

# **LOCAL ELECTORAL ADMINISTRATION AND REGISTRATION SERVICES (SCOTLAND) ACT 2006**

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## **EXPLANATORY NOTES**

### **THE ACT – PART 3: GENERAL**

#### ***Section 61 Orders and regulations***

157. This section sets out the arrangements for Scottish Ministers to make orders or regulations by statutory instrument under the powers set out in the Act. It provides that orders and regulations made under the Act may make different provision for different purposes and may also make other provisions of a technical ancillary or transitional nature.
158. It also provides that statutory instruments (except for those orders of the type set out in subsections (4) to (5)) made under the Act are to be subject to negative resolution procedure in the Scottish Parliament. That means the instrument is laid after making and is subject to being annulled in pursuance of a resolution of the Parliament passed within 40 days after making. This rule applies to all regulations made under the Act, however there are three exceptions, set out in subsections (4) to (5) relating to orders.
159. The first exception is regulations made under section 5(2)(b), (4), (5) or (8) (powers relating to access to election documents) and orders made under section 62 which amend primary legislation. Those orders make ancillary provision of the kind set out in section 62. They are to be subject to affirmative resolution procedure in the Scottish Parliament which means the instrument is laid in draft and cannot be made until the draft is approved by resolution of the Parliament.
160. Subsection (5) provides that subsection (3) will apply to an order containing provisions under section 7(9) of the Act on access to documents only if that order has not been combined with an order containing provisions that attract affirmative resolution procedure. This is intended to allow orders under s.7(9) of the Act to be combined with orders under s.3 of the Local Governance (Scotland) Act 2004 which may be subject to either negative or affirmative resolution procedure depending on their content.
161. The third exception is orders bringing provisions into force, made under section 63. Those are not subject to Parliamentary procedure.