

*Draft Order laid before the Scottish Parliament under section 3A of the Local Governance (Scotland) Act 2004 for approval by resolution of the Scottish Parliament.*

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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2010 No.**

**REPRESENTATION OF THE PEOPLE**

The Scottish Local Government  
Elections Amendment Order 2010

<i>Made</i>	- - - -	<i>2010</i>
<i>Coming into force</i>	- -	<i>2010</i>

The Scottish Ministers make the following Order in exercise of the powers conferred by section 3A of the Local Governance (Scotland) Act 2004<sup>(1)</sup> and all other powers enabling them to do so.

In accordance with section 16(5) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

**Citation, commencement and application**

1.—(1) This Order may be cited as the Scottish Local Government Elections Amendment Order 2010 and comes into force on the day after the day on which it is made.

(2) Articles 3 and 4 do not apply to the local government elections held in 2007.

**Amendment of the Scottish Local Government Elections Order 2007**

2. Schedule 1 to the Scottish Local Government Elections Order 2007<sup>(2)</sup> is amended in accordance with the following provisions of this Order.

3. In rule 54(1)(d)(ii) (modification of rule 56) for “paragraph (3)” substitute “paragraphs (3) and (4)”.

4. In rule 56 (sealing up of ballot papers)—

(a) in paragraph (3)—

(i) after “shall” insert “ensure that he or she has a copy of such information as may be required to comply with the requirements of rule 59A and shall then”, and

(ii) after “56(1)” insert “or to comply with the requirements of rule 59A”;

(b) after paragraph (3) insert—

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(1) 2004 asp 9; section 3A was inserted by the Scottish Local Government (Elections) Act 2009, (asp 10).

(2) S.S.I. 2007/42 as amended by S.S.I. 2007/379 and 2009/36.

“(4) Any information retained to comply with the requirements of rule 59A may be used only for that purpose and the returning officer must, in keeping and using it, take all steps he or she considers reasonable to maintain the secrecy of voting.”

5. After rule 59 (retention of documents) insert—

## “PART IVA

### Publication of Voting Information

**59A.**—(1) In a contested election where the count is conducted by means of an electronic counting system, the returning officer must (except as provided for by paragraph (4)) give public notice of the information specified in paragraph (2) (“the information”), within one week following the declaration of the result of the poll.

(2) The information is, for each polling station (except as provided for by paragraph (3))

- (a) the number of first and subsequent preference votes for each candidate;
- (b) the numbers of ballot papers transferred and their transfer values at each stage of the count;
- (c) the number of votes credited to each candidate at each stage of the count;
- (d) the number of non-transferable ballot papers at each stage of the count; and
- (e) the number of rejected ballot papers under each head shown in the statement of rejected ballot papers.

(3) Where in total less than 200 votes were cast at a polling station the returning officer is to give public notice of the information for that polling station aggregated with (and indistinguishable from) that information from one or more other polling stations in the same ward, being such polling stations as the returning officer sees fit, such that as aggregated the information will include in total no less than 200 votes.

(4) Where in total less than 200 votes were cast at all polling stations in a ward, no public notice of the information is to be given.

(5) Once public notice of the information has been given, the returning officer must as soon as reasonably practicable procure the destruction of any electronic data or other records retained under rule 56(3) pursuant to this rule, in a manner which ensures that their confidentiality is preserved.

**59B.**—(1) Rule 59A shall apply in respect of the elections held on 3rd May 2007 with the following modifications.

(2) In paragraph (1) for “is” substitute “was”, and from “within” substitute “no later than two months after the commencement of this rule”.

(3) For paragraph (5) substitute—

“(5) For the purposes of paragraph (1), the returning officer may require the production of any information held on an electronic copy of information made pursuant to rule 56(1), but in scrutinising that information shall take care to ensure that the way in which a particular elector has given his or her vote is not ascertained and at the termination of that scrutiny shall reseal in their packets the electronic copies of that information, return them to the proper officer and cause to be destroyed any other copies made of that information.

(6) Should it not be possible to comply with the requirements of paragraph (1), the returning officer shall give public notice of that fact.

(7) For the purposes of this rule, anything in rule 58(8)(a) that restricts inspection of an electronic copy of information shall be of no effect.”.”.

St Andrew's House,  
Edinburgh

Authorised to sign by the Scottish Ministers

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Scottish Local Government Elections Order 2007 to provide for the publication of voting preferences by polling station at local government elections (including by-elections). The preferences are to be published after the declaration, for each stage of the count.

The requirement is only applicable where votes are counted electronically, for reasons of practicality. Article 3 makes a consequential amendment for that reason

Article 4 allows the returning officer to retain information, including electronic information, after the completion of a count so that the information can be compiled, with a requirement that the information must be kept and used in a manner that preserves secrecy of voting.

Article 5 introduces the publication requirements. Where less than 200 votes are cast at a polling station, the information for it is to be aggregated with one or more other stations, so that data is not disclosed below a threshold of 200 votes. That is to protect against the publication of information which might reveal how a particular voter cast his or her ballot. If that threshold cannot be reached in a ward, no data will be published.

Article 5 also provides that the publication of voting preferences will, if possible, be undertaken for the May 2007 local government poll, and allows the returning officer to access the electronic records for that poll to compile the information. Conditions are attached, to ensure that secrecy of voting is maintained.