

Draft Order laid before the Scottish Parliament under section 16(5) of the Local Governance (Scotland) Act 2004, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2022 No.

REPRESENTATION OF THE PEOPLE

The Scottish Local Government
Elections Amendment Order 2022

<i>Made</i>	- - - -	2022
<i>Coming into force</i>	- -	2022

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 3 and 16 of the Local Governance (Scotland) Act 2004(1) and all other powers enabling them to do so.

In accordance with section 16(5) of that Act(2), a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

In accordance with section 7(1) and (2)(j) of the Political Parties, Elections and Referendums Act 2000(3), the Scottish Ministers have consulted the Electoral Commission.

Citation, commencement and transitional provision

1.—(1) This Order may be cited as the Scottish Local Government Elections Amendment Order 2022.

(2) This Order comes into force on the day after the day on which it is made.

(3) The amendments made by this Order do not apply in relation to an election for which the date of poll is on or before 4 May 2022.

Amendment of the Representation of the People Act 1983

2.—(1) The Representation of the People Act 1983(4) is amended in accordance with this article.

(2) After section 87A (duty of appropriate officer to forward returns and declarations to Electoral Commission)(5), insert—

(1) 2004 asp 9. Section 3 was amended by section 34(6) of the Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14) and section 6(3) of the Scottish Elections (Reform) Act 2020 (asp 12).
(2) Section 16(5) has been modified by paragraph 5 of Schedule 3 to the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10).
(3) 2000 c. 41. Section 7(2)(j) was inserted by section 12 of the Local Electoral Administration (Scotland) Act 2011 (asp 10).
(4) 1983 c. 2.
(5) Section 87A was inserted by paragraph 9 of schedule 18 of the Political Parties, Elections and Referendums Act 2000 (c. 41).

“Scottish local government elections: duty of appropriate officer to forward returns and declarations to Electoral Commission

87B. Where the appropriate officer receives any return or declaration under section 75A, 81 or 82 in respect of a local government election in Scotland, the appropriate officer must, if so requested by the Electoral Commission, deliver to the Commission a copy of—

- (a) the return or declaration, and
- (b) any accompanying documents.”.

Amendment of the Political Parties, Elections and Referendums Act 2000

3.—(1) Section 145 (duties of the Commission with respect to compliance etc.) of the Political Parties, Elections and Referendums Act 2000(6) is amended in accordance with this article.

(2) Subsections (2), (4), (5) and (6) are repealed.

(3) In subsection (3), for “For the purposes of subsection (2)” substitute “In relation to local government elections in Scotland”.

Amendment of the Scottish Local Government Elections Order 2011

4. In schedule 1 of the Scottish Local Government Elections Order 2011(7) (Scottish local government elections rules), in rule 24(1) (issue of official poll cards and notifications), for “notice of poll” substitute “notice of election”.

St Andrew’s House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

(6) 2000 c. 41. Section 145 has been amended by section 1, paragraph 22 of schedule 6, and paragraph 1 of schedule 7, of the Political Parties and Elections Act 2009 (c. 12); and section 38 of the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 (c. 4).

(7) S.S.I. 2011/399, as amended by S.S.I. 2012/60, S.S.I. 2012/342, S.S.I. 2016/7, S.S.I. 2016/354, S.S.I. 2020/239 and S.S.I. 2021/437.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under powers in section 3 and 16 of the Local Governance (Scotland) Act 2004 and makes provision about the conduct of local government elections in Scotland. The Order amends the Representation of the People Act 1983 (“the 1983 Act”) and the Political Parties, Elections and Referendums Act 2000 (“the 2000 Act”).

Article 2 inserts new section 87B into the 1983 Act to place a duty on the appropriate officer to deliver to the Electoral Commission copies of returns and declarations on expenses together with any accompanying documents where the Commission so requests.

Article 3 repeals section 145(2) of the 2000 Act so as to ensure that Electoral Commission’s duty in section 145(1)(b) to monitor compliance with statutory restrictions and requirements on election expenses applies to local government elections in Scotland. Article 3 also makes a number of amendments to section 145 which are consequential on the repeal of subsection (2) and repeals the duty on the Scottish Ministers in section 145(6) to reimburse the Commission for expenditure which would have arisen by virtue of their functions under an order under subsection (2).

Article 4 amends rule 24(1) of schedule 1 of the Scottish Local Government Elections Order 2011 so that poll cards are sent out as soon as practicable after the issue of the notice of election rather than the notice of poll.