Draft Regulations laid before Parliament under section 201(2) of the Representation of the People Act 1983 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2008 No. (S.)

REPRESENTATION OF THE PEOPLE

The Representation of the People (Scotland) (Amendment) Regulations 2008

Made - - - - 2008

Coming into force in accordance with regulation 1

These Regulations are made in exercise of the powers conferred by–

(a) section 53 of, and paragraphs 5A and 12 of Schedule 2 to, the Representation of the People Act 1983(**1**);

(b) having regard to the definition of "prescribed" in section 202(1) of the Representation of the People Act 1983, section 89(1) of, and rules 24, 28(3), 28(3A), 31A and 45(1B) in Schedule 1 to, that Act(**2**); and

(c) having regard to the definition of "prescribed" in section 202(1) of the Representation of the People Act 1983 and paragraph 1(2) of Schedule 4 to the Representation of the People Act 2000(**3**), paragraphs 3(1)(b) and (2)(c), 4(1)(b), (2)(c) and (4)(a), 6(7) and (8) and 7(5)(c) of that Schedule.

The Secretary of State has consulted the Electoral Commission about these Regulations in accordance with section 7(1) and (2)(e) of the Political Parties, Elections and Referendums Act 2000(**4**).

(**1**) 1983 c. 2. Section 53 was amended by paragraph 13 of Schedule 1 to the Representation of the People Act 2000 (c. 2) ("the 2000 Act") and subsection (4) inserted by paragraph 109 of Schedule 1 to the Electoral Administration Act 2006 (c. 22) ("the 2006 Act"), paragraph 5A of Schedule 2 was inserted by section 11 of the Representation of the People Act 1985 (c. 50) ("the 1985 Act") and amended by paragraph 11 of Schedule 6 to the 2000 Act, and sub-paragraph (aa) of paragraph 12 of Schedule 2 was inserted by paragraph 94 of Schedule 1 to the 2006 Act.

(**2**) Section 89 was amended by paragraph 33 of Schedule 4 to the 1985 Act, paragraph 10 of Schedule 18 to the Political Parties, Elections and Referendums Act 2000 (c. 41), paragraph 115 of Schedule 1 to the 2006 Act and paragraph 7(a) of Schedule 2 to the Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14), rule 24 was substituted by section 37 of the 2006 Act, rule 28(3) was amended by section 4 of, and paragraph 6 of Schedule 2 to, the 1985 Act and by paragraph 70 of Schedule 1 to the 2006 Act, rule 28(3A) was added by paragraph 14 of Schedule 1 to the 2006 Act, rule 31A was inserted by section 45 of the 2006 Act, and rule 45(1B) was inserted by paragraph 10 of Schedule 6 to the 2000 Act and amended by paragraphs 69 and 73 of Schedule 1 to the 2006 Act.

(**3**) 2000 c. 2; paragraphs 3, 4 and 7 of Schedule 4 were amended by section 14(1) to (3) of the 2006 Act; that Act also makes other amendments to these paragraphs which are not relevant to these Regulations.

(**4**) 2000 c. 41.

In accordance with section 201(2) of the Representation of the People Act 1983(**5**), a draft of this instrument has been laid before and approved by resolution of each House of Parliament.

Accordingly, the Secretary of State makes the following Regulations:

PART 1

General

Citation, commencement, interpretation and extent

1.—(1) These Regulations may be cited as the Representation of the People (Scotland) (Amendment) Regulations 2008 and subject to paragraphs (2) and (3) shall come into force on 8th February 2008.

(2) The regulations specified in paragraph (3) shall not have effect in relation to any election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 7th August 2008.

(3) The regulations referred to in paragraph (2) are–

(a) regulation 2(2);

(b) regulations 7, 8, 10 and 11; and

(c) regulation 12(2).

(4) In these Regulations, unless otherwise stated, any reference to a numbered article, rule, paragraph, Schedule or Appendix is a reference to the article, rule, paragraph, Schedule or Appendix bearing that number in the Representation of the People (Scotland) Regulations 2001(**6**).

(5) These Regulations shall extend to Scotland only.

PART 2

Absent voting: personal identifiers

Absent voting: interpretation

2.—(1) In regulation 50 (interpretation of Part IV) after the definition of "Schedule 4" insert–

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

(2) In regulation 64(**7**) (interpretation of Part V) for the definition of "valid postal voting statement" substitute–

""valid postal voting statement" means a postal voting statement which, in accordance with regulation 85 or 85A(**8**), the returning officer is satisfied has been duly completed.".

(**5**) 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 and article 5(b) of S.I. 1991/1728.

(**6**) S.I. 2001/497, which was amended by S.I. 2001/1749, 2002/1872, 2003/3075, 2004/1771, 2004/1960, 2006/834 and 2007/925.

(**7**) Regulation 64 was amended by S.I. 2007/925.

(**8**) Regulation 85A is inserted by regulation 10 of these Regulations.

Amendment of regulation 51

3.—(1) Regulation 51(**9**) (general requirements for applications for an absent vote) is amended as follows.

(2) In paragraph (2), omit the "and" preceding sub-paragraph (e) and after sub-paragraph (e) insert–

"(f) in the case of a person who is unable to provide a signature, the reasons for his request for waiver of any requirement under paragraph 3, 4 or 7 of Schedule 4 to provide a signature and the name and address of any person who has assisted him to complete his application, and

(g) where the applicant has, or has applied for, an anonymous entry, that fact.".

(3) For paragraph (3) substitute–

"(3) The application shall be made in writing and shall be dated.

(3A) Where an application is required to contain a signature and date of birth, the information must be set out in a manner that is sufficiently clear and unambiguous as to be capable of electronic scanning by configuring the information as follows–

(a) the signature shall appear against a background of white unlined paper at least five centimetres long and two centimetres high; and

(b) the applicant's date of birth shall be set out numerically configured in the sequence of date, month and year, namely [d][d][m][m][y][y][y][y].

(3B) Where the application contains a request that the registration officer waive the requirement for a signature, sub-paragraph (a) of paragraph (3A) shall not apply.".

Signatures

4. For regulation 51A(**10**) (additional provision concerning the requirement that an application for an absent vote must be signed by the applicant) substitute–

"**51A.** The registration officer may satisfy himself–

(a) that an application under Schedule 4 meets any requirements that it has been signed by the applicant and states his date of birth by referring to any signature and date of birth–

(i) previously provided by the applicant to the registration officer or the returning officer; or

(ii) previously provided by the applicant to the authority referred to in regulation 35(2)(a), if held by that authority in records which the registration officer is authorised to inspect for the purposes of his registration duties; and

(b) as to whether the applicant is unable to provide a signature or a consistent signature due to any disability or inability to read or write.".

Requirement to provide fresh signatures at five yearly intervals

5. After regulation 60 (inquiries by registration officer) insert–

(**9**) Regulation 51(2) was amended by S.I. 2006/834.
(**10**) Regulation 51A was inserted by S.I. 2006/834.

"**Requirement to provide fresh signatures at five yearly intervals**

60A.—(1) The registration officer shall every year by 31st January send every person who remains an absent voter and whose signature held on the personal identifiers record is more than five years old a notice in writing–

(a) requiring him to provide a fresh signature, and

(b) informing him of the date (six weeks from the date of sending the notice) on which he would cease to be entitled to vote by post or by proxy in the event of a failure or refusal to provide a fresh signature.

(2) The notice must be sent by the registration officer to the current or last known address of the absent voter.

(3) 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 him.

(4) 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.

(5) A notice or copy of a notice sent to an absent voter in accordance with paragraph (1) or (3) must be accompanied by a pre-addressed reply envelope and, in the case of any notice or copy of a notice sent to an address in the United Kingdom, return postage must be prepaid.

(6) The registration officer must, no later than the date specified in the notice sent to the absent voter in accordance with paragraph (1), determine whether the absent voter has failed or refused to provide a fresh signature.

(7) Where the registration officer determines that the absent voter has failed or refused to provide a fresh signature within the specified period, he must remove that person's entry from the records kept pursuant to paragraph 3(4) or 7(6) of Schedule 4 and from the postal voters list, list of proxies or proxy postal voters list (as the case may be) kept under paragraph 5(2), 5(3) or 7(8) of that Schedule.

(8) Where a registration officer removes an absent voter's entry in the circumstances to which paragraph (7) refers–

(a) the registration officer shall inform the absent voter of the location of the polling station to which he has been allotted or is likely to be allotted under the appropriate rules (as defined in paragraph 1 of Schedule 4) unless that voter is not likely to be allotted to a polling station;

(b) regulation 57(4) and regulation 58 shall apply as if the registration officer were refusing an application under Schedule 4; and

(c) in the case of an entry removed from the proxy postal voters list, the registration officer must also notify the elector who appointed the proxy whose entry has been removed.

(9) The registration officer shall include in the notice to be sent to an absent voter regarding his removal from the records kept pursuant to paragraph 3(4) or 7(6) of Schedule 4 and from the postal voters list, list of proxies or proxy postal voters list (as the case may be) kept under paragraph 5(2), 5(3) or 7(8) of that Schedule, information–

(a) explaining the effect of such removal; and

(b) reminding the absent voter that he may make a fresh application under Schedule 4 to vote by post or by proxy (as the case may be).".

The personal identifiers record

6. After regulation 61A(**11**) (conditions on the use, supply and inspection of absent voter records or lists) insert–

"**The personal identifiers record**

61B.—(1) The registration officer shall maintain a record ("the personal identifiers record"), apart from the other records and lists which he is required to keep under Schedule 4, of the signatures and dates of birth provided by persons whose applications under paragraph 3(1) or (2), paragraph 4(1) or (2) or paragraph 7(4)(a) or (b) of Schedule 4 were granted, until the expiry of twelve months from–

(a) the date on which a person is removed from the record kept pursuant to paragraph 3(4) or 7(6) of Schedule 4; or

(b) the date of the poll for the purposes of which the person's application for an absent vote was granted under paragraph 4(1) or (2) or 7(4)(b) of Schedule 4.

(2) The personal identifiers record shall contain the following information in respect of each absent voter on the postal voters list, list of proxies or proxy postal voters list–

(a) his name;

(b) his date of birth; and

(c) his signature, or a record of a waiver by the registration officer of the requirement for a signature.

(3) A returning officer may disclose information held in the personal identifiers record to–

(a) any candidate or agent attending proceedings on receipt of postal ballot papers, in accordance with and for the purposes referred to in regulation 85(**12**);

(b) any person attending proceedings on receipt of postal ballot papers, who is entitled to do so by virtue of any of sections 6A to 6D of the Political Parties, Elections and Referendums Act 2000(**13**), but only to the extent required to permit them to observe the proceedings.".

Postal ballot boxes and receptacles

7. In regulation 81(5)(**14**) omit the "and" preceding sub-paragraph (d) and after sub paragraph (d) insert–

"(e) the receptacle for rejected votes (verification procedure); and

(f) the receptacle for postal voting statements (verification procedure).".

Amendment of regulation 84

8.—(1) Regulation 84(**15**) (opening of covering envelopes) is amended as follows.

(2) For paragraph (1) substitute–

(**11**) Regulation 61A was inserted by S.I. 2007/925.
(**12**) Regulation 85 was amended by S.I. 2002/1872 and 2007/925 and is further amended by regulation 9 of these Regulations.
(**13**) 2000 c. 41; sections 6A to 6D were inserted by section 29 of the Electoral Administration Act 2006 (c. 22).
(**14**) Regulation 81 was amended by S.I. 2007/925.
(**15**) Regulation 84 was amended by S.I. 2007/925.