Draft Order laid before Parliament under section 115 of, and Schedule 7 to, the Scotland Act 1998, for approval by resolution of each House of Parliament. This draft replaces the one laid on 16th January 2008 and is being issued free of charge to all known recipients of that draft Statutory Instrument.

DRAFT STATUTORY INSTRUMENTS

2008 No.

CONSTITUTIONAL LAW
DEVOLUTION, SCOTLAND

The Scottish Parliament (Elections etc.) (Amendment) Order 2008

Made - - - - 2008

Coming into force in accordance with article 1

This Order is made in exercise of the powers conferred by sections 12(1)(a) and 113 of the Scotland Act 1998(**1**).

The Secretary of State has consulted the Electoral Commission as required by section 7(2)(g) of the Political Parties, Elections and Referendums Act 2000(**2**).

A draft of this Order has been laid before Parliament in accordance with section 115 of, and Schedule 7 to, the Scotland Act 1998 and approved by a resolution of each House of Parliament.

Accordingly, the Secretary of State makes the following Order:

PART 1

General

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Scottish Parliament (Elections etc.) (Amendment) Order 2008 and subject to paragraphs (2) and (3) shall come into force on 8th February 2008.

(**1**) 1998 c. 46. Section 12 was amended by the Political Parties, Elections and Referendums Act 2000 (c. 41), Schedule 21, paragraph 13 and by the European Parliamentary Elections Act 2002 (c. 24), Schedule 3, paragraph 7.
(**2**) 2000 c. 41.

(2) The articles 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 articles referred to in paragraph (2) are–

(a) article 2(2); and

(b) articles 13 to 18.

(4) In this Order, 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 Scottish Parliament (Elections etc.) Order 2007(**3**).

PART 2

Absent voting: personal identifiers

Absent voting: interpretation

2.—(1) In article 3(1) (interpretation) after the definition of "the 2006 Act" 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 paragraph 1 of Schedule 4 remove the "and" preceding the definition of "spoilt ballot paper" and after that definition insert–

"and "valid postal voting statement" means a postal voting statement which, in accordance with paragraph 20 or 20A(**4**), the constituency returning officer is satisfied has been duly completed.".

Amendment of article 9

3.—(1) Article 9 (absent vote at Scottish parliamentary elections for an indefinite or a particular period) is amended as follows.

(2) In paragraph (1)(b), after "application" insert "contains the applicant's signature and date of birth and".

(3) In paragraph (2)(c), after "application" insert "contains the applicant's signature and date of birth and".

(4) After paragraph (6) insert–

"(7) The registration officer may dispense with the requirement under paragraph (1)(b) or (2)(c) for the applicant to provide a signature if he is satisfied that the applicant is unable–

(a) to provide a signature because of any disability the applicant has,

(b) to provide a signature because the applicant is unable to read or write, or

(c) to sign in a consistent and distinctive way because of any such disability or inability.

(8) The registration officer must also keep a record in relation to those whose applications under this regulation have been granted showing–

(a) their dates of birth, and

(b) except in cases where the registration officer in pursuance of paragraph (7) has dispensed with the requirement to provide a signature, their signatures.

(**3**) S.I. 2007/937, which was amended by S.I. 2007/2262.
(**4**) Paragraph 20A is inserted by article 16 of this Order.

(9) The record kept under paragraph (8) must be retained by the registration officer for the period prescribed in paragraph 12A of Schedule 3(**5**).".

Amendment of article 10

4.—(1) Article 10 (absent vote at a particular Scottish parliamentary election) is amended as follows.

(2) In paragraph (1)(b), after "application" insert "contains the applicant's signature and date of birth and".

(3) In paragraph (2)(c), after "application" insert "contains the applicant's signature and date of birth and".

(4) After paragraph (6) insert–

"(7) The registration officer may dispense with the requirement under paragraph (1)(b) or (2)(c) for the applicant to provide a signature if he is satisfied that the applicant is unable–

(a) to provide a signature because of any disability the applicant has,

(b) to provide a signature because the applicant is unable to read or write, or

(c) to sign in a consistent and distinctive way because of any such disability or inability.

(8) The registration officer must also keep a record in relation to those whose applications under this regulation have been granted showing–

(a) their dates of birth, and

(b) except in cases where the registration officer in pursuance of paragraph (7) has dispensed with the requirement to provide a signature, their signatures.

(9) The record kept under paragraph (8) must be retained by the registration officer for the period prescribed in paragraph 12A of Schedule 3.".

Amendment of article 11

5.—(1) Article 11 (proxies at Scottish parliamentary elections) is amended as follows.

(2) In paragraph (6) after "application" where it second occurs insert "is signed by the applicant and".

(3) In paragraph (7) after "application" where it first occurs insert "is signed by the applicant and".

Amendment of article 12

6.—(1) Article 12 (application for proxy postal vote) is amended as follows.

(2) In paragraph (4), after "application" where it last occurs insert "contains the applicant's signature and date of birth and".

(3) After paragraph (10) insert–

"(11) The registration officer may dispense with the requirement under paragraph (4) for the applicant to provide a signature if he is satisfied that the applicant is unable–

(a) to provide a signature because of any disability the applicant has,

(b) to provide a signature because the applicant is unable to read or write, or

(c) to sign in a consistent and distinctive way because of any such disability or inability.

(**5**) Paragraph 12A of Schedule 3 is inserted by Article 12 of this Order.

(12) The registration officer must also keep a record in relation to those whose applications under paragraph (4) have been granted showing–

(a) their dates of birth, and

(b) except in cases where the registration officer in pursuance of paragraph (11) has dispensed with the requirement to provide a signature, their signatures.

(13) The record kept under paragraph (12) must be retained by the registration officer for the period prescribed in paragraph 12A of Schedule 3.".

Amendment to offence provision

7. In article 28(2)(b) (false statements in connection with postal and proxy vote applications) after "vote" insert "or providing false information in connection with such an application".

Amendment to rule 55

8.—(1) In rule 55(2) of Schedule 2 (circumstances in which a postal ballot paper is duly returned) after "duly signed" insert "and which also states the date of birth of the elector or proxy (as the case may be)".

(2) After rule 55(2) insert–

"(2A) In a case where steps for verifying the date of birth and signature of an elector or proxy have been taken in accordance with paragraph 20A or 20B of Schedule 4(**6**), the postal ballot paper shall not be deemed to be duly returned unless the constituency returning officer verifies the date of birth and signature of the elector or proxy (as the case may be).".

Amendment of paragraph 1 of Schedule 3

9.—(1) Paragraph 1 of Schedule 3 (general requirements for applications for an absent vote) is amended as follows.

(2) In sub-paragraph (1) omit the "and" preceding paragraph (e) and after 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 article 9, 10, 11 or 12 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) In sub-paragraph (1) for "signed by the applicant " substitute "dated".

(4) After sub-paragraph (1) insert–

"(1A) 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].

(1B) Where the application contains a request that the registration officer waive the requirement for a signature, sub-paragraph (1A)(a) shall not apply.".

(**6**) Paragraphs 20A and 20B of Schedule 4 are inserted by article 16 of this Order.

Checking of signatures and provision of fresh signatures

10. After paragraph 1 of Schedule 3 insert–

"**Checking of signatures**

1A. The registration officer may satisfy himself–

(a) that an application under article 9, 10, 11 or 12 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 a returning officer; or

(ii) previously provided by the applicant to the council by which the registration officer was appointed, if held by that council 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.

Provision of fresh signatures

1B.—(1) A person who remains on the record kept under article 9(4) or article 12(5) may, at any time, provide the registration officer with a fresh signature.

(2) Anything required or authorised to be done for the purposes of this order in relation to a signature required to be provided in pursuance of this order must be done in relation to a signature provided as mentioned in sub-paragraph (1) instead of in relation to a signature provided on any earlier occasion.".

Requirement to provide fresh signatures at five yearly intervals

11. After paragraph 11 of Schedule 3 (inquiries by registration officer) insert–

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

11A.—(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.