

SCHEDULE 3

Article 13(2)

ABSENT VOTING

ARRANGEMENT OF PARAGRAPHS

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Explanatory Note

General requirements for applications

1.—(1) Applications under article 9, 10, 11 or 12 shall, in the case of a person applying to vote by post, state—

- (a) the applicant’s name in full;
- (b) except in the case of an application under article 12, the address in respect of which the applicant is registered or has applied to be (or is treated as having applied to be) registered in the register of electors;
- (c) in the case of an application under article 12, the address of the applicant, together with the name of the elector for whom he acts as proxy and the address of that elector for the purposes of paragraph (b);
- (d) in the case of an application under article 9(1), 10(1) or (2), or 12(4), the grounds on which the applicant claims to be entitled to an absent vote; and
- (e) the address to which the ballot paper should be sent,

and the application shall be signed by the applicant and made and sent or delivered in accordance with article 90.

(2) For the purposes of sub paragraph (1)(b), the address in respect of which the applicant is or has applied to be (or is treated as having applied to be) registered includes—

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- (a) in the case of a service voter, the address given in the service declaration in accordance with section 16(d) of the 1983 Act⁽¹⁾;
- (b) in the case of a voluntary mental patient, the address of the mental hospital or the address shown on the declaration of local connection in accordance with section 7B(3)(d) of the 1983 Act⁽²⁾;
- (c) in the case of a person remanded in custody, the address of the place at which he is detained or the address shown on the declaration of local connection in accordance with section 7B(3)(d) of the 1983 Act; and
- (d) in the case of a homeless person, within the meaning of section 7B(2)(c) of the 1983 Act, the address shown on the declaration of local connection in accordance with section 7B(3)(d) of that Act.

(3) An application under article 10(1), (2) or (4), 11(7) or 12(4) or (6) shall specify the election in respect of which it is made. An application under article 10(1), (2) or (4) shall also specify whether it is for an indefinite period or for a particular period specified in the application.

(4) An application to vote by proxy under article 9(2) or (6) or 10(2) or (4) shall include an application for the appointment of a proxy which meets the requirements of paragraph 5.

(5) An application under article 9, 10, 11 or 12 shall comply with such further requirements of this Schedule as apply to such an application including the requirements as to time set out by paragraph 6.

Additional requirements for applications for ballot papers to be sent to different address from that shown in the record kept under article 9(4) or 12(5)

2.—(1) Sub-paragraph (3) applies to an application under—

- (a) article 10(4)(a) by a person shown as voting by post in the record kept under article 9(4); or
- (b) article 12(6) a person shown as voting by post in the record kept under article 12(5),

for his ballot paper to be sent to a different address from the address shown in that record.

(2) Sub-paragraph (3) also applies where—

- (a) in the case of an application to vote by post under article 9(1) or (6) or article 10(1) the address stated in accordance with paragraph 1(1)(b) and the address stated in accordance with paragraph 1(1)(e) are different;
- (b) in the case of an application by a proxy to vote by post under article 12(4) the proxy's address stated in accordance with paragraph 1(1)(c) and the address stated in accordance with paragraph 1(1)(e) are different.

(3) Subject to sub-paragraph (4), the application must set out why the applicant's circumstances will be or are likely to be such that he requires his ballot paper to be sent to that address.

(4) The requirement in sub-paragraph (3) does not apply where an applicant has, or has applied for, an anonymous entry.

Additional requirements for applications on grounds of disability

3.—(1) An application under paragraph (1), as read with paragraph (3)(c), of article 9 shall specify the disability by reason of which the application is made.

- (2) Subject to sub-paragraphs (3) and (6), such an application shall be attested and signed by—
 - (a) a registered medical practitioner;

(1) Section 16(d) was amended by the 2000 Act, Schedule 1, paragraph 9(c).

(2) Section 7B was inserted by the 2000 Act, section 6.

- (b) a nurse registered on the register maintained by the Nursing and Midwifery Council under article 5 of the Nursing and Midwifery Order 2001(3) by virtue of qualifications in nursing;
 - (c) a registered dentist as defined by section 53(1) of the Dentists Act 1984(4);
 - (d) a registered dispensing optician or a registered optometrist within the meaning of the Opticians Act 1989(5);
 - (e) a registered pharmaceutical chemist as defined by section 24(1) of the Pharmacy Act 1954(6);
 - (f) a registered osteopath as defined by section 41 of the Osteopaths Act 1993(7);
 - (g) a registered chiropractor as defined by section 43 of the Chiropractors Act 1994(8);
 - (h) a Christian Science practitioner;
 - (i) a person for the time being listed in the British Psychological Society's register of chartered psychologists;
 - (j) a person registered as a member of a profession to which the Health Professions Order 2001(9) for the time being extends;
 - (k) the person managing a care home service registered under Part 1 of the Regulation of Care (Scotland) Act 2001(10);
 - (l) the warden of premises forming one of a group of premises provided for persons of pensionable age or disabled persons for which there is a resident warden, where the applicant states that he resides in such premises;
 - (m) a manager (or a person on behalf of a manager) within the meaning of section 329 of the Mental Health (Care and Treatment) (Scotland) Act 2003(11) responsible for the administration of a hospital within the meaning of that section; or
 - (n) a person registered as a social worker in the register maintained in accordance with section 44 of the Regulation of Care (Scotland) Act 2001.
- (3) A person who qualifies—
- (a) by virtue of any of paragraphs (a) to (j) of sub-paragraph (2) may not attest an application for these purposes unless—
 - (i) he is treating the applicant for the disability specified in the application; or
 - (ii) the applicant is receiving care from him in respect of that disability; or
 - (b) by virtue of paragraph (n) of sub-paragraph (2) may not attest an application for these purposes unless—
 - (i) he is treating the applicant for the disability specified in the application;
 - (ii) the applicant is receiving care from him in respect of that disability; or
 - (iii) he has arranged care or assistance for the applicant in respect of their disability.
- (4) The person attesting an application under sub-paragraph (2), other than a person attesting by virtue of sub-paragraph (2)(m), shall state—
- (a) his name and address and the qualification by virtue of which he attests the application;

(3) S.I.2002/253.
(4) 1984 c. 24.
(5) 1989 c. 44.
(6) 1954 c. 61.
(7) 1993 c. 21.
(8) 1994 c. 17.
(9) S.I. 2002/254.
(10) 2001 asp 8.
(11) 2003 asp 13.

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- (b) where the person who attests the application is a person referred to in sub-paragraph (3) (a), that he is treating the applicant for the disability specified in the application or that the applicant is receiving care from him in respect of that disability;
 - (c) where the person who attests the application is a person referred to in sub paragraph (3) (b), that he is treating the applicant for the disability specified in the application, that the applicant is receiving care from him in respect of that disability, or that he has arranged care or assistance for the applicant in respect of that disability;
 - (d) that, to the best of his knowledge and belief, the applicant has the disability specified in the application and that he cannot reasonably be expected to go in person to his allotted polling station or to vote unaided there, by reason of that disability; and
 - (e) that, to the best of his knowledge and belief, the disability specified in the application is likely to continue either indefinitely or for a period specified by the person attesting the application.
- (5) A manager (or a person on behalf of a manager) attesting an application under sub paragraph (2)(m) shall state—
- (a) the name of the manager attesting the application;
 - (b) that the manager is authorised to attest the application;
 - (c) the position of the manager in the hospital at which the applicant is liable to be detained or at which he is receiving treatment;
 - (d) the statutory provision under which the applicant is detained, or liable to be detained, at the hospital, where applicable;
 - (e) that, to the best of the manager’s knowledge and belief, the applicant has the disability specified in the application and that he cannot reasonably be expected to go in person to his allotted polling station or to vote unaided there, by reason of that disability; and
 - (f) that, to the best of the manager’s knowledge and belief, the disability specified in the application is likely to continue either indefinitely or for a period specified by the manager attesting the application.
- (6) Sub-paragraphs (2), (4) and (5) shall not apply where—
- (a) the application is based on the applicant’s blindness and the applicant is registered as a blind person by a local authority, which is specified in the application;
 - (b) the application states that the applicant is (under section 73 of the Social Security Contributions and Benefits Act 1992)(12) in receipt of the higher rate of the mobility component of a disability living allowance (payable under section 71 of that Act) because of the disability specified in the application in pursuance of sub-paragraph (1).
- (7) The fact that an applicant is registered as a blind person with a local authority shall be deemed sufficient evidence that he is eligible for an absent vote on the grounds set out in article 9(3)(b).
- (8) In this paragraph and paragraphs 4 and 5 below, “his allotted polling station”, in relation to an elector, means the polling station allotted or likely to be allotted to him under this Order.

Additional requirements for applications based on occupation, service or employment

- 4.—(1) An application under article 9 and under paragraph (1), as read with paragraph (3)(c), of article 9 shall state—
- (a) whether the occupation, service or employment, in respect of which it is made, is that of the applicant or his spouse or civil partner, as the case may be, it is the applicant or his

(12) 1992 c. 4.

- spouse or civil partner who is attending the course provided by an educational institution in respect of which the application is made;
- (b) the nature of the occupation, service, employment or course provided by an educational institution giving rise to the application;
 - (c) where the person in respect of whose occupation, service or employment it is made (in this paragraph referred to as “the employed person”) is self-employed, that fact and, in any other case, the name of that person’s employer, and
 - (d) the reason relevant to the general nature of the employment, service or occupation in question or the course provided by an educational institution, why the applicant cannot reasonably be expected to go in person to his allotted polling station.
- (2) Such an application shall be attested and signed—
- (a) where the employed person is self-employed, by a person who—
 - (i) is aged 18 years or over;
 - (ii) knows the employed person; and
 - (iii) is not related to him;
 - (b) by the employer of the employed person or by another employee to whom this function is delegated by the employer; and
 - (c) in the case of a course provided by an educational institution, by the director or tutor of that course or by the principal or head of that institution or an employee to whom this function is delegated by the principal or head.
- (3) For the purposes of sub-paragraph (2)(a) and of sub-paragraph (4)(b)(i), one person is related to another if he is the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild of the other.
- (4) The person attesting an application under sub-paragraph (2) shall—
- (a) where the applicant is the employed person or the person attending the course, certify that the statements included in the application in accordance with the requirements of sub-paragraph (1)(a) to (d) are true; or
 - (b) where the applicant is the spouse or civil partner of the employed person or the person attending the course, certify that the statements included in the application in accordance with the requirements of sub-paragraphs (1)(a) to (c) are true,
- and, in addition, he shall state—
- (i) in the case of a person who attests an application under sub-paragraph (2)(a), his name and address, and that he is aged 18 years or over, knows the employed person, but is not related to him; or
 - (ii) in the case of a person who attests an application under sub-paragraph (2)(b), either that he is the employer of the employed person or the position he holds in the employment of that employer; or
 - (iii) in the case of a person who attests under sub-paragraph (2)(c), the post he holds at the institution.

Additional requirements for applications for a proxy vote in respect of a particular election

5.—(1) An application under article 10(2) to vote by proxy at a particular election shall set out why the applicant’s circumstances on the date of the poll for that election in respect of which it is made will be or are likely to be such that he cannot reasonably be expected to vote in person at his allotted polling station.

- (2) Where an application under article 10(2)—

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- (a) is made on the grounds of the applicant's disability; and
- (b) is made after 5 pm on the sixth day before the date of poll at the election for which it is made,

the requirements of paragraph 3 as to the matters to be specified and the attestation shall apply.

(3) Where an application mentioned in sub-paragraph (2) is made, the person who attests the application shall state, in addition to those matters specified in paragraph 3(4), to the best of his knowledge and belief, the date upon which the applicant became disabled.

(4) Where an application under article 10(2) is made by a person to whom paragraph 2(5A) of Schedule 4 to the 2000 Act⁽¹³⁾ (mental patients who are not detained offenders) applies after 5 pm on the sixth day before the date of the poll at the election for which it is made, the requirements of sub-paragraph (5) as to the matters to be specified and as to attestation shall apply.

(5) Where an application mentioned in sub-paragraph (4) is made—

- (a) the application shall additionally state the name and address of the hospital at which the applicant is liable to be detained; and
- (b) the application shall be attested by a manager (or a person on behalf of a manager) within the meaning of section 329 of the Mental Health (Care and Treatment) (Scotland) Act 2003 responsible for the administration of the hospital at which the applicant is liable to be detained, and the attestation shall state—
 - (i) the name of the manager attesting the application;
 - (ii) that the manager is authorised to attest the application;
 - (iii) the position of the manager in the hospital at which the applicant is liable to be detained; and
 - (iv) the statutory provision under which the applicant is liable to be detained at the hospital.

(6) This paragraph does not apply where an applicant has an anonymous entry.

Additional requirements for applications for appointment of a proxy

6. An application for the appointment of a proxy under article 11(6) or (7) shall state the full name and address of the person whom the applicant wishes to appoint as his proxy, together with his family relationship, if any, with the applicant, and—

- (a) if it is signed only by the applicant, shall contain a statement by him that he has consulted the person so named and that that person is capable of being and willing to be appointed to vote as his proxy; or
- (b) if it is also signed by the person to be appointed, shall contain a statement by that person that he is capable of being and willing to be appointed to vote as the applicant's proxy.

Closing dates for applications

7.—(1) An application—

- (a) to vote by post under article 9(1);
- (b) to vote by proxy under article 9(6);
- (c) to vote by post under article 9(6); or
- (d) from a proxy to vote by post under article 12(4),

⁽¹³⁾ Paragraph 2(5A) was inserted by the 2006 Act, section 35.

shall be disregarded for the purposes of any particular election, and an application by a postal voter for his ballot papers to be sent to a different address or to vote instead by proxy at a particular election under article 10(4) shall be refused, if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that election.

(2) An application—

- (a) to vote by proxy under article 9(2);
- (b) for the appointment of a proxy under article 11(6),

shall be disregarded for the purposes of any particular election if it is received by the registration officer after 5 pm on the sixth day before the date of the poll at that election.

(3) Subject to sub-paragraph (4), an application—

- (a) to vote by proxy under article 10(2);
- (b) for the appointment of a proxy under article 11(7),

shall be refused if it is received by the registration officer after 5 pm on the sixth day before the date of the poll at the election for which it is made.

(4) Where—

- (a) an application to vote by proxy under article 10(2) is made on the grounds of the applicant's disability; and
- (b) the applicant became disabled after 5 pm on the sixth day before the date of the poll at the election for which it is made,

the application, or an application under article 11(7) made by virtue of that application, shall be refused if it is received after 5 pm on the day of the poll at that election.

(5) An application—

- (a) to vote by post under article 10(1);
- (b) from a proxy postal voter for his ballot papers to be sent to a different address at a particular election under article 12(6),

shall be refused if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at the election for which it is made.

(6) The following, namely—

- (a) an application under article 9(5)(a) by an elector to be removed from the record kept under article 9(4);
- (b) an application under article 12(9)(a) by a proxy to be removed from the record kept under article 12(5); and
- (c) a notice under article 11(9) of the cancellation of a proxy's appointment,

shall be disregarded for the purposes of a particular election if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that election.

(7) In computing a period of days for the purposes of this paragraph—

- (a) a Saturday or a Sunday;
- (b) Christmas Eve, Christmas Day, Easter Monday or Good Friday; or
- (c) a day which is a bank holiday in Scotland under the Banking and Financial Dealings Act 1971,

shall be disregarded.

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Grant or refusal of applications

8.—(1) Where the registration officer grants an application under article 9, 10, 11 or 12 he shall, where practicable, notify the applicant of his decision.

(2) Where the registration officer grants an application for the appointment of a proxy, he shall, where practicable, confirm in writing to the elector that the proxy has been appointed, his name and address and the duration of the appointment.

(3) The proxy paper to be issued by the registration officer on the appointment of a proxy may be combined with another form of proxy paper if the registration officer is issuing a proxy paper appointing that person as proxy for the same elector in respect of another election or other elections.

(4) Where the registration officer does not grant an application under article 9, 10, 11 or 12, he shall notify the applicant of his decision and, in the case of an application under article 9(1) or 12(4), of the reason for his decision; and he shall date such notification.

(5) Where under paragraph 7(1), (2) or (6) the registration officer disregards an application for the purposes of any particular election, he shall, where practicable, notify the applicant of this.

(6) Where a person is removed from the record kept in pursuance of article 9(4), the registration officer shall, where practicable, notify him of this and the reason for it.

(7) At an election where the registration officer is not the returning officer for any constituency or part of a constituency for which he is the registration officer, he shall send to that officer details of any application to vote by post which he has granted as soon as practicable after doing so.

Notice of appeal

9.—(1) A person desiring to appeal under article 5(1) against the decision of a registration officer must give notice of the appeal to the registration officer within 14 days of the receipt of the notice given under paragraph 8(4), specifying the grounds of the appeal.

(2) The registration officer shall forward any such notice to the sheriff with a statement of the material facts which in his opinion have been established in the case, of his decision upon the whole case, and on any point which may be specified as a ground of appeal and shall also give to the sheriff any other information which the sheriff may require and which the registration officer is able to give.

(3) Where it appears to the registration officer that any notices of appeal given to him are based on similar grounds, he shall inform the sheriff so that the sheriff may consolidate the appeals or select a case as a test case.

Cancellation of proxy appointment

10.—(1) Where the appointment of a proxy is cancelled by notice given to the registration officer under article 11(9) or ceases to be in force under that provision or is no longer in force under article 11(10)(b), the registration officer shall—

(a) notify the person whose appointment as proxy has been cancelled, has expired, ceases to be or is no longer in force, unless the registration officer has previously been notified by that person that he no longer wishes to act as proxy; and

(b) remove his name from the record kept under article 9(4).

(2) The registration officer shall, where practicable, also notify the elector that the appointment has been cancelled or, as the case may be, notify him that the appointment has ceased and the reason for it.

Inquiries by registration officer

11.—(1) The registration officer may, at such times as he thinks fit, make inquiries of a person who is shown in the record kept under article 9(4) by virtue of an application under that article on the grounds set out in article 9(3)(d) or (e);

(2) The registration officer may treat the failure by a person of whom inquiries have been made under sub-paragraph (1) to respond to such inquiries within one month of the date on which they were made as sufficient evidence of a material change in circumstances.

Records and lists kept under articles 9, 10 and 12

12.—(1) Subject to the provisions of this paragraph, the records kept under articles 9(4) and 12(5) and the lists kept under articles 10(5) and 12(7) shall be in such form as the registration officer thinks fit.

(2) In that part of the special list referred to in article 10(5)(a), the address to which a ballot paper shall be sent to a person who is entitled to vote by post as an elector shall be placed on the right hand side of his name and electoral number (except in the case of a person to whom article 10(6) applies).

(3) In that part of the special list referred to in article 10(5)(b) (the list of proxies), the name and address of the proxy shall be placed on the right hand side of the elector's name and electoral number (except in the case of a person to whom article 10(6) applies).

(4) In the list kept under article 12(7) (those proxies who are entitled to vote by post), the name of the proxy, together with the address to which his ballot paper shall be sent, shall be placed on the right hand side of the elector's name and electoral number (except in the case of a person to whom article 12(8) applies).

(5) The registration officer shall make available for inspection at his office a copy of the records kept under articles 9(4) and 12(5).

(6) As soon as practicable after the sixth day before the date of the poll at an election (calculated in accordance with paragraph 7) the registration officer shall publish the lists kept under articles 10(5) and 12(7) by making a copy of them available for inspection at his office; and he shall continue to make a copy of those lists so available until the date of the poll.

(7) Subject to sub-paragraph (8), as soon as practicable after the publication of the lists referred to in sub-paragraph (6), the registration officer shall, on request, supply free of charge a copy of them to each—

- (a) candidate for return as a constituency member, or his election agent; or
- (b) individual candidate for return as a regional member or nominating officer of a party standing nominated or the election agent of such a candidate or party.

(8) But if such a request is made before any issue of postal ballot papers, he shall before that issue supply a copy of those lists or so much of them as relates to that issue.

(9) In this paragraph, "electoral number" means a person's number in the register to be used at the election.

Marked register for polling stations

13. To indicate that an elector or his proxy is entitled to vote by post and is for that reason not entitled to vote in person, the letter "A" shall be placed against the entry of that elector in any copy of the register, or part of it, provided for a polling station.