
SCOTTISH STATUTORY INSTRUMENTS

2009 No. 35

**The Absent Voting at Scottish Local Government Elections
(Provision of Personal Identifiers) Regulations 2009**

PART 2

Absent voting: personal identifiers

Interpretation

2. In this Part “the 2007 Regulations” means the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Regulations 2007(1).

Disapplication of Part IV of the Representation of the People (Scotland) Regulations 2001

3. In Part IV of the Representation of the People (Scotland) Regulations 2001(2) (absent voters), after regulation 50 (interpretation of Part IV) insert—

“Disapplication of Part IV

50A. This Part does not apply where a postal or proxy vote is being or has been sought in respect solely of local government elections in Scotland or of a particular local government election in Scotland.”

Amendment of the 2007 Regulations

4. The 2007 Regulations are amended in accordance with regulations 5 to 10.

Application of the 2007 Regulations

5.—(1) In regulation 2 (interpretation) omit paragraph (2).

(2) After regulation 2 insert—

“Application of these Regulations

2A. These Regulations apply where a postal or proxy vote is being or has been sought in respect solely of local government elections in Scotland or of a particular local government election in Scotland, and do not apply in any other circumstances.”

Interpretation of the 2007 Regulations

6. In regulation 2(1) in the appropriate places, insert—

(1) [S.S.I. 2007/170](#).

(2) [S.I.2001/497](#); amended by [S.I. 2001/1749](#), [2002/1872](#), [2003/3075](#), [2004/1771](#) and [1960](#), [2005/2114](#), [2006/594](#) and [834](#), [2007/925](#), and [2008/305](#) and [1901](#).

““the 2006 Act” means the Local Electoral Administration and Registration Services (Scotland) Act 2006;”;

““absent voter” means an elector who is entitled to vote by proxy, or an elector or proxy who is entitled to vote by post, only at local government elections in Scotland or at a particular local government election in Scotland;”;

““absent voting records” means any one or more of the records kept pursuant to paragraph 3(4) or 7(6), or the lists kept pursuant to paragraph 5 or 7(8), of Schedule 4;”;

““the personal identifiers record” means the record kept by the registration officer under section 21(6) (absent vote applications: provision of personal identifiers) of the 2006 Act;”;

““returning officer” is to be construed in accordance with section 41 (returning officers: local elections in Scotland) of the 1983 Act;” and

““universal postal service provider” means a universal service provider within the meaning of section 4(3) (provision of a universal postal service: meaning) of the Postal Services Act 2000(3);”.

General requirements for applications for an absent vote

7.—(1) Regulation 3 (general requirements for applications for an absent vote at a local government election in Scotland) is amended as follows.

(2) In paragraph (2) after sub-paragraph (e) insert—

“(f) in the case of a person who is unable to provide a signature, the reasons for that person’s request that the registration officer dispense with the requirement under section 21(3) of the 2006 Act to provide the applicant’s signature and the name and address of any person who has assisted the applicant to complete the application; and

(g) where the applicant has, or has applied for, an anonymous entry, that fact.”.

(3) For paragraph (3), substitute—

“(3) The application shall be made in writing and shall be dated.

(3A) Where an application is required to contain a signature and date of birth, the information must be set out in a manner that is sufficiently clear and unambiguous as to be capable of electronic scanning by configuring the information as follows—

(a) the signature shall appear against a background of white unlined paper at least 5 centimetres long and 2 centimetres high; and

(b) the applicant’s date of birth shall be set out numerically configured in the sequence of date, month and year, namely [d][d][m][m][y][y][y][y].

(3B) Where the application contains a request that the registration officer dispense with the requirement for a signature, paragraph (3A)(a) shall not apply.”.

(4) In paragraph (4)—

(a) after “state”, insert “that it is so made.”; and

(b) omit sub-paragraphs (a) and (b).

Checking of personal identifiers

8. For regulation 4 (additional provision concerning the requirement that an application for an absent vote must be signed by the applicant), substitute—

“Additional provisions concerning the requirement that an application for an absent vote must be signed by the applicant and state the applicant’s date of birth

4. The registration officer may confirm—
 - (a) whether an application under Schedule 4 meets any requirement that it has been signed by the applicant and states the applicant’s date of birth by referring to any signature and date of birth—
 - (i) previously provided by the applicant to the registration officer or the returning officer; or
 - (ii) previously provided by the applicant to the council by which the registration officer was appointed or a registrar of births, deaths and marriages, if held by the council or registrar in records which the registration officer is authorised to inspect for the purposes of that officer’s registration duties;
 - (b) whether the applicant is unable to provide a signature or a consistent signature due to any disability or inability to read or write.”.

Provision of fresh signatures

9. After regulation 15 (inquiries by registration officers), insert—

“Requirement to provide fresh signatures

15A.—(1) A registration officer may send to any person who remains an absent voter and whose signature held on the personal identifiers record is more than 5 years old a notice in writing—

- (a) requiring that person to provide a fresh signature; and
- (b) informing that person of the date (6 weeks from the date of sending the notice) on which that person would cease to be entitled to vote by post or by proxy in the event of a failure or refusal to provide a fresh signature.

(2) The notice must be sent by the registration officer to the current or last known address of the absent voter.

(3) The registration officer must, if the absent voter has not responded to the notice within 3 weeks from the date on which the notice was sent, as soon as practicable send a copy of the notice to the absent voter.

Notices: supplementary

15B.—(1) Where a notice or copy of a notice under regulation 15A is sent by post, the registration officer may use—

- (a) a universal postal service provider; or
- (b) a commercial delivery firm,

and postage shall be prepaid on any such notice sent by post.

(2) A notice or copy of a notice sent to an absent voter in accordance with this regulation must be accompanied by a pre-addressed reply envelope and, in the case of any notice or copy of a notice sent to an address within the United Kingdom, return postage shall be prepaid.

Consequence of failure to provide required information

15C.—(1) Subject to paragraph (2), where, upon the expiry of the period of 6 weeks following the date of sending of a notice under regulation 15A(1) to an absent voter, the registration officer has not received a fresh signature—

- (a) the registration officer must remove that voter’s entry from the absent voting records; and
- (b) that voter shall not be entitled to vote by post, by proxy or by post as a proxy (as the case may be) at local government elections in Scotland, or a particular local government election in Scotland, otherwise than in pursuance of a further application made under Schedule 4.

(2) The registration officer must not remove the absent voter’s entry if the registration officer is satisfied that the voter is unable—

- (a) to provide a signature because of any disability the voter has;
- (b) to provide a signature because the voter is unable to read or write; or
- (c) to sign in a consistent and distinctive way because of any such disability or inability,

and, where the registration officer is so satisfied, entries of the voter in the absent voting records shall not show the voter’s signature.

(3) Where an absent voter ceases to be entitled to vote by post, by proxy or by post as a proxy in the circumstances to which paragraph (1) refers—

- (a) the registration officer must inform the voter, where appropriate, of the location of the polling station to which the voter has been allotted or is likely to be allotted, under Rule 21 of Schedule 1 to the Scottish Local Government Elections Order 2007(4), unless that voter is not likely to be allotted to a polling station;
- (b) regulations 12(4) and 13 must apply as if the registration officer were refusing an application under Schedule 4; and
- (c) in the case of an absent voter who ceases to be entitled to vote by post as a proxy, the registration officer must also notify the elector for whom the proxy was appointed.

(4) Where paragraph (3) applies, the registration officer must provide the absent voter with information—

- (a) explaining the effect of removal from the absent voting records; and
- (b) explaining that the absent voter may make a fresh application under Schedule 4 to vote by post, by proxy or by post as a proxy (as the case may be).”.

The personal identifiers record

10. After regulation 18 (conditions on the supply and inspection of absent voters records or lists), insert—

“The personal identifiers record

18A.—(1) The registration officer must retain a voter’s entry on the personal identifiers record until the expiry of 12 months from—

- (a) the date on which that voter’s entry is removed from the record kept pursuant to paragraph 3(4) or 7(6) of Schedule 4; or

(4) [S.S.I. 2007/42](#); amended by [S.S.I. 2007/379](#).

- (b) the date of the poll for the purposes of which that voter’s application for an absent vote was granted under paragraph 4(1) or (2) or 7(4)(b) of Schedule 4.
- (2) The returning officer may disclose information held in the personal identifiers record to any candidate or agents attending proceedings on receipt of postal ballot papers in accordance with regulation 24B of the Representation of the People (Postal Voting for Local Government Elections) (Scotland) Regulations 2007~~(5)~~.

(5) [S.S.I. 2007/263](#). Regulation 24B is inserted by regulation 6 of the Representation of the People (Postal Voting for Local Government Elections) (Scotland) Amendment Regulations 2009.