

## STATUTORY INSTRUMENTS

# 2001 No. 497

## Representation of the People (Scotland) Regulations 2001

### [<sup>F1</sup>PART 7

#### ACCESS TO MARKED REGISTERS AND OTHER DOCUMENTS OPEN TO PUBLIC INSPECTION AFTER AN ELECTION

##### Textual Amendments

- F1** Pt. 7 inserted (with effect in accordance with reg. 1(2)(3)(b) of the amending S.I.) by [The Representation of the People \(Scotland\) \(Amendment\) Regulations 2007 \(S.I. 2007/925\)](#), regs. 1(1), 47

##### Interpretation of Part VII

**116.**—(1) In this Part references to the “marked register or lists” means any part of the marked copies of—

- (a) the full register;  
[ the notices amending the full register issued under section 13B(3B) or (3D) of the 1983 <sup>F2</sup>(aa) Act;]
- (b) the postal voters list;
- (c) the list of proxies; and
- (d) the proxy postal voters list,

[<sup>F3</sup>retained by the returning officer under regulation 91 or rule 58] of the elections rules.

(2) For the purposes of this Part any period of days shall be calculated in accordance with regulation 56.

(3) Paragraphs (2) and (3) of regulation 92, and the condition in regulation 114(4), shall be taken to apply to the supply and processing of information supplied under this Part as they apply to the supply and processing of the full register under Part VI of these Regulations.

(4) Any duty on a [<sup>F4</sup>returning officer] to supply records or lists or make them available for inspection under this Part imposes only a duty to provide that information in the form in which he holds it.

##### Textual Amendments

- F2** Reg. 116(1)(aa) inserted (18.7.2008) by [The Representation of the People \(Amendment\) Regulations 2008 \(S.I. 2008/1901\)](#), regs. 1(1), 7 (with reg. 2)
- F3** Words in reg. 116(1) substituted (26.3.2010) by [The Representation of the People \(Scotland\) \(Amendment\) Regulations 2010 \(S.I. 2010/980\)](#), regs. 1(1), 4 (with reg. 1(2))
- F4** Words in reg. 116(4) substituted (26.3.2010) by [The Representation of the People \(Scotland\) \(Amendment\) Regulations 2010 \(S.I. 2010/980\)](#), regs. 1(1), 5 (with reg. 1(2))

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#### **Modifications etc. (not altering text)**

**C1** Reg. 116 modified (26.2.2016) by [The European Union Referendum \(Conduct\) Regulations 2016 \(S.I. 2016/219\)](#), reg. 1, [Sch. 3 para. 59](#)

#### **Supply of marked registers and lists after an election**

**117.**—(1) Any person entitled to be supplied, in accordance with regulation 99, 102, 104, 105, 107, 108 or 112, with copies of the full register at the time of a parliamentary election is also a person entitled, subject to this regulation and to regulation 119, to request that a [<sup>F5</sup>returning officer] supply copies of the relevant part (within the meaning of those regulations) of the marked register or lists he is required to keep.

(2) A person who was entitled to request copies of the marked register or lists under paragraph (1) by being in a category of persons covered by regulation 102, 104, 105 or 107 before a particular election, shall be entitled to request those documents regardless of whether he remains in an entitled category after that election for which the marked register or list was prepared.

(3) A request under paragraph (1) shall be made in writing and shall—

- (a) specify which of the marked register or lists (or the relevant part of the register or lists) are requested;
- (b) state whether a printed copy of the records or lists is requested or a copy in data form;
- (c) state the purposes for which the marked register or lists will be used and why the supply or purchase of a copy of the full register or unmarked lists would not be sufficient to achieve those purposes.

(4) The [<sup>F6</sup>returning officer] shall supply a copy of the relevant part of the marked register or lists where a request is duly made, and—

- (a) he is satisfied that the requestor needs to see the marks on the marked register or lists in order to achieve the purpose for which it is requested, and
- (b) he has received payment of a fee calculated in accordance with regulation 120.

(5) If the [<sup>F6</sup>returning officer] is not satisfied in accordance with paragraph (4)(a) he may treat the request for a marked register or list as a request for information in unmarked lists under regulation 61 or for the published copy of the full register in accordance with regulation 101, or both.

(6) A person who obtains a copy of any part of a marked register or list under this regulation may use it only for the permitted purposes specified in paragraph (2) of regulation 119, and any conditions—

- (a) specified in that paragraph; or
- (b) which would apply to the use of the full register under whichever of regulations 99, 102, 104, 105, 107, 108 or 112 entitled that person to obtain that document,

shall apply to such use.

[<sup>F7</sup>(7) Where a person has been supplied with a marked register or list, or any information contained in it (that is not contained in the edited register), by a person to whom regulation 99(3), 102(3), 104(4), 105(3), 107(5) or 108(3) applies, the restrictions in that paragraph of that regulation also apply to the person to whom the register, list or information was supplied, as they apply to that other person.]

(8) Any person who has obtained or is entitled to obtain a copy of the marked register or lists under this regulation may—

- (a) supply a copy of the marked register or lists to a processor for the purpose of processing the information contained therein; or

(b) procure that a processor processes and supplies to them any copy of the information in the marked register or lists which the processor has obtained under this regulation, for use in respect of the purposes for which that person is entitled to obtain such copy or information (as the case may be).

#### Textual Amendments

- F5** Words in [reg. 117\(1\)](#) substituted (26.3.2010) by [The Representation of the People \(Scotland\) \(Amendment\) Regulations 2010 \(S.I. 2010/980\)](#), [regs. 1\(1\), 5](#) (with [reg. 1\(2\)](#))
- F6** Words in [reg. 117\(4\)\(5\)](#) substituted (26.3.2010) by [The Representation of the People \(Scotland\) \(Amendment\) Regulations 2010 \(S.I. 2010/980\)](#), [regs. 1\(1\), 5](#) (with [reg. 1\(2\)](#))
- F7** [Reg. 117\(7\)](#) substituted (8.2.2008) by [The Representation of the People \(Scotland\) \(Amendment\) Regulations 2008 \(S.I. 2008/305\)](#), [regs. 1\(1\), 14\(4\)](#)

#### Modifications etc. (not altering text)

- C2** [Reg. 117](#) applied (with modifications) (26.2.2016) by [The European Union Referendum \(Conduct\) Regulations 2016 \(S.I. 2016/219\)](#), [reg. 1, Sch. 3 para. 61](#)

### Inspection of documents open to public inspection

**118.**—(1) Any person is entitled to request that the [<sup>F8</sup>counting officer] make available for inspection a copy of any of the following documents (referred to in this regulation and in regulation 119 as “the documents open to public inspection”)—

- (a) the marked register or lists;
- (b) such other documents relating to an election as the [<sup>F8</sup>counting officer] is required by or under any enactment to retain for any period except—
  - (i) ballot papers;
  - (ii) completed corresponding number lists;
  - (iii) certificates as to employment on the day of the election.

[ the list required to be compiled under regulation 87(4), and any extracts produced <sup>F9</sup>(iv) from that list.]

- (2) A request under paragraph (1) shall be made in writing and shall specify—
  - (a) which documents are requested;
  - (b) the purposes for which the information in any document will be used;
  - (c) where the request is to inspect the marked register or lists, any reason why inspecting the full register or unmarked lists would not be sufficient to achieve those purposes;
  - (d) who will inspect the documents;
  - (e) the date on which they wish to inspect the documents; and
  - (f) whether they would prefer to inspect the documents in a printed or data form.

(3) Subject to paragraph (4), the [<sup>F8</sup>counting officer] shall make the documents open to public inspection available for inspection under supervision not later than 10 days after the date of receipt of a request that has been duly made.

(4) Where a request has been made to inspect copies of the marked register or lists under paragraph (2) and the [<sup>F8</sup>counting officer] is not satisfied that the purposes of the requestor cannot be met by inspection of the full register, he shall inform the requestor—

- (a) of his decision under this paragraph; and

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(b) provide the requestor with information concerning the availability of the published full register for inspection in accordance with regulation 43.

(5) A person who obtains a copy of or information in any document open to public inspection under this regulation may use it only for the permitted purposes specified in regulation 119, and any conditions—

- (a) specified in that regulation;
- (b) specified in paragraph (7); or
- (c) which would apply to the use of the full register under regulation 108 where such a person has obtained a copy of that document under paragraph (8),

shall apply to such use.

(6) Where inspection takes place by providing the records or lists on a computer screen or otherwise in data form, the [<sup>F8</sup>counting officer] shall ensure that the manner in, and equipment on which that copy is provided do not permit any person consulting that copy to—

- (a) search it by electronic means by reference to the name of any person; or
- (b) copy or transmit any part of that copy by electronic, or any other means.

(7) Subject to paragraph (8) a person who inspects a copy of a document open to public inspection, whether a printed copy or in data form, may not—

- (a) make copies of any part of it; or
- (b) record any particulars in it,

except that a person who inspects a copy of the marked register or lists may make hand written notes.

[<sup>F10</sup>(8) The [<sup>F8</sup>counting officer] shall, on request, supply free of charge copies of any documents open to public inspection—

- (a) to each of the departments mentioned in regulation 107A;
- (b) to a person who has inspected those documents and who is entitled to be supplied with a copy of the marked register or lists by virtue of being a person to whom regulation 108 applies.]

#### Textual Amendments

- F8** Words in reg. 118 substituted (26.2.2016) by The European Union Referendum (Conduct) Regulations 2016 (S.I. 2016/219), reg. 1, **Sch. 3 para. 63**
- F9** Reg. 118(1)(b)(iv) inserted (6.4.2014) by The Representation of the People (Scotland) (Description of Electoral Registers and Amendment) Regulations 2013 (S.I. 2013/3206), regs. 1(3)(d), **46**
- F10** Reg. 118(8) substituted (24.12.2008) by Counter-Terrorism Act 2008 (c. 28), s. 100(5), **Sch. 1 para. 3(8)** (with s. 101(5)); S.I. 2008/3296, art. 2

#### Modifications etc. (not altering text)

- C3** Reg. 118 applied (with modifications) (26.2.2016) by The European Union Referendum (Conduct) Regulations 2016 (S.I. 2016/219), reg. 1, **Sch. 3 para. 62**

### Conditions on the use, supply and disclosure of documents open to public inspection

**119.**—(1) Subject to paragraphs (2) and (3) the restrictions on the supply, disclosure and use of information in regulations 94 and 95 shall apply to the documents open to public inspection as they apply to the full register.

(2) Where a person—

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- (a) obtains copies of the information in the marked register or lists in accordance with regulation 117(1); or
  - (b) a person inspects information in accordance with regulation 118(1),
- the permitted purpose shall mean either—
- (i) research purposes within the meaning of that term in section 33 of the Data Protection Act 1998; or
  - (ii) electoral purposes.
- (3) Where a copy of any information was supplied in the circumstances to which [F11regulation 118(8)(b)] applies, the permitted purpose means the purposes set out in regulation 108(4).

**Textual Amendments**

**F11** Words in [reg. 119\(3\)](#) substituted (24.12.2008) by [Counter-Terrorism Act 2008 \(c. 28\)](#), s. 100(5), [Sch. 1 para. 3\(9\)](#) (with s. 101(5)); S.I. 2008/3296, art. 2

**Modifications etc. (not altering text)**

**C4** [Reg. 119](#) applied (with modifications) (26.2.2016) by [The European Union Referendum \(Conduct\) Regulations 2016 \(S.I. 2016/219\)](#), reg. 1, [Sch. 3 para. 64](#)

**[F12Calculating the fee for supply of marked registers or lists**

- 120.**—(1) The fee to be paid in accordance with regulation 117(4)(b) by a person making a request for a copy of the whole or of any part of the marked register or lists is set out in paragraph (2).
- (2) The fee shall be the sum of £10, plus for a copy—
- (a) in printed form, £2 for each 1,000 entries (or remaining part of 1,000 entries) covered by the request; and
  - (b) in data form, £1 for each 1,000 entries (or remaining part of 1,000 entries) covered by the request.
- (3) For the purposes of this regulation, a request for a copy of the whole or the same part of the marked register or lists in both a printed and data form may be treated as two separate requests.]]

**Textual Amendments**

**F12** [Reg. 120](#) substituted (18.7.2008) by [The Representation of the People \(Amendment\) Regulations 2008 \(S.I. 2008/1901\)](#), regs. 1(1), [8](#) (with [reg. 2](#))

**Modifications etc. (not altering text)**

**C5** [Reg. 120](#) applied (26.2.2016) by [The European Union Referendum \(Conduct\) Regulations 2016 \(S.I. 2016/219\)](#), reg. 1, [Sch. 3 para. 2\(i\)](#)

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