
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2007 No.

The Scottish Local Government Elections Order 2007

Citation, commencement and extent

- 1.—(1) This Order may be cited as the Scottish Local Government Elections Order 2007.
- (2) This Order shall come into force on 17th February 2007 except for the purposes of any election to be held on or before 2nd May 2007.
- (3) This Order shall extend to Scotland only.

Interpretation

2. In this Order, unless the context otherwise requires—

“anonymous entry” in relation to a register of electors, shall be construed in accordance with section 9B of the 1983 Act and “the record of anonymous entries” means the record prepared in pursuance of regulations made by virtue of paragraph 8A of Schedule 2 to the 1983 Act;

“ballot paper account” has the meaning given in rule 39(3);

“companion” has the meaning given in rule 34(1);

“corresponding number list” means the list prepared in accordance with rule 15;

“completed corresponding number list” has the meaning given in rule 39(1);

“continuing candidate” means any candidate not deemed to be elected as a councillor and not excluded from the list of candidates under rule 50;

“council” means a council constituted by section 2 of the Local Government etc. (Scotland) Act 1994(1);

“count” means all the operations involved in counting and crediting votes, including the ascertainment of the quota, the transfer of ballot papers and the exclusion of candidates;

“election court” means the court constituted under the 1983 Act for the trial of a petition questioning an election;

“election petition” means a petition presented in pursuance of Part III of the 1983 Act as that Act is applied by this Order;

“election” means an election under the Local Governance (Scotland) Act 2004 and, for the purposes of articles 1(2) and 6(2), an election under the Local Government etc. (Scotland) Act 1994;

“elector” means a person who is registered in the register (or, in the case of a person who has an anonymous entry in the register, in the record of anonymous entries) to be used at the election as a local government elector for the local government area in which the election is held and includes a person shown in the register as below voting age if (but only if) it appears from the register that such person will be of voting age on the day fixed for the poll;

“electoral registration officer” has the same meaning as in the 1983 Act;

“electronic counting system” means such computer hardware and software, other equipment, data and services as may be necessary in order to—

- (a) maintain a list of the areas in relation to which an election is being held by reference to ward barcodes on ballot papers issued to voters in relation to that area;
- (b) read electronically the votes marked and the unique identifying number on each ballot paper returned;
- (c) calculate the number of votes cast for each candidate at the election otherwise than on any spoilt, tendered or rejected ballot paper; and
- (d) ensure the retention of a record of the votes given for each candidate, without identifying the elector by whom, or on whose behalf, the votes were cast;

“list of proxies” has the meaning given by paragraph 5(3) of Schedule 4 to the Representation of the People Act 2000;

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

“local government area” is to be construed in accordance with section 1 (local government areas) of the Local Government etc. (Scotland) Act 1994;

“next available preference” means a preference which is the second or, as the case may be, subsequent preference in consecutive order for a continuing candidate (any preferences for any candidate who is deemed to be elected or is excluded from the list of candidates under rule 50 being ignored);

“non transferable paper” means a ballot paper on which there is no next available preference;

“proper officer” has the same meaning as in section 235(3) of the Local Government (Scotland) Act 1973⁽²⁾;

“postal voters list” means the list of persons kept in pursuance of paragraph 5(2) (persons whose applications to vote by post have been granted) of Schedule 4 to the Representation of the People Act 2000⁽³⁾;

“proxy postal voters list” means the list of persons kept in pursuance of paragraph 7(8) (persons whose applications to vote by post as proxy have been granted) of Schedule 4 to the Representation of the People Act 2000;

“qualifying address” in relation to a person registered in the register of electors, is the address in respect of which that person is entitled to be so registered;

“quota” has the meaning given in rule 46;

“registered political party” means a party registered under Part II of the Political Parties, Elections and Referendums Act 2000⁽⁴⁾;

“returning officer” means, in relation to an election, the returning officer appointed for the election under section 41(1) (duty of local authority to appoint returning officer for each local authority election) of the 1983 Act;

“special lists” means the lists kept under paragraph 5 of schedule 4 to the Representation of the People Act 2000⁽⁵⁾;

“spoilt ballot paper” has the meaning given in rule 36;

“stage of the count” means—

- (a) the determination of the number of votes for each candidate as first preference;

(2) 1973 c. 65.

(3) 2000 c. 2.

(4) 2000 c. 41.

(5) 2000 c. 2.

(b) the transfer of transferable papers from a candidate deemed to be elected who has a surplus; or

(c) the exclusion of a candidate at any given time;

“surplus” means the number of votes, if any, by which the total number of votes credited to a candidate deemed to be elected as a councillor exceeds the quota;

“tendered ballot paper” has the meaning given in rule 35(1);

“tendered votes list” has the meaning given in rule 35(8);

“transferable paper” means a ballot paper on which a next available preference is given;

“transfer value” means the value of a vote on a ballot paper calculated in accordance with rule 48;

“unique identifying mark” means the mark (for example, a bar code, letter, number or numerical sequence) on a ballot paper which is unique to that ballot paper and which identifies that ballot paper as a ballot paper to be issued by the returning officer; and

“voter” means a person voting at an election and includes a person voting as proxy and “vote” (whether noun or verb) shall be construed accordingly except that any reference to an elector voting or an elector’s vote shall include a reference to an elector voting by proxy or an elector’s vote given by proxy.

(2) References in this Order to “rules” are references to the rules set out in Schedule 1 to this Order.

(3) References in this Order to “the 1983 Act” are references to the Representation of the People Act 1983(6).

(4) Any reference in this Order to a numbered article, rule or Schedule is a reference to the article, rule or Schedule, as the case may be, bearing that number in this Order and a reference to a numbered paragraph or sub paragraph is a reference to the paragraph or sub paragraph having that number in the article, rule or paragraph in which the reference appears.

(5) A reference to a numbered Form is a reference to the form bearing that number as set out in Part VI of Schedule 1 or, as the case may be, a form substituted for any such form in accordance with article 3(2) and Schedules 2, 3 and 4.

(6) Where the timetable in rule 1(1) is modified in accordance with paragraphs (2) or (3) of rule 1 or a direction made under section 45 of the 1983 Act references to the “timetable in rule 1” are references to that timetable as so modified.

Local government elections rules

3.—(1) Subject to paragraph (2), elections of councillors for local government areas shall be conducted in accordance with the local government elections rules set out in Schedule 1 to this Order.

(2) In the application of the local government elections rules set out in Schedule 1 to this Order to any election where the poll is taken together with the poll at another election under section 15(1) or (2) of the Representation of the People Act 1985(7) the modifications set out in Schedules 2, 3 and 4, to this Order shall apply.

Application of Part III of the Representation of the People Act 1983

4. Part III of the 1983 Act applies to elections of councillors for local government areas with exception of the following provisions—

(6) 1983 c. 2.

(7) 1985 c. 50.

- (a) sections 120 to 126;
- (b) section 128(3)(a) and (4);
- (c) sections 130 to 133;
- (d) sections 135 and 135A;
- (e) section 144; and
- (f) section 145A

Consequential amendment

5. In section 45 of the 1983 Act, for “this Act and the Local Government etc. (Scotland) Act 1994” substitute “this Act, the Local Government etc. (Scotland) Act 1994 and the Local Governance (Scotland) Act 2004”**(8)**.

Revocations

6.—(1) Subject to paragraph (2), the Scottish Local Government Elections Rules 2002**(9)** and the Scottish Local Government Elections Amendment Rules 2002**(10)** are revoked on 17th February 2007.

(2) The Rules referred to in paragraph (1) shall continue to have effect on and after 17th February 2007, as they had effect immediately before that date, for the purposes of any election to be held on or before 2nd May 2007.

St Andrew’s House,
Edinburgh
2007

A member of the Scottish Executive

(8) 2004 asp 9.

(9) S.S.I. 2002/457 as amended by S.S.I. 2002/522.

(10) S.S.I. 2002/522.