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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2015 No.**

**The Scottish Parliament (Elections etc.) Order 2015**

**PART 1**

**GENERAL**

**Citation, commencement and transitional provision**

1.—(1) This Order may be cited as the Scottish Parliament (Elections etc.) Order 2015 and comes into force on the day after the day on which it is made.

(2) This Order has no effect for the purposes of any election for which the date of poll is on or before 4th April 2016.

**Interpretation**

2.—(1) In this Order, except where the context otherwise requires—

“the 1983 Act” means the Representation of the People Act 1983<sup>(1)</sup>;

“the 1998 Act” means the Scotland Act 1998<sup>(2)</sup>;

“the 2000 Act” means the Representation of the People Act 2000<sup>(3)</sup>;

“the 2000 Political Parties Act” means the Political Parties, Elections and Referendums Act 2000<sup>(4)</sup>;

“the 2001 Regulations” means the Representation of the People (Scotland) Regulations 2001<sup>(5)</sup>;

“the 2006 Act” means the Electoral Administration Act 2006<sup>(6)</sup>;

“absent voter” means an elector who is entitled to vote by proxy or an elector or proxy who is entitled to vote by post;

“anonymous entry”, in relation to the register of electors, shall be construed in accordance with section 9B of the 1983 Act<sup>(7)</sup> (anonymous registration);

“appropriate returning officer” means—

- (a) in relation to a candidate for return as a constituency member (or to an election agent or sub-agent for such a candidate), the CRO for that constituency; and

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(1) 1983 c.2.

(2) 1998 c.46.

(3) 2000 c.2.

(4) 2000 c.41.

(5) S.I. 2001/497; relevant amending enactments are the Counter-Terrorism Act 2008 (c.28) and S.I. 2002/1872, S.I. 2006/594, S.I. 2007/925, S.I. 2008/305, S.I. 2008/1901, S.I. 2010/980, and S.I. 2013/3206.

(6) 2006 c.22.

(7) Section 9B was added by section 10 of the Electoral Administration Act 2006 (c.22) (“the 2006 Act”) and is relevantly amended by Schedule 4, paragraph 7 of the Electoral Registration and Administration Act 2013 (c.6).

(b) in relation to an individual candidate for return as a regional member or to a registered party submitting a regional list for a particular region (or to an election agent or sub-agent for such a candidate or such a registered party), the RRO for that region;

“ballot paper”, in relation to a general election for membership of the Scottish Parliament, shall be construed as a reference to both the constituency ballot paper and the regional ballot paper;

“citizen of the Union” shall be construed in accordance with article 9 of the Treaty on European Union(8), and “relevant citizen of the Union” means such a citizen who is not a commonwealth citizen or a citizen of the Republic of Ireland;

“CRO” means the officer who, in accordance with article 14, is the constituency returning officer for a Scottish parliamentary election in a constituency;

“disability”, in relation to doing a thing, includes a short term inability to do it;

“entitlement as an elector to an absent vote” shall be construed in accordance with article 7(8);

“ERO” means an electoral registration officer within the meaning of the 1983 Act(9);

“list of proxies” means the list of persons kept in pursuance of article 9(5)(b);

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(10);

“nominating officer” means the person registered under the 2000 Political Parties Act as the officer with responsibility for the matters referred to in section 24(3) of that Act in respect of a registered party;

“of voting age” means 16 years of age or over;

“ordinary local government election” means an ordinary election of councillors for local government areas;

“polling register” means—

(a) the document provided by an ERO under paragraph 1(3) of Schedule 1 including any notices issued under sections 13AB(2), or 13B(3B) or (3D) of the 1983 Act(11) (alteration of registers) after that document was produced; or

(b) where no such document has been provided, the register of electors, including copies of any notices issued under sections 13A(2), 13AB(2), or 13B(3), (3B) or (3D) of the 1983 Act(12) (alteration of registers) in respect of alterations to the register; and, where a notice has been so issued, any reference to an entry, name or number stated in the polling register is to be taken to be a reference to the entry, name or number stated in that notice;

“postal ballot box” means the ballot box referred to in paragraph 17(1)(b) of Schedule 4;

“the postal voters list” means the list of persons kept in pursuance of article 9(5)(a), showing persons whose applications to vote by post have been granted;

“the proxy postal voters list” means the list of persons kept in pursuance of article 11(7);

“record of anonymous entries” means the record prepared in pursuance of regulations made by virtue of paragraph 8A of Schedule 2 to the 1983 Act(13);

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(8) Article 9 was substituted as Article 8 by Article 1.12, and renumbered as Article 9 by Article 5.1, of the Treaty of Lisbon amending the Treaty on European Union and the Treaty Establishing the European Community (2007/C 306/1).

(9) Electoral registration officers are appointed under section 8 of the 1983 Act. In terms of section 8(1) they are referred to as “registration officers” in the 1983 Act.

(10) 1994 c.39.

(11) Section 13AB was added by the Electoral Registration and Administration Act 2013 (c.6), section 16(3). Section 13B was added by the Representation of the People Act 2000 (c.2) (“the 2000 Act”), Schedule 1, paragraph 6 and amended by the 2006 Act, section 11.

(12) Section 13A was added by the 2000 Act, Schedule 1, paragraph 6.

(13) Paragraph 8A was inserted by the 2006 Act, Schedule 1, paragraph 15(6).

“RRO” means a regional returning officer for the purposes of the 1998 Act<sup>(14)</sup>;

“register of electors” means the register of local government electors maintained under section 9(1)(b) of the 1983 Act;

“registered emblem” means an emblem registered by a political party under section 29(2) of the 2000 Political Parties Act<sup>(15)</sup>;

“registered party” means a party registered under section 28(4) of the 2000 Political Parties Act<sup>(16)</sup>;

“Scottish parliamentary election” means an election for membership of the Scottish Parliament and “Scottish parliamentary general election” shall be construed accordingly;

“Scottish Parliamentary Election Rules” means the rules set out in Schedule 2; and

“service voter” means a person who has made a service declaration in accordance with section 15 of the 1983 Act<sup>(17)</sup> and is registered or entitled to be registered in pursuance of it;

“universal postal service provider” means a universal service provider within the meaning of Part 3 of the Postal Services Act 2011<sup>(18)</sup> (regulation of postal services).

(2) For the purposes of this Order, a person shall be deemed not to have attained a given age until commencement of the relevant anniversary of the day of his or her birth.

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<sup>(14)</sup> See section 12(6) of the 1998 Act, which was amended by the Scotland Act 2012 (c.11), section 1(6).

<sup>(15)</sup> Section 29(2) was amended by the 2006 Act, Schedule 1, paragraph 142.

<sup>(16)</sup> Section 28(4) was amended by the 2006 Act, section 48.

<sup>(17)</sup> Section 15 was amended by the 2000 Act, Schedule 1, paragraph 8(2) and (4) and Schedule 7, paragraph 1; the 2006 Act, sections 12(7) and 13(1), section 9 of the Scottish Elections (Reduction of Voting Age) Act 2015 (asp 7) and S.I. 1995/1948, Schedule 2, paragraph 4(b).

<sup>(18)</sup> 2011 c.5.