

**2012 No. 342**

**REPRESENTATION OF THE PEOPLE**

**The Scottish Local Government Elections Amendment (No. 2)  
Order 2012**

*Made* - - - - *11th December 2012*

*Coming into force* - - *7th January 2013*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 3A(1) and (2) and 16(2)(a) of the Local Governance (Scotland) Act 2004<sup>(a)</sup> and all other powers enabling them to do so.

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

**Citation, commencement and transitional provision**

1.—(1) This Order may be cited as the Scottish Local Government Elections Amendment (No. 2) Order 2012 and comes into force on 7th January 2013.

(2) The amendments made by this Order have no effect as regards any local government election held prior to 3rd May 2012.

(3) The amendments made by this Order have effect subject to article 6 as regards any local government election held on or after 3rd May 2012 and before 7th January 2013, but have no effect as regards such an election if the votes cast at it were not counted by means of an electronic counting system.

**Interpretation**

2. In this Order—

“the 2011 Order” means the Scottish Local Government Elections Order 2011<sup>(b)</sup>;

“proper officer” has the same meaning as in section 235(3) of the Local Government (Scotland) Act 1973<sup>(c)</sup>; and

“returning officer” means the officer who is currently appointed for the purposes of section 41(1) of the Representation of the People Act 1983<sup>(d)</sup>.

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<sup>(a)</sup> 2004 asp 9; section 3A was inserted by the Scottish Local Government (Elections) Act 2009 (asp 10). Section 16(5) has been modified by paragraph 5 of schedule 3 to the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10).

<sup>(b)</sup> S.S.I. 2011/399 which was amended by S.S.I. 2012/60.

<sup>(c)</sup> 1973 c.65.

<sup>(d)</sup> 1983 c.2.

### **Amendment of the 2011 Order**

3. Schedule 1 to the 2011 Order is amended as follows.

4. In rule 55 (counting of votes by means other than electronic counting) after paragraph (c) insert—

“(ca) in rule 56 omit paragraph (c)(va)(a);”.

5. In rule 56 (declaration of result), after paragraph (c)(v) insert—

“(va) each unique sequence of preferences in which voters chose candidates in the ward, with the number of voters who adopted each of those sequences, and for these purposes a “sequence of preferences” is the order in which a voter gave their preferences to the candidates on the ballot paper, starting with their first preference;”.

### **Transitional provision**

6.—(1) The proper officer of the council must, by 14th January 2013, provide the returning officer with the packets containing the electronic copies of information made under rule 57(1) of Schedule 1 to the 2011 Order in respect of all elections to which article 1(3) applies.

(2) The returning officer must open those packets, scrutinise that information and give public notice of the information required by rule 56(c)(va)(b) of that Schedule no later than 4th February 2013.

(3) For the purposes of this article, rule 59(8)(a) (prohibition of inspection of electronic copy information) of that Schedule is to be ignored.

(4) In scrutinising the information as required by paragraph (2), the returning officer must ensure that the way in which a particular elector has given his or her vote is not ascertained and that the information as to how votes were cast is not amended or deleted.

(5) At the termination of the scrutiny required by paragraph (2) the returning officer must reseal in their packets the electronic copies of that information, return them to the proper officer and cause to be destroyed any other copies made of that information in a manner which ensures that their confidentiality is preserved.

(6) Should it not be possible to comply with the requirements of paragraphs (1) or (2), the returning officer shall give public notice of that fact, and the reason for it, no later than 4th February 2013.

*DEREK MACKAY*

Authorised to sign by the Scottish Ministers

St Andrew's House,  
Edinburgh  
11th December 2012

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(a) Rule 56(c)(va) is inserted by article 5 of this Order.

(b) Rule 56(c)(va) is inserted by article 5 of this Order.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Scottish Local Government Elections Order 2011 to provide for the publication of information about voting sequences by ward at local government elections (including by-elections). This information is to be published as part of the declaration of the result.

At a local government election voters rank candidates using numbers. That gives a sequence of preferences, which are used to transfer votes between candidates in calculating the result. To give a simplified example, if there were two candidates at a poll, a voter could vote first for candidate A, then second for candidate B. A voter could also vote for both candidates, but vote first for candidate B, or could vote for either candidate but not for the other. That gives four voting sequences. With multi-member wards the number of sequences is significantly more, but is calculable by electronic counting systems and of interest to researchers, candidates and political parties.

Article 4 provides that the publication requirement is only applicable where votes are counted electronically.

Article 5 requires publication of each unique sequence in which candidates were ranked by voters, and the number of voters who chose each sequence. This does not indicate which voter cast that sequence of votes, being details only of the sequences that were adopted.

Article 6 makes transitional arrangements to apply the publication requirement to the local government elections held on 3rd May 2012 and elections after that date, but before the Order comes into force. These arrangements allow the returning officer to access the electronic records for such polls to compile the information. Conditions are attached, to ensure that secrecy of voting is maintained.

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