under this Act may be carried out by a deputy for the time being approved by the council which appointed the registration officer, and the provisions of this Act apply to any such deputy so far as respects any functions to be carried out by the deputy as they apply to the registration officer.
- (5) Each council must assign such officers to assist the registration officer appointed by the council as may be required for carrying out the registration officer's functions under this Act.

Alterations in the register of local government electors

- 17 (1) An alteration in the register of local government electors under section 13A(2) (alteration of registers) or 56 (registration appeals) of the 1983 Act which is to take effect after the fifth day before the date of the referendum does not have effect for the purposes of the referendum.
- (2) For the purposes of sub-paragraph (1), the following days are to be disregarded—
- (a) a Saturday or Sunday,
 - (b) Christmas Eve, Christmas Day or Easter Monday,
 - (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.
- (3) Section 13B(2) to (6) of the 1983 Act applies in relation to the referendum as it applies in relation to an election to which that section applies but as if—
- (a) any reference to the appropriate publication date were a reference to the fifth day before the date of the referendum,
 - (b) any reference to the date of the poll at such an election were a reference to the date of the referendum,
 - (c) any reference to the relevant election area were a reference to the area for which the registration officer acts,
 - (d) any reference to the prescribed time on the day of the poll were a reference to 9pm on the date of the referendum,
 - (e) any reference to the issuing of a notice in the prescribed manner were a reference to the issuing of the notice in such manner and form as the registration officer may determine.

Status: Point in time view as at 30/01/2020.

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

- (4) Section 13AB of the 1983 Act applies in relation to the referendum as it applies in relation to an election to which that section applies, but as if—
- (a) the reference in subsection (1)(b) to the relevant election area were a reference to the area for which the registration officer acts,
 - (b) the reference in subsection (2) to the issuing of a notice in the prescribed manner were a reference to the issuing of the notice in such manner and form as the registration officer may determine,
 - (c) for subsections (4) to (6) there were substituted—
 - “(4) There are two interim publication dates, which are to be determined by the registration officer.
 - (5) The second interim publication date must be before the appropriate publication date.
 - (6) Before determining the interim publication dates, the registration officer must consult the counting officer.”,
 - (d) the reference in subsection (5) to the appropriate publication date were a reference to the fifth day before the date of the referendum,
 - (e) in subsection (7)—
 - (i) in paragraph (a), “or 13BC(3) or (6)” were omitted,
 - (ii) paragraph (b)(ii) were omitted,
 - (f) subsections (7A), (8), (9) and (10) were omitted.
- (5) The Scottish Ministers may by regulations modify sub-paragraph (1), (3)(a) or (4)(d) for the purposes of the referendum.
- (6) Regulations under sub-paragraph (5) are subject to the negative procedure.
- (7) The Scottish Ministers must consult the Electoral Commission before making regulations under sub-paragraph (5).

The cut-off date

- 18 (1) In this Act, the cut-off date means—
- (a) in relation to an application under paragraph 3(2) or 5(9), 5pm on the sixth day before the date of the referendum,
 - (b) in any other case, 5pm on the eleventh day before the date of the referendum.
- (2) For the purpose of ascertaining the cut-off date, the following days are to be disregarded—
- (a) a Saturday or Sunday,
 - (b) Christmas Eve, Christmas Day or Easter Monday,
 - (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.

Status: Point in time view as at 30/01/2020.

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

PART 3

POSTAL VOTING: ISSUE AND RECEIPT OF BALLOT PAPERS

Persons entitled to be present at issue and receipt of postal ballot papers

- 19 (1) Without prejudice to sections 20 to 22, no person may be present at the proceedings on the issue of postal ballot papers other than the counting officer and the counting officer's staff.
- (2) Without prejudice to sections 20 to 22, no person may be present at the proceedings on the receipt of postal ballot papers other than—
- (a) the counting officer and the counting officer's staff,
 - (b) a referendum agent or any person appointed by a referendum agent to attend in such referendum agent's place,
 - (c) any agents appointed under sub-paragraph (3).
- (3) Each referendum agent may appoint one or more agents to attend the proceedings on the receipt of the postal ballot papers (“postal ballot agents”).
- (4) The number of postal ballot agents that may be appointed under sub-paragraph (3)—
- (a) is to be determined by the counting officer, and
 - (b) is to be the same for each referendum agent.
- (5) A referendum agent who appoints postal ballot agents must give the counting officer notice of the appointment no later than the time fixed for the opening of the postal voters box.
- (6) If a postal ballot agent dies or becomes unable to perform the agent's functions, the referendum agent may appoint another agent and must give the counting officer notice of the new appointment as soon as practicable.
- (7) A notice under sub-paragraph (5) or (6)—
- (a) must be given in writing, and
 - (b) must give the names and addresses of the persons appointed.
- (8) In this Part of this schedule, references to postal ballot agents are to agents appointed under sub-paragraph (3) or (6)—
- (a) whose appointments have been duly made and notified, and
 - (b) who are within the number authorised by the counting officer.
- (9) Where in this Part of this schedule anything is required or authorised to be done in the presence of postal ballot agents, the non-attendance of any agent or agents at the time and place appointed for the purpose does not invalidate the thing (if the thing is otherwise duly done).

Notification of requirement of secrecy

- 20 The counting officer must make such arrangements as are practicable to ensure that every person attending the proceedings in connection with the issue or receipt of postal ballot papers has been given a copy of sub-paragraphs (7), (9) and (10) of paragraph 7 of schedule 6.

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Time when postal ballot papers are to be issued

- 21 The counting officer is to issue postal ballot papers (and postal voting statements) as soon as practicable.

Issue of postal ballot papers

- 22 (1) The number of the voter as stated in the register of local government electors must be marked on the corresponding number list, next to the unique identifying number of the ballot paper issued to that voter.
- (2) A mark is to be placed in the postal voters list or the proxy postal voters list against the number of the voter to denote that a ballot paper has been issued to the voter or the voter's proxy, but without showing the particular ballot paper issued.
- (3) The number of a postal ballot paper must be marked on the postal voting statement sent with that paper.
- (4) Subject to sub-paragraph (5), the address to which the postal ballot paper, postal voting statement and the envelopes referred to in paragraph 24 are to be sent is—
- (a) in the case of a voter, the address shown in the postal voters list,
 - (b) in the case of a proxy, the address shown in the proxy postal voters list.
- (5) Where a person has an anonymous entry in the register of local government electors, the items specified in sub-paragraph (4) are to be sent in an envelope or other form of covering so as not to disclose to any other person that the person has an anonymous entry to the address to which postal ballot papers should be sent—
- (a) as shown in the record of anonymous entries, or
 - (b) as given in pursuance of an application made under paragraph 3(1) or (5) or 6(6) or (8).

Refusal to issue postal ballot paper

- 23 Where a counting officer is satisfied that two or more entries in the postal voters list, or the proxy postal voters list or in each of those lists relate to the same voter, the counting officer may not issue more than one ballot paper in respect of that voter.

Envelopes

- 24 (1) The envelope which the counting officer is required by rule 8(1) of the conduct rules to issue to a postal voter is to be marked with the letter “B”.
- (2) The counting officer must also issue to a postal voter a smaller envelope which is to be marked with—
- (a) the letter “A”,
 - (b) the words “ballot paper envelope”, and
 - (c) the number of the ballot paper.

Sealing up of completed corresponding number lists and security of special lists

- 25 (1) As soon as practicable after the issue of each batch of postal ballot papers, the counting officer must make up into a packet the completed corresponding number lists for those ballot papers which have been issued and must seal that packet.

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- (2) Until the counting officer has sealed the packet as described in paragraph 34(9), the counting officer must take proper precautions for the security of the marked copy of the postal voters list and the proxy postal voters list.

Payment of postage on postal ballot papers

- 26 (1) Where ballot papers are posted to postal voters, postage must be prepaid.
- (2) Return postage must be prepaid where the address provided by the postal voter for the receipt of the postal ballot paper is within the United Kingdom.

Spoilt postal ballot papers

- 27 (1) If a postal voter has inadvertently dealt with a postal ballot paper or postal voting statement in such manner that it cannot be conveniently used as a ballot paper (a “spoilt ballot paper”) or a postal voting statement (a “spoilt postal voting statement”) the postal voter may return the spoilt ballot paper or (as the case may be) the spoilt postal voting statement to the counting officer (either by hand or by post).
- (2) Where a postal voter exercises the entitlement conferred by sub-paragraph (1), the postal voter must also return—
- (a) the postal ballot paper or (as the case may be) the postal voting statement (whether spoilt or not), and
 - (b) the envelopes supplied for their return.
- (3) Subject to sub-paragraph (4), on receipt of the documents referred to in sub-paragraphs (1) and (2), the counting officer must issue another postal ballot paper except where those documents are received after 5pm on the date of the referendum.
- (4) Where the counting officer receives the documents referred to in sub-paragraphs (1) and (2) after 5pm on the day before the date of the referendum, the counting officer may only issue another postal ballot paper if the postal voter returns the documents by hand.
- (5) The following provisions apply in relation to a replacement postal ballot paper under sub-paragraph (3) as they apply in relation to a ballot paper—
- (a) paragraph 22 (except sub-paragraph (2)),
 - (b) paragraphs 24 and 25, and
 - (c) subject to sub-paragraph (8), paragraph 26.
- (6) Any postal ballot paper or postal voting statement (whether spoilt or not) returned in accordance with sub-paragraphs (1) and (2) must be immediately cancelled.
- (7) The counting officer must, as soon as practicable after cancelling those documents, make up those documents in a separate packet and must seal the packet; and if on any subsequent occasion documents are cancelled as mentioned in sub-paragraph (6), the sealed packet must be opened and the additional cancelled documents included in it and the packet must again be made up and sealed.
- (8) Where a postal voter applies in person after 5pm on the day before the date of the referendum, the counting officer may only issue a replacement postal ballot paper by handing it to the postal voter.

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

- (9) The counting officer must enter in a list kept for the purpose (“the list of spoiled postal ballot papers”)—
- (a) the name and number of the postal voter as stated in the register of local government electors (or, in the case of a postal voter who has an anonymous entry, that person's voter number alone),
 - (b) the number of the postal ballot paper (or papers) issued under this paragraph, and
 - (c) where the postal voter whose ballot paper is spoiled is a proxy, the name and address of the proxy.

Lost postal ballot papers

- 28 (1) Where a postal voter claims either to have lost or not to have received—
- (a) the postal ballot paper (a “lost postal ballot paper”),
 - (b) the postal voting statement, or
 - (c) one or more of the envelopes supplied for their return,
- the postal voter may apply (whether or not in person) to the counting officer for a replacement ballot paper.
- (2) An application under sub-paragraph (1) must include evidence of the postal voter's identity.
- (3) Where a postal voter exercises the entitlement conferred by sub-paragraph (1), the postal voter must return any of the documents referred to in sub-paragraph (1)(a) to (c) which the postal voter has received and which have not been lost.
- (4) Any postal ballot paper or postal voting statement returned in accordance with sub-paragraph (3) must be immediately cancelled.
- (5) The counting officer must, as soon as practicable after cancelling those documents, make up those documents in a separate packet and must seal the packet; and if on any subsequent occasion documents are cancelled as mentioned in sub-paragraph (4), the sealed packet must be opened and the additional cancelled documents included in it and the packet must again be made up and sealed.
- (6) Subject to sub-paragraphs (7) and (8), where the application referred to in sub-paragraph (1) is received by the counting officer before 5pm on the date of the referendum and the counting officer—
- (a) is satisfied as to the postal voter's identity, and
 - (b) has no reason to doubt that the postal voter has either lost or has not received a document referred to in sub-paragraph (1)(a) to (c),
- the counting officer must issue another postal ballot paper.
- (7) Where the application referred to in sub-paragraph (1) is received by the counting officer after 5pm on the day before the date of the referendum, the counting officer may only issue another postal ballot paper if the postal voter applies in person.
- (8) The counting officer may refuse to issue another postal ballot paper if the officer considers that it is reasonable for the voter to allow further time for the delivery of the documents referred to in sub-paragraph (1).
- (9) The counting officer must enter in a list kept for the purpose (“the list of lost postal ballot papers”)—

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- (a) the name and number of the postal voter as stated in the register of local government electors (or, in the case of a postal voter who has an anonymous entry, that person's voter number alone),
 - (b) the number of the lost postal ballot paper and of its replacement issued under this paragraph, and
 - (c) where the postal voter is a proxy, the name and address of the proxy.
- (10) The following provisions apply in relation to a replacement postal ballot paper under sub-paragraph (6) as they apply in relation to a ballot paper—
- (a) paragraph 22 (except sub-paragraph (2)),
 - (b) paragraphs 24 and 25, and
 - (c) subject to sub-paragraph (11), paragraph 26.
- (11) Where a postal voter applies in person after 5pm on the day before the date of the referendum, the counting officer may only issue a replacement postal ballot paper by handing it to the postal voter.
- (12) Where the counting officer issues another postal ballot paper under sub-paragraph (6), the lost postal ballot paper is void and of no effect.

Superseded postal ballot papers

- 29 (1) This paragraph applies where—
- (a) an event mentioned in sub-paragraph (2) occurs in relation to a voter or a voter's proxy, and
 - (b) the documents mentioned in sub-paragraph (3) have previously been issued to the voter or, as the case may be, proxy.
- (2) The events are—
- (a) an application by the voter is granted under paragraph 3(2), (5), (6) or (7),
 - (b) the voter is removed from the postal voters list,
 - (c) the appointment of the proxy to vote for the voter in the referendum is cancelled, or ceases to have effect, by virtue of paragraph 5(11),
 - (d) the proxy is removed from the proxy postal voters list,
 - (e) an application by the proxy is granted under paragraph 6(8).
- (3) The documents are—
- (a) a postal ballot paper (a “superseded postal ballot paper”),
 - (b) a postal voting statement,
 - (c) the envelopes supplied for their return.
- (4) The registration officer must notify the counting officer of the occurrence of the event.
- (5) The superseded postal ballot paper is void and of no effect.
- (6) The counting officer must issue a replacement postal ballot paper where an application is granted under paragraph 3(5) or 6(8).
- (7) The voter or, as the case may be, proxy must return the documents mentioned in sub-paragraph (3).

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- (8) Any postal ballot paper or postal voting statement returned in accordance with sub-paragraph (7) must be immediately cancelled.
- (9) The counting officer must, as soon as practicable after cancelling those documents, make up those documents in a separate packet and must seal the packet; and if on any subsequent occasion documents are cancelled as mentioned in sub-paragraph (8), the sealed packet must be opened and the additional cancelled documents included in it and the packet must again be made up and sealed.
- (10) The counting officer must enter in a list kept for the purpose (“the list of superseded postal ballot papers”)—
 - (a) the name and number of the voter as stated in the register of local government electors (or, in the case of a voter who has an anonymous entry, the voter's voter number alone),
 - (b) the number of the superseded postal ballot paper,
 - (c) the number of any replacement postal ballot paper issued under sub-paragraph (6), and
 - (d) where the superseded postal ballot paper was issued to a proxy, the name and address of the proxy.

Notice of opening of postal ballot paper envelopes

- 30
- (1) The counting officer must give to each of the referendum agents appointed for the area not less than 48 hours' notice in writing of each occasion on which a postal voters box and the envelopes contained in it are to be opened.
 - (2) That notice must specify—
 - (a) the time and place at which such an opening is to take place, and
 - (b) the number of postal ballot agents that may be appointed to attend each opening.

Boxes and receptacles

- 31
- (1) The counting officer must provide a separate box for the reception of—
 - (a) the covering envelopes when returned by the postal voters, and
 - (b) postal ballot papers.
 - (2) Each such box must be marked “postal voters box” or “postal ballot box” (as the case may be) and with the name of the local government area.
 - (3) The postal ballot box must be shown as being empty to any postal ballot agents present on the occasion of opening the first postal voters box.
 - (4) The counting officer must then—
 - (a) lock the postal ballot box,
 - (b) apply the counting officer's seal in such manner as to prevent the box being opened without breaking the seal, and
 - (c) allow any referendum agent or postal ballot agent present who wishes to affix the agent's seal to do so.
 - (5) The counting officer must provide separate receptacles for—
 - (a) rejected votes,

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- (b) ballot paper envelopes,
 - (c) rejected ballot paper envelopes,
 - (d) rejected votes (verification procedure), and
 - (e) postal voting statements (verification procedure).
- (6) The counting officer must take proper precautions for the safe custody of every box and receptacle referred to in this paragraph.

Receipt of covering envelopes and collection of postal votes

- 32 (1) The counting officer must, immediately on receipt (whether by hand or by post) of a covering envelope (or an envelope which is stated to include a postal vote) before the close of the poll, place it unopened in a postal voters box.
- (2) Where an envelope, other than a covering envelope issued by the counting officer—
- (a) has been opened, and
 - (b) contains a ballot paper envelope, postal voting statement or ballot paper,
- the envelope, together with its contents, is to be placed in a postal voters box.
- (3) The counting officer may collect (or arrange to be collected) any postal ballot paper or postal voting statement which by virtue of rule 28(2)(g) of the conduct rules the presiding officer of a polling station would otherwise be required to deliver (or arrange to be delivered) to the counting officer.
- (4) Where the counting officer collects (or arranges to be collected) any postal ballot paper or postal voting statement in accordance with sub-paragraph (3), the presiding officer must first make it (or them) up into a packet (or packets) sealed with the presiding officer's seal and the seal of any postal ballot agent present who wishes to affix the agent's seal.

Opening of postal voters box

- 33 (1) Each postal voters box must be opened by the counting officer in the presence of any postal ballot agents who are present.
- (2) So long as the counting officer ensures that there is at least one sealed postal voters box for the reception of covering envelopes up to the time of the close of the poll, the other postal voters boxes may be opened by the counting officer.
- (3) The last postal voters box and the postal ballot box must be opened at the counting of the votes under rule 30 of the conduct rules.

Opening of covering envelopes

- 34 (1) When a postal voters box is opened, the counting officer must count and record the number of covering envelopes (including any envelope which is stated to include a postal vote and any envelope described in paragraph 32(2)).
- (2) The counting officer must open separately each covering envelope (including an envelope described in paragraph 32(2)).
- (3) The procedure in paragraph 36 applies where a covering envelope (including an envelope to which paragraph 32(2) applies) contains both—
- (a) a postal voting statement, and

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- (b) a ballot paper envelope, or if there is no ballot paper envelope, a ballot paper.
- (4) Where the covering envelope does not contain the postal voting statement separately, the counting officer must open the ballot paper envelope to ascertain whether the postal voting statement is inside.
- (5) Where a covering envelope does not contain both—
- (a) a postal voting statement (whether separately or not), and
 - (b) a ballot paper envelope or, if there is no ballot paper envelope, a ballot paper,
- the counting officer must mark the covering envelope “provisionally rejected”, attach its contents (if any) and place it in the receptacle for rejected votes.
- (6) In carrying out the procedures in this paragraph and paragraphs 36 to 40, the counting officer and the counting officer's staff—
- (a) must keep the ballot papers face downwards and must take proper precautions for preventing any person from seeing the votes made on the ballot papers, and
 - (b) must not look at the corresponding number list used at the issue of postal ballot papers.
- (7) Where an envelope opened in accordance with sub-paragraph (2) contains a postal voting statement, the counting officer must place a mark in the marked copy of the postal voters list or proxy postal voters list in a place corresponding to the number of the voter to denote that a postal vote has been returned.
- (8) A mark made under sub-paragraph (7) must be distinguishable from and must not obscure the mark made under paragraph 22(2).
- (9) As soon as practicable after the last covering envelope has been opened, the counting officer must make up into a packet the copy of the marked postal voters list and proxy postal voters list that have been marked in accordance with sub-paragraph (7) and must seal that packet.

Confirmation of receipt of postal voting statement

- 35 (1) A voter or a voter's proxy who is shown in the postal voters list or proxy postal voters list may make a request, at any time between the first issue of postal ballots under paragraph 22 and the close of the poll, that the counting officer confirm—
- (a) whether a mark is shown in the marked copy of the postal voters list or proxy postal voters list in a place corresponding to the number of the voter to denote that a postal vote has been returned, and
 - (b) whether the number of the ballot paper issued to the voter or the voter's proxy has been recorded on either of the lists of provisionally rejected postal ballot papers kept by the counting officer under sub-paragraphs (2) and (3) of paragraph 39.
- (2) Where a request is received in accordance with sub-paragraph (1) the counting officer must, if satisfied that the request has been made by the voter or the voter's proxy, provide confirmation of the matters mentioned in sub-paragraph (1).

Procedure in relation to postal voting statements: personal identifier verification

- 36 (1) This paragraph applies in the circumstances described in paragraph 34(3).

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- (2) The counting officer must determine whether the postal voting statement is duly completed and, as part of that process, must compare the date of birth and the signature on the postal voting statement against the date of birth and the signature contained in the personal identifiers record relating to the person to whom the postal ballot paper was addressed.
- (3) Where the counting officer determines that the statement is not duly completed, the counting officer must mark the statement “rejected”, attach it to the ballot paper envelope, or if there is no such envelope, the ballot paper, and, subject to sub-paragraph (4), place it in the receptacle for rejected votes (verification procedure).
- (4) Before placing a postal voting statement in the receptacle for rejected votes (verification procedure), the counting officer must—
 - (a) show it to the postal ballot agents,
 - (b) permit the agents to view the entries in the personal identifiers record relating to the person to whom the postal ballot paper was addressed, and
 - (c) if any agent objects to the counting officer's decision, add the words “rejection objected to”.
- (5) The counting officer must then examine the number on the postal voting statement against the number on the ballot paper envelope and, where they are the same, the counting officer must place the statement and the ballot paper envelope respectively in the receptacle for postal voting statements (verification procedure) and the receptacle for ballot paper envelopes.
- (6) Where—
 - (a) the number on a valid postal voting statement is not the same as the number on the ballot paper envelope, or
 - (b) that envelope has no number on it,
 the counting officer must open the envelope.
- (7) Sub-paragraph (8) applies where—
 - (a) there is a valid postal voting statement but no ballot paper envelope, or
 - (b) the ballot paper envelope has been opened under paragraph 34(4) or sub-paragraph (6).
- (8) The counting officer must place—
 - (a) in the postal ballot box, any postal ballot paper the number on which is the same as the number on the valid postal voting statement,
 - (b) in the receptacle for rejected votes (verification procedure), any other ballot paper, with the valid postal voting statement attached and marked “provisionally rejected”,
 - (c) in the receptacle for rejected votes (verification procedure), any valid postal voting statement marked “provisionally rejected” where there is no postal ballot paper, and
 - (d) in the receptacle for postal voting statements (verification procedure), any valid statement not disposed of under paragraph (b) or (c).

Opening of ballot paper envelopes

- 37 (1) The counting officer must open separately each ballot paper envelope placed in the receptacle for ballot paper envelopes.

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- (2) The counting officer must place—
- (a) in the postal ballot box, any postal ballot paper the number on which is the same as the number on the ballot paper envelope,
 - (b) in the receptacle for rejected votes, any other postal ballot paper, which is to be marked “provisionally rejected” and to which is to be attached the ballot paper envelope, and
 - (c) in the receptacle for rejected ballot paper envelopes, any ballot paper envelope which is to be marked “provisionally rejected” because it does not contain a postal ballot paper.

Retrieval of cancelled postal ballot papers

- 38 (1) Where it appears to the counting officer that a cancelled postal ballot paper has been placed—
- (a) in a postal voters box,
 - (b) in the receptacle for ballot paper envelopes, or
 - (c) in a postal ballot box,
- the counting officer must proceed as set out in sub-paragraphs (2) and (3).
- (2) The counting officer must on the next occasion on which a postal voters box is opened in accordance with paragraph 33, also open any postal ballot box and the receptacle for ballot paper envelopes and—
- (a) retrieve the cancelled postal ballot paper,
 - (b) show the ballot paper number on the cancelled postal ballot paper to the postal ballot agents,
 - (c) retrieve the postal voting statement that relates to a cancelled paper from the receptacle for postal voting statements (verification procedure),
 - (d) attach any cancelled postal ballot paper to the postal voting statement to which it relates,
 - (e) place the cancelled documents in a separate packet and deal with that packet in the manner provided for in paragraph 27(7), and
 - (f) unless the postal ballot box has been opened for the purposes of the counting of votes under rule 30 of the conduct rules, seal the postal ballot box in the presence of the agents.
- (3) Whilst retrieving a cancelled postal ballot paper in accordance with sub-paragraph (2), the counting officer and the counting officer's staff—
- (a) must keep the ballot papers face downwards and take proper precautions for preventing any person from seeing the votes made on the ballot papers, and
 - (b) must not look at the corresponding number list used at the issue of postal ballot papers.

Lists of provisionally rejected postal ballot papers

- 39 (1) The counting officer must keep two separate lists of provisionally rejected postal ballot papers.
- (2) In the first list, the counting officer must record the ballot paper number of any postal ballot paper for which no valid postal voting statement was received with it.

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- (3) In the second list, the counting officer must record the ballot paper number of any postal ballot paper which is entered on a valid postal voting statement where that postal ballot paper is not received with the postal voting statement.

Checking of lists kept under paragraph 39

- 40 (1) Where the counting officer receives a valid postal voting statement without the postal ballot paper to which it relates, the counting officer may, at any time prior to the close of the poll, check the list kept under paragraph 39(2) to see whether the number of any postal ballot paper to which the statement relates is entered in the list.
- (2) Where the counting officer receives a postal ballot paper without the postal voting statement to which it relates, the counting officer may, at any time prior to the close of the poll, check the list kept under paragraph 39(3) to see whether the number of the postal ballot paper is entered in the list.
- (3) The counting officer must conduct the checks required by sub-paragraphs (1) and (2) as soon as practicable after the receipt, under rule 28(1)(d) of the conduct rules, of packets from every polling station in the local government area.
- (4) Where the ballot paper number in the list matches that number on a valid postal voting statement or (as the case may be) the postal ballot paper, the counting officer must retrieve that statement or paper.
- (5) The counting officer must then take the appropriate steps under this Part of this schedule as though any document earlier marked “provisionally rejected” had not been so marked and must amend the document accordingly.

Sealing of receptacles

- 41 (1) As soon as practicable after the completion of the procedure under paragraph 40(3) and (4), the counting officer must make up into separate packets the contents of—
- (a) the receptacle for rejected votes,
 - (b) the receptacle for rejected ballot paper envelopes,
 - (c) the lists of spoilt, lost and superseded postal ballot papers,
 - (d) the receptacle for rejected votes (verification procedure), and
 - (e) the receptacle for postal voting statements (verification procedure),
- and must seal up such packets.
- (2) Any document in those packets marked “provisionally rejected” is to be deemed to be marked “rejected”.

Forwarding of documents

- 42 (1) The counting officer must, at the same time as sending the documents mentioned in rule 37 of the conduct rules, send to the proper officer of the council for the local government area in which the votes being counted have been cast—
- (a) any packets referred to in paragraphs 25, 27(7), 28(5), 29(9), 34(9), 38(2)(e) and 41, endorsing on each packet a description of its contents and the date of the referendum, and
 - (b) a completed statement giving details of postal ballot papers issued, received, counted and rejected in the form prescribed.

Status: Point in time view as at 30/01/2020.

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

- (2) Where—
- (a) any covering envelopes are received by the counting officer after the close of the poll (apart from those delivered in accordance with the provisions of rule 28 of the conduct rules),
 - (b) any envelopes addressed to postal voters are returned as undelivered too late to be re-addressed, or
 - (c) any spoilt postal ballot papers are returned too late to enable other postal ballot papers to be issued,
- the counting officer must put them unopened in a separate packet, seal up that packet and endorse and send it at a subsequent date in the manner described in sub-paragraph (1).
- (3) Rules 38 and 40 of the conduct rules apply to any packet or document sent under this paragraph as they apply for the purposes of the documents referred to in those rules.
- (4) A copy of the statement referred to in sub-paragraph (1)(b) is to be provided by the counting officer to the Electoral Commission.

Power of Chief Counting Officer to prescribe

- 43 (1) In paragraphs 10(2) and 42(1)(b), “prescribed” means prescribed by the Chief Counting Officer.
- (2) Where a form is so prescribed, the form may be used with such variations as the circumstances may require.

Interpretation of Part

- 44 In this Part—
- “postal ballot paper” means a ballot paper issued, or to be issued, to a postal voter,
- “postal voter” means a voter or a voter's proxy who is entitled to vote by post.

PART 4

SUPPLY OF REGISTER OF LOCAL GOVERNMENT ELECTORS ETC.

Supply of free copy of register of local government electors etc. to counting officers

- 45 (1) Each registration officer must, at the request of the relevant counting officer, supply free of charge to the counting officer as many printed copies of—
- (a) the latest version of the register of local government electors,
 - (b) any notice setting out an alteration to the register of local government electors issued under—
 - (i) section 13A(2) of the 1983 Act,
 - (ii) section 13AB(2) of that Act, or
 - (iii) section 13B(3), (3B) or (3D) of that Act, and
 - (c) any record of anonymous entries,
- as the counting officer may reasonably require for the purposes of the referendum.

Status: Point in time view as at 30/01/2020.

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

- (2) Each registration officer must, as soon as practicable, supply free of charge to the relevant counting officer as many printed copies of—
- (a) the postal voters list,
 - (b) the list of proxies, and
 - (c) the proxy postal voters list,
- as the counting officer may reasonably require for the purposes of the referendum.
- (3) If, after supplying copies of the register of local government electors and notices in accordance with sub-paragraph (1), any further notices of the kind referred to in paragraph (b) of that sub-paragraph are issued by a registration officer, the registration officer must, as soon as practicable after issuing the notices, supply the relevant counting officer with as many printed copies as the counting officer may reasonably require for the purposes of the referendum.
- (4) The duty under sub-paragraph (1) to supply as many printed copies of the register of local government electors and notices as the counting officer may reasonably require includes a duty to supply up to two copies in data form.
- (5) No person to whom a copy of a document has been supplied under this paragraph may, except for the purposes of the referendum—
- (a) supply a copy of the document,
 - (b) disclose any information contained in it (that is not also contained in the edited version of the register of local government electors), or
 - (c) make use of any such information.

Supply of free copy of register of local government electors etc. to Electoral Commission

- 46 (1) Each registration officer must supply free of charge to the Electoral Commission one copy of—
- (a) the latest version of the register of local government electors,
 - (b) any notice setting out an alteration of the register of local government electors issued under—
 - (i) section 13A(2) of the 1983 Act,
 - (ii) section 13AB(2) of that Act, or
 - (iii) section 13B(3), (3B) or (3D) of that Act,
 - (c) the postal voters list,
 - (d) the list of proxies, and
 - (e) the proxy postal voters list.
- (2) The duty to supply under sub-paragraph (1) is a duty to supply in data form unless the Commission have, prior to the supply, requested in writing a printed copy instead.
- (3) Neither an Electoral Commissioner nor any person employed by the Commission may—
- (a) supply a copy of any document supplied under sub-paragraph (1) otherwise than to another Electoral Commissioner or another such person,
 - (b) disclose any information contained in any such document otherwise than in accordance with sub-paragraph (5) below,
 - (c) make use of any such information otherwise than in connection with the Commissioner's or the person's functions under, or by virtue of, this Act.

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

- (4) In sub-paragraph (3), “Electoral Commissioner” includes a Deputy Electoral Commissioner and an Assistant Electoral Commissioner.
- (5) A document supplied under sub-paragraph (1), or any information contained in it, may not be disclosed otherwise than—
 - (a) where necessary to carry out the Commission's functions under this Act in relation to permissible donors,
 - (b) by publishing information about voters which does not include the name or address of any voter.
- (6) A registration officer must, at the request of the Electoral Commission, supply free of charge to the Commission a further copy of any document referred to in sub-paragraph (1) if satisfied that it is necessary in the circumstances to do so.
- (7) Sub-paragraphs (2) to (5) apply to the supply of a document under sub-paragraph (6) as they apply to the supply of a document under sub-paragraph (1).

Supply of free copy of register of local government electors etc. to permitted participants

- 47
- (1) If a permitted participant so requests, the registration officer must supply free of charge to the participant one copy of—
 - (a) the full, latest version of the register of local government electors published under section 13(1) or (3) of the 1983 Act,
 - (b) any notice setting out an alteration of that version of the register issued under—
 - (i) section 13A(2) of the 1983 Act,
 - (ii) section 13AB(2) of that Act, or
 - (iii) section 13B(3), (3B) or (3D) of that Act,
 - (c) the postal voters list kept by the officer under paragraph 5(2) of schedule 4 (absent voting at parliamentary and local government elections) of the Representation of the People Act 2000,
 - (d) the list of proxies kept by the officer under paragraph 5(3) of that schedule, and
 - (e) the proxy postal voters list kept by the officer under paragraph 7(8) of that schedule.
 - (2) A request under sub-paragraph (1) must—
 - (a) be made in writing,
 - (b) specify the documents requested,
 - (c) state whether the request is made only in respect of the current documents or whether it includes a request for the supply of any further documents issued, and
 - (d) state whether a printed copy of any of the documents is requested instead of a version in data form.
 - (3) Unless a request has been made in advance of supply under sub-paragraph (2)(d), the copy of a document supplied under sub-paragraph (1) is to be in data form.
 - (4) No person employed by, or assisting (whether or not for reward) a permitted participant to which a document has been supplied under this paragraph may, except for a purpose set out in sub-paragraph (5)—
 - (a) supply a copy of the document to any person,

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

- (b) disclose any information contained in it (that is not also contained in the edited version of the register of local government electors), or
 - (c) make use of any such information.
- (5) The purposes are—
- (a) purposes in connection with the campaign in respect of the outcome identified in the declaration made by the permitted participant under paragraph 2 of schedule 3, and
 - (b) the purposes of complying with the controls on donations and regulated transactions in that schedule.
- (6) A registration officer may, at the request of a permitted participant, supply free of charge to the permitted participant a further copy of any document referred to in sub-paragraph (1) if satisfied that it is necessary in the circumstances to do so.
- (7) Sub-paragraphs (2) to (5) apply to the supply of a document under sub-paragraph (6) as they apply to the supply of a document under sub-paragraph (1).

Dates of birth to be omitted from copies of register supplied

- 48 A copy of the register of local government electors supplied under paragraph 45, 46 or 47 is to contain the same information as in the register except that, in the case of an entry relating to a person aged 16 or 17, the date on which the person will attain the age of 18 is to be omitted.

Supply of data

- 49 A duty of a registration officer to supply data under this Part of this schedule is a duty only to supply the data in—
- (a) the form in which the officer holds it, or
 - (b) such form as may be agreed between the registration officer and the recipient of the data.

General restriction on use of registration documents and information contained in them

- 50 (1) This paragraph applies to—
- (a) any person to whom a copy of a registration document is supplied under any enactment other than paragraphs 45 to 47,
 - (b) any person to whom information contained in a registration document has been disclosed,
 - (c) any person to whom a person referred to in paragraph (a) or (b) has supplied a copy of a registration document or information contained in it, and
 - (d) any person who has obtained access to a copy of a registration document or information contained in it by any other means.
- (2) No person to whom this paragraph applies may, except for the purposes of the referendum—
- (a) supply a copy of a registration document,
 - (b) disclose any information contained in a registration document (that is not also contained in the edited version of the register of local government electors), or
 - (c) make use of any such information.

Status: Point in time view as at 30/01/2020.

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

- (3) In this paragraph, “registration document” means a document referred to in paragraph 45(1) and (2).

Offence in relation to disclosure of registration documents

- 51 (1) A person (“A”) commits an offence—
- (a) if A contravenes any of paragraphs 45(5), 46(3) or (5), 47(4) or 50(2), or
 - (b) if A is an appropriate supervisor of another person (“B”) who contravenes any of those paragraphs and A failed to take appropriate steps.
- (2) B does not commit an offence under sub-paragraph (1) if—
- (a) B has an appropriate supervisor, and
 - (b) B complied with all the requirements imposed on B by the appropriate supervisor.
- (3) A does not commit an offence under sub-paragraph (1) if—
- (a) A is not, and does not have, an appropriate supervisor, and
 - (b) A took all reasonable steps to ensure that A did not contravene a provision specified in sub-paragraph (1)(a).
- (4) In this paragraph—
- “appropriate supervisor” means a person who is a director of a company, or concerned in the management of an organisation, in which B is employed or under whose direction or control B is,
- “appropriate steps” are such steps as it was reasonable for the appropriate supervisor to take to secure the operation of procedures designed to prevent, so far as practicable, any contravention of a provision specified in sub-paragraph (1)(a).
- (5) A person who commits an offence under sub-paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Destruction of copies of the register of local government electors etc.

- 52 (1) This paragraph applies to any person holding a copy of a document supplied under paragraph 45 or 47.
- (2) The person must ensure that the document is securely destroyed no later than one year after the date of the referendum, unless otherwise directed by an order of the Court of Session or a sheriff principal.
- (3) A person who fails to comply with sub-paragraph (2) commits an offence.
- (4) A person who commits an offence under sub-paragraph (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Status: Point in time view as at 30/01/2020.

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

PART 5

SUPPLY OF MARKED REGISTER OF LOCAL GOVERNMENT ELECTORS ETC.

Supply of marked register of local government electors etc. to designated organisations

- 53 (1) A designated organisation may request that a counting officer supply the organisation with copies of—
- (a) the marked copy of the register of local government electors,
 - (b) the marked copy of any notice setting out an alteration of the register of local government electors issued under section 13B(3B) or (3D) of the 1983 Act,
 - (c) the marked copy of the postal voters list,
 - (d) the marked copy of the list of proxies, and
 - (e) the marked copy of the proxy postal voters list.
- (2) A request under sub-paragraph (1) must—
- (a) be made in writing,
 - (b) specify the documents requested,
 - (c) state whether a printed copy of the documents is requested or a copy in data form, and
 - (d) state the purposes for which the documents will be used and why the supply of the unmarked copies of the documents would not be sufficient to achieve those purposes.
- (3) Where a request is duly made by a designated organisation under sub-paragraph (1), the counting officer must supply the documents requested if—
- (a) the officer is satisfied that the organisation needs to see the marks on the marked copies of the documents in order to achieve the purpose for which they are requested, and
 - (b) the officer has received payment of a fee calculated in accordance with paragraph 54.
- (4) A designated organisation that obtains a copy of any document referred to in sub-paragraph (1) may use it—
- (a) only for—
 - (i) purposes in connection with the campaign in respect of the outcome identified in the declaration made by the organisation under paragraph 2 of schedule 3, or
 - (ii) the purposes of complying with the controls on donations and regulated transactions in that schedule, and
 - (b) subject to any conditions that would apply to the use of the unmarked copies of the documents by virtue of paragraph 47.
- (5) Where a person (“A”) has been supplied with a copy of a document referred to in sub-paragraph (1), or information contained in such a document, by a person (“B”) to whom paragraph 47(4) applies, the restrictions in that paragraph also apply to A as they apply to B.
- (6) A designated organisation may—
- (a) supply a copy of a document referred to in sub-paragraph (1) to a processor for the purpose of processing the information contained in it, or

Status: Point in time view as at 30/01/2020.

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

- (b) procure that a processor processes and supplies to the organisation any copy of the information in such a document that the processor has obtained under this paragraph,
for use in respect of the purposes for which the designated organisation is entitled to obtain such document or information.
- (7) A duty of a counting officer to supply data under this paragraph is a duty only to supply the data in—
- (a) the form in which the officer holds it, or
 - (b) such form as may be agreed between the counting officer and the recipient of the data.
- (8) Paragraph 52 applies to a person holding a copy of a document supplied under this paragraph as it applies to a person holding a copy of any document supplied under paragraph 45 or 47 (and the reference in paragraph 52(2) to the document is to be construed accordingly).
- (9) In sub-paragraph (6), “processor” means a person who provides a service which consists of putting information into data form and includes an employee of such a person.
- (10) In this Act, “marked copy” means—
- (a) in relation to the register of local government electors, the copy marked as mentioned in rule 21(2)(c) of the conduct rules,
 - (b) in relation to a notice issued under section 13B(3B) or (3D) of the 1983 Act, the copy marked as mentioned in that rule as modified by rule 21(4),
 - (c) in relation to the list of proxies, the copy marked as mentioned in rule 21(2)(d),
 - (d) in relation to the postal voters list or proxy postal voters list, the copy marked as mentioned in paragraph 22(2) of this schedule.

Fee for supply of marked register of local government electors etc.

- 54 (1) The fee to be paid in accordance with sub-paragraph (3)(b) of paragraph 53 by a designated organisation requesting the supply of a document referred to in sub-paragraph (1) of that paragraph is set out in sub-paragraph (2).
- (2) The fee is £10 plus—
- (a) for a copy in printed form, £2 for each 1,000 entries (or remaining part of 1,000 entries) covered by the request,
 - (b) for a copy in data form, £1 for each 1,000 entries (or remaining part of 1,000 entries) covered by the request.
- (3) For the purposes of this paragraph, a request for a copy of the whole or the same part of a document in both printed and data form may be treated as two separate requests.

Status:

Point in time view as at 30/01/2020.

Changes to legislation:

There are currently no known outstanding effects for the Referendums (Scotland) Act 2020, SCHEDULE 1.