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## STATUTORY INSTRUMENTS

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# 2001 No. 497

## Representation of the People (Scotland) Regulations 2001

### PART III

### REGISTRATION

#### *Determination of applications and objections*

#### **Procedure for determining applications for registration and objections without a hearing**

**29.**—(1) A registration officer shall discharge his functions of determining an application for registration under section 10A(1) or 13A(1)(a) of the 1983 Act and an objection under section 10A(3) of that Act in accordance with this regulation and regulations 30 and 31 below.

(2) The registration officer shall keep separate lists of applications for registration and objections and shall—

- (a) on receipt of an application, forthwith enter in the list of applications the name of the applicant and the address claimed as his qualifying address,
- (b) on receipt of an objection, forthwith enter in the list of objections the name and qualifying address of the objector together with the particulars referred to in sub-paragraph (a) above, and
- (c) also forthwith enter particulars of the objection in the list of applications.

In this paragraph “qualifying address” includes the address specified in an overseas elector’s declaration in accordance with section 2(4)(b) or (c)(ii) of the 1985 Act<sup>(1)</sup>.

(3) The registration officer may ask for further information and take no further action until such information is supplied, if he is of the opinion that the particulars given in the application or objection are insufficient.

(4) The registration officer may allow an application without a hearing provided that no objection is made within five days of the entry of the application in the list of applications.

(5) The registration officer may disallow an objection if he is of the opinion that the objector is not entitled to object or the objection was made after the period referred to in paragraph (4) above has expired; and he shall so inform the objector.

(6) The registration officer may send to the applicant or objector a notice stating his opinion that an application or objection cannot be allowed because—

- (a) the matter has been concluded by the decision of a court, or
- (b) the particulars given in the application or objection do not entitle the applicant or objector to succeed.

(7) In cases to which paragraph (6) applies, the registration officer shall state the grounds for his opinion and that he intends to disallow the application or objection unless that person gives the

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(1) Section 2 was substituted by Schedule 2 to the 2000 Act.

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registration officer notice within three days from the date of the registration officer's notice that he requires the application or objection to be heard; and if he receives no such notice within that time, he may disallow the application or objection.

#### Commencement Information

**I1** Reg. 29 in force at 16.2.2001, see [reg. 1\(1\)](#)

#### Notice of hearing

**30.**—(1) The registration officer shall, unless he allows or disallows the application or objection under regulation 29 above, send a notice—

- (a) in the case of an application, to the person making the application, and
- (b) in the case of an objection, to the objector and the person objected to, stating—
  - (i) the time and place at which he proposes to hear the application or objection;
  - (ii) the name and address of the objector and the grounds of the objection (in the case of a notice sent to a person objected to).

(2) The time fixed for the hearing of an application or objection shall not be earlier than the third day or later than the seventh day after the date of the notice referred to in paragraph (1) above.

#### Commencement Information

**I2** Reg. 30 in force at 16.2.2001, see [reg. 1\(1\)](#)

#### Hearing of applications and objections

**31.**—(1) The persons entitled to appear and be heard are as follows—

- (a) on an application, the applicant;
- (b) on an objection, the objector and the person objected to;
- (c) on an application or an objection, any other person who appears to the registration officer to be interested.

(2) The right to appear and be heard includes the right to make written representations.

(3) Any person entitled to appear and be heard may do so either in person or by any other person on his behalf.

(4) The registration officer may, at the request of any person entitled to appear and be heard or, if he thinks fit, without such a request, require that the evidence tendered by any person shall be given on oath or affirmation and may administer the oath or affirmation for the purpose.

#### Commencement Information

**I3** Reg. 31 in force at 16.2.2001, see [reg. 1\(1\)](#)

## Registration appeals

**32.**—(1) This regulation makes provision in connection with the right to appeal from the decision of a registration officer regarding an application for registration under section 56(1)(a) of the 1983 Act<sup>(2)</sup>.

(2) A person desiring to appeal must—

- (a) give notice of appeal to the registration officer and to the opposite party (if any) when the decision is given, or within 14 days thereafter, and
- (b) specify the grounds of appeal.

(3) The registration officer shall forward any such notice and grounds of appeal to the sheriff together, in each case, with—

- (a) a statement of the material facts which in his opinion have been established in the case, and
- (b) his decision upon the whole case and on any point which may be specified as a ground of appeal;

and the registration officer shall also give the sheriff such further information as the sheriff may require and which the registration officer is able to give.

(4) Where it appears to the registration officer that any notices of appeal given to him are based on similar grounds, he shall inform the sheriff of this to enable the sheriff (if he thinks fit) to consolidate the appeals or select a case as a test case.

### Commencement Information

**I4** Reg. 32 in force at 16.2.2001, see [reg. 1\(1\)](#)

## Circumstances when the power in section 10A(5)(b) of the 1983 Act applies

**33.**—(1) Paragraph (2) below prescribes the circumstances when section 10A(5)(b) of the 1983 Act<sup>(3)</sup> applies.

(2) Those circumstances are—

- (a) where the registration officer—
  - (i) has received an application under regulation 26 above which includes a statement to which paragraph (1)(c) of that regulation refers;
  - (ii) has received a notice under regulation 37 below;
  - (iii) has been given information by the elector that he has ceased to reside at the address in question or to satisfy the conditions for registration in section 4 of the 1983 Act<sup>(4)</sup>;
  - (iv) has obtained evidence in pursuance of regulation 35 below which shows that the elector has ceased to reside at the address in question or to satisfy the conditions for registration in section 4 of the 1983 Act; or
  - (v) has been notified by a relative or executor of the elector or by the Registrar General of Births, Deaths and Marriages for Scotland that the elector has died; and
- (b) where—

<sup>(2)</sup> Section 56(1)(a) was amended by Schedule 1 to the 2000 Act.

<sup>(3)</sup> Section 10A was substituted by Schedule 1 to the 2000 Act.

<sup>(4)</sup> Section 4 was substituted by section 1(2) of the 2000 Act.

*Status: Point in time view as at 01/03/2004.*

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- (i) the registration officer has required any person duly entered in a register in respect of an address to give him information, or to make a declaration under regulation 24 above, for the purpose of enabling the officer to determine whether—
  - (a) that person remains resident at that address, or
  - (b) otherwise satisfies the conditions for registration set out in section 4 of the 1983 Act, and
- (ii) the person has not within the period of one month from the date of the requisition complied with it in a manner which the officer considers satisfactory (or has not within that period complied with it at all).
- (3) Nothing in this regulation applies to a person registered in pursuance of—
  - (a) an application made by virtue of section 7(2) or 7A(2) of the 1983 Act<sup>(5)</sup>; or
  - (b) a declaration of local connection, a service declaration or an overseas elector’s declaration.
- (4) In this regulation—
  - “elector” means a person who is duly entered in a register in respect of an address; and
  - “relative” means a husband, wife, parent, grandparent, brother, sister, child or grandchild.

#### Commencement Information

**I5** Reg. 33 in force at 16.2.2001, see [reg. 1\(1\)](#)

#### Retaining entries in register

**34.**—(1) This regulation sets out the circumstances when a registration officer’s duty to remove a person’s entry from the register of parliamentary or local government electors under section 10A<sup>(6)</sup> of the 1983 Act<sup>(6)</sup> does not apply.

- (2) Those circumstances are that—
  - (a) on the conclusion of a canvass under section 10 of the 1983 Act<sup>(7)</sup> the registration officer is unable to satisfy himself that a person duly entered in a register in respect of any address was, on the 15th October in question, resident at that address because—
    - (i) the form mentioned in section 10(4) of that Act was not returned in respect of that address, or
    - (ii) for any other reason, insufficient information was obtained as to whether that person was resident at that address on that date;
  - (b) the registration officer has no information which suggests that that person is no longer so resident; and
  - (c) that person was registered at that address otherwise than in the circumstances set out in regulation 33(3) above.

(3) Where the circumstances set out in this regulation apply, the registration officer is authorised to retain the entry of the person concerned in such a register for the period expiring with the publication of a revised version of the register under section 13(1) of the 1983 Act<sup>(8)</sup> in the year next following that in which the canvass referred to in paragraph (2)(a) above was conducted.

<sup>(5)</sup> Sections 7 and 7A were substituted and inserted by sections 4 and 5 of the 2000 Act.

<sup>(6)</sup> Section 10A was inserted by Schedule 1 to the 2000 Act.

<sup>(7)</sup> Section 10 was substituted by Schedule 1 to the 2000 Act.

<sup>(8)</sup> Section 13 was substituted by Schedule 1 to the 2000 Act.

#### Commencement Information

**I6** Reg. 34 in force at 16.2.2001, see [reg. 1\(1\)](#)

#### Registration officer's right to inspect certain records

**35.**—(1) A registration officer is authorised to inspect, for the purpose of his registration duties, records kept (in whatever form) by—

- (a) an authority listed in paragraph (2) below, or
  - (b) any person providing services to, or authorised to exercise any function of, any such authority.
- (2) Those authorities are—
- (a) the council by which he was appointed; and
  - (b) a registrar of births, deaths and marriages.
- (3) A registration officer is authorised to make copies of information contained in such records.

#### Commencement Information

**I7** Reg. 35 in force at 16.2.2001, see [reg. 1\(1\)](#)

#### Notices in connection with registration

**36.**—(1) A notice under section 13(3) of the 1983 Act<sup>(9)</sup> must be published—

- (a) not less than 14 days before the publication of the revised version of the register to which it relates;
  - (b) in a newspaper circulating in the area for which the registration officer acts, and
  - (c) by posting a copy of it at his office and in some conspicuous place or places in that area.
- (2) A notice under section 13A(2) or 13B(3) of that Act must be issued by—
- <sup>[F1]</sup>(a) making a copy of it available for inspection under supervision—
    - (i) at his office, and
    - (ii) at such places, if any, in his registration area as allow members of the public in that area reasonable facilities for that purpose;
      - (aa) supplying copies of it in accordance with Part VI of these Regulations;]
  - (b) except in a case falling within regulation 33(2)(a)(v) above, sending a copy of it to any person affected by its contents.

#### Textual Amendments

**F1** [Reg. 36\(2\)\(a\)](#) substituted (with effect in accordance with reg. 2(3) of the amending S.I.) by [Representation of the People \(Scotland\) \(Amendment\) Regulations 2002 \(S.I. 2002/1872\)](#), [regs. 2\(2\)](#), [8](#)

#### Commencement Information

**I8** Reg. 36 in force at 16.2.2001, see [reg. 1\(1\)](#)

<sup>(9)</sup> Sections 13, 13A and 13B were substituted by Schedule 1 to the 2000 Act.

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### Notice by registration officer of a change of address

**37.—(1)** This regulation applies where a registration officer receives an application for registration which includes a statement given in accordance with regulation 26(1)(c) above.

(2) Where the address given in the statement received by the registration officer (“the new registration officer”) is in an area for which another registration officer (“the former registration officer”) acts, the new registration officer shall as soon as practicable notify the former registration officer that the applicant no longer resides in his area.

#### Commencement Information

**19** Reg. 37 in force at 16.2.2001, see [reg. 1\(1\)](#)

**Status:**

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