These draft Regulations have been printed in substitution for the draft laid on 26th January 2006 and are being issued free of charge to all known recipients of the earlier draft.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

2006 No. (S.)

REPRESENTATION OF THE PEOPLE, SCOTLAND

The Representation of the People (Scotland) (Amendment) Regulations 2006

Made - - - -	*2006*
Coming into force - -	*2006*

The Secretary of State, having consulted the Electoral Commission in accordance with section 7(1) and (2)(e) of the Political Parties, Elections and Referendums Act 2000(**1**) about these Regulations, in exercise of the powers conferred upon him by–

(a) sections 10A(9), 13A(6), 53, and 201(1) and (3) of, and rule 24 of Schedule 1 and paragraphs 3A, 5A(2) and (3), 10A, 10B, 11, 12 and 13(1A) of Schedule 2 to, the Representation of the People Act 1983(**2**);

(b) having regard to the definition of "prescribed" in section 202(1) of that Act, sections 4(4), 9(2), 10A(1), 13(3), 13A(1) and (2) and 13B(3) of, and rule 45(1B) in Schedule 1 to, that Act(**3**); and

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

and of all other powers enabling him in that behalf, hereby makes the following Regulations.

(**1**) 2000 c. 41.

(**2**) 1983 c. 2; sections 10A and 13A were inserted by Schedule 1 to the Representation of the People Act 2000 (c. 2) ("the 2000 Act"). Section 53 was amended by Schedule 4 to the Representation of the People Act 1985 (c. 50) ("the 1985 Act") and Schedule 1 to the 2000 Act. Section 201(1) was amended by S.I. 1991/1728 and section 201(3) was inserted by Schedule 1 to the 2000 Act. Rule 24 of Schedule 1 was substituted by Schedule 6 to the 2000 Act. Paragraph 3A of Schedule 2 was inserted by Schedule 1 to the 2000 Act and paragraph 5A was inserted by Schedule 2 to the 1985 Act and amended by Schedule 6 to the 2000 Act. Paragraph 11 of Schedule 2 was substituted, and paragraphs 10A, 10B and 13(1A) of that Schedule inserted, by section 9 of the 2000 Act. Paragraph 12 of Schedule 2 was amended by Schedule 6 to the 2000 Act.

(**3**) Section 4 was substituted by section 1(2) of the 2000 Act (c.2). Sections 9 and 13 were substituted, and sections 10A, 13A and 13B were inserted, by Schedule 1 to the 2000 Act. Rule 45(1B) of Schedule 1 was inserted by Schedule 6 to the 2000 Act.

(**4**) 2000 c. 2.

A draft of this instrument which has been laid before and approved by resolution of each House of Parliament in accordance with section 201(2) of the Representation of the People Act 1983:

Citation, commencement, interpretation and extent

1.—(1) These Regulations may be cited as the Representation of the People (Scotland) (Amendment) Regulations 2006 and shall come into force on the fourteenth day after the day on which they are made.

(2) In these Regulations, "the 2001 Regulations" means the Representation of the People (Scotland) Regulations 2001(**5**).

(3) These Regulations shall extend to Scotland only.

Amendment to provision about applications for registration

2. In regulation 26 of the 2001 Regulations, at the end of paragraph (1) insert–

"(f) except in the case of a person applying to be registered in pursuance of an overseas elector's declaration, the applicant's nationality;".

Amendment to provision about general requirements for applications for an absent vote

3. In regulation 51(2)(b) of the 2001 Regulations, for "or will be registered" substitute "registered or has applied to be (or is treated as having applied to be) registered".

Additional provisions concerning the requirements for applications for an absent vote

4. After Regulation 51 of the 2001 Regulations insert the following–

"**Additional provision concerning the requirement that an application for an absent vote must be signed by the applicant**

51A. The registration officer may satisfy himself that an application for an absent vote meets the requirement in regulation 51(3) that it has been signed by the applicant by referring to any signature previously provided by the applicant to the registration officer or returning officer.

Additional requirements for applications for ballot papers to be sent to different address from that shown in the record kept under paragraph 3(4) or 7(6) of Schedule 4

51B.—(1) An application under–

(a) paragraph 4(3)(a) of Schedule 4 by a person shown as voting by post in the record kept under paragraph 3(4) of that Schedule; or

(b) paragraph 7(7) of that Schedule by a person shown as voting by post in the record kept under paragraph 7(6) of that Schedule,

for his ballot paper to be sent to a different address from that shown in the record shall set out why the applicant's circumstances will be or are likely to be such that he requires his ballot paper to be sent to that address.

(**5**) S.I. 2001/497; which was amended by S.I. 2001/1749, S.I. 2002/1872, S.I. 2003/3075, S.I. 2004/1771 and S.I 2004/1960.

(2) Paragraph (1) does not apply to an application at a local government election in Scotland.".

Amendment to provision about additional requirements for applications for a proxy vote in respect of a particular election

5. For regulation 55 of the 2001 Regulations substitute–

"**Additional requirements for applications for a proxy vote in respect of a particular election**

55.—(1) An application under paragraph 4(2) of Schedule 4 to vote by proxy at a particular election shall set out why the applicant's circumstances on the date of the poll for that election in respect of which it is made will be or are likely to be such that he cannot reasonably be expected to vote in person at his allotted polling station.

(2) Where an application under paragraph 4(2) of Schedule 4–

(a) is made on the grounds of the applicant's physical incapacity; and

(b) is made after 5 p.m. on the sixth day before the date of poll at the election for which it is made,

the requirements of regulation 53 as to the matters to be specified and the attestation shall apply.

(3) Where an application mentioned in paragraph (2) is made, the person who attests the application shall state, in addition to those matters specified in regulation 53(4), to the best of his knowledge and belief, the date upon which the applicant became physically incapacitated.

(4) Paragraph (2) does not apply to a local government election in Scotland.".

Amendment to provision about closing date for applications

6.—(1) Other than in its application to a local government election in Scotland, regulation 56 of the 2001 Regulations shall be amended as follows.

(2) In paragraph (1) for "3(6) or (7)" substitute "3(1), (6) or (7), or 7(4)".

(3) In paragraph (2) for "3(1) or (2), or 6(7) or 7(4)" substitute "3(2) or 6(7)".

(4) For paragraph (3) substitute–

"(3) Subject to paragraph (3A), an application under paragraph 4(2) or 6(8) of Schedule 4 shall be refused if it is received by the registration officer after 5 p.m. on the sixth day before the date of the poll at the election for which it is made.

(3A) Where–

(a) an application under paragraph 4(2) of Schedule 4 is made on the grounds of the applicant's physical incapacity; and

(b) the applicant became physically incapacitated after 5 p.m. on the sixth day before the date of the poll at the election for which it is made,

the application, or an application under paragraph 6(8) of Schedule 4 made by virtue of that application, shall be refused if it is received after 5 p.m. on the day of the poll at the election for which it is made.".

(5) In paragraph (4) for "7(7)" substitute "4(1) or 7(7)".

(6) After paragraph (7) insert–

"(8) In the application of this regulation to a local government election in Scotland–

(a) in paragraph (1) for "3(1), (6) or (7), or 7(4)" substitute "3(6) or (7)",

(b) in paragraph (2) for "3(2) or 6(7)" substitute "3(1) or (2), or 6(7) or 7(4)",

(c) for paragraph (3) substitute–

"(3) An application under paragraph 4(1) or (2) or 6(8) of Schedule 4 shall be refused if it is received by the registration officer after 5 p.m. on the sixth day before the date of the pool at the election for which it is made.",

(d) omit paragraph (3A), and

(e) in paragraph (4) omit "4(1) or".".

Amendment to provision about grant or refusal of applications

7.—(1) Other than in its application to a local government election in Scotland, regulation 57 of the 2001 Regulations shall be amended as follows.

(2) In paragraphs (1) and (5) of the 2001 Regulations omit ", where practicable,".

(3) After paragraph (4) insert–

"(4A) Where the registration officer grants an application made under–

(a) paragraph 4(3)(a) of Schedule 4 by a person shown as voting by post in the record kept under paragraph 3(4) of that Schedule; or

(b) paragraph 7(7) of that Schedule by a person shown as voting by post in the record kept under paragraph 7(6) of that Schedule,

he shall notify the applicant of this.

(4B) Where a person is removed from the record kept pursuant to paragraph 3(4) of Schedule 4, the registration officer shall notify him of this and the reason for it.

(4C) Where the appointment of a proxy is cancelled by the elector or otherwise ceases to be in force, the registration officer shall notify the elector that the appointment has been cancelled or, as the case may be, notify him that the appointment has ceased and the reason for it.".

(4) After paragraph (6) insert–

"(7) In the application of this regulation to a local government election in Scotland–

(a) the notification requirements in paragraphs (1) and (5) shall only apply where notification is practicable, and

(b) paragraphs (4A), (4B) and (4C) shall be omitted.".

Amendment to provision about spoilt postal ballot papers

8.—(1) Regulation 77 of the 2001 Regulations shall be amended as follows.

(2) For paragraphs (1) and (2) substitute–

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

(2) Where a postal voter exercises the entitlement conferred by paragraph (1), he shall also return–

(a) the postal ballot paper or, as the case may be, the declaration of identity, whether spoilt or not;

(b) where postal ballot papers for more than one election have been issued together under regulation 65, all other ballot papers so issued, whether spoilt or not; and

(c) the envelopes supplied for the return of the documents mentioned in paragraph (1) or sub paragraph (a) or (b).".

(3) In paragraph (3)–

(a) at the beginning insert "Subject to paragraph (3A),"; and

(b) for "5 p.m. on the day before the day of the poll" substitute "5 p.m. on the day of the poll".

(4) After paragraph (3) insert–

"(3A) Where the returning officer receives the documents referred to in paragraph (1) and, where applicable paragraph (2), after 5 p.m. on the day before the day of the poll, he shall only issue another postal ballot paper or, as the case may be, ballot papers if the postal voter returns the documents by hand.".

(5) For paragraph (5) substitute–

"(5) Any postal ballot paper or declaration of identity, whether spoilt or not, returned in accordance with paragraph (1) or (2) shall be immediately cancelled.".

(6) For paragraph (7) substitute the following paragraph–

"(7) Where a postal voter applies in person–

(a) by 5 p.m. on the day before the day of the poll, the returning officer may hand a replacement postal ballot paper to him; or

(b) after 5 p.m. on the day before the day of the poll, the returning officer may only hand a replacement postal ballot paper to him,

instead of delivering it in accordance with regulation 76.".

Amendment to provision about lost postal ballot papers

9.—(1) Regulation 78 of the 2001 Regulations shall be amended as follows.

(2) For paragraph (1) substitute–

"(1) Where a postal voter claims either to have lost or not to have received–

(a) his postal ballot paper, or

(b) the declaration of identity, or

(c) one or more of the envelopes supplied for their return,

by the third day before the day of the poll, he may apply (whether or not in person) to the returning officer for a replacement ballot paper.".

(3) After paragraph (2) insert–

"(2A) Where a postal voter exercises the entitlement conferred by paragraph (1), he shall return–

(a) the documents referred to in paragraph (1)(a) to (c); and

(b) where postal ballot papers for more than one election have been issued together under regulation 65, all other ballot papers so issued,

which he has received and which have not been lost.

(2B) Any postal ballot paper or declaration of identity returned in accordance with paragraph (2A) shall be immediately cancelled.

(2C) 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