The Highland Returning Officer’s comments are highlighted in **BOLD** as shown below.

**Section 8**

(2) A counting officer is entitled to recover from the Scottish Ministers charges for, and any expenses incurred in connection with, the exercise by the counting officer of functions under this Act.

*Charges Order required. The draft Order should be made available before the Bill is enacted to assure the elections community that adequate finance to administer the referendum will be made available.*

**SCHEDULE 2**

18 (1) In this Act, the cut-off date means 5pm on the eleventh day before the date of the referendum.

21 (1) In the case of a person shown in the postal voters list or the proxy postal voters list, no postal ballot paper (and postal voting statement) may be issued until after 5pm on the cut-off date.

*The earliest day for posting of postal packs to those on the standing list of postal voters is Wednesday 3 September 2014. As legislation is being introduced for the issue of Postal Packs in the European Parliamentary Election, the Referendum Rules should run to the same timetable.*

**Confirmation of receipt of postal voting statement**

34 (1) A voter or a voter’s proxy who is shown in the postal voters list or proxy postal voters list may make a request, at any time between the first issue of postal ballots under paragraph 22 and the close of the poll, that the counting officer confirm—

(a) whether a mark is shown in the marked copy of the postal voters list or proxy postal voters list in a place corresponding to the number of the voter to denote that a postal vote has been returned, and

(b) whether the number of the ballot paper issued to the voter or the voter’s proxy has been recorded on either of the lists of provisionally rejected postal ballot papers kept by the counting officer under sub-paragraphs (2) and (3) of paragraph 40.
(2) Where a request is received in accordance with sub-paragraph (1) the counting officer must, if satisfied that the request has been made by the voter or the voter’s proxy, provide confirmation of the matters mentioned in sub-paragraph (1).

*It is accepted that postal voters should be able to confirm with the counting officer whether their postal vote has been received. However, there is no remedy for the voter if their postal ballot paper has been provisionally rejected.*

**Destruction of copies of the Polling List etc.**

53 (1) This section applies to any person holding a copy of any registration document (within the meaning of paragraph 51(3)).

(2) The person must ensure that the document is securely destroyed no later than one year after the date of the referendum, unless otherwise directed by an order of the Court of Session or a sheriff principal.

*Does this section apply to the electronic data held regarding individual postal voters and their personal identifier information? Paragraph 51(3) cross refers to 46(1) and (2) which both refer to ‘printed copies’. It also refers to 48(1) which allows relevant organisations to request information but the onus will be on the relevant organisation to destroy the document.*

**Supply of marked Polling List etc. to designated organisations**

54 (1) A designated organisation may request that a counting officer supply the organisation with copies of—

(a) the marked copy of the Polling List,

In terms of Rule 37(1) of the Conduct Rules, the Counting Officer has to send papers (including sealed copies of the marked Polling List (Sec 36(2)(d)) to the Proper Officer of the Council. Counting Officer should be changed to “Proper Officer” in all occurrences in Rule 37.

**SCHEDULE 3 – Conduct Rules**

**Use of schools and public rooms for polling and counting votes**

7 (1) The counting officer may use, free of charge, for the purpose of taking the poll or counting the votes—
(a) a suitable room in the premises of a school to which this rule applies in accordance with paragraph (2), and

(b) any meeting room to which this rule applies in accordance with paragraph (3).

(2) This rule applies to any school maintained by an education authority.

(3) This rule applies to meeting rooms situated in Scotland the expense of maintaining which is payable wholly or mainly by—

(a) the Scottish Ministers or any other part of the Scottish Administration, or

(b) any Scottish public authority with mixed functions or no reserved functions (within the meaning of the Scotland Act 1998).

The Scottish Government or the Electoral Commission should supply a list of the organisation to which para 7(3) above applies in order that they can be made aware of this additional responsibility.

Appointment of presiding officers and clerks

10 (1) The counting officer must appoint and pay—

(a) a presiding officer to attend at each polling station, and

(b) such clerks as may be necessary for the purposes of the referendum.

(2) The counting officer may not appoint any person who is or has been involved in campaigning for a particular outcome in the referendum.

Clarification is required of the meaning of campaigning. If an individual expressed support for a particular view on a website, does that constitute campaigning and prohibit their employment as poll staff?

Loan of equipment for referendum

12 (1) A council must, if requested to do so by a counting officer, loan to the counting officer any ballot boxes, fittings and compartments provided by or belonging to the council.

(2) Paragraph (1) does not apply if the council requires the equipment for immediate use by that council.

(3) A loan under paragraph (1) is to be on such terms and conditions as the council and the counting officer may agree.
The Scottish Government should either issue guidelines on reasonable loan terms and conditions, or include this in the Charges Order. It is estimated that the cost of loaning equipment (320 ballot boxes; 450 Voting screens and equipment for the count) to the counting officer could be in the region of £7,500.

The Count

30(4) For the purposes of paragraph (1)(c), a postal ballot paper is not to be considered as having been duly returned unless it—

(a) is returned—

(i) by hand to a polling station in the same local government area, or

(ii) by hand or post to the counting officer,

before the close of the poll, and

For the avoidance of doubt, the address of the Office of the Counting Officer should be specified.

Referendum Guidance

In the Referendum Bill (in its current form) Paragraph 25(1) to Schedule 4 will prohibit the Highland Council during the pre-referendum period (13 August – 18 September) from providing any material which –

(a) provides general information about the referendum,

(b) deals with any of the issues raised by the referendum question,

(c) Puts any argument for or against any outcome, or

(d) is designed to encourage voting at the referendum.

Schools in Highland return from their summer break on 19 August 2014. Therefore, under the provisions in the Bill, the Council would not be able to raise any referendum issues with pupils. The inclusion of (a) and (d) appears to contradict all of the efforts that are being made to inform and encourage youth participation.

5 June 2013