



## **FALKLAND ISLANDS**

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### **Electoral (Emergency and Replacement Proxies) Regulations 2013**

**(S. R. & O. No. 17 OF 2013)**



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### Electoral (Emergency and Replacement Proxies) Regulations 2013

[DATE OF COMMENCEMENT: 10TH SEPTEMBER 2013]

#### 1 Title

These regulations are the Electoral (Emergency and Replacement Proxies) Regulations 2013.

#### 2 Commencement

These regulations come into force on publication in the *Gazette*.

#### 3 Interpretation

In these regulations-

**"emergency proxy"** means a person appointed during the closed period for an election or referendum to act as proxy for another person at that election or referendum;

**"published criteria"** means the criteria published by the returning officer under regulation 4;

**"replacement proxy"** means a person appointed during the closed period for an election or referendum to act as proxy for another person who had already appointed a proxy for that election or referendum.

#### 4 Criteria for appointment of emergency or replacement proxy ("**published criteria**")<sup>i</sup>

The returning officer must-

- (a) publish criteria about-
  - (i) the circumstances in which a person who is eligible to vote at an election or referendum may appoint an emergency or replacement proxy for that election or referendum; and
  - (ii) the evidence necessary to satisfy the registration officer that these circumstances exist; and

- (b) keep those criteria under review.

## **5 Emergency proxy**

(1) This regulation applies to a person if that person-

- (a) is eligible to vote at an election or referendum;
- (b) has not already appointed a proxy to vote on that person's behalf for that election or referendum.

(2) A person to whom this regulation applies may appoint an emergency proxy for that election or referendum if the registration officer is satisfied that-

- (a) the person would otherwise be prevented from voting at that election or referendum by circumstances that come within the published criteria; and
- (b) those circumstances-
  - (i) have arisen since the start of the closed period for that election or referendum; or
  - (ii) arose so close to the start of the closed period that the person was unable to apply for a postal vote, proxy vote or postal proxy vote before the start of the closed period.

## **6 Replacement proxy**

(1) This regulation applies to a person if that person-

- (a) is eligible to vote at an election or referendum;
- (b) had already appointed a proxy to vote on that person's behalf (in person or by postal proxy) at that election or referendum.

(2) A person to whom this regulation applies may appoint a replacement proxy for that election or referendum if the registration officer is satisfied that-

- (a) the person's proxy would be prevented from voting at that election or referendum by circumstances within the published criteria;
- (b) those circumstances-
  - (i) have arisen since the start of the closed period for that election or referendum; or
  - (ii) arose so close to the start of the closed period that the person was unable to apply for a postal vote, proxy vote or postal proxy vote before the start of the closed period.

## **7 Restrictions on appointment of emergency and replacement proxies**

Appointment as a replacement proxy-

- (a) only applies for the election or referendum for which the replacement proxy was appointed; and

- (b) does not allow a person to vote as proxy (including as an emergency proxy or as a replacement proxy) for more than two persons at the same election or referendum.

## **8 Application to appoint emergency or replacement proxy**

(1) To be valid, an application to appoint an emergency or replacement proxy must be received by (or on behalf of) the registration officer no later than 4pm on the third working day before the date of the election or referendum.

(2) An application need not be made in a specific form, but it must contain at least the following information-

- (a) the applicant's name and address;
- (b) an explanation of the circumstances that will prevent the applicant (or the applicant's proxy) from voting at the election or referendum;
- (c) an explanation of when those circumstances arose;
- (d) if the circumstances arose before the start of the closed period, an explanation of why the applicant was unable to apply for a postal vote, proxy vote or postal proxy vote before the start of the closed period;
- (e) the name and address of the person to be appointed as emergency or replacement proxy; and
- (f) contact details for-
  - (i) the applicant; and
  - (ii) the emergency or replacement proxy.

(3) Applications must be supported by sufficient evidence (and that evidence must be submitted with the application).

## **9 Application to appoint emergency or replacement proxy: supplementary provisions**

(1) An application to appoint an emergency or replacement proxy may be made by one of the following methods-

- (a) handing it personally to the registration officer (or leaving it at the office of the registration officer);
- (b) sending it by post to the registration officer;
- (c) sending it by fax to the registration officer; or
- (d) sending it by e-mail to the registration officer.

(2) To be valid, an application must be-

- (a) signed by the applicant; and
- (b) received by (or on behalf of the registration officer) in legible form, either-

- (i) as an original; or
- (ii) as a scanned image of the original.

(3) The applicant's signature must be witnessed by-

- (a) a bank manager;
- (b) a commissioner for oaths;
- (c) an elector;
- (d) a justice of the peace;
- (e) a police officer;
- (f) a teacher of (or tutor to) the applicant; or
- (g) another person approved by the registration officer.

## **10. Decision by registration officer**

(1) If an application is validly made, the registration officer must, as soon as reasonably possible-

- (a) review the application and the evidence submitted with it; and
- (b) decide whether or not the applicant should be allowed to appoint an emergency or replacement proxy.

(2) When deciding whether or not to grant an application, the registration officer must have regard to the published criteria.

(3) As soon as reasonably possible after reaching a decision in relation to an application to appoint an emergency or replacement proxy, the registration officer must-

- (a) if the application is granted-
  - (i) take reasonable steps to notify the applicant and the emergency or replacement proxy that the application has been granted; and
  - (ii) make arrangements for the emergency or replacement proxy to be allowed to vote on behalf of the applicant; or
- (b) if the application is refused, take reasonable steps to notify the applicant-
  - (i) that the application has been refused (and about the reasons for the refusal); but
  - (ii) that the applicant has the right to appeal to the returning officer no later than 4pm on the second working day before the date of the election or referendum.

## **11 Appeal to returning officer against decision of registration officer**

(1) If the registration officer refuses an application to appoint an emergency or replacement proxy, the applicant may appeal to the returning officer.

(2) An applicant may also appeal to the returning officer if the applicant has not been notified by 12 noon on the second working day before the date of the election or referendum that the application has been granted.

(3) To be valid, an appeal must be received by (or on behalf of) the returning officer no later than 4pm on the second working day before the date of the election or referendum.

## **12 Decision by returning officer**

(1) If an appeal is validly made, the returning officer must, as soon as reasonably possible-

- (a) review the original application and the evidence submitted with it; and
- (b) decide whether or not the applicant should have been allowed to appoint an emergency or replacement proxy.

(2) When deciding whether or not to allow an appeal, the returning officer must have regard to the published criteria.

(3) As soon as reasonably possible after reaching a decision in relation to an appeal, the returning officer must-

- (a) if the appeal is granted-
  - (i) take reasonable steps to notify the applicant and the emergency or replacement proxy that the appeal has been granted; and
  - (ii) instruct the registration officer to make arrangements for the emergency or replacement proxy to be allowed to vote on behalf of the applicant; or
- (b) if the appeal is refused, take reasonable steps to notify the applicant that the appeal has been refused (and about the reasons for the refusal)

(4) No further appeal lies from a decision of the returning officer under this regulation.

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<sup>i</sup> See Notice 70 of 14th October 2013 (published in Gazette 14 of 15th October 2013) for criteria for the appointment of emergency and replacement proxy.