
STATUTORY INSTRUMENTS

2008 No. 307

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

PART 3

Personal identifiers: transitional provisions

Interpretation of Part 3

19. In this Part—

“absent voter” means a person whose application under article 9(1) or (2), article 10(1) or (2), or article 12(4) has been granted prior to 8th February 2008;

“absent voting records” means any one or more of the records kept pursuant to article 9(4) or 12(5) or the lists kept pursuant to article 10(5)(a), (b) or 12(7).

Existing applications

20. Where a person has made an application under article 9(1) or (2), article 10(1) or (2), or article 12(4) prior to 8th February 2008 that has not been determined on or before 7th February 2008, the registration officer must not grant the application unless the applicant has provided to the registration officer a specimen of their signature and their date of birth.

Requiring personal identifiers from existing absent voters

21.—(1) A registration officer must by 7th April 2008 send a notice in writing to every person whose entry on the absent voting records was made in consequence of an application that did not include a specimen of their signature and their date of birth.

(2) The notice must require the absent voter to provide to the registration officer, within six weeks from the date of sending the notice, a specimen of the absent voter’s signature and the absent voter’s date of birth (“the required personal identifiers”) in accordance with the Part.

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

(4) 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 the absent voter.

(5) 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.

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

(7) Where a registration officer has been provided with the required personal identifiers by an applicant for an absent vote under the Representation of the People (Scotland) Regulations 2001⁽¹⁾ or the Absent Voting (Transitional Provisions) (Scotland) Regulations 2008⁽²⁾ before the date specified in accordance with article 22(2)(d) of this Order in the notice sent to the absent voter, he or she may use them for the purposes of Scottish Parliamentary elections and records kept in connection with such elections.

Required information to be provided to existing absent voters

22.—(1) Where a registration officer sends a notice or a copy of a notice pursuant to article 21 of this Order, the registration officer must also provide information—

- (a) explaining how the required personal identifiers will be used and how the required personal identifiers will assist in deterring misuse of the entitlement to vote;
 - (b) explaining that, in the event of a failure or refusal to provide the required personal identifiers, the absent voter will lose his or her entitlement to vote by post, by proxy or by post as a proxy (as the case may be);
 - (c) explaining the circumstances in which a registration officer may dispense with the requirement to provide a signature; and
 - (d) explaining that loss of the entitlement to vote by post, by proxy or by post as a proxy (as the case may be) under this Part does not prevent the absent voter from making a fresh application under article 9, 10 or 12 to be entitled to vote by post, by proxy or by post as a proxy.
- (2) The notice must specify the following matters—
- (a) the types of elections in respect of which the absent voter would cease to be entitled to vote by post, by proxy or by post as a proxy (as the case may be) if he or she does not provide the required personal identifiers;
 - (b) whether the person has an entry in the absent voting records as voting by post, by proxy or by post as a proxy or in more than one capacity;
 - (c) as regards an absent elector entitled to vote by post as a proxy, the name and address of each person for whom he or she is entitled to vote; and
 - (d) the date (not less than 49 days from the sending of the initial notice) from which he or she will cease to be entitled to vote by post, by proxy or by post as a proxy (as the case may be) in the event of a failure or refusal to provide the required personal identifiers.

Determination by registration officer

23.—(1) The registration officer must, no later than the date specified in accordance with article 22(2)(d) of this Order in the notice sent to the absent voter determine whether the absent voter has failed or refused to provide the required personal identifiers.

(2) The registration officer shall not determine that an absent voter has failed or refused to provide the required personal identifiers due to a failure to provide a signature if the registration officer is satisfied that the absent voter is unable—

- (a) to provide a signature because of any disability the absent voter has;

(1) S.I.2001/497, which was amended by S.I. 2001/1749, 2002/1872, 2003/3075, 2004/1771, 2004/1960, 2006/834 and 2007/925; the S.I. is further amended by S.I. 2008/305.

(2) S.I. 2008/48.

(b) to provide a signature because the absent voter is unable to read or write; or
(c) to sign in a consistent and distinctive way because of any such disability or inability,
and where the registration officer is so satisfied entries of the absent voter in the absent voting records shall not show the absent voter's signature.

Consequence of failure or refusal to provide personal identifiers

24.—(1) Where the registration officer determines that an absent voter has failed or refused to provide the required personal identifiers—

- (a) if the absent voter has an entry in the registration officer's absent voting records, he or she must remove that entry, and the absent voter shall not be entitled to vote by post, by proxy or by post as a proxy (as the case may be) otherwise than in pursuance of a further application made under article 9, 10 or 12;
- (b) in the case of an absent voter whose application under article 10(1) or (2) has been granted, or whose application under article 12(4) in respect of a particular election has been granted, the absent voter shall not be entitled to vote by post, by proxy or by post as proxy (as the case may be) at the particular election for which the application was made, otherwise than in pursuance of a further application made under article 9, 10 or 12.

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

- (a) the registration officer shall inform the absent voter of the location of the polling station to which the absent voter 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) paragraphs 8(4) and 9 of Schedule 3 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 absent voter who ceases to be entitled to vote by post as proxy, the registration officer must also notify the elector for whom the proxy was appointed.

(3) The registration officer shall include in the notice to be sent to an absent voter pursuant to paragraph (2), information—

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