

EXPLANATORY MEMORANDUM TO
THE ABSENT VOTING (TRANSITIONAL PROVISIONS) (SCOTLAND)
REGULATIONS 2008

2008 No. 48 (S. 1)

1. This explanatory memorandum has been prepared by the Scotland Office and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

- 2.1 The Regulations make changes to provisions concerning postal and proxy voting.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 None

4. **Legislative Background**

- 4.1 Section 14(1) to (3) of the Electoral Administration Act 2006 inserts new provisions into Schedule 4 to the Representation of the People Act 2000, which provide that a person who applies for a postal or proxy vote must provide their signature and date of birth. These Regulations are being made under the Secretary of State's power conferred by section 14(5) and (7) of the Electoral Administration Act 2006 which enables a registration officer to require an existing postal or proxy voter to provide their signature and date of birth, in order to remain entitled to vote by post or proxy.

5. **Territorial Extent and Application**

- 5.1 This instrument applies only to Scotland.

6. **European Convention on Human Rights**

- 6.1 As this instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. **Policy Background**

- 7.1 The Electoral Administration Act 2006 received Royal Assent on 11 July 2006 and aims to make progress on the Government's four principles found at the core of a healthy democracy:

- (i) improving access and engagement
- (ii) improving confidence in electoral security
- (iii) extending openness and transparency in party financing
- (iv) maintaining professional delivery of elections.

The Government announced that in addition to the Act, it would introduce secondary legislation, in line with the above principles, to improve confidence in the electoral system.

7.2 Section 14 of the Electoral Administration Act 2006 provides for the collection of personal identifiers of postal and proxy voters in order to deter electoral malpractice. These Regulations directly relate to the new arrangements requiring absent voters to provide personal identifiers which may be the subject of a check at the time of an election. Full details of the scheme for the collection and checking of personal identifiers for absent voting are set out in a separate set of regulations (the draft Representation of the People (Scotland) (Amendment) Regulations 2008).

7.3 The Government wishes existing absent voters to be subject to the new requirements. The transitional provisions provide for Electoral Registration Officers to require persons who, at the time that the regulations come into force, have an absent vote to provide their signature and date of birth. Without the personal identifiers of all absent voters, the proposed system would not be workable as a Returning Officer would be unable to compare the vast majority of identifiers returned on postal voting statements for any given election.

7.4 The Regulations set out a scheme whereby Electoral Registration Officers will write to existing postal and proxy voters asking for their personal identifiers. The notice will require existing absent voters to provide the information within 6 weeks. Electoral Registration Officers must provide absent voters with information as to how the required personal identifiers will be used, and explain that failure to provide them will mean the voter will lose his or her entitlement to be an absent voter, though loss of entitlement will not prevent the person from making a fresh application for an absent vote.

7.5 Electoral Registration Officers must also include details of the types of elections that the person will no longer be entitled to vote in if they do not respond to the request. They must also include the date (which will not be less than 49 days from the sending of the initial notice) from which he or she shall cease to be entitled to vote by post or proxy in the event of their failure to provide the personal identifiers.

7.6 The Government recognises that there may be a risk that some existing postal or proxy voters will not respond and will lose their entitlement to vote by post or proxy. The Regulations attempt to minimise this risk by requiring the Electoral Registration Officer to send a reminder letter if the absent voter has not responded within three weeks of the initial notice. Also, Electoral Registration Officers will not ask postal voters to re-complete an entire new form, but rather just to provide their signature and date of birth, possibly on a form pre-printed with the existing information already held by the Registration Officer. Failure to respond will mean the Electoral Registration Officer will remove the person from the absent voting records and will notify them of this. The Electoral Registration Officer must explain the

effect of removal from the absent voting record and remind the elector that they may make a fresh application.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector will be in relation to the new duties and responsibilities which these Regulations place on Electoral Registration Officers and Returning Officers.

9. Contact

Sheila Scobie at the Scotland Office e-mail: sheila.scobie@scotland.gsi.gov.uk can answer queries regarding the instrument.