

2007 No. 263

REPRESENTATION OF THE PEOPLE

The Representation of the People (Postal Voting for Local Government Elections) (Scotland) Regulations 2007

Made - - - - *21st March 2007*

Coming into force in accordance with regulation 1

The Scottish Ministers, in exercise of the powers conferred by section 53(1)(c) and (3) of, and Schedule 2 to, the Representation of the People Act 1983(a), and of all other powers enabling them in that behalf, hereby make the following Regulations, a draft of which has, in accordance with section 201(2) of that Act, been laid before, and approved by resolution of the Scottish Parliament:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Representation of the People (Postal Voting for Local Government Elections) (Scotland) Regulations 2007.

(2) These Regulations shall come into force on 23rd March 2007 except for the purposes of any local government election in Scotland taking place before 2nd May 2007.

(3) These Regulations extend to Scotland only.

Revocations

2. The Scottish Local Government Elections Regulations 2002(b) are hereby revoked except for the purposes of any local government election in Scotland taking place before 2nd May 2007.

Interpretation

3.—(1) For the purposes of these Regulations—

“the 1985 Act” means the Representation of the People Act 1985(c);

“the 2000 Act” means the Representation of the People Act 2000(d);

“ballot paper envelope” and “covering envelope” mean the envelopes referred to in regulation 12;

“corresponding number list” means the list prepared in accordance with rule 15 (corresponding number list);

(a) 1983 c.2. The functions of the Secretary of State were, insofar as within devolved competence, transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) S.S.I. 2002/561.

(c) 1985 c.50.

(d) 2000 c.2.

“local government area” means the area of a council constituted by section 2 of the Local Government etc. (Scotland) Act 1994(a);

“lost postal ballot paper” means a ballot paper referred to in regulation 16;

“postal ballot box” means the ballot box referred to in regulation 19(1)(b);

“postal ballot paper” means a ballot paper issued to a postal voter;

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

“postal voters box” means the box referred to in regulation 19(1)(a);

“postal voters list” means the list of persons kept in pursuance of paragraph 5(2) (persons whose applications to vote by post have been granted)(b) of Schedule 4 to the 2000 Act;

“proxy postal voters list” means the list of persons kept in pursuance of paragraph 7(8) (persons whose applications to vote by post as proxy have been granted)(c) of Schedule 4 to the 2000 Act;

“spoilt postal ballot paper” means a ballot paper referred to in regulation 15;

“unique identifying mark” means the mark (for example, a bar code, letter, number or numerical sequence) on a ballot paper which is unique to that ballot paper and which identifies that ballot paper as a ballot paper to be issued by the returning officer;

“universal postal service provider” means a “universal service provider” in terms of the Postal Services Act 2000(d); and

“valid postal voting statement” means a postal voting statement in relation to which the returning officer is satisfied as mentioned in regulation 24.

(2) A reference in these Regulations to a numbered rule shall be construed as a reference to the rule of that number in Schedule 1 to the Scottish Local Government Elections Order 2007(e).

Combination of polls

4. Where the polls at elections including a local government election are taken together under section 15(1) or (2) of the 1985 Act, the proceedings on the issue and receipt of postal ballot papers in respect of the local government election may be taken together with such proceedings in relation to the other elections, if the returning officers concerned so agree.

Persons entitled to be present at proceedings on issue of postal ballot papers

5. Without prejudice to the provisions of section 8, 9 or 10 of the Local Electoral Administration and Registration Services (Scotland) Act 2006(f), no person may be present at the proceedings on the issue of postal ballot papers other than the returning officer and the returning officer’s staff.

Persons entitled to be present at proceedings on receipt of postal ballot papers

6. Without prejudice to the provisions of section 8, 9 or 10 of the Local Electoral Administration and Registration Services (Scotland) Act 2006, no person may be present at the proceedings on the receipt of postal ballot papers other than—

- (a) the returning officer and the returning officer’s staff;
- (b) a candidate;
- (c) an election agent or any person appointed by a candidate to attend in such election agent’s place; and
- (d) any agents appointed under regulation 7.

(a) 1994 c.39.

(b) Paragraph 5(2) will be amended by paragraph 137 to Schedule 1 of the Electoral Administration Act 2006 (c.22).

(c) Paragraph 7(8) will be amended by paragraph 137 of Schedule 1 to the Electoral Administration Act 2006 (c.22).

(d) 2000 c.26.

(e) S.S.I. 2007/42.

(f) 2006 c.14.

Agents of candidates who may attend proceedings on receipt of postal ballot papers

7.—(1) Each candidate may appoint one or more agents to attend the proceedings on the receipt of the postal ballot papers up to the number such candidate may be authorised by the returning officer to appoint and the number authorised shall be the same in the case of each candidate.

(2) Notice in writing of the appointment stating the names and addresses of the persons appointed shall be given by the candidate to the returning officer before the time fixed for the opening of the postal voters box.

(3) Where postal ballot papers for more than one election are issued together under regulation 4, the returning officer to whom notice shall be given under paragraphs (2), (4) and (5) is the returning officer who issues the postal ballot papers.

(4) If an agent dies or becomes incapable of acting, the candidate may appoint another agent in such agent's place and shall forthwith give to the returning officer notice in writing of the name and address of the agent appointed.

(5) Agents may be appointed and notice of appointment given to the returning officer by the candidate's election agent instead of by the candidate.

(6) In these Regulations references to agents shall be taken as references to agents whose appointments have been duly made and notified and, in the case of agents appointed under paragraph (1), who are within the number authorised by the returning officer.

(7) A candidate may do any act or thing which any agent of such candidate, if appointed, would have been authorised to do, or may assist such agent in doing any such act or thing.

(8) Where in these Regulations any act or thing is required or authorised to be done in the presence of the candidates or their agents, the non-attendance of any such persons or person at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

Notification of requirement of secrecy

8. The returning officer shall make such arrangements as the returning officer thinks fit to ensure that every person attending the proceedings in connection with the issue or receipt of postal ballot papers has been given a copy in writing of the provisions of section 66(4) and (6) of the Representation of the People Act 1983(a).

Time when postal ballot papers are to be issued

9.—(1) In the case of a person shown in the record kept under—

- (a) paragraph 3(4); or
- (b) paragraph 7(6),

of Schedule 4 to the 2000 Act (electors and proxies entitled to vote by post for an indefinite or particular period), no postal ballot paper (and postal voting statement) shall be issued until after 5 p.m. on the eleventh day before the date of the poll.

(2) In the case of any other person, the postal ballot paper (and postal voting statement) shall be issued by the returning officer as soon as practicable after the application to vote by post has been granted.

(3) In computing a period of days for the purpose of this regulation, Saturday, Sunday, Christmas Eve, Christmas Day, Good Friday, Easter Monday, a day appointed for public thanksgiving or mourning or a bank holiday shall be disregarded.

(4) In paragraph (3) above "bank holiday" means a day which is a bank holiday in Scotland under the Banking and Financial Dealings Act 1971(b).

(a) 1983 c.2. Section 66(4) was amended by paragraph 86 of Schedule 1 to the Electoral Administration Act 2006 (c.22) and section 66(6) was amended by Schedule 3 to the Representation of the People Act 1985 (c.50).

(b) 1971 c.80.

Procedure on issue of postal ballot paper

10.—(1) Each postal ballot paper issued must contain, subject to paragraph (2), an appropriate security marking in accordance with rule 16 (security marking).

(2) The returning officer may use a different official mark for ballot papers issued for the purpose of voting by post than the official mark used at the same election for ballot papers issued for the purpose of voting in person.

(3) The number of the elector as stated in the register shall be marked on the corresponding number list, next to the number and unique identifying mark of the ballot paper issued to that elector.

(4) A mark shall be placed in the postal voters list or the proxy postal voters list against the number of the elector to denote that a ballot paper has been issued to the elector or the elector's proxy, but without showing the particular ballot paper issued.

(5) The number of a postal ballot paper shall be marked on the postal voting statement sent with that paper.

(6) Where postal ballot papers for more than one election are issued together under regulation 4—

(a) one mark shall be placed in the postal voters list or the proxy postal voters list under paragraph (3) to denote that ballot papers have been issued in respect of all those elections; except that, where ballot papers are not so issued, a different mark shall be placed in the postal voters list or proxy postal voters list to identify that the ballot paper in respect of the local government election have been issued; and

(b) the number of each ballot paper shall be marked on the postal voting statement under paragraph (5).

(7) Where polls are taken together under section 15(1) or (2) of the 1985 Act but not the proceedings on the issue and receipt of postal ballot papers, the colour of the postal ballot paper shall also be marked on the postal voting statement sent with that paper.

(8) Subject to paragraph (9), the address to which the postal ballot paper, postal voting statement and the envelopes referred to in regulation 12 below are to be sent is—

(a) in the case of an elector, the address shown in the postal voters list;

(b) in the case of a proxy, the address shown in the proxy postal voters list.

(9) Where a person has an anonymous entry in the register, the items specified in paragraph (8) must be sent to the address to which postal ballot papers should be sent—

(a) as shown in the record kept under paragraph 3(4) or 7(6) of Schedule 4 to the 2000 Act; or

(b) as given in pursuance of an application made under paragraph 4(1) or 7(4)(b) of Schedule 4 to the 2000 Act^(a).

Refusal to issue postal ballot paper

11. Where a returning officer is satisfied that two or more entries in the postal voters list, or the proxy postal voters list or in each of those lists relate to the same elector, the returning officer shall not issue more than one ballot paper in respect of that elector at any one election.

Envelopes

12.—(1) Paragraphs (2) and (3) prescribe the envelopes which are to be issued to a postal voter in addition to the ballot paper and postal voting statement (which are issued under rule 20).

(2) There shall be issued an envelope (referred to as a “covering envelope”) for the return of the postal ballot paper or, as the case may be, ballot papers and the postal voting statement which shall be marked with the letter “B”.

(a) Paragraph 4(1) was amended by section 14 of the Electoral Administration Act 2006 c.22.

(3) There shall also be issued a smaller envelope (referred to as a “ballot paper envelope”) which shall be marked with—

- (a) the letter “A”;
- (b) the words “ballot paper envelope”; and
- (c) unless the envelope has a window through which the number on the ballot paper (or ballot papers) can be displayed, the number of the ballot paper or, as the case may be, ballot papers.

(4) Where polls are taken together (under section 15(1) or (2) of the 1985 Act) but not the proceedings on the issue and receipt of postal ballot papers—

- (a) the envelope referred to in paragraph (2) shall also be marked “Covering envelope for the [insert colour of ballot paper] coloured ballot paper”; and
- (b) on the envelope referred to in paragraph (3), after the words “ballot paper envelope” there shall be added the words “for the [insert colour of ballot paper] coloured ballot paper”.

Sealing up of completed corresponding number lists and security of special lists

13.—(1) As soon as practicable after the issue of each batch of postal ballot papers, the returning officer shall make up into a packet the completed corresponding number lists for those ballot papers which have been issued and shall seal that a packet.

(2) Until the returning officer has sealed the packet as described in regulation 22(8), the returning officer shall take all proper precautions for the security of the marked copy of the postal voters list and the proxy postal voters list.

Delivery of postal ballot papers

14.—(1) For the purposes of delivering postal ballot papers, the returning officer may use—

- (a) a universal postal service provider;
- (b) a commercial delivery firm; or
- (c) persons appointed under rule 22(1).

(2) Where the services of a universal postal service provider or commercial delivery firm are to be used, envelopes addressed to postal voters shall be counted and delivered by the returning officer with such form of receipt to be endorsed by that provider or firm as may be arranged.

(3) Postage shall be prepaid on envelopes addressed to the postal voters (except where paragraph (1)(c) applies).

(4) Return postage shall be prepaid on all covering envelopes where the address provided by the postal voter for the receipt of the postal ballot paper is within the United Kingdom.

Spoilt postal ballot papers

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

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

- (a) the postal ballot paper, or as the case may be, the postal voting statement, whether spoilt or not;
- (b) where postal ballot papers for more than one election have been issued together under regulation 4, 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) Subject to paragraph (4), on receipt of the documents referred to in paragraph (1) and, where applicable paragraph (2), the returning officer shall issue another postal ballot paper or, as the case may be, ballot papers except where those documents are received after 5 p.m. on the day of the poll.

(4) 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, the returning officer 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) Regulations 10 (except paragraph (4)), 12, 13, and, subject to paragraph (7) below, 14 shall apply in relation to a replacement postal ballot paper under paragraph (3) as they apply in relation to a postal ballot paper.

(6) Any postal ballot paper or postal voting statement, whether spoilt or not, returned in accordance with paragraph (1) or (2) shall be immediately cancelled.

(7) 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 again be made up and sealed.

(8) 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 the voter; 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 the voter,

instead of delivering it in accordance with regulation 14.

(9) The returning officer shall enter in a list kept for the purpose (“the list of spoilt postal ballot papers”)—

- (a) the name and number of the elector as stated in the register (or, in the case of an elector who has an anonymous entry, that person’s electoral number alone);
- (b) the number of the postal ballot paper (or papers) issued under this regulation; and
- (c) where the postal voter whose ballot paper is spoilt is a proxy, such voter's name and address.

Lost postal ballot papers

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

- (a) the postal ballot paper (referred to as a “lost postal ballot paper”); or
- (b) the postal voting statement; or
- (c) one or more of the envelopes supplied for their return,

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

(2) Such an application shall include evidence of the voter’s identity.

(3) Where a postal voter exercises the entitlement conferred by paragraph (1), the voter 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 4, all other ballot papers so issued,

which the voter has received and which have not been lost.

(4) Any postal ballot paper or postal voting statement returned in accordance with paragraph (3) shall be immediately cancelled.

(5) 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.

(6) Subject to paragraph (7), where the application referred to in paragraph (1) is received by the returning officer before 5 p.m. on the day of the poll and the returning officer—

- (a) is satisfied as to the voter's identity; and
- (b) has no reason to doubt that the postal voter has either lost or has not received the original postal ballot paper or the postal voting statement or one or more of the envelopes provided for their return,

the returning officer shall issue another postal ballot paper or, as the case may be, postal ballot papers.

(7) Where the application referred to in paragraph (1) is received by the returning officer after 5 p.m. on the day before the day of the poll, the returning officer shall only issue another postal ballot paper or, as the case may be, ballot papers if the postal voter applies in person.

(8) The returning officer shall enter in a list kept for the purpose (“the list of lost postal ballot papers”)—

- (a) the name and number of the elector as stated in the register (or, in the case of an elector who has an anonymous entry, that person's electoral number alone);
- (b) the number of the lost postal ballot paper and of its replacement issued under this regulation; and
- (c) where the postal voter is a proxy, the name and address of the proxy.

(9) Regulation 10 (except paragraph (4)), 12, 13 and, subject to paragraph (10) below, 14 shall apply in relation to a replacement postal ballot paper under paragraph (6) as they apply in relation to a postal ballot paper.

(10) 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 the voter; 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 the voter,

instead of delivering it in accordance with regulation 14.

(11) Where the returning officer issues another postal ballot paper, or, as the case may be, postal ballot papers under paragraph (6), the lost postal ballot paper shall be void and of no effect.

Alternative means of returning postal ballot paper or postal voting statement

17.—(1) For the purposes of rule 42(1)(c)—

- (a) the manner in which a postal ballot paper or postal voting statement may be returned to a polling station in the same local government area is by hand;
- (b) the manner in which such a paper or statement may be returned to the returning officer is by post or by hand.

(2) Subject to paragraph (3), the presiding officer of the polling station shall deliver, or cause to be delivered, any postal ballot paper or postal voting statement returned to that station to the returning officer in the same manner and at the same time as delivering or causing to be delivered, the packets referred to in rule 39(1).

(3) The returning officer may collect, or cause to be collected, any postal ballot paper or postal voting statement 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 the returning officer.

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

Notice of opening of postal ballot paper envelopes

18.—(1) The returning officer shall give to each candidate not less than 48 hours' notice in writing of each occasion on which a postal voters' box and the envelopes contained in it are to be opened.

- (2) Such notice shall specify—
- (a) the time and place at which such an opening is to take place; and
 - (b) the number of agents a candidate may appoint under regulation 7(1) to attend each opening.

Boxes and receptacles

19.—(1) The returning officer shall provide a separate box for the reception of—

- (a) the covering envelopes when returned by the postal voters; and
- (b) postal ballot papers.

(2) Each such box shall be marked “postal voters box” or “postal ballot box”, as the case may be, and with the name of the local government area or electoral ward for which the election or elections is or are held.

(3) The postal ballot box shall be shown as being empty to the agents present on the occasion of opening the first postal voters box.

(4) The returning officer shall then lock the postal ballot box and apply the returning officer’s seal in such manner as to prevent its being opened without breaking the seal. Any of the agents present who wish to add their seals may then do likewise.

(5) The returning officer shall provide separate receptacles for—

- (a) rejected votes;
- (b) postal voting statements;
- (c) ballot paper envelopes; and
- (d) rejected ballot paper envelopes.

(6) The returning officer shall take proper precautions for the safe custody of every box and receptacle referred to in this regulation.

Receipt of covering envelope

20.—(1) The returning officer shall, immediately on receipt (whether by hand or by post) of a covering envelope (or an envelope which is stated to include a postal vote) before the close of the poll, place it unopened in a postal voters box.

(2) Where an envelope, other than a covering envelope issued by the returning officer—

- (a) has been opened; and
- (b) contains a ballot paper envelope, postal voting statement or ballot paper,

the envelope, together with its contents, shall be placed in a postal voters’ box.

Opening of postal voters box

21.—(1) Each postal voters box shall be opened by the returning officer in the presence of any agents, if in attendance.

(2) So long as the returning officer ensures that there is at least one sealed postal voters box for the reception of covering envelopes up to the time of the close of the poll, the other postal voters boxes may be opened by the returning officer.

(3) The last postal voters box and the postal ballot box shall be opened at the counting of the votes under rule 42.

Opening of covering envelopes

22.—(1) When a postal voters box is opened, the returning officer shall count and record the number of covering envelopes (including any envelope to which regulation 20(2) applies), and shall then open each covering envelope separately.

(2) The procedure in regulation 24 applies where a covering envelope (including an envelope to which regulation 20(2) applies) contains both—

- (a) a postal voting statement; and
- (b) a ballot paper envelope, or if there is no ballot paper envelope, a ballot paper (or ballot papers).

(3) Where the covering envelope does not contain the postal voting statement separately, the returning officer shall open the ballot paper envelope to ascertain whether the postal voting statement is inside.

(4) Where a covering envelope does not contain both—

- (a) a postal voting statement (whether separately or not); and
- (b) a ballot paper envelope or, if there is no ballot paper envelope, a ballot paper (or ballot papers),

the returning officer shall mark the covering envelope “provisionally rejected”, attach its contents (if any) and place it in the receptacle for rejected votes.

(5) In carrying out the procedures in this regulation and regulations 24 to 28, the returning officer—

- (a) shall keep the ballot papers face downwards and shall take all proper precautions for preventing any person from seeing the votes made on the ballot papers; and
- (b) shall not be permitted to view the corresponding number list used at the issue of postal ballot papers.

(6) Where an envelope opened in accordance with paragraph (1) contains a postal voting statement, the returning officer shall place a mark in the marked copy of the postal voters list or proxy postal voters list in a place corresponding to the number of the elector to denote that a postal vote has been returned.

(7) A mark made under paragraph (6) shall be distinguishable from and shall not obscure the mark made under regulation 10(4).

(8) As soon as practicable after the last covering envelope has been opened, the returning officer shall make up into a packet the copy of the marked postal voters list and proxy postal voters list that have been marked in accordance with paragraph (6) and shall seal that a packet.

Confirmation of receipt of postal voting statement

23.—(1) An elector or a proxy voter who is shown in the postal voters list or proxy postal voters list may make a request, at any time between the first issue of postal ballots under regulation 10 and the close of the poll, that the returning officer confirm—

- (a) whether a mark is shown in the marked copy of the postal voters list or proxy postal voters list in a place corresponding to the number of the elector to denote that a postal vote has been returned; and
- (b) whether the number of the ballot paper issued to the elector or the elector’s proxy has been recorded on either of the lists of provisionally rejected postal ballot papers kept by the returning officer under paragraphs (2) and (3) of regulation 27.

(2) Where a request is received in accordance with paragraph (1) the returning officer shall be satisfied that the request has been made by the elector or their proxy and where the returning officer is so satisfied provide confirmation of the matters under paragraph (1).

Procedure in relation to postal voting statements

24.—(1) The returning officer shall take measures to be satisfied that the postal voting statement has been duly signed by the voter.

(2) Where the returning officer is not so satisfied, the returning officer shall mark the statement “rejected”, attach to it the ballot paper envelope, or if there is no such envelope, the ballot paper (or ballot papers), and, subject to paragraph (3), place it in the receptacle for rejected votes.

(3) Before placing the statement in the receptacle for rejected votes, the returning officer shall show it to the agents and, if any of them object to the returning officer's decision, shall add the words “rejection objected to”.

(4) The returning officer shall then examine the number (or numbers) on the postal voting statement against the number (or numbers) on the ballot paper envelope and, where they are the same, shall place the statement and the ballot paper envelope respectively in the receptacle for postal voting statements and the receptacle for ballot paper envelopes.

(5) Where—

- (a) the number (or numbers) on a valid postal voting statement is (or are) not the same as the number (or numbers) on the ballot paper envelope; or
- (b) that envelope has no number on it (or only one number when the postal voting statement has more than one),

the returning officer shall open the envelope.

(6) Paragraph (7) applies where—

- (a) there is a valid postal voting statement but no ballot paper envelope; or
- (b) the ballot paper envelope has been opened under regulation 22(3) or paragraph (5).

(7) The returning officer shall place—

- (a) in the postal ballot box, any postal ballot paper the number on which is the same as the number (or one of the numbers) on the valid postal voting statement;
- (b) in the receptacle for rejected votes, any other postal ballot paper, with the valid postal voting statement attached and marked “provisionally rejected”;
- (c) in the receptacle for rejected votes, any valid postal voting statement marked “provisionally rejected” where—
 - (i) there is no postal ballot paper; or
 - (ii) in the case of a statement on which the number of more than one postal ballot paper appears, there is not a sufficient number of postal ballot papers, and in such cases, shall mark the statements to indicate which postal ballot paper is missing; and
- (d) in the receptacle for postal voting statements, any valid statement not disposed of under subparagraph (b) or (c).

Opening of ballot paper envelopes

25.—(1) The returning officer shall open separately each ballot paper envelope placed in the receptacle for ballot paper envelopes.

(2) The returning officer shall place—

- (a) in the postal ballot box, any postal ballot paper the number on which is the same as the number (or one of the numbers) on the ballot paper envelope;
- (b) in the receptacle for rejected votes, any other postal ballot paper, which shall be marked “provisionally rejected” and to which shall be attached the ballot paper envelope; and
- (c) in the receptacle for rejected ballot paper envelopes, any ballot paper envelope which shall be marked “provisionally rejected” because it does not contain either a postal ballot paper or, where more than one number appears on the ballot paper envelope, a sufficient number of postal ballot papers (and indicating, in such a case, the missing postal ballot paper).

Retrieval of cancelled postal ballot papers

26.—(1) Where it appears to the returning officer that a cancelled postal ballot paper has been placed—

- (a) in a postal voters box;
- (b) in the receptacle for ballot paper envelopes; or
- (c) a postal ballot box,

the returning officer shall proceed as set out in paragraphs (2) and (3).

(2) The returning officer shall, on the next occasion on which a postal voters box is opened in accordance with regulation 21, also open any postal ballot box and the receptacle for ballot paper envelopes and—

- (a) retrieve the cancelled postal ballot paper;
- (b) show the ballot paper number on the cancelled postal ballot paper to the agents;
- (c) retrieve the postal voting statement that relates to a cancelled paper from the receptacle for postal voting statements;
- (d) attach any cancelled postal ballot paper to the postal voting statement to which it relates;
- (e) place the cancelled documents in a separate packet and deal with that packet in the manner provided for in regulation 15(7); and
- (f) unless the postal ballot box has been opened for the purposes of the counting of votes under rule 42 of the elections rules, re-lock (if it has a lock) and re-seal the postal ballot box in the presence of the agents.

(3) Whilst retrieving a cancelled postal ballot paper in accordance with paragraph (2) above, the returning officer—

- (a) shall keep the postal ballot papers face downwards and shall take all proper precautions for preventing any person from seeing the votes made on the postal ballot papers; and
- (b) shall not be permitted to view the corresponding number list used at the issue of postal ballot papers.

Lists of provisionally rejected postal ballot papers

27.—(1) In respect of any election, the returning officer shall keep two separate lists of provisionally rejected postal ballot papers.

(2) In the first such list, the returning officer shall record the ballot paper number of any postal ballot paper for which no valid postal voting statement was received with it.

(3) In the second such list, the returning officer shall record the ballot paper number of any postal ballot paper which is entered on a valid postal voting statement where that postal ballot paper is not received with the postal voting statement.

Checking of lists kept under regulation 27

28.—(1) Where the returning officer receives a valid postal voting statement without the postal ballot paper (or papers) to which it relates, the returning officer may, at any time prior to the close of the poll, check the list kept under regulation 27(2) to see whether the number (or numbers) of any postal ballot paper to which the statement relates is entered in that list.

(2) Where the returning officer receives a postal ballot paper without the postal voting statement to which it relates, the returning officer may, at any time prior to the close of the poll, check the list kept under regulation 27(3) to see whether the number of that postal ballot paper is entered in that list.

(3) The returning officer shall conduct the checks required by paragraphs (1) and (2) as soon as practicable after the receipt, under rule 39(1), of packets from every polling station in the local government area for which the election (or elections) was (or were) held.

(4) Where the ballot paper number in the list matches that number on a valid postal voting statement or, as the case may be, the postal ballot paper, the returning officer shall retrieve that statement or paper.

(5) The returning officer shall then take the appropriate steps under these Regulations as though any document earlier marked “provisionally rejected” had not been so marked and shall amend the document accordingly.

Sealing of receptacles

29.—(1) As soon as practicable after the completion of the procedure under regulation 28(3) and (4), the returning officer shall make up into separate packets the contents of—

- (a) the receptacle for rejected votes;
- (b) the receptacle for postal voting statements;
- (c) the receptacle for rejected ballot paper envelopes; and
- (d) the lists of spoilt and lost postal ballot papers,

and shall seal up such packets.

(2) Any document in those packets marked “provisionally rejected” shall be deemed to be marked “rejected”.

Abandoned poll

30.—(1) Where a poll is, by reason of the death of a candidate, abandoned or countermanded after postal ballot papers have been issued, the returning officer—

- (a) shall not take any step or further step to open covering envelopes or deal with the contents in accordance with the provisions of these Regulations; and
- (b) shall, notwithstanding regulations 22 to 25, treat all unopened covering envelopes and the contents of those that have been opened as if they were counted postal ballot papers.

(2) Paragraph (1) shall not apply where postal ballot papers for more than one election have been issued together under regulation 4.

Forwarding of documents

31.—(1) The returning officer shall, at the same time as forwarding the documents mentioned in rule 57, forward to the proper officer of the Council for which the election was held—

- (a) any packets referred to in regulations 13, 15(7), 16(5), 22(8) and 29, subject to regulation 30, endorsing on each packet a description of its contents, the date of the election to which it relates and the name of the local government area or electoral ward for which the election (or elections) was (or were) held; and
- (b) a completed statement in relation to postal ballot papers in the form set out in the Schedule to these Regulations.

(2) Where—

- (a) any covering envelopes are received by the returning officer after the close of the poll (apart from those delivered in accordance with the provisions of regulation 17(2));
- (b) any envelopes addressed to postal voters are returned as undelivered too late to be re-addressed; or
- (c) any spoilt postal ballot papers are returned too late to enable other postal ballot papers to be issued,

the returning officer shall put them unopened in a separate packet, seal up such packet and endorse and forward it at a subsequent date in the manner described in paragraph (1).

(3) Rules 58 and 59 shall apply to any packet or document forwarded under this regulation as they apply for the purposes of the documents referred to in those rules.

(4) A copy of the statement referred to in paragraph (1)(b) shall be provided by the returning officer to the Scottish Ministers.

TOM McCABE
A member of the Scottish Executive

St Andrew’s House,
Edinburgh
21st March 2007

SCHEDULE

Regulation 31

STATEMENT AS TO POSTAL BALLOT PAPERS REPRESENTATION OF THE PEOPLE ACTS SCOTTISH LOCAL GOVERNMENT ELECTION

Local government area _____

Date of Poll _____

20_____

A.	ISSUE AND RECEIPT OF POSTAL BALLOT PAPERS	NUMBER
1.	Number of postal ballot papers issued (including papers issued under regulations 15 (3) (spoilt papers) and 16 (6) (lost papers))	
2.	Number of postal ballot papers issued under regulations 15(3) and 16 (6)	
3.	Number of ballot papers returned as parts of sets of documents under regulations 15(1) and (2) and 16 (6) too late for another ballot paper to be issued	
4.	Number of covering envelopes received by the returning officer before the close of poll (excluding any returned as undelivered or returned with spoilt or cancelled ballot papers (regulations 15 and 16))	
5.	Number of covering envelopes received by the returning officer after the close of poll, excluding any returned as undelivered	
6.	Number of covering envelopes returned as undelivered up to the date of this statement	
7.	Number of covering envelopes not received by the returning officer by the date of this statement	
B.	COUNT OF POSTAL BALLOT PAPERS	
1.	Number of covering envelopes received by the returning officer before the close of poll (excluding any returned as undelivered or returned as lost or spoilt under regulations 15(3) and 16(6))	
2.	Number of cases in which a covering envelope or its contents were marked "rejected"	
3.	Number of ballot papers returned by postal voters which were included in the count of ballot papers.	

Date: Signed

Address

.....

.....

NOTES

1. The figure entered against A1 should equal the sum of the figures entered against A3-A7.
2. The figure entered against B1 should equal the sum of the figures entered against B2 and B3.
3. This form must be sent to the Scottish Executive during a period of 5 days starting 10 days after the election.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for revised procedures on the issue and receipt of postal ballot papers for local government elections and revoke and replace the Scottish Local Government Elections Regulations 2002 (“the 2002 Regulations”). The Regulations differ from the 2002 Regulations by introducing changes to the procedures for postal voting introduced by the Representation of the People (Scotland) (Amendment) Regulations 2006 (S.I. 2006/834) for Scottish Parliamentary elections and changes being introduced for postal voting at other UK elections as a result of the Electoral Administration Act 2006 (c.22). The Regulations are also updated to take account of the changes made by the Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14).

Regulation 4 provides that the proceedings on the issue of ballot papers for a local government election may take place together with proceedings for other elections where there is a combined poll. Regulations 5 and 6 deal with persons who are entitled to be present at or may attend proceedings at the issue or receipt of postal ballot papers. Regulation 7 sets out the procedures for the appointment of agents by candidates to attend proceedings on the receipt of ballot papers. Regulation 8 deals with the notification of the requirement of secrecy for those attending the proceedings at the issue or receipt of ballot papers. Regulation 9 provides that, subject to special provision in paragraph (1) in respect of those entitled to vote by post for a definite or indefinite period, a postal ballot paper is to be issued as soon as practicable after the application to vote by post has been granted.

Regulations 10 to 13 deal with procedures for the issue of ballot papers and envelopes and for dealing with the completed corresponding number lists and the postal voters and proxy postal voters lists. Provision is made as to when a returning officer is to refuse to issue a postal ballot paper. Detailed provisions are also provided regarding the envelopes to be issued to a postal voter and for the sealing up of batches of postal ballot papers. Regulation 14 sets out the means by which postal ballot papers may be delivered to the voters. Regulation 15 deals with spoilt ballot papers and paragraph (1) covers voters who have inadvertently spoilt their ballot papers. Regulation 16 provides for the replacement of postal ballot papers that have been lost or not been received by a voter. A voter who has not received his or her ballot paper by the third day before the poll will be able to apply, whether or not in person, to the returning officer for a replacement.

Regulation 17 enables a postal ballot paper and a postal voting statement to be validly returned even if they are returned separately provided that they reach the returning officer or a polling station in the constituency in the manner provided by Regulations before the close of the poll. Paragraphs (1) and (2) prescribe the manner of return. Regulations 18, 19 and 20 deal respectively with the procedures for the notice to candidates of the opening of postal ballot boxes and contents, provision of boxes and receptacles and handling of the covering envelopes following their receipt. Regulations 21 to 24 contain revised procedures for the opening of postal ballot boxes and postal ballot papers, envelopes and counting thereof. Regulation 22 provides for the opening of the covering envelopes. Regulation 23 enables an elector or proxy voter to seek confirmation from the returning officer that a postal vote has been returned. Regulation 24 sets out the procedure in relation to postal voting statements for the returning officer to be satisfied that the statement has been properly executed. Regulation 25 deals with the opening of the ballot paper envelopes. Regulation 26 sets out the procedure to be followed by a returning officer to retrieve a cancelled ballot paper placed in a postal voters box, in the receptacle for ballot paper envelopes or a postal ballot box. Regulations 27 and 28 set out procedures for listing rejected postal ballot papers and matching up postal ballot papers and postal voting statements that have been returned separately.

Regulations 29 to 31 set out procedures in relation to rejected votes, postal voting statements, rejected ballot paper envelopes and lists of spoilt and lost postal ballot papers; procedures for dealing with returned postal ballot papers in the event that a poll is abandoned or countermanded; and the forwarding of documents following the election. The Schedule to the Regulations prescribes the form of statement as to postal ballot papers referred to in regulation 31.

2007 No. 263

REPRESENTATION OF THE PEOPLE

The Representation of the People (Postal Voting for Local
Government Elections) (Scotland) Regulations 2007

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