
STATUTORY INSTRUMENTS

2008 No. 307

The Scottish Parliament (Elections
etc.) (Amendment) Order 2008

PART 2

Absent voting: personal identifiers

Absent voting: interpretation

2.—(1) In article 3(1) (interpretation) after the definition of “the 2006 Act” 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 paragraph 1 of Schedule 4 remove the “and” preceding the definition of “spoilt ballot paper” and after that definition insert—

“and “valid postal voting statement” means a postal voting statement which, in accordance with paragraph 20 or 20A(1), the constituency returning officer is satisfied has been duly completed.”.

Amendment of article 9

3.—(1) Article 9 (absent vote at Scottish parliamentary elections for an indefinite or a particular period) is amended as follows.

(2) In paragraph (1)(b), after “application” insert “contains the applicant’s signature and date of birth and”.

(3) In paragraph (2)(c), after “application” insert “contains the applicant’s signature and date of birth and”.

(4) After paragraph (6) insert—

“(7) The registration officer may dispense with the requirement under paragraph (1)(b) or (2)(c) for the applicant to provide a signature if he is satisfied that the applicant is unable—

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

(8) The registration officer must also keep a record in relation to those whose applications under this regulation have been granted showing—

- (a) their dates of birth, and
- (b) except in cases where the registration officer in pursuance of paragraph (7) has dispensed with the requirement to provide a signature, their signatures.

(9) The record kept under paragraph (8) must be retained by the registration officer for the period prescribed in paragraph 12A of Schedule 3(2).”.

Amendment of article 10

4.—(1) Article 10 (absent vote at a particular Scottish parliamentary election) is amended as follows.

(2) In paragraph (1)(b), after “application” insert “contains the applicant’s signature and date of birth and”.

(3) In paragraph (2)(c), after “application” insert “contains the applicant’s signature and date of birth and”.

(4) After paragraph (6) insert—

“(7) The registration officer may dispense with the requirement under paragraph (1)(b) or (2)(c) for the applicant to provide a signature if he is satisfied that the applicant is unable—

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

(8) The registration officer must also keep a record in relation to those whose applications under this regulation have been granted showing—

- (a) their dates of birth, and
- (b) except in cases where the registration officer in pursuance of paragraph (7) has dispensed with the requirement to provide a signature, their signatures.

(9) The record kept under paragraph (8) must be retained by the registration officer for the period prescribed in paragraph 12A of Schedule 3.”.

Amendment of article 11

5.—(1) Article 11 (proxies at Scottish parliamentary elections) is amended as follows.

(2) In paragraph (6) after “application” where it second occurs insert “is signed by the applicant and”.

(3) In paragraph (7) after “application” where it first occurs insert “is signed by the applicant and”.

Amendment of article 12

6.—(1) Article 12 (application for proxy postal vote) is amended as follows.

(2) In paragraph (4), after “application” where it last occurs insert “contains the applicant’s signature and date of birth and”.

(3) After paragraph (10) insert—

“(11) The registration officer may dispense with the requirement under paragraph (4) for the applicant to provide a signature if he is satisfied that the applicant is unable—

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

(12) The registration officer must also keep a record in relation to those whose applications under paragraph (4) have been granted showing—

- (a) their dates of birth, and
- (b) except in cases where the registration officer in pursuance of paragraph (11) has dispensed with the requirement to provide a signature, their signatures.

(13) The record kept under paragraph (12) must be retained by the registration officer for the period prescribed in paragraph 12A of Schedule 3.”.

Amendment to offence provision

7. In article 28(2)(b) (false statements in connection with postal and proxy vote applications) after “vote” insert “or providing false information in connection with such an application”.

Amendment to rule 55

8.—(1) In rule 55(2) of Schedule 2 (circumstances in which a postal ballot paper is duly returned) after “duly signed” insert “and which also states the date of birth of the elector or proxy (as the case may be)”.

(2) After rule 55(2) insert—

“(2A) In a case where steps for verifying the date of birth and signature of an elector or proxy have been taken in accordance with paragraph 20A or 20B of Schedule 4(3), the postal ballot paper shall not be deemed to be duly returned unless the constituency returning officer verifies the date of birth and signature of the elector or proxy (as the case may be).”.

Amendment of paragraph 1 of Schedule 3

9.—(1) Paragraph 1 of Schedule 3 (general requirements for applications for an absent vote) is amended as follows.

(2) In sub-paragraph (1) omit the “and” preceding paragraph (e) and after 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 article 9, 10, 11 or 12 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) In sub-paragraph (1) for “signed by the applicant ” substitute “dated”.

(4) After sub-paragraph (1) insert—

“(1A) 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].

(1B) Where the application contains a request that the registration officer waive the requirement for a signature, sub-paragraph (1A)(a) shall not apply.”.

Checking of signatures and provision of fresh signatures

10. After paragraph 1 of Schedule 3 insert—

“Checking of signatures

1A. The registration officer may satisfy himself—

- (a) that an application under article 9, 10, 11 or 12 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 a returning officer; or
 - (ii) previously provided by the applicant to the council by which the registration officer was appointed, if held by that council 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.

Provision of fresh signatures

1B.—(1) A person who remains on the record kept under article 9(4) or article 12(5) may, at any time, provide the registration officer with a fresh signature.

(2) Anything required or authorised to be done for the purposes of this order in relation to a signature required to be provided in pursuance of this order must be done in relation to a signature provided as mentioned in sub-paragraph (1) instead of in relation to a signature provided on any earlier occasion.”

Requirement to provide fresh signatures at five yearly intervals

11. After paragraph 11 of Schedule 3 (inquiries by registration officer) insert—

“Requirement to provide fresh signatures at five yearly intervals

11A.—(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 sub 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 sub-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 he must from the date specified in the notice sent to the absent voter in accordance with sub paragraph (1) 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 sub-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 rule 35 of Schedule 2, unless that voter is not likely to be allotted to a polling station;
- (b) paragraph 8(4) and 9 shall apply as if the registration officer were refusing an application under article 9, 10, 11 or 12; and
- (c) in the case of an entry removed from the special list kept under article 12(7), 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 article 9(4) or 12(5) and (as the case may be) from the special list kept under article 10(5)(a), the list of proxies kept under article 10(5)(b) or the special list kept under article 12(7), information—

- (a) explaining the effect of such removal; and
- (b) reminding the absent voter that he may make a fresh application under article 9, 10, 11 or 12 to vote by post or by proxy (as the case may be).”.

Recording and use of personal identifier information

12. After paragraph 12 of Schedule 3 (records and lists kept under articles 9, 10 and 12) insert—

“The personal identifiers record

12A.—(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 articles 9, 10 and 12, of the signatures and dates of birth provided by persons whose applications under article 9(1) or (2), article 10(1) or (2), or article 12(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 article 9(4) or article 12(5); or
- (b) the date of the poll for the purposes of which the person's application for an absent vote was granted under article 10(1) or (2) or article 12(4).

(2) The personal identifiers record shall contain the following information in respect of each absent voter on the special list kept under article 10(5)(a), the list of proxies kept under article 10(5)(b) or the special list kept under article 12(7)—

- (a) his name;
 - (b) his date of birth; and
 - (c) his signature, or a record of the waiver by the registration officer of the requirement for a signature.
- (3) The constituency 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 paragraph 20 of Schedule 4(4);
 - (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(5), but only to the extent required to permit them to observe the proceedings.

Use of personal identifier information

- 12B.**—(1) The registration officer must either—
- (a) provide the constituency returning officer for an election with a copy of the information contained in records kept by the registration officer in pursuance of articles 9(8), 10(8) and 12(12)(6) in relation to electors at the election, or
 - (b) give the constituency returning officer access to such information.
- (2) Information contained in records kept by a registration officer in pursuance of articles 9(8), 10(8) and 12(12) may be disclosed by him to—
- (a) any other registration officer if he thinks that to do so will assist the other registration officer in the performance of his duties, or
 - (b) any other person exercising functions in relation to the preparation or conduct of legal proceedings under this Order.”.

Postal ballot boxes and receptacles

13. In paragraph 16(5) of Schedule 4 omit the “and” preceding paragraph (d) and after paragraph (d) insert—

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

Amendment of paragraph 19 of Schedule 4

14.—(1) Paragraph 19 of Schedule 4 (opening of covering envelopes) is amended as follows.

(2) For sub-paragraph (1) substitute—

“(1) When a postal voters' ballot box is opened, the constituency 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 paragraph 17(2)).

(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 paragraph 17(2)).”.

(4) Paragraph 20 of Schedule 4 is amended by article 15 of this Order.

(5) 2000 c. 41; sections 6A to 6D were inserted by section 29 of the Electoral Administration Act 2006 (c. 22).

(6) These articles are inserted by articles 3, 4 and 6 of this Order.

(3) In sub-paragraph (2) for “The procedure in paragraph 20 applies” substitute “The procedure in paragraph 20 or, as the case may be, paragraph 20A(7) applies”.

(4) After sub-paragraph (4) insert—

“(4A) Where—

(a) an envelope contains the postal voting statement of an elector with an anonymous entry, and

(b) sub-paragraph (4) does not apply,

the constituency returning officer shall set aside that envelope and its contents for personal identifier verification in accordance with paragraph 20A.”.

(5) In sub-paragraph (6) for “sub-paragraph (1)” substitute “sub-paragraph (1B)”.

Amendment of paragraph 20 of Schedule 4

15. In paragraph 20 of Schedule 4 (procedure in relation to postal voting statements), for sub paragraph (1) substitute—

“(1) This paragraph applies to any postal voting statement contained in an envelope that has not been set aside for personal identifier verification in accordance with paragraph 19(1A) or (4A)(8).

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

Procedure in relation to postal voting statements: personal identifier verification

16. After paragraph 20 of Schedule 4 insert—

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

20A.—(1) This paragraph applies to any postal voting statement contained in an envelope that is set aside for personal identifier verification in accordance with paragraph 19(1A) or (4A)(9).

(2) The constituency 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 constituency 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 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 constituency 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 constituency 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,

(7) Paragraph 20A is inserted by article 16 of this Order.

(8) Paragraph 19(1A) and (4A) are inserted by article 14 of this Order.

(9) Paragraph 19(1A) and (4A) are inserted by article 14 of this Order.

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 constituency returning officer shall 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 19(3) or sub-paragraph (6).

(8) In the circumstances described in sub-paragraph (7), the constituency 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 paragraph (b) or (c).

Postal voting statements: additional personal identifier verification

20B.—(1) A constituency returning officer may on any occasion at which a postal voters' ballot box is opened in accordance with paragraph 18 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 constituency 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 constituency 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 constituency 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 sub-paragraph (3), the constituency 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

17. In paragraph 26(1) of Schedule 4 omit the “and” preceding paragraph (d) and after paragraph (d) insert–

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

Amendment of forms

18. In the Appendix of Forms for Form L, Form M1, Form N1, Form U, Form V, Form W and Form Y substitute the Form L, Form M1, Form N1, Form U, Form V, Form W and Form Y as set out in the Schedule to this Order.