STATUTORY INSTRUMENTS

2018 No. 427

REPRESENTATION OF THE PEOPLE

The Representation of the People (Scotland) (Amendment) Regulations 2018

Made - - - - 26th March 2018

Coming into force in accordance with regulation 1

In accordance with section 7(1) and (2)(e) of the Political Parties, Elections and Referendums Act 2000(**1**), the Secretary of State has consulted the Electoral Commission before making these Regulations.

In accordance with section 201(2) of the Representation of the People Act 1983(**2**), a draft of these Regulations has been laid before and approved by resolution of each House of Parliament.

Accordingly, the Secretary of State makes these Regulations in exercise of the powers conferred by sections 9B(1A)(**3**), 10ZC(3), 10ZD(3), 10ZE(4) and 53(1)(b)(i) and (c), and (3) of, and paragraphs 1(2) and (2A), 3ZA, 5(1B), 10 and 13(2) of Schedule 2 to, the Representation of the People Act 1983(**4**).

Citation, commencement and application

1.—(1) These Regulations may be cited as the Representation of the People (Scotland) (Amendment) Regulations 2018.

(2) This regulation and regulations 2 and 8 to 10 come into force on 1st April 2018.

(**1**) 2000 c. 41. There are amendments to section 7 but none is relevant to this instrument.

(**2**) 1983 c. 2. Section 201(2) was substituted by paragraph 69 of Schedule 4 to the Representation of the People Act 1985 (c. 50) and amended by paragraph 6 of Schedule 21 to the Political Parties, Elections and Referendums Act 2000, section 13(2) of the Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13) and article 5(b) of S.I. 1991/1728.

(**3**) See the definition of "prescribed" in section 202(1) of the Representation of the People Act 1983 ("the 1983 Act").

(**4**) Section 9B was inserted by section 10(1) of the Electoral Administration Act 2006 (c. 22) and sub-section (1A) was substituted by paragraphs 1 and 7(1) and (2) of Schedule 4 to the Electoral Registration and Administration Act 2013 (c. 6) ("the 2013 Act"). Sections 10ZC, 10ZD and 10ZE were inserted by section 1 of, and paragraph 1 of Schedule 1 to, the 2013 Act. Section 53(1)(b) and (c) were substituted by paragraph 13(b) of Schedule 1 to the Representation of the People Act 2000 (c. 2). Section 53(3) was amended by section 24 of, and paragraph 13(b) of Schedule 4 to, the Representation of the People Act 1985. Paragraph 1(2) of Schedule 2 was amended by section 8 of, and paragraphs 1 and 24 of Schedule 1 to, the Representation of the People Act 2000 and by section 12(1) of, and paragraph 20 of Schedule 4 to, the 2013 Act. Paragraph 1(2A) and 3ZA of Schedule 2 were inserted by section 2 of the 2013 Act. Paragraph 5(1B) of Schedule 2 was inserted by paragraphs 2 and 15(1) and (5) of Schedule 1 to the Electoral Administration Act 2006. By virtue of section 9 of the Scotland Act 2016 (c. 11) the 1983 Act is a pre-commencement enactment within the meaning of the Scotland Act 1998 (c. 46), so far as the functions of the Secretary of State under the 1983 Act are exercisable within devolved competence. As a result, those functions which are exercisable within devolved competence were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

(3) Regulations 3 to 7 and 11 come into force on 1st July 2018.

(4) These regulations apply to the registration of parliamentary electors in Scotland.

Amendment of the Representation of the People (Scotland) Regulations 2001

2. The Representation of the People (Scotland) Regulations 2001(**5**) are amended in accordance with regulations 3 to 11.

3. In regulation 26(3) (applications for registration)—

(a) after sub-paragraph (b) insert—

"(ba) a statement that persons who are not qualifying Commonwealth citizens or citizens of the Republic of Ireland are ineligible to register to vote at parliamentary elections and that, in relation to an applicant's nationality, registration officers may require the applicant to provide additional information or may carry out checks against Government records;";

(b) after sub-paragraph (c) insert—

"(ca) a statement that failure to provide an address at which the applicant has ceased to reside within 12 months before the date of the application or any other mandatory information required on the form may delay the registration process;".

4. In regulation 31C (summary procedure for removal from the register)—

(a) in paragraph (2) at the end of the first line omit "either";

(b) at the end of paragraph (2)(b) insert "; or";

(c) after paragraph (2)(b) insert—

the registration officer has not received the information referred to in paragraph (2)(b)(ii) or (iii) but—

(i) has determined that the elector has died after inspecting records kept by—

(aa) the council by which the registration officer was appointed, or

(bb) a person providing services to, or authorised to exercise any function of, that council;

(ii) has received information from the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild of the elector, which allows the registration officer to determine that the elector has died;

(iii) has received information as a result of the annual canvass required by section 9D of the 1983 Act, which allows the registration officer to determine that an elector has died; or

(iv) has received information from a person managing a care home where the elector was resident, which allows the registration officer to determine that the elector has died.

(2A) The information referred to in paragraph (2)(c)(ii) and (iv) may be provided in person, by telephone or in writing and must include—

(**5**) S.I. 2001/497. Regulation 26 was substituted by S.I. 2013/3206 and subsequently amended by S.I. 2015/1966, 2017/602, 2017/604 and the Scottish Elections (Reduction of Voting Age) Act 2015 (asp. 7). Regulation 31C was substituted by S.I. 2013/3206 and subsequently amended by S.I. 2015/1966. Regulation 31D was inserted by S.I. 2007/925 and subsequently amended by S.I. 2013/3206 and the Scottish Elections (Reduction of Voting Age) Act 2015. Regulation 31FZA was inserted by S.I. 2015/1966. Regulation 31FA was inserted by S.I. 2013/3206 and subsequently amended by S.I. 2015/1966. Regulations 31G to 31J were inserted by S.I. 2007/925 and subsequently amended by S.I. 2009/725 and S.I. 2013/3206. Regulation 93A was inserted by S.I. 2013/3206; there are other amendments but none is relevant to this instrument.

(a) the full name and address of the elector who has died;

(b) the full name and address of the person providing the information and, in case of information received under paragraph (2)(c)(ii), that person's relationship to the elector; and

(c) a statement that the person providing the information is aware of the penalty for providing false information to a registration officer.

(2B) Where the information referred to in paragraph (2)(c)(ii) and (iv) has been provided in person or by telephone by virtue of paragraph (2A) the registration officer must record that information in writing or in data form.".

(d) for paragraph (3) substitute—

"(3) In this regulation—

"care home" means a care home service registered under Part 5 of the Public Services Reform (Scotland) Act 2010(**6**) and "care home service" has the meaning given by paragraph 2 of schedule 12 of that Act;

"elector" means a person who is duly entered in a register in respect of an address.".

5. In regulation 31D (procedure for reviewing entitlement to registration)—

(a) after paragraph (4) insert—

"(4A) A notice specified for the purposes of paragraph (4)(a) must also state that—

(a) where the subject of the review does not notify the registration officer within 14 days beginning with the date of the notice that the subject requires the review to be heard, the registration officer may determine the review and remove the subject's entry from the register;

(b) the subject of the review would not be entitled to a right of appeal against the registration officer's determination in the circumstances described in sub-paragraph (a); and

(c) after 14 days beginning with the date of the notice, the subject of the review can contact the registration officer to find out if the registration officer has removed the subject's entry from the register.".

(b) for paragraph (7) substitute—

"(7) The registration officer may send a notice to the subject of the review which states that—

(a) the registration officer is not satisfied that the subject of the review is or was entitled to be registered, or that the subject's entry in the register does not result from or has not been altered as the result of an application made by another person, and the grounds for the registration officer's opinion;

(b) if, within 14 days beginning with the date of the notice, the subject of the review does not require the review to be heard, the registration officer may determine the review and remove the subject's entry from the register;

(c) the subject of the review would not be entitled to a right of appeal against the registration officer's determination in the circumstances described in sub-paragraph (b); and

(**6**) 2010 asp 8.