
STATUTORY INSTRUMENTS

2008 No. 48 (S. 1)

REPRESENTATION OF THE PEOPLE

The Absent Voting (Transitional Provisions) (Scotland) Regulations 2008

<i>Made</i>	- - - -	<i>11th January 2008</i>
<i>Laid before Parliament</i>		<i>16th January 2008</i>
<i>Coming into force</i>	- -	<i>8th February 2008</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 14(5) and (7) of the Electoral Administration Act 2006⁽¹⁾.

Citation, commencement, interpretation and extent

1.—(1) These Regulations may be cited as the Absent Voting (Transitional Provisions) (Scotland) Regulations 2008 and shall come into force on 8th February 2008.

(2) In these Regulations—

“absent voter” means a person whose application under paragraph 3(1) or (2), paragraph 4(1) or (2) or paragraph 7(4) of Schedule 4 has been granted in consequence of an application that did not contain a specimen of that person’s signature and his or her date of birth;

“absent voting records” means any one or more of the records kept pursuant to paragraph 3(4) or 7(6) of Schedule 4 or the lists kept pursuant to paragraph 5(2) or (3) or paragraph 7(8) of Schedule 4; and

“Schedule 4” means Schedule 4 to the Representation of the People Act 2000⁽²⁾.

(3) These Regulations extend to Scotland only.

Requiring personal identifiers from existing absent voters

2.—(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.

(1) 2006 c. 22.

(2) 2000 c. 2. Schedule 4 was amended by sections 14, 35 and 38 of, and by Schedule 1 to, the Electoral Administration Act 2006 (c. 22).

(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 these Regulations.

(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 regulation 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.

Required information to be provided to existing absent voters

3.—(1) Where a registration officer sends a notice or a copy of a notice pursuant to regulation 2, 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 these Regulations does not prevent the absent voter from making a fresh application under Schedule 4 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 or referendums 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

4.—(1) The registration officer must, no later than the date specified in the notice sent to the absent voter in accordance with regulation 3(2)(d), 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;
- (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

5.—(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 Schedule 4;
- (b) in the case of an absent voter whose application under paragraph 4(1) or (2) or paragraph 7(4)(b) of Schedule 4 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 under paragraph 4(1) or (2) or paragraph 7(4)(b) of Schedule 4 was made, otherwise than in pursuance of a further application made under Schedule 4.

(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 the appropriate rules (as defined in paragraph 1 to Schedule 4), unless that voter is not likely to be allotted to a polling station;
- (b) regulation 57(4) and regulation 58 of the Representation of the People (Scotland) Regulations 2001⁽³⁾ shall apply as if the registration officer were refusing an application under Schedule 4; 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 Schedule 4 to vote by post, by proxy or by post as a proxy (as the case may be).

Edinburgh
11th January 2008

DAVID CAIRNS
Minister of State Scotland Office

(3) S.I.2001/497; Regulation 57 was amended by S.I. 2006/834 and 2007/925.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under section 14 of the Electoral Administration Act 2006. Section 14 introduces a requirement for applicants for proxy or postal voting to provide personal identifiers (a signature and date of birth) and applications which lack these details cannot now be granted. Section 14 also enables transitional provision to be made for the capture of the personal identifiers of those who are existing absent voters.

Regulation 2 requires a registration officer to send a written notice to all existing absent voters whose records do not contain personal identifiers, requiring that they supply the required personal identifiers. An absent voter will have a period of six weeks within which to respond. Where no response is received within the first three weeks, the registration officer is required to send a copy of the notice to the absent voter.

Regulation 3 specifies the information that must be included in the notice sent to existing absent voters together with the information that must be included with the notice or copy of the notice.

Regulation 4 requires the registration officer to determine whether an absent voter has failed or refused to provide the required personal identifiers. It also allows for continuation of an existing exemption from the requirement for a signature if the absent voter is disabled, unable to read or write, or unable to sign consistently for either of these reasons.

Regulation 5 specifies the consequences of a refusal or failure to provide the required personal identifiers. An existing absent voter will cease to be entitled to vote by post, by proxy or by post as proxy and any entry relating to the absent voter in the absent voting records must be removed. The registration officer must notify the absent voter and provide him or her with information explaining the effect of the removal of the entry and reminding him or her of the ability to make a fresh application for an absent vote under Schedule 4 of the Representation of the People Act 2000 (which application will require to be accompanied by the personal identifiers).