
DRAFT STATUTORY INSTRUMENTS

2016 No.

The Recall of MPs Act 2015 (Recall Petition) Regulations 2016

PART 6

OFFENCES

Interpretation

117. In this Part, in the application of—

- (a) regulation 122 (tampering with signing sheets etc.),
- (b) regulation 123 (requirement of secrecy),
- (c) regulation 124 (prohibition on publication of exit polls),
- (d) regulation 131 (details to appear on petition publications),
- (e) regulation 132 (prohibition of paid canvassers),
- (f) regulation 133 (providing money for illegal purposes),
- (g) regulation 137 (absent signing),

to a petition in Scotland or Northern Ireland, the reference to a fine on a summary conviction is to be read as a fine not exceeding the statutory maximum for Scotland or the statutory maximum for Northern Ireland (as the case may be).

Personation

118.—(1) A person is guilty of a corrupt practice if they commit, or aid, abet, counsel or procure the commission of, the offence of personation.

(2) A person is guilty of personation if they—

- (a) sign a petition in person or by post as some other person, whether as an elector or as proxy, and whether that other person is living or dead or is a fictitious person; or
- (b) sign a petition, in person or by post, as proxy—
 - (i) for a person whom they know or have reasonable grounds for supposing to be dead or to be a fictitious person, or
 - (ii) when they know or have reasonable grounds for supposing that their appointment as proxy is not in force.

(3) For the purposes of this regulation, a person who—

- (a) has their signing sheet endorsed under regulation 29 (signing sheets endorsed by petition clerk),
- (b) applies for a signing sheet for the purpose of signing by post, or
- (c) marks a postal signing sheet with a signature or otherwise and returns it,

is also to be taken to have signed the petition.

Other signing offences

119.—(1) A person is guilty of an offence if that person—

- (a) signs a petition in person or by post, whether as an elector or as proxy, knowing that they are not entitled to do so;
- (b) applies to sign a petition by proxy or by post as an elector, knowing that they are not entitled at any time during the signing period to sign the petition;
- (c) applies for the appointment of a proxy to sign a petition for them knowing that they or their prospective proxy is not entitled at any time during the signing period to sign the petition; or
- (d) signs a petition in person or by post, as proxy for some other person, knowing the other person is not entitled to do so.

(2) A person is guilty of an offence if they—

- (a) sign a petition in any signing place when there is in force an appointment of a person to sign the petition as their proxy in another signing place;
- (b) sign in person a petition they are only entitled to sign by post;
- (c) apply for a person to be appointed as their proxy to sign a petition without applying for the cancellation of a previous appointment of a third person then in force in respect of that petition or without withdrawing a pending application for such an appointment.

(3) A person is guilty of an offence if they sign a petition in person as proxy for an elector at which that person is entitled to sign by post as proxy for that elector.

(4) A person is guilty of an offence if they sign a petition as proxy for more than two persons of whom they are not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild.

(5) A person is guilty of an offence if they knowingly induce or procure another person to do an act which is, or but for that other person's want of knowledge would be, an offence by that other person under any of paragraphs (1) to (4).

(6) For the purposes of this regulation, and subject to paragraph (7), a person who—

- (a) has their signing sheet endorsed under regulation 29 (signing sheets endorsed by petition clerk),
- (b) applies for a signing sheet for the purpose of signing the petition in person, or
- (c) marks a postal signing sheet with a signature or otherwise and returns it,

is also to be taken to have signed the petition.

(7) For the purposes of determining whether an application for a signing sheet constitutes an offence under paragraph (1), a previous application made in circumstances which entitle the applicant only to mark a tendered signing sheet shall, if that right is exercised, be disregarded.

(8) A person is not guilty of an offence under paragraph (2)(b) or (3) only by reason of their having signed a tendered signing sheet in pursuance of regulation 30 (tendered signing sheets).

(9) An offence under this regulation is an illegal practice.

Offences relating to applications for postal and proxy signing

120.—(1) A person commits an offence if they—

- (a) engage in an act specified in paragraph (2) in relation to a petition; and
- (b) intend by doing so to deprive another person of an opportunity to sign the petition, to secure a signature on the petition, or to gain money or property of any description.

(2) These are the acts—

- (a) applying as some other person to sign a petition by post or proxy (whether that other person is living or dead or is a fictitious person);
 - (b) otherwise making a false statement in, or in connection with, an application to sign a petition by post or proxy;
 - (c) inducing the petition officer to send a postal signing sheet or any communication relating to signing a petition by post or proxy to an address which has not been agreed to by the person entitled to sign the petition;
 - (d) causing a communication relating to signing a petition by post or proxy or containing a postal signing sheet not to be delivered to the intended recipient.
- (3) In paragraph (2), a reference to signing the petition by post includes signing the petition by post as a proxy and postal signing sheet is to be construed accordingly.
- (4) A person who commits an offence under paragraph (1) or who aids, abets, counsels or procures the commission of such an offence is guilty of a corrupt practice.

Breach of official duty

121.—(1) If a person to whom this regulation applies is, without reasonable cause, guilty of any act or omission in breach of that person’s official duty, they are liable on summary conviction to a fine.

(2) A person to whom this regulation applies is not liable for breach of their official duty to any penalty at common law and no action for damages will lie in respect of the breach by such a person of their official duty.

(3) The persons to whom this section applies are—

- (a) the Clerk of the Crown (or, in Northern Ireland, the Clerk of the Crown for Northern Ireland),
- (b) any registration officer, petition officer or petition clerk,
- (c) any other person whose duty it is to be responsible after a petition for the used signing sheets and other documents (including returns and declarations as to expenses),
- (d) any official designated by a universal postal service provider, and
- (e) any deputy of a person mentioned in any of paragraphs (a) to (d) above or any person appointed to assist or in the course of their employment assisting a person so mentioned in connection with their official duties,

and for the purposes of this regulation “official duty” is to be construed accordingly, but does not include duties imposed otherwise than by or under the Act.

Tampering with signing sheets etc.

122.—(1) A person is guilty of an offence if that person—

- (a) fraudulently defaces or fraudulently destroys a signing sheet, the official mark on any signing sheet, or a postal petition statement, declaration of identity or official envelope used in connection with signing the petition by post;
- (b) without due authority supplies a signing sheet to any person;
- (c) fraudulently puts into a ballot box any paper other than any signing sheet which the person is authorised by law to put in;
- (d) fraudulently takes out of any petition signing place a signing sheet;
- (e) without due authority destroys, takes, opens or otherwise interferes with a ballot box or packet of petition signing sheets then in use for the purposes of the petition; or

- (f) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts.
- (2) If a petition officer or petition clerk counting the signing sheets or assisting at the proceedings in connection with the issue or receipt of postal signing sheets is guilty of an offence under this regulation, that person is liable—
- (a) on conviction on indictment to a fine, or to imprisonment for a term not exceeding 2 years, or to both;
 - (b) on summary conviction, to a fine, or to imprisonment for a term not exceeding 6 months, or to both.
- (3) If any other person is guilty of an offence under this regulation, that person is liable on summary conviction to a fine, or to imprisonment for a term not exceeding 6 months, or to both.

Requirement of secrecy

123.—(1) A person to whom this paragraph applies must maintain and aid in maintaining the secrecy of the proceedings in connection with the signing of a petition and must not, except for some purpose authorised by law, communicate to any person before the end of the signing period any information as to—

- (a) the name of any elector or proxy for an elector who has or has not applied for a signing sheet or signed the petition;
 - (b) the number on the register of electors of any elector who, or whose proxy, has or has not applied for a signing sheet or signed the petition; or
 - (c) the official mark.
- (2) Paragraph (1) applies to—
- (a) a petition officer, petition clerk or assistant attending at a petition signing place;
 - (b) any representative of the Electoral Commission so attending.
- (3) A person attending at the counting of signing sheets relating to a petition must maintain and aid in maintaining the secrecy of such proceedings and must not—
- (a) ascertain or attempt to ascertain the number or other unique identifying mark on the back of any signing sheet; or
 - (b) communicate any information obtained when so attending as to the number of signing sheets which have been signed.
- (4) A person must not—
- (a) interfere with or attempt to interfere with a person signing a petition; or
 - (b) communicate to any person the number or other unique identifying mark on the back of the signing sheet issued to a person at a petition signing place.
- (5) A person attending the proceedings in connection with the issue or the receipt of postal signing sheets must maintain and aid in maintaining the secrecy of those proceedings and must not, except for some purpose authorised by law—
- (a) communicate to any person, before the end of the signing period, any information obtained at those proceedings as to the official mark;
 - (b) communicate to any person at any time any information obtained at those proceedings as to the number or other unique identifying mark on the back of the signing sheet sent to any person; or
 - (c) attempt to ascertain at proceedings on the receipt of signing sheets the number or other unique identifying mark on the back of any such sheet.

(6) A person guilty of an offence under this regulation is liable on summary conviction to a fine or to imprisonment for a term not exceeding 6 months.

Prohibition on publication of exit polls

124.—(1) A person must not, before the end of the last day of the signing period for a petition, publish—

- (a) any statement relating to whether any person has signed the petition where that statement is (or might reasonably be taken to be) based on information given by that person; or
- (b) any forecast as to the result of the petition which is (or might reasonably be taken to be) based on information so given.

(2) A person who contravenes paragraph (1) is liable on summary conviction to a fine or to imprisonment for a term not exceeding six months.

(3) In this regulation—

“forecast” includes estimate; and

“publish” means make available to the public at large, or any section of the public, in whatever form and by whatever means.

Broadcasting from outside United Kingdom

125.—(1) No person must, with intent to influence persons to sign or refrain from signing a petition, include, or aid, abet, counsel or procure the inclusion of, any matter relating to the petition in any licensable programme services (within the meaning of the Broadcasting Act 1990) provided from a place outside the United Kingdom otherwise than in pursuance of arrangements made with—

- (a) the British Broadcasting Corporation,
- (b) Sianel Pedwar Cymru, or
- (c) the holder of any licence granted by the Office of Communications,

for the reception and re-transmission of that matter by that body or the holder of that licence.

(2) An offence under this regulation shall be an illegal practice.

(3) Where any act or omission of an association or body of persons, corporate or unincorporate, is an illegal practice under this regulation, any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or was purporting to act in any such capacity, is deemed to be guilty of the illegal practice, unless that person proves—

- (a) that the act or omission took place without their consent or connivance; and
- (b) that that person exercised all such diligence to prevent the commission of the illegal practice as they ought to have exercised having regard to the nature of their functions in that capacity and to all the circumstances.

Imitation of official petition notice

126.—(1) A person must not, for the purpose of promoting or procuring the success or failure of a petition, issue any official petition notice or a document so closely resembling an official petition notice as to be calculated to deceive.

(2) An offence under this regulation is an illegal practice.

(3) Paragraph (3) of regulation 125 (broadcasting from outside the United Kingdom) applies as if an offence under this regulation were an offence under that regulation.

Disturbances at petition meetings: England and Wales and Scotland

127.—(1) A person who at a public meeting to which this regulation applies acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together is guilty of an illegal practice.

(2) This regulation applies to a political meeting held in the constituency of the MP to whom a petition relates at any time when that MP is subject to a petition process.

(3) If a constable reasonably suspects any person of committing an offence under paragraph (1), that constable may if requested so to do by the chairperson of the meeting require that person to declare to that constable immediately their name and address and, if that person refuses or fails so to declare their name and address or gives a false name and address, that person shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

Illegal canvassing by police officers

128.—(1) A member of a police force must not by word, message, writing or in any other manner, endeavour to persuade any person to sign a petition held in relation to a constituency wholly or partly within the police area of the force of which that person is a member, or dissuade any person from signing such a petition, whether as an elector or as proxy.

(2) A person who contravenes paragraph (1) is liable on summary conviction to a fine not exceeding level 3 on the standard scale, but nothing in that paragraph shall subject a member of a police force to any penalty for anything done in the discharge of their duty as a member of the force.

(3) In this regulation, references to a member of a police force and to a police area are to be taken in relation to Northern Ireland as references to a member of the Police Service of Northern Ireland and to Northern Ireland.

False statements as to MP or accredited campaigner

129.—(1) A person who, or any director of any body corporate which—

- (a) during the period beginning with the giving of notice under section 5 of the Act (Speaker's notice) and ending with the last day of the signing period, and
- (b) for the purpose of affecting the outcome of the petition,

makes or publishes any false statement of fact in relation to the personal character or conduct of a relevant person is guilty of an illegal practice, unless that person can show that they had reasonable grounds for believing, and did believe, the statement to be true.

(2) In paragraph (1), "relevant person" means—

- (a) the MP to whom the petition relates; or
- (b) a person who is an accredited campaigner in relation to that petition.

(3) A person making or publishing any false statement of fact as mentioned above may be restrained by interim or perpetual injunction by the High Court or the county court from any repetition of that false statement or of a false statement of a similar character in relation to the Member of Parliament and, for the purpose of granting an interim injunction, prima facie proof of the falsity of the statement shall be sufficient.

(4) Article 60 of the County Courts (Northern Ireland) Order 1980 (ordinary appeals from the county court in civil cases)⁽¹⁾ shall apply in relation to any order of a county court in Northern Ireland made by virtue of subsection (3) above as it applies in relation to any such decree of a county court as is mentioned in paragraph (1) of that Article.

(1) N.I.S.I 1980/397 (N.I. 3).

(5) In the application of this regulation to Scotland, a reference to the county court is to be read as a reference to the sheriff.

Payments for exhibition of petition notices

130.—(1) A payment or contract for payment for the purpose of promoting or procuring the success or failure of a petition may not be made to an elector or their proxy on account of the exhibition of, or the use of any house, land, building or premises for the exhibition of, any address, bill or notice, unless—

- (a) it is the ordinary business of the elector or proxy as an advertising agent to exhibit for payment bills and advertisements; and
- (b) the payment or contract is made in the ordinary course of that business.

(2) If any payment or contract for payment is knowingly made in contravention of this regulation at any time after the giving of notice under section 5 of the Act (Speaker’s notice)—

- (a) the person making the payment or contract, and
- (b) if that person knew it to be in contravention of this regulation, any person receiving the payment or being a party to the contract,

is guilty of an illegal practice.

Details to appear on petition publications

131.—(1) This regulation applies to any material which can reasonably be regarded as intended to promote or procure the success or failure of a petition (whether or not it can be so regarded as intended to achieve any other purpose as well).

(2) Material to which this regulation applies and which is, or is contained in, such a document as is mentioned in paragraphs (4) to (6), must not be published unless the requirements of that paragraph are complied with.

(3) For the purposes of paragraphs (4) to (6) the following details are “the relevant details” in the case of any material falling within paragraph (2), namely—

- (a) the name and address of the printer of the document;
- (b) the name and address of the promoter of the material; and
- (c) the name and address of any person on behalf of whom the material is being published (and who is not the promoter).

(4) Where the material is a document consisting (or consisting principally) of a single side of printed matter, the relevant details must appear on the face of the document.

(5) Where the material is a printed document other than one to which paragraph (4) applies, the relevant details must appear either on the first or the last page of the document.

(6) Where the material is an advertisement contained in a newspaper or periodical—

- (a) the name and address of the printer of the newspaper or periodical must appear either on its first or last page; and
- (b) the relevant details specified in paragraph (3)(b) and (c) must be included in the advertisement.

(7) Where any material falling within paragraph (2) is published in contravention of that paragraph, then (subject to paragraphs (8) and (9))—

- (a) the promoter of the material,
- (b) any other person by whom the material is so published, and

- (c) the printer of the document,
is guilty of an offence and liable on summary conviction to a fine.
- (8) It is a defence for a person charged with an offence under this regulation to prove—
- (a) that the contravention of paragraph (2) arose from circumstances beyond their control; and
 - (b) that they took all reasonable steps, and exercised all due diligence, to ensure that that contravention would not arise.
- (9) Where an MP (apart from this paragraph) is guilty of an offence under paragraph (7), they are instead guilty of an illegal practice.
- (10) In this regulation—
- “print” means print by whatever means, and “printer” is construed accordingly;
- “the promoter”, in relation to any material to which this regulation applies, means the person causing the material to be published;
- “publish” means make available to the public at large, or any section of the public, in whatever form and by whatever means.
- (11) For the purpose of determining whether any material is material such as is mentioned in paragraph (1), it is immaterial that it does not expressly mention the name of the MP to whom the petition relates.

Prohibition of paid canvassers

132.—(1) If a person is, either before, during or after a petition, engaged or employed for payment or promise of payment as a canvasser for the purpose of promoting or procuring the success or failure of the petition—

- (a) the person so engaging or employing that person, and
- (b) the person so engaged or employed,

is guilty of illegal employment.

(2) A person guilty of an offence under paragraph (1) shall, on summary conviction, be liable to a fine; and on a prosecution for such an offence it shall be sufficient to allege that the person charged was guilty of illegal employment.

(3) Where an MP (apart from this paragraph) is guilty of an offence under paragraph (1), they are instead guilty of an illegal practice.

(4) Any person charged with an offence of illegal employment may be found guilty of that offence, notwithstanding that the act constituting the offence amounted to a corrupt or illegal practice.

Providing money for illegal purposes

133.—(1) Where a person knowingly provides money—

- (a) for any payment which is contrary to the provisions of the Act or these Regulations,
- (b) for any expenses incurred in excess of the maximum amount allowed by or under the Act,
or
- (c) for replacing any money expended in any such payment or expenses,

that person is guilty of an illegal payment.

(2) A person guilty of an offence under paragraph (1) shall, on summary conviction, be liable to a fine; and on a prosecution for such an offence it shall be sufficient to allege that the person charged was guilty of an illegal payment.

(3) Where an MP (apart from this paragraph) is guilty of an offence under paragraph (1), they are instead guilty of an illegal practice.

(4) Any person charged with an offence of illegal payment may be found guilty of that offence, notwithstanding that the act constituting the offence amounted to a corrupt or illegal practice.

Bribery

134.—(1) A person is guilty of a corrupt practice if that person is guilty of bribery.

(2) A person is guilty of bribery if that person, directly or indirectly, by themselves or by any other person on their behalf—

(a) gives any money or procures any office to or for—

(i) any person entitled to sign a petition,

(ii) any other person on behalf of any person entitled to sign a petition, or

(iii) any other person,

in order to induce any person to sign a petition or to refrain from doing so;

(b) corruptly does any such act on account of any person having signed the petition or refrained from doing so; or

(c) makes any such gift or procurement to or for any person in order to induce that person to procure, or endeavour to procure, a particular outcome in the petition or a person to sign it or refrain from doing so.

(3) A person is guilty of bribery if upon or in consequence of any gift or procurement mentioned in paragraph (2) that person procures or engages, promises or endeavours to procure a particular outcome in the petition or a person to sign it or refrain from doing so.

(4) For the purposes of paragraphs (2) and (3)—

(a) references to giving money include references to giving, lending, agreeing to give or lend, offering, promising, or promising to procure or endeavour to procure any money or valuable consideration; and

(b) references to procuring any office include references to giving, procuring, agreeing to give or procure, offering, promising, or promising to procure or to endeavour to procure any office, place or employment.

(5) A person is guilty of bribery if that person advances or pays or causes to be paid any money to or for the use of any other person with the intent that that money or any part of it will be expended in bribery in relation to a petition or knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery in relation to a petition.

(6) This regulation does not apply to any money paid or agreed to be paid for or on account of any legal expenses incurred in good faith in relation to a petition.

(7) A person signing a petition is guilty of bribery if, before the end of the signing period, that person directly or indirectly by themselves or by any other person on their behalf receives, agrees, or contracts for any money, gift, loan or valuable consideration, office, place or employment for themselves or for any other person for signing the petition or agreeing to do so or for refraining or agreeing to refrain from doing so.

(8) A person is guilty of bribery if, after the end of the signing period for a petition, that person directly or indirectly by themselves or by any other person on their behalf receives any money or valuable consideration on account of any person having signed the petition or refrained from doing so or having induced any other person to sign or refrain from doing so.

(9) In this regulation, the expression “person signing the petition” includes any person who is or claims to be entitled to sign the petition.

Treating

135.—(1) A person is guilty of a corrupt practice if that person is guilty of treating.

(2) A person is guilty of treating if they corruptly, by themselves or by any other person, at any time after notice is given under section 5 of the Act (Speaker’s notice) in relation to a petition, directly or indirectly give or provide, or pay wholly or in part the expense of giving or providing, any meat, drink, entertainment or provision to or for any person—

- (a) for the purpose of corruptly influencing that person or any other person to sign that petition or to refrain from doing so; or
- (b) on account of that person or any other person having signed the petition or refrained from doing so, or being about to sign the petition or to refrain from doing so.

(3) Every elector or their proxy who corruptly accepts or takes any such meat, drink, entertainment or provision is also guilty of treating.

Undue influence

136.—(1) A person is guilty of a corrupt practice if that person is guilty of undue influence.

(2) A person is guilty of undue influence—

- (a) if that person, directly or indirectly, by themselves or by any other person on their behalf, makes use of or threatens to make use of any force, violence or restraint, or inflicts or threatens to inflict, by themselves or by any other person, any temporal or spiritual injury, damage, harm or loss upon or against any person in order to induce or compel that person to sign a petition or to refrain from doing so, or on account of that person having signed the petition or refrained from doing so; or
- (b) if, by abduction, duress or any fraudulent device or contrivance, that person impedes or prevents, or intends to impede or prevent, the free exercise of the entitlement to sign a petition of an elector or their proxy, or so compels, induces or prevails upon, or intends so to compel, induce or prevail upon, an elector or proxy either to sign a petition or to refrain from doing so.

Absent signing

137. A person who—

- (a) in any declaration or form used for absent signing of a petition, makes a statement which that person knows to be false, or
- (b) attests an application for absent signing of a petition when that person knows that they are not authorised to do so or that it contains a statement which is false,

is guilty of an offence and liable on summary conviction to a fine.

Interference with notices

138. Any person who without lawful authority destroys, mutilates, defaces or removes—

- (a) any notice published by the petition officer in connection with their duties as such, or
- (b) any copies of a document which have been made available for inspection in pursuance of those duties,

is liable on a summary conviction to a fine not exceeding level 3 on the standard scale.

Corrupt and illegal practices

139. Paragraph 25 of Schedule 3 to the Act (corrupt and illegal practices) applies to an offence under this Part that is a corrupt or illegal practice as if that offence were such an offence under that Schedule.