

2006 No. 834 (S. 9)

REPRESENTATION OF THE PEOPLE, SCOTLAND

**The Representation of the People (Scotland) (Amendment)
Regulations 2006**

Made - - - - *9th March 2006*

Coming into force - - *23rd March 2006*

The Secretary of State, having consulted the Electoral Commission in accordance with section 7(1) and (2)(e) of the Political Parties, Elections and Referendums Act 2000(a) about these Regulations, in exercise of the powers conferred upon him by—

- (a) sections 10A(9), 13A(6), 53, and 201(1) and (3) of, and rule 24 of Schedule 1 and paragraphs 3A, 5A(2) and (3), 10A, 10B, 11, 12 and 13(1A) of Schedule 2 to, the Representation of the People Act 1983(b);
- (b) having regard to the definition of “prescribed” in section 202(1) of that Act, sections 4(4), 9(2), 10A(1), 13(3), 13A(1) and (2) and 13B(3) of, and rule 45(1B) in Schedule 1 to, that Act(c); and
- (c) having regard to the definition of “prescribed” in section 202(1) of that Act and paragraph 1(2) of Schedule 4 to the Representation of the People Act 2000(d), the following provisions of that Schedule, namely, paragraphs 3(1)(b) and (2)(c), 4(1)(b), (2)(c) and (4)(a), 6(7) and (8) and 7(5)(c) and (7),

and of all other powers enabling him in that behalf, hereby makes the following Regulations.

A draft of this instrument which has been laid before and approved by resolution of each House of Parliament in accordance with section 201(2) of the Representation of the People Act 1983:

Citation, commencement, interpretation and extent

1.—(1) These Regulations may be cited as the Representation of the People (Scotland) (Amendment) Regulations 2006 and shall come into force on the fourteenth day after the day on which they are made.

(2) In these Regulations, “the 2001 Regulations” means the Representation of the People (Scotland) Regulations 2001(e).

(a) 2000 c.41.

(b) 1983 c.2; sections 10A and 13A were inserted by Schedule 1 to the Representation of the People Act 2000 (c.2) (“the 2000 Act”). Section 53 was amended by Schedule 4 to the Representation of the People Act 1985 (c.50) (“the 1985 Act”) and Schedule 1 to the 2000 Act. Section 201(1) was amended by S.I. 1991/1728 and section 201(3) was inserted by Schedule 1 to the 2000 Act. Rule 24 of Schedule 1 was substituted by Schedule 6 to the 2000 Act. Paragraph 3A of Schedule 2 was inserted by Schedule 1 to the 2000 Act and paragraph 5A was inserted by Schedule 2 to the 1985 Act and amended by Schedule 6 to the 2000 Act. Paragraph 11 of Schedule 2 was substituted, and paragraphs 10A, 10B and 13(1A) of that Schedule inserted, by section 9 of the 2000 Act. Paragraph 12 of Schedule 2 was amended by Schedule 6 to the 2000 Act.

(c) Section 4 was substituted by section 1(2) of the 2000 Act (c.2). Sections 9 and 13 were substituted, and sections 10A, 13A and 13B were inserted, by Schedule 1 to the 2000 Act. Rule 45(1B) of Schedule 1 was inserted by Schedule 6 to the 2000 Act.

(d) 2000 c.2.

(e) S.I. 2001/497; which was amended by S.I. 2001/1749, S.I. 2002/1872, S.I. 2003/3075, S.I. 2004/1771 and S.I. 2004/1960.

(3) These Regulations shall extend to Scotland only.

Amendment to provision about applications for registration

2. In regulation 26 of the 2001 Regulations, at the end of paragraph (1) insert—

“(f) except in the case of a person applying to be registered in pursuance of an overseas elector’s declaration, the applicant’s nationality;”.

Amendment to provision about general requirements for applications for an absent vote

3. In regulation 51(2)(b) of the 2001 Regulations, for “or will be registered” substitute “registered or has applied to be (or is treated as having applied to be) registered”.

Additional provisions concerning the requirements for applications for an absent vote

4. After Regulation 51 of the 2001 Regulations insert the following—

“Additional provision concerning the requirement that an application for an absent vote must be signed by the applicant

51A. The registration officer may satisfy himself that an application for an absent vote meets the requirement in regulation 51(3) that it has been signed by the applicant by referring to any signature previously provided by the applicant to the registration officer or returning officer.

Additional requirements for applications for ballot papers to be sent to different address from that shown in the record kept under paragraph 3(4) or 7(6) of Schedule 4

51B.—(1) An application under—

- (a) paragraph 4(3)(a) of Schedule 4 by a person shown as voting by post in the record kept under paragraph 3(4) of that Schedule; or
- (b) paragraph 7(7) of that Schedule by a person shown as voting by post in the record kept under paragraph 7(6) of that Schedule,

for his ballot paper to be sent to a different address from that shown in the record shall set out why the applicant’s circumstances will be or are likely to be such that he requires his ballot paper to be sent to that address.

(2) Paragraph (1) does not apply to an application at a local government election in Scotland.”.

Amendment to provision about additional requirements for applications for a proxy vote in respect of a particular election

5. For regulation 55 of the 2001 Regulations substitute—

“Additional requirements for applications for a proxy vote in respect of a particular election

55.—(1) An application under paragraph 4(2) of Schedule 4 to vote by proxy at a particular election shall set out why the applicant’s circumstances on the date of the poll for that election in respect of which it is made will be or are likely to be such that he cannot reasonably be expected to vote in person at his allotted polling station.

(2) Where an application under paragraph 4(2) of Schedule 4—

- (a) is made on the grounds of the applicant’s physical incapacity; and

- (b) is made after 5 p.m. on the sixth day before the date of poll at the election for which it is made,

the requirements of regulation 53 as to the matters to be specified and the attestation shall apply.

(3) Where an application mentioned in paragraph (2) is made, the person who attests the application shall state, in addition to those matters specified in regulation 53(4), to the best of his knowledge and belief, the date upon which the applicant became physically incapacitated.

(4) Paragraph (2) does not apply to a local government election in Scotland.”.

Amendment to provision about closing date for applications

6.—(1) Other than in its application to a local government election in Scotland, regulation 56 of the 2001 Regulations shall be amended as follows.

(2) In paragraph (1) for “3(6) or (7)” substitute “3(1), (6) or (7), or 7(4)”.

(3) In paragraph (2) for “3(1) or (2), or 6(7) or 7(4)” substitute “3(2) or 6(7)”.

(4) For paragraph (3) substitute—

“(3) Subject to paragraph (3A), an application under paragraph 4(2) or 6(8) of Schedule 4 shall be refused if it is received by the registration officer after 5 p.m. on the sixth day before the date of the poll at the election for which it is made.

(3A) Where—

(a) an application under paragraph 4(2) of Schedule 4 is made on the grounds of the applicant’s physical incapacity; and

(b) the applicant became physically incapacitated after 5 p.m. on the sixth day before the date of the poll at the election for which it is made,

the application, or an application under paragraph 6(8) of Schedule 4 made by virtue of that application, shall be refused if it is received after 5 p.m. on the day of the poll at the election for which it is made.”.

(5) In paragraph (4) for “7(7)” substitute “4(1) or 7(7)”.

(6) After paragraph (7) insert—

“(8) In the application of this regulation to a local government election in Scotland—

(a) in paragraph (1) for “3(1), (6) or (7), or 7(4)” substitute “3(6) or (7)”,

(b) in paragraph (2) for “3(2) or 6(7)” substitute “3(1) or (2), or 6(7) or 7(4)”,

(c) for paragraph (3) substitute—

“(3) An application under paragraph 4(1) or (2) or 6(8) of Schedule 4 shall be refused if it is received by the registration officer after 5 p.m. on the sixth day before the date of the poll at the election for which it is made.”,

(d) omit paragraph (3A), and

(e) in paragraph (4) omit “4(1) or”.”.

Amendment to provision about grant or refusal of applications

7.—(1) Other than in its application to a local government election in Scotland, regulation 57 of the 2001 Regulations shall be amended as follows.

(2) In paragraphs (1) and (5) of the 2001 Regulations omit “, where practicable,”.

(3) After paragraph (4) insert—

“(4A) Where the registration officer grants an application made under—

(a) paragraph 4(3)(a) of Schedule 4 by a person shown as voting by post in the record kept under paragraph 3(4) of that Schedule; or

(b) paragraph 7(7) of that Schedule by a person shown as voting by post in the record kept under paragraph 7(6) of that Schedule,
he shall notify the applicant of this.

(4B) Where a person is removed from the record kept pursuant to paragraph 3(4) of Schedule 4, the registration officer shall notify him of this and the reason for it.

(4C) Where the appointment of a proxy is cancelled by the elector or otherwise ceases to be in force, the registration officer shall notify the elector that the appointment has been cancelled or, as the case may be, notify him that the appointment has ceased and the reason for it.”.

(4) After paragraph (6) insert–

“(7) In the application of this regulation to a local government election in Scotland–

(a) the notification requirements in paragraphs (1) and (5) shall only apply where notification is practicable, and

(b) paragraphs (4A), (4B) and (4C) shall be omitted.”.

Amendment to provision about spoilt postal ballot papers

8.—(1) Regulation 77 of the 2001 Regulations shall be amended as follows.

(2) For paragraphs (1) and (2) substitute–

“(1) If a postal voter has inadvertently dealt with his postal ballot paper or declaration of identity in such a manner that it cannot be conveniently used as a ballot paper (referred to as “a spoilt ballot paper”) or, as the case may be, a declaration of identity (referred to as “a spoilt declaration of identity”) he may return (either by hand or by post) to the returning officer the spoilt ballot paper or, as the case may be, the spoilt declaration of identity.

(2) Where a postal voter exercises the entitlement conferred by paragraph (1), he shall also return–

(a) the postal ballot paper or, as the case may be, the declaration of identity, whether spoilt or not;

(b) where postal ballot papers for more than one election have been issued together under regulation 65, all other ballot papers so issued, whether spoilt or not; and

(c) the envelopes supplied for the return of the documents mentioned in paragraph (1) or sub-paragraph (a) or (b).”.

(3) In paragraph (3)–

(a) at the beginning insert “Subject to paragraph (3A),”; and

(b) for “5 p.m. on the day before the day of the poll” substitute “5 p.m. on the day of the poll”.

(4) After paragraph (3) insert–

“(3A) Where the returning officer receives the documents referred to in paragraph (1) and, where applicable paragraph (2), after 5 p.m. on the day before the day of the poll, he shall only issue another postal ballot paper or, as the case may be, ballot papers if the postal voter returns the documents by hand.”.

(5) For paragraph (5) substitute–

“(5) Any postal ballot paper or declaration of identity, whether spoilt or not, returned in accordance with paragraph (1) or (2) shall be immediately cancelled.”.

(6) For paragraph (7) substitute the following paragraph–

“(7) Where a postal voter applies in person–

(a) by 5 p.m. on the day before the day of the poll, the returning officer may hand a replacement postal ballot paper to him; or

(b) after 5 p.m. on the day before the day of the poll, the returning officer may only hand a replacement postal ballot paper to him, instead of delivering it in accordance with regulation 76.”.

Amendment to provision about lost postal ballot papers

9.—(1) Regulation 78 of the 2001 Regulations shall be amended as follows.

(2) For paragraph (1) substitute—

“(1) Where a postal voter claims either to have lost or not to have received—

- (a) his postal ballot paper, or
- (b) the declaration of identity, or
- (c) one or more of the envelopes supplied for their return,

by the third day before the day of the poll, he may apply (whether or not in person) to the returning officer for a replacement ballot paper.”.

(3) After paragraph (2) insert—

“(2A) Where a postal voter exercises the entitlement conferred by paragraph (1), he shall return—

- (a) the documents referred to in paragraph (1)(a) to (c); and
- (b) where postal ballot papers for more than one election have been issued together under regulation 65, all other ballot papers so issued,

which he has received and which have not been lost.

(2B) Any postal ballot paper or declaration of identity returned in accordance with paragraph (2A) shall be immediately cancelled.

(2C) The returning officer, as soon as practicable after cancelling those documents, shall make up those documents in a separate packet and shall seal the packet; and if on any subsequent occasion documents are cancelled as mentioned above, the sealed packet shall be opened and the additional cancelled documents included in it and the packet shall be again made up and sealed.”.

(4) In paragraph (3)—

- (a) at the beginning insert “Subject to paragraph (3A),”; and
- (b) for “5 p.m. on the day before the day of the poll” substitute “5 p.m. on the day of the poll”;
- (c) for sub-paragraph (b) substitute—

“(b) has no reason to doubt that the postal voter has either lost or has not received the original postal ballot paper or the declaration of identity or one or more of the envelopes provided for their return”.

(5) After paragraph (3) insert the following paragraph—

“(3A) Where the application is received by the returning officer after 5 p.m. on the day before the day of the poll, he shall only issue another postal ballot paper or, as the case may be, ballot papers if the postal voter applies in person.”.

(6) For paragraph (4)(c) substitute—

“(c) where the postal voter is a proxy, his name and address.”.

(7) For paragraph (6) substitute the following paragraph—

“(6) Where a postal voter applies in person—

- (a) by 5 p.m. on the day before the day of the poll, the returning officer may hand a replacement postal ballot paper to him; or
- (b) after 5 p.m. on the day before the day of the poll, the returning officer may only hand a replacement postal ballot paper to him,

instead of delivering it in accordance with regulation 76.”.

Amendment to provision about alternative means of returning postal ballot paper or declaration of identity

10.—(1) Regulation 79 of the 2001 Regulations shall be amended as follows.

(2) In paragraph (2) at the beginning insert “Subject to paragraph (3),”.

(3) After paragraph (2) insert—

“(3) The returning officer may collect, or cause to be collected, any postal ballot paper or declaration of identity which by virtue of paragraph (2) the presiding officer of a polling station would otherwise be required to deliver or cause to be delivered to him.

(4) Where the returning officer collects, or causes to be collected, any postal ballot paper or declaration of identity in accordance with paragraph (3) the presiding officer shall first make it (or them) up into a packet (or packets) sealed with his own seal and the seals of such polling agents as are present and desire to affix their seals.”.

Amendment to provision about forwarding of documents

11.—(1) Regulation 91 of the 2001 Regulations shall be amended as follows.

(2) In paragraph (1)(a) after “77(6) insert “, 78(2C)”.

(3) In paragraph (5) after “Secretary of State” insert “and the Electoral Commission in the period which starts 10 days after the day of the poll and ends 15 days after the day of the poll”.

Amendment to provision about the interpretation of Part VI of the 2001 Regulations

12.—(1) Regulation 92 of the 2001 Regulations shall be amended as follows.

(2) In paragraph (2)—

(a) in sub-paragraph (a) omit “and”; and

(b) after sub-paragraph (b) insert—

“(c) “relevant conditions” has the same meaning as in section 33(1) of the Data Protection Act 1998(a), and

(d) “research purposes” shall be construed in accordance with section 33(1) of the Data Protection Act 1998.”.

Amendment to provision about restriction on use of the full register, or of information contained in it, supplied in accordance with enactments or obtained otherwise

13.—(1) Regulation 95 of the 2001 Regulations shall be amended as follows.

(2) Paragraphs (2) and (3) shall be omitted.

(3) After paragraph (1) insert—

“(2) No person to whom this regulation applies may—

(a) supply a copy of the full register,

(b) disclose any information contained in it (that is not contained in the edited register), or

(c) make use of any such information,

other than for a permitted purpose construed in accordance with paragraph (3).

(3) The “permitted purpose”—

(a) 1998 c.29.

- (a) where the copy was supplied or the information obtained in pursuance of a relevant provision, means the particular purpose for which the copy was supplied or the information disclosed to the person in question pursuant to the relevant provision;
- (b) where the copy was not supplied or the information was not disclosed in pursuance of a relevant provision—
 - (i) in the case of a person to whom the copy of the full register was made available for inspection under supervision in accordance with regulations 43(1)(a), 96(2)(a) and (3), 98(4)(a) and 108A(6)(a) and (b), does not include direct marketing within the meaning of section 11(3) of the Data Protection Act 1998; and
 - (ii) in any other case, means any purpose for which the person to whom this regulation applies could have obtained a copy of the register or the information contained in it pursuant to any enactment, including these Regulations.”.

Amendment to provision about supply of free copy of full register to the National Library of Scotland and the British Library and restrictions on use

14.—(1) Regulation 96 of the 2001 Regulations shall be amended as follows.

(2) In paragraph (1)—

- (a) omit “, one printed copy of”;
- (b) in sub-paragraph (a), at the beginning, insert “one printed copy and one data copy of”;
- and
- (c) in sub-paragraph (b), at the beginning, insert “one printed copy of”.

(3) In paragraph (2), at the beginning, insert “Subject to paragraph (5)”.

(4) In paragraph (3), at the beginning, insert “Subject to paragraph (5)”.

(5) After paragraph (3) insert—

“(3A) Where a copy of the full register is made available for inspection by providing the register on a computer screen or otherwise in data form, the National Library of Scotland and the British Library 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.”.

(6) In paragraph (4) after “the British Library” insert “, whether a printed copy or in data form,”.

(7) After paragraph (4) insert—

“(5) A person employed by the National Library of Scotland or the British Library is not prohibited from supplying a copy of, or disclosing information contained in, a version of the full register where—

- (a) more than ten years have expired since that version of the register was first published in accordance with regulation 43; and
- (b) the supply or disclosure is for research purposes in compliance with the relevant conditions.

(6) No person who obtains a copy of the full register or to whom information contained in it that is not contained in the edited register is disclosed under the circumstances described in paragraph (5) may—

- (a) supply a copy of it,
- (b) disclose any such information, or
- (c) make use of any such information,

otherwise than for research purposes in compliance with the relevant conditions.

(7) For the avoidance of doubt, and without prejudice to the generality of regulation 92(4), the restrictions on use imposed by paragraphs (2) to (4) and (6), and the removal of prohibition provided for by paragraph (5), shall apply to any copy of a register and to any copy of a list of overseas electors supplied to the National Library of Scotland in terms of regulation 97B of the Representation of the People (England and Wales) Regulations 2001(a).”.

Addition to provisions about supply of free copy of full register for electoral purposes and restrictions on use

15. After regulation 97 of the 2001 Regulations, insert—

“Supply of free copy of full register for elections of members of National Park authorities and restrictions on use

97A.—(1) A registration officer shall supply, free of charge and as soon as reasonably practicable in response to a written request, as many printed copies of—

- (a) the latest revised version of the register published under section 13(1) or (3) of the 1983 Act, as the case may be;
- (b) any notice setting out an alteration to the version of the register published under section 13A(2) or 13B(2) of that Act,

as a returning officer for the council or, as the case may be, each council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(b) may require for the purposes of any election of members of a National Park authority designated by an Order under the National Parks (Scotland) Act 2000(c) for his registration area.

(2) The duty to supply as many printed copies of the register and notices as the returning officer may reasonably require includes a duty to supply one copy of each in data form.

(3) No person to whom a copy of the register has been supplied under this paragraph may—

- (a) supply a copy of the full register;
- (b) disclose any information contained in it (that is not contained in the edited register); or
- (c) make use of any such information,

except for the purposes of an election.”.

Amendment to provision for supply of free copy of full register etc. to Office for National Statistics, addition of the General Register Office for Scotland, and restrictions on use

16.—(1) Regulation 98 of the 2001 Regulations shall be amended as follows.

(2) In paragraph (1) at the end insert “and the General Register Office for Scotland (in this regulation referred to as “GROS”) respectively”.

(3) In paragraph (2) after “the Office” insert “or GROS”.

(4) In paragraph (3)—

- (a) at the beginning, insert “Subject to paragraph (6)”; and
- (b) after “the Office” insert “or GROS”.

(5) In paragraph (4)—

- (a) at the beginning insert “Subject to paragraph (6)”; and
- (b) in sub-paragraph (a) after “the Office” insert “or GROS”.

(a) S.I. 2001/341. Regulation 97B was inserted by the Representation of the People (England and Wales) (Amendment) Regulations 2006, regulation 16.

(b) 1994 c.39.

(c) 2000 asp 10.

(6) After regulation 98(4) insert–

“(4A) Where a copy of the full register is made available by providing the register on a computer screen or otherwise in data form, the Office and GROS 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) In paragraph (5), after “full register” insert “, whether a printed copy or in data form,”.

(8) After paragraph (5) insert–

“(6) A person employed by the Office or GROS is not prohibited from supplying a copy of, or disclosing information contained in, a version of the full register where–

- (a) more than ten years have expired since that version of the register was first published in accordance with regulation 43; and
- (b) the supply or disclosure is for research purposes in compliance with the relevant conditions.

(7) No person who obtains a copy of the full register or to whom information contained in it that is not contained in the edited register is disclosed under the circumstances described in paragraph (6) may–

- (a) supply a copy of it,
- (b) disclose any such information, or
- (c) make use of any such information,

otherwise than for research purposes in compliance with the relevant conditions.”.

Amendment to provision for supply of full register etc. to certain councils and restrictions on use

17.—(1) Regulation 106 of the 2001 Regulations shall be amended as follows.

(2) After “crime prevention” in paragraph (3), insert “, or for the purposes of a local referendum being conducted by the returning officer or”.

(3) After paragraph (3) insert–

“(3A) In paragraph (3) “the returning officer” means the returning officer appointed for the council’s area under section 41 of the 1983 Act.”.

Amendment to provision for supply of full register etc. to police forces and restrictions on use

18.—(1) Regulation 108 of the 2001 Regulations shall be amended as follows.

(2) In the heading after “police forces” insert “and other agencies,”.

(3) In paragraph (1)–

- (a) in sub-paragraph (e) omit “and”; and
- (b) after sub-paragraph (f) insert–
 - “(g) the Security Service;
 - (h) the Government Communications Headquarters; and
 - (i) the Secret Intelligence Service.”.

(4) In paragraph (3) for “purpose” to the end substitute “purposes specified in paragraph (4)”.

(5) After paragraph (3) insert–

“(4) The purposes referred to in paragraph (3) are–

- (a) in the case of the forces and organisations falling within sub-paragraphs (a) to (f) of paragraph (1)–
 - (i) the prevention and detection of crime and the enforcement of the criminal law (whether in Scotland or elsewhere);
 - (ii) the vetting of a relevant person for the purpose of safeguarding national security; and
 - (b) in the case of the organisations falling within sub-paragraphs (g) to (i) of paragraph (1), those connected with the carrying out of any of their statutory functions.
- (5) In this Regulation “relevant person” means–
- (a) a constable or officer or prospective constable or officer of the force or organisation; or
 - (b) an employee of, or applicant for employment by, the force or organisation.”.

Provision for supply of full register to statutory library authorities and local authority archives services, and restrictions on use

19. After regulation 108 of the 2001 Regulations insert–

“Supply of full register to statutory library authorities and local authority archives services, and restrictions on use

108A.—(1) A statutory library authority or local authority archives service may request the registration officer to supply free of charge the relevant part (within the meaning of paragraph (2)) of any of the following–

- (a) a revised version of the register published under section 13(1) or (3) of the 1983 Act;
- (b) any notice setting out an alteration to the register published under section 13A(2) or 13B(3) of that Act;
- (c) a list of overseas electors.

(2) For the purposes of paragraph (1) the relevant part of the documents listed in that provision is so much of them as a statutory library authority or local authority archives service has been given responsibility for keeping by a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(a).

(3) Such a request shall be made in writing and shall–

- (a) specify the documents requested;
- (b) state whether the request is made only in respect of the current documents or whether it includes a request for the supply of any subsequent document on publication; and
- (c) state whether a printed copy of any of the documents is requested instead of the version in data form.

(4) Unless a request has been made in advance of supply under paragraph (3)(c), the copy of a document supplied under this regulation shall be in data form.

(5) The registration officer shall supply the relevant part of the documents referred to in paragraph (1) in accordance with a request that has been duly made.

(6) Subject to paragraph (9), no person employed by the statutory library authority or local authority archives service may–

- (a) supply a copy of the full register other than to another such person or to a person using the library or the archives service to inspect it under supervision;

(a) 1994 c.39.

- (b) disclose any information contained in it (that is not contained in the edited register) otherwise than by allowing a person using the library or the archives service to inspect it under supervision; or
- (c) make use of any such information.

(7) Where a copy of the full register is made available for inspection in accordance with paragraph (6)(a) or (b) by providing the register on a computer screen or otherwise in data form, the statutory library authority or local authority archives service 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 means.

(8) A person who inspects a copy of the full register, 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,

otherwise than by means of hand-written notes.

(9) The statutory library authority or local authority archives service is not prohibited from supplying a copy of, or disclosing information contained in, a version of the full register where—

- (a) more than ten years have expired since that version of the register was first published in accordance with regulation 43; and
- (b) the supply or disclosure is for research purposes in compliance with the relevant conditions.

(10) No person who obtains a copy of the full register or to whom information contained in it that is not contained in the edited register is disclosed under the circumstances described in paragraph (9) may—

- (a) supply a copy of it,
- (b) disclose such information, or
- (c) make use of any such information,

otherwise than for research purposes in compliance with the relevant conditions.

(11) In this regulation—

“statutory library authority” has the same meaning as in section 5 of the Public Libraries (Scotland) Act 1955(a);

“local authority archives service” means an archives service of a council established under the Local Government etc. (Scotland) Act 1994(b).”.

Amendment to provision for sale of full register

20. In regulation 110(7) of the 2001 Regulations after “full register” insert “or any copy of a notice under section 13A(2) or 13B(3) of the 1983 Act”.

Amendment to provision for sale of full register to government departments

21.—(1) Regulation 112 of the 2001 Regulations shall be amended as follows.

(2) In the heading after “government departments” insert “and other bodies”.

(3) In paragraph (1) for “to a government department” substitute—

“to—

(a) 1955 c.27; section 5 was amended by Schedule 21 to the Local Government (Scotland) Act 1973 (c.65).
 (b) 1994 c.39.

- (a) a government department;
- (b) the Scottish Environment Protection Agency;
- (c) the Financial Services Authority; or
- (d) a body not falling within sub-paragraphs (a) to (c) which carries out the vetting of any person for the purpose of safeguarding national security, other than a force or organisation to which regulation 108(1) applies.”.

(4) For paragraph (2) substitute–

“(2) For the purposes of regulation 111(3), the relevant restrictions apply–

- (a) in the case of a body falling within sub-paragraphs (a) to (c) of paragraph (1), except for the purpose of–
 - (i) the administration of justice, the prevention and detection of crime and the enforcement of the criminal law (whether in Scotland or elsewhere);
 - (ii) the vetting of employees and applicants for employment where such vetting is required pursuant to any enactment;
 - (iii) the vetting of any person where such vetting is for the purpose of safeguarding national security; or
 - (iv) supply and disclosure in accordance with paragraphs (3) to (6); and
- (b) in the case of a body falling within sub-paragraph (d) of paragraph (1), except for the purpose of the vetting of any person where such vetting is for the purpose of safeguarding national security.”.

(5) In paragraph (3), after “government department” insert “, other than one mentioned in regulation 108(1)(g) to (i),”.

Amendment to provision regarding supply of register to processor

22.—(1) Regulation 114(2) of the 2001 Regulations shall be amended as follows.

(2) After “obtained” in the first place where it occurs, insert “or is entitled to obtain”.

(3) For “113 or 114” substitute “112 or 113”.

Amendment to provision for offences in respect of contravention of Part VI of the 2001 Regulations

23. For regulation 115(2) of the 2001 Regulations substitute–

“(2) Those provisions are regulations 94(3), 95(2), 96(2), (4) and (6), 97(7), 97A(3), 98(3), (5) and (7), 99(3) and (5), 100(5), 102(3), 103(3), 104(4), 105(3), 106(3) and (6), 107(5), 108(3), 108A(6), (8) and (10), 111(4) and (5), 112(5) and (6) and 114(4).”.

Signed on behalf of the Secretary of State for Scotland

9th March 2006

DAVID CAIRNS
Parliamentary Under Secretary of State
Scotland Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Representation of the People (Scotland) Regulations 2001 (“the principal Regulations”)(a).

Regulation 2 amends the provisions of the principal Regulations about applications for registration to require an application for registration as an elector, except in specified circumstances, to include a statement as to the applicant’s nationality.

Regulation 3 amends regulation 51 of the principal Regulations to allow voters to apply for a postal vote at the same time as they apply to be registered to vote.

Regulation 4 inserts regulations 51A and 51B in the principal Regulations. Regulation 51(3) of the principal Regulations requires an application for an absent vote to be signed by the applicant. Regulation 51A provides that the registration officer may satisfy himself that the application has been signed by the applicant by referring to any signature previously provided to the registration officer or the returning officer which the applicant has previously provided to them.

Regulation 51B requires that an application by a person for their ballot paper to an address different to that shown in the record for the purposes of a particular election must set out why the person requires their ballot paper to be sent to that address.

Regulation 5 replaces regulation 55 of the principal Regulations concerning additional requirements for applications for a proxy vote in respect of a particular election. In addition to the current requirements in the principal Regulations, the application, if made by reason of the applicant’s physical incapacity and if made after 5 p.m. on the sixth working day before the date of the poll, will be subject to the requirements in regulation 53 of the principal Regulations. The changes do not apply to local government elections in Scotland, arrangements at these elections being a matter within the competence of the Scottish Parliament.

Regulation 53 of the principal Regulations provides for additional requirements for applications to vote by proxy for a definite or indefinite period on grounds of physical incapacity or blindness. Amongst other things, regulation 53 prescribes the information to be provided by a person attesting an application for a proxy vote on the grounds of the applicant’s physical incapacity. If the application is made after 5 p.m. on the sixth working day before the date of the poll, the person attesting the application will also now be required to state the date upon which the applicant became physically incapacitated.

Regulation 6 amends the provisions in regulation 56 of the principal Regulations concerning closing dates for an application for an absent vote, again other than in relation to Scottish local government elections (for which paragraph (6) maintains the status quo). Regulation 56 now requires that, except in the case of applications to vote by proxy, the application must be received by the registration officer not later than 5 p.m. on the eleventh working day before the date of the poll at a relevant election.

Where a person applies to vote by proxy at a specific election, the application must be received by not later than 5 p.m. on the sixth working day before the date of the poll at the relevant election. However, where a person applies to vote by proxy at a particular election on the grounds of physical incapacity and the applicant became incapacitated after 5 p.m. on the sixth working day before the date of the poll, the application, or an application for the appointment of a proxy made by virtue of that application, must be received by not later than 5 p.m. on the date of the poll.

Regulation 7 amends regulation 57 of the principal Regulations concerning notification requirements to require that where a registration officer grants an application for a postal vote, he must notify the applicant of his decision. Further, where for the purposes of a particular election

(a) S.I. 2001/497; which was amended by S. I. 2001/1749, S.I. 2002/1872, S.I. 2003/3075, S.I. 2004/1771 and S.I 2004/1960.

(again, other than a Scottish local government election, for which paragraph (4) maintains the status quo) a person applies for their postal ballot paper to be sent to an address different from that shown in the record, the registration officer must notify them if the application is granted. He is also required to notify a person removed from the record of absent voters for a definite or indefinite period, with the reason for the removal. Similarly, where the appointment of a proxy is cancelled by the elector or otherwise ceases to be in force, the registration officer must confirm the cancellation or notify the elector that the appointment is no longer in force, with the reason for this.

Regulation 8 amends regulation 77 of the principal Regulations to allow applications for replacement ballot papers in the case of spoilt declarations of identity. Previously a ballot paper could only be replaced if the ballot paper itself had been spoilt. An application for a replacement ballot paper in these circumstances can now be made up until 5 p.m. on the day of the poll. However, after 5 p.m. on the day before the day of the poll applications for replacement ballot papers may only be made in person.

Regulation 9 amends regulation 78 of the principal Regulations to allow applications for replacement ballot papers where the voter claims to have lost or not received his ballot paper, the declaration of identity or the envelopes supplied for their return. Previously a ballot paper could only be replaced if the ballot paper itself had been lost. Identical deadlines will apply to applications under this regulation as will apply to applications under Regulation 77.

Regulation 10 amends regulation 79 of the principal Regulations to enable the returning officer to collect postal ballot papers from polling stations when they have been returned there.

Regulation 11 amends regulation 91 of the principal Regulations. Previously the regulation required the returning officer at a parliamentary election to send to the Secretary of State a copy of the completed statement as to the number of postal ballot papers issued. As amended the regulation requires the returning officer to send a copy of the completed statement to the Secretary of State and to the Electoral Commission, ten to fifteen working days following the date of the poll.

The principal Regulations were amended by the Representation of the People (Scotland) (Amendment) Regulations 2002 (“the 2002 Regulations”)(**a**). The main change made by the 2002 Regulations was to make fresh provision in respect of the free supply and sale of the register of electors. Regulation 93 of the principal Regulations as amended by the 2002 Regulations provides for an edited version of the register of electors which does not contain the names of persons who have requested exclusion of their names from that version of the register. Under Regulation 109 of the principal Regulations as so amended, the edited version of the register is available for sale without restriction. The 2002 Regulations introduced new restrictions on the sale and supply free of charge of the full version of the register (“the full register”) and its use. Breach of the restrictions was made an offence under regulation 115 of the principal Regulations as amended. The following changes made by these Regulations amend those restrictions.

Regulation 12 adds definitions to regulation 92 of the principal Regulations to give effect to other amendments made by these Regulations.

Regulation 13 amends regulation 95 of the principal Regulations to confirm that where the full register is made available for inspection under supervision the information so obtained shall not be used for direct marketing purposes.

Regulation 14 amends regulation 96 of the principal Regulations to provide that copies of the full register should be provided to the National Library of Scotland and the British Library in both printed and data form. There is an additional restriction upon access to the effect that, where the register is made available for inspection under supervision in an electronic format, the format must prevent it from being copied or from being searched by electronic means by reference to the name of any person. It further provides that, once the register is over 10 years old, the full register, or information contained in it, held by the National Library of Scotland and the British Library may

(a) S.I. 2002/1872.

be provided for research purposes that are in compliance with the relevant conditions (within the meaning of section 33(1) of the Data Protection Act 1998(a)). For the avoidance of doubt, it is made clear that the conditions in Regulation 96 of the principal Regulations also apply to such material when it is supplied to the National Library of Scotland by registration officers in England and Wales.

Regulation 15 provides for the supply of a free copy of the full register for use in connection with the election of certain members of National Parks. There are currently two such Parks in Scotland, each of which has a proportion of its members elected by a postal ballot of the local electorate. These changes are to ensure that an Electoral Registration Officer makes a register available for that purpose.

Regulation 16 provides that the General Register Office for Scotland shall be entitled to a free copy of the full register, on the same basis as one is currently provided to the Office for National Statistics. Regulation 16 also makes provision regarding access to copies of the full register held by both these organisations, similar to the conditions that apply to the National Library of Scotland and the British Library by reason of Regulation 96 of the principal Regulations.

Regulation 17 provides an exception from an offence that would otherwise be committed. This is where a copy of the full register is supplied by a councillor or council employee, or information from it disclosed, for use in connection with a local referendum being conducted by the returning officer for the council's area.

Regulation 18 amends regulation 108 of the principal Regulations. It provides that a copy of the full register may be supplied to the Security Service, Government Communications Headquarters and the Secret Intelligence Service for use in respect of their statutory functions. It also provides that police forces and organisations may use the register for the purpose of the vetting of constables, officers and employees for the purposes of safeguarding national security.

Regulation 19 inserts regulation 108A into the principal Regulations. This provides that a copy of the full register may be supplied to a statutory library authority or to an archives service of a Scottish local authority. Restrictions on access to it are provided, similar to those that apply in the case of the National Library for Scotland and the British Library.

Regulation 20 amends regulation 110(7) of the principal Regulations. Its effect is to confirm that any notice issued by an electoral register officer under section 13A(2) or 13B(3) of the Representation of the People Act 1983(b) which is sold in accordance with the principal Regulations shall be marked to show any name that is not included in the edited register, in the same way as copies of the full register which are sold are required to be so marked.

Regulation 21 amends regulation 112 of the principal Regulations. It specifies that, in addition to the authorised sale of a copy of the full register to government departments (subject to restrictions as to the use of it) under the principal Regulations, it may also be sold to the Scottish Environment Protection Agency and the Financial Services Authority subject to the same restrictions. In addition, those restrictions are relaxed to a limited extent to allow the use of the register for the vetting of persons for the purposes of safeguarding national security. Other bodies which carry out such vetting will also be entitled to purchase a copy of the register for that purpose.

Regulation 22 amends regulation 114 of the principal Regulations to provide that one of the organisations entitled to obtain the full register may procure a data processor which already has a copy to process and provide that organisation with a copy, without first being required to supply a copy to the data processor.

Regulation 23 updates references in regulation 115(2) of the principal Regulations which specify the provisions for which a breach would amount to an offence, including new provisions contained in the other amendments made by these Regulations.

(a) 1998 c.29.

(b) 1983 c.2; sections 13A and 13B were inserted by Schedule 1 to the Representation of the People Act 2000 (c.2).

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