

LOCAL ELECTORAL ADMINISTRATION AND REGISTRATION SERVICES (SCOTLAND) ACT 2006

EXPLANATORY NOTES

THE ACT

Part 1: Electoral Administration

Access to election documents

Section 5 Access to election documents

8. This section provides for access to election documents and gives Scottish Ministers a power to make regulations to impose conditions on that access and to charge for it.
9. Subsection (2) imposes requirements on the proper officer who holds documents for local government elections in Scotland to make them available for public inspection. The meaning of the term “proper officer” is set out in section 7 below. Subsection (3) identifies who can request copies of the register and the list of proxies marked to show who has been issued with a ballot paper in a polling station, and the marked lists of postal and postal proxy voters who returned their ballot papers.
10. Subsections (4) to (8) contain regulation-making powers and define what the regulations may or may not provide. The regulations may impose conditions on the inspection and supply of documents, how they are supplied and whether they are subject to payment of a fee, making copies of the documents, the purposes for which the information in the documents is to be used and the disclosure and supply of the documents to another person or use of the information for a different purpose than the one for which the documents were originally provided.

Section 6 Access to election documents: contravention of regulations

11. This section creates an offence of contravening regulations governing access to post-election documentation. The maximum penalty for those found guilty on summary conviction is a fine of £5,000. Subsection (1) provides that any person who breaches any of the conditions set out in regulations made under section 4 is guilty of an offence. Subsection (2) provides that it is a separate and unconnected offence to be an appropriate supervisor of a person who breaches any of these conditions but subsection (2)(b) provides a statutory defence if the supervisor takes steps to stop the breach of conditions. Subsection (3) provides that a person who would otherwise have committed an offence under subsection (1) is not guilty if he has followed the supervisor’s instructions. Subsection (4) provides that a person who is unsupervised and who breaches conditions is not guilty of an offence if he has taken all reasonable steps to comply with the conditions. Subsection (5) sets out the meaning of the terms “appropriate supervisor” and “appropriate steps” in relation to this section.

These notes relate to the Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14) which received Royal Assent on 1 August 2006

Section 7 Access to election documents: supplementary

12. This section defines some of the terms used in section 5. It sets the meaning of the “proper officer” at subsection (2); “registered party” is defined with reference to Part 2 of the [Political Parties, Elections and Referendums Act 2000 \(c.41\)](#) (“the 2000 Act”) and the definition of “local government area” is that detailed in section 204(1) of the 1983 Act. The intention is to define them in the same way as they are defined in the [Scottish Local Government Election Rules 2002 no. 457](#).