SCOTTISH STATUTORY INSTRUMENTS

2002 No. 561

REPRESENTATION OF THE PEOPLE

The Scottish Local Government Elections Regulations 2002

Made - - - - 19th December 2002

Coming into force in accordance with article 1

The Scottish Ministers, in exercise of the powers conferred by section 53(1)(c) and (3) of, and Schedule 2 to, the Representation of the People Act 1983(**1**), and of all other powers enabling them in that behalf, hereby make the following Regulations, a draft of which has, in accordance with section 201(2) of that Act, been laid before, and approved by resolution of the Scottish Parliament:

Citation, commencement and extent

1.—(1) These regulations may be cited as the Scottish Local Government Elections Regulations 2002.

(2) These regulations shall come into force on the day following that on which they are made except for the purposes of any election where the last day for publication of the notice of election in respect of that election precedes that date.

(3) These regulations shall extend to Scotland only.

Interpretation

2.—(1) For the purposes of these regulations–

"the 1985 Act" means the Representation of the People Act 1985(**2**);

"the 2000 Act" means the Representation of the People Act 2000(**3**);

"absent voters list" means the list kept under paragraph 5 of Schedule 4 to the 2000 Act;

"ballot paper envelope" and "covering envelope" mean the envelopes referred to in regulation 11;

"list of postal proxies" means the list kept under paragraph 7(8) of Schedule 4 to the 2000 Act;

"local authority" means a council constituted by section 2 of the Local Government etc. (Scotland) Act 1994(**4**);

(**1**) 1983 c. 2. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).
(**2**) 1985 c. 50.
(**3**) 2000 c. 2.
(**4**) 1994 c. 39.

"local government area" means the area of a local authority;

"postal ballot box" means the ballot box referred to in regulation 18(1)(b);

"postal ballot paper" means a ballot paper issued to a postal voter;

"postal voter" means an elector or proxy who is entitled to vote by post;

"postal voters' ballot box" means the ballot box referred to in regulation 18(1)(a);

"receptacle for ballot paper envelopes", and other references to specified receptacles, means the receptacles referred to in regulation 18;

"spoilt postal ballot paper" means a ballot paper referred to in regulation 14;

"universal postal service provider" has the meaning given in the Postal Services Act 2000(**5**) to a "universal service provider"; and

"valid declaration of identity" means a declaration of identity in relation to which the returning officer is satisfied as mentioned in regulation 22.

(2) A reference in these regulations to a numbered rule shall be construed as a reference to the rule of that number in the Scottish Local Government Elections Rules 2002(**6**).

Combination of polls

3. Where the polls at elections including a local government election are taken together under section 15(1) or (2) of the 1985 Act, the proceedings on the issue of postal ballot papers in respect of each election may be taken together, if the returning officers concerned so agree.

Persons entitled to be present at proceedings on issue of postal ballot papers

4. No person may be present at the proceedings on the issue of postal ballot papers other than the returning officer and the returning officer's staff.

Persons entitled to be present at proceedings on receipt of postal ballot papers

5. No person may be present at the proceedings on the receipt of postal ballot papers other than–

(a) the returning officer and the returning officer's staff;

(b) a candidate;

(c) an election agent or any person appointed by a candidate to attend in such election agent's place; and

(d) any agents appointed under regulation 6.

Agents of candidates who may attend proceedings on receipt of postal ballot papers

6.—(1) Each candidate may appoint one or more agents to attend the proceedings on the receipt of the postal ballot papers up to the number such candidate may be authorised by the returning officer to appoint and the number authorised shall be the same in the case of each candidate.

(2) Notice in writing of the appointment stating the names and addresses of the persons appointed shall be given by the candidate to the returning officer before the time fixed for the opening of the postal voters' ballot box.

(3) Where postal ballot papers for more than one election are issued together under regulation 3, the returning officer to whom notice shall be given under paragraphs (2), (4) and (5) is the returning officer who issues the postal ballot papers.

(**5**) 2000 c. 26.
(**6**) S.S.I. 2002/ 457.

(4) If an agent dies or becomes incapable of acting, the candidate may appoint another agent in such agent's place and shall forthwith give to the returning officer notice in writing of the name and address of the agent appointed.

(5) Agents may be appointed and notice of appointment given to the returning officer by the candidate's election agent instead of by the candidate.

(6) In these Regulations references to agents shall be taken as references to agents whose appointments have been duly made and notified and, in the case of agents appointed under paragraph (1), who are within the number authorised by the returning officer.

(7) A candidate may do any act or thing which any agent of such candidate, if appointed, would have been authorised to do, or may assist such agent in doing any such act or thing.

(8) Where in these Regulations any act or thing is required or authorised to be done in the presence of the candidates or their agents, the non-attendance of any such persons or person at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

Notification of requirement of secrecy

7. The returning officer shall make such arrangements as the returning officer thinks fit to ensure that every person attending the proceedings in connection with the issue or receipt of postal ballot papers has been given a copy in writing of the provisions of section 66(4) and (6) of the Representation of the People Act 1983(**7**).

Time when postal ballot papers are to be issued

8.—(1) In the case of a person shown in the record kept under–

(a) paragraph 3(4); or

(b) paragraph 7(6),

of Schedule 4 to the 2000 Act (electors and proxies entitled to vote by post for an indefinite or particular period), no postal ballot paper (and declaration of identity) shall be issued until after 5.00 p.m. on the eleventh day before the date of the poll.

(2) In the case of any other person, the postal ballot paper (and declaration of identity) shall be issued by the returning officer as soon as practicable after the registration officer has granted the application to vote by post.

(3) In computing a period of days for the purpose of this regulation, Saturday, Sunday, Christmas Eve, Christmas Day, Good Friday, Easter Monday, a day appointed for public thanksgiving or mourning or a bank holiday shall be disregarded.

(4) In paragraph (3) above "bank holiday" means a day which is a bank holiday in Scotland under the Banking and Financial Dealings Act 1971(**8**).

Procedure on issue of postal ballot paper

9.—(1) Each postal ballot paper issued shall be stamped with the official mark.

(2) The number of the elector as stated in the register shall be marked on the counterfoil attached to the ballot paper.

(3) A mark shall be placed in the absent voters list or the list of postal proxies against the number of the elector to denote that a ballot paper has been issued to the elector or the elector's proxy, but without showing the particular ballot paper issued.

(**7**) Section 66(6) was amended by Schedule 3 to the Representation of the People Act 1985 (c. 50).
(**8**) 1971 c. 80.

(4) The number of a postal ballot paper shall be marked on the declaration of identity sent with that paper.

(5) Where postal ballot papers for more than one election are issued together under regulation 3–

(a) one mark shall be placed in the absent voters list or the list of postal proxies under paragraph (3) to denote that ballot papers have been issued in respect of all those elections; except that, where ballot papers are not so issued, a different mark shall be placed in the absent voters list or list of postal proxies to identify the election in respect of which the ballot paper was issued; and

(b) the number of each ballot paper shall be marked on the declaration of identity under paragraph (4).

(6) Where polls are taken together under section 15(1) or (2) of the 1985 Act but not the proceedings on the issue and receipt of postal ballot papers, the colour of the postal ballot paper shall also be marked on the declaration of identity sent with that paper.

Refusal to issue postal ballot paper

10. Where a returning officer is satisfied that two or more entries in the absent voters list, or the list of postal proxies or in each of those lists relate to the same elector, the returning officer shall not issue more than one ballot paper in respect of that elector at any one election.

Envelopes

11.—(1) Paragraphs (2) and (3) prescribe the envelopes which are to be issued to a postal voter in addition to the ballot paper and declaration of identity (which are issued under rule 18).

(2) There shall be issued an envelope for the return of the postal ballot paper or, as the case may be, ballot papers and the declaration of identity (referred to as a "covering envelope") which shall be marked with the letter "B".

(3) There shall also be issued a smaller envelope (referred to as a "ballot paper envelope") which shall be marked with–

(a) the letter "A";

(b) the words "ballot paper envelope"; and

(c) the number of the ballot paper or, as the case may be, ballot papers.

(4) Where polls are taken together (under section 15(1) or (2) of the 1985 Act) but not the proceedings on the issue and receipt of postal ballot papers–

(a) the envelope referred to in paragraph (2) shall also be marked "Covering envelope for the [*insert colour of ballot paper*] coloured ballot paper"; and

(b) on the envelope referred to in paragraph (3), after the words "Ballot paper envelope" there shall be added the words "for the [*insert colour of ballot paper*] coloured ballot paper".

Sealing up of counterfoils and security of special lists

12.—(1) As soon as practicable after the issue of each batch of postal ballot papers, the returning officer shall make up into a packet the counterfoils for those ballot papers which have been issued and shall seal such a packet.

(2) As soon as practicable after the last batch of postal ballot papers have been issued, the returning officer shall make up into a packet the marked copy of the absent voters list and the list of postal proxies and shall seal such a packet.

(3) Until the time referred to in paragraph (2), the returning officer shall take proper precautions for the security of the lists referred to in that paragraph.

Delivery of postal ballot papers

13.—(1) For the purposes of delivering postal ballot papers, the returning officer may use–

(a) a universal postal service provider;

(b) a commercial delivery firm; or

(c) persons appointed under rule 20(1).

(2) Where the services of a universal postal service provider or commercial delivery firm are to be used, envelopes addressed to postal voters shall be counted and delivered by the returning officer with such form of receipt to be endorsed by that provider or firm as may be arranged.

(3) Postage shall be prepaid on envelopes addressed to the postal voters (except where paragraph (1)(c) applies).

(4) Return postage shall be prepaid on all covering envelopes where the address provided by the postal voter for the receipt of the postal ballot paper is within the United Kingdom.

Spoilt postal ballot papers

14.—(1) If a postal voter has inadvertently dealt with a postal ballot paper in such manner that it cannot be conveniently used as a ballot paper (referred to as "a spoilt postal ballot paper") such voter may return the spoilt postal ballot paper and the declaration of identity to the returning officer (either by hand or by post).

(2) Where postal ballot papers for more than one election have been issued together under regulation 3, the postal voter shall, if exercising the entitlement conferred by paragraph (1), return all of the ballot papers so issued, whether spoilt or not.

(3) On receipt of the documents referred to in paragraph (1) and, where applicable paragraph (2), the returning officer shall issue another postal ballot paper or, as the case may be, ballot papers except where those documents are received after 5.00 p.m. on the day before the day of the poll.

(4) Regulations 9 (except paragraph (3)), 11, 12, and, subject to paragraph (7) below, 13 shall apply in relation to a replacement postal ballot paper under paragraph (3) as they apply in relation to a postal ballot paper.

(5) The spoilt postal ballot paper, and any other postal ballot paper issued with it, and the declaration of identity shall be cancelled immediately.

(6) The returning officer, as soon as practicable after cancelling those documents, shall make up those documents in a separate packet and shall seal the packet; and if on any subsequent occasion documents are cancelled as mentioned above, the sealed packet shall be opened and the additional cancelled documents included in it and the packet shall again be made up and sealed.

(7) Where a postal voter applies in person, the returning officer may hand a replacement postal ballot paper to such voter instead of delivering it in accordance with regulation 13.

(8) The returning officer shall enter in a list kept for the purpose ("the list of spoilt postal ballot papers")–

(a) the name and number of the elector as stated in the register;

(b) the number of the postal ballot paper (or papers) issued under this regulation; and

(c) where the postal voter whose ballot paper is spoilt is a proxy, such voter's name and address.