
DRAFT STATUTORY INSTRUMENTS

2008 No.

**The Representation of the People
(Scotland) (Amendment) Regulations 2008**

PART 2

Absent voting: personal identifiers

Absent voting: interpretation

2.—(1) In regulation 50 (interpretation of Part IV) after the definition of “Schedule 4” insert—
““absent voter” means an elector who is entitled to vote by proxy or an elector or proxy who is entitled to vote by post;”.

(2) In regulation 64(1) (interpretation of Part V) for the definition of “valid postal voting statement” substitute—

““valid postal voting statement” means a postal voting statement which, in accordance with regulation 85 or 85A(2), the returning officer is satisfied has been duly completed.”.

Amendment of regulation 51

3.—(1) Regulation 51(3) (general requirements for applications for an absent vote) is amended as follows.

(2) In paragraph (2), omit the “and” preceding sub-paragraph (e) and after sub-paragraph (e) insert—

“(f) in the case of a person who is unable to provide a signature, the reasons for his request for waiver of any requirement under paragraph 3, 4 or 7 of Schedule 4 to provide a signature and the name and address of any person who has assisted him to complete his 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 five centimetres long and two 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].

(1) Regulation 64 was amended by S.I.2007/925.
(2) Regulation 85A is inserted by regulation 10 of these Regulations.
(3) Regulation 51(2) was amended by S.I. 2006/834.

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

Signatures

4. For regulation 51A(4) (additional provision concerning the requirement that an application for an absent vote must be signed by the applicant) substitute–

“51A. The registration officer may satisfy himself–

- (a) that an application under Schedule 4 meets any requirements that it has been signed by the applicant and states his 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 authority referred to in regulation 35(2)(a), if held by that authority in records which the registration officer is authorised to inspect for the purposes of his registration duties; and
- (b) as to whether the applicant is unable to provide a signature or a consistent signature due to any disability or inability to read or write.”.

Requirement to provide fresh signatures at five yearly intervals

5. After regulation 60 (inquiries by registration officer) insert–

“Requirement to provide fresh signatures at five yearly intervals

60A.—(1) The registration officer shall every year by 31st January send every person who remains an absent voter and whose signature held on the personal identifiers record is more than five years old a notice in writing–

- (a) requiring him to provide a fresh signature, and
- (b) informing him of the date (six weeks from the date of sending the notice) on which he 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 three weeks from the date on which the notice was sent, as soon as practicable send a copy of the notice to him.

(4) Where a notice or copy of a notice 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.

(5) A notice or copy of a notice sent to an absent voter in accordance with paragraph (1) or (3) 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 in the United Kingdom, return postage must be prepaid.

(6) The registration officer must, no later than the date specified in the notice sent to the absent voter in accordance with paragraph (1), determine whether the absent voter has failed or refused to provide a fresh signature.

(7) Where the registration officer determines that the absent voter has failed or refused to provide a fresh signature within the specified period, he must remove that person's entry from the records kept pursuant to paragraph 3(4) or 7(6) of Schedule 4 and from the postal voters list, list of proxies or proxy postal voters list (as the case may be) kept under paragraph 5(2), 5(3) or 7(8) of that Schedule.

(8) Where a registration officer removes an absent voter's entry in the circumstances to which paragraph (7) refers—

- (a) the registration officer shall inform the absent voter of the location of the polling station to which he has been allotted or is likely to be allotted under the appropriate rules (as defined in paragraph 1 of Schedule 4) unless that voter is not likely to be allotted to a polling station;
- (b) regulation 57(4) and regulation 58 shall apply as if the registration officer were refusing an application under Schedule 4; and
- (c) in the case of an entry removed from the proxy postal voters list, the registration officer must also notify the elector who appointed the proxy whose entry has been removed.

(9) The registration officer shall include in the notice to be sent to an absent voter regarding his removal from the records kept pursuant to paragraph 3(4) or 7(6) of Schedule 4 and from the postal voters list, list of proxies or proxy postal voters list (as the case may be) kept under paragraph 5(2), 5(3) or 7(8) of that Schedule, information—

- (a) explaining the effect of such removal; and
- (b) reminding the absent voter that he may make a fresh application under Schedule 4 to vote by post or by proxy (as the case may be)."

The personal identifiers record

6. After regulation 61A(5) (conditions on the use, supply and inspection of absent voter records or lists) insert—

“The personal identifiers record

61B.—(1) The registration officer shall maintain a record (“the personal identifiers record”), apart from the other records and lists which he is required to keep under Schedule 4, of the signatures and dates of birth provided by persons whose applications under paragraph 3(1) or (2), paragraph 4(1) or (2) or paragraph 7(4)(a) or (b) of Schedule 4 were granted, until the expiry of twelve months from—

- (a) the date on which a person is removed from the record kept pursuant to paragraph 3(4) or 7(6) of Schedule 4; or
- (b) the date of the poll for the purposes of which the person's application for an absent vote was granted under paragraph 4(1) or (2) or 7(4)(b) of Schedule 4.

(2) The personal identifiers record shall contain the following information in respect of each absent voter on the postal voters list, list of proxies or proxy postal voters list—

- (a) his name;
- (b) his date of birth; and

- (c) his signature, or a record of a waiver by the registration officer of the requirement for a signature.
- (3) A returning officer may disclose information held in the personal identifiers record to—
 - (a) any candidate or agent attending proceedings on receipt of postal ballot papers, in accordance with and for the purposes referred to in regulation 85(6);
 - (b) any person attending proceedings on receipt of postal ballot papers, who is entitled to do so by virtue of any of sections 6A to 6D of the Political Parties, Elections and Referendums Act 2000(7), but only to the extent required to permit them to observe the proceedings.”.

Postal ballot boxes and receptacles

7. In regulation 81(5)(8) omit the “and” preceding sub-paragraph (d) and after sub paragraph (d) insert—

- “(e) the receptacle for rejected votes (verification procedure); and
- (f) the receptacle for postal voting statements (verification procedure).”.

Amendment of regulation 84

8.—(1) Regulation 84(9) (opening of covering envelopes) is amended as follows.

(2) For paragraph (1) substitute—

“(1) When a postal voters' ballot box is opened, the returning officer shall count and record the number of covering envelopes (including any envelope which is stated to include a postal vote and any envelope described in regulation 82(2)(10)).

(1A) He shall set aside for personal identifier verification not less than 20 per cent of the envelopes recorded on that occasion.

(1B) He shall open separately each covering envelope (including an envelope described in regulation 82(2)).”.

(3) In paragraph (2) for “The procedure in regulation 85 below applies” substitute “The procedure in regulation 85 or, as the case may be, regulation 85A(11) applies”.

(4) After paragraph (4) insert—

“(4A) Where—

- (a) an envelope contains the postal voting statement of an elector with an anonymous entry, and
- (b) paragraph (4) does not apply,

the returning officer shall set aside that envelope and its contents for personal identifier verification in accordance with regulation 85A.”.

(5) In paragraph (6) after “envelope” insert “opened in accordance with paragraph (1B)”.

(6) Regulation 85 was amended by S.I. 2002/1872 and 2007/925 and is further amended by regulation 9 of these Regulations.

(7) 2000 c. 41; sections 6A to 6D were inserted by section 29 of the Electoral Administration Act 2006 (c. 22).

(8) Regulation 81 was amended by S.I. 2007/925.

(9) Regulation 84 was amended by S.I. 2007/925.

(10) Regulation 82(2) was amended by S.I. 2007/925.

(11) Regulation 85A is inserted by regulation 10 of these Regulations.

Amendment of regulation 85

9. In Regulation 85(12) (procedure in relation to postal voting statements), for paragraph (1) substitute—

“(1) This regulation applies to any postal voting statement contained in an envelope that has not been set aside for personal identifier verification in accordance with regulation 84(1A) or (4A)(13).

(1A) The returning officer must satisfy himself that the postal voting statement is duly completed.”.

Procedure in relation to postal voting statements: personal identifier verification

10. After regulation 85 insert—

“Procedure in relation to postal voting statements: personal identifier verification

85A.—(1) This regulation applies to any postal voting statement contained in an envelope that is set aside for personal identifier verification in accordance with regulation 84(1A) or (4A)(14).

(2) The returning officer must satisfy himself that 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 identifier record relating to the person to whom the postal ballot paper was addressed.

(3) Where the returning officer is not so satisfied, he shall mark the statement “rejected”, attach it to the ballot paper envelope, or if there is no such envelope, the ballot paper, and, subject to 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 returning officer must show it to the agents and must permit them to view the entries in the personal identifiers record which relate to the person to whom the postal ballot paper was addressed, and if any of them object to his decision, he must add the words “rejection objected to”.

(5) The returning officer shall then examine the number on the postal voting statement against the number on the ballot paper envelope and, where they are the same, he shall 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 (or only one number when the postal voting statement has more than one),

the returning officer shall open the envelope.

(7) 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 regulation 84(3) or paragraph (6).

(12) Regulation 85 was amended by S.I. 2002/1872 and 2007/925.

(13) Regulation 84(1A) and (4A) are inserted by regulation 8 of these Regulations.

(14) Regulation 84(1A) and (4A) are inserted by regulation 8 of these Regulations.

- (8) In the circumstances described in paragraph (7), the returning officer shall place—
- (a) in the postal ballot box, any 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—
 - (i) there is no ballot paper, or
 - (ii) in the case of a statement on which the number of more than one ballot paper appears, there is not a sufficient number of ballot papers and, in such a case, shall mark the statement to indicate which ballot paper is missing;
 - (d) in the receptacle for postal voting statements (verification procedure), any valid statement not disposed of under sub-paragraph (b) or (c).

Postal voting statements: additional personal identifier verification

85B.—(1) A returning officer may on any occasion at which a postal voters' ballot box is opened in accordance with regulation 83 undertake additional verification of the personal identifiers on any postal voting statement that has on a prior occasion been placed in the receptacle for postal voting statements.

(2) Where a returning officer undertakes additional verification of personal identifiers, he must—

- (a) remove as many postal voting statements from the receptacle for postal voting statements as he wishes to subject to additional verification; and
- (b) compare the date of birth and the signature on each such 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 returning officer is no longer satisfied that the postal voting statement has been duly completed he must mark the statement “rejected” and before placing the postal voting statement in the receptacle for rejected votes (verification procedure), he must—

- (a) show it to the agents and must permit them to view the entries in the personal identifiers record which relate to the person to whom the postal ballot paper was addressed, and if any of them object to his decision, he must add the words “rejection objected to”;
- (b) open any postal ballot box and retrieve the ballot paper corresponding to the ballot paper number on the postal voting statement;
- (c) show the ballot paper number on the retrieved ballot paper to the agents; and
- (d) attach the ballot paper to the postal voting statement.

(4) Following the removal of a postal ballot paper from a postal ballot box the returning officer must lock and reseal the postal ballot box in the presence of the agents.

(5) Whilst retrieving a ballot paper in accordance with paragraph (3), the returning officer and his staff—

- (a) shall keep the ballot papers face downwards and shall take proper precautions for preventing any person seeing the votes made on the ballot papers; and
- (b) shall not be permitted to view the corresponding number list used at the issue of postal ballot papers.”.

Sealing of receptacles

11. In Regulation 89(1)(15) omit the “and” preceding sub-paragraph (d) and after sub-paragraph (d) insert—

- “(e) the receptacle for rejected votes (verification procedure), and
- (f) the receptacle for postal voting statements (verification procedure),”.

Amendment of forms

12.—(1) In Schedule 3 for Form A1, Form B1, Form G, Form H and Form J substitute the Form A1, Form B1, Form G, Form H and Form J as set out in the Schedule to these Regulations.

(2) In Schedule 3 for Form K substitute the Form K as set out in the Schedule to these Regulations.