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DRAFT SCOTTISH STATUTORY INSTRUMENTS

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**2016 No.**

**REPRESENTATION OF THE PEOPLE**

**The Representation of the People (Postal Voting for Local Government Elections) (Scotland) Amendment Regulations 2016**

|                          |         |      |
|--------------------------|---------|------|
| <i>Made</i>              | - - - - | 2016 |
| <i>Coming into force</i> | - -     | 2016 |

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 53(1)(c) and (3) and schedule 2 of the Representation of the People Act 1983(a) and all other powers enabling them to do so.

In accordance with section 201(2) of that Act(b), a draft of these Regulations has been laid before and approved by resolution of the Scottish Parliament.

**Citation, commencement and transitional provision**

**1.**—(1) These Regulations may be cited as the Representation of the People (Postal Voting for Local Government Elections) (Scotland) Amendment Regulations 2016 and come into force on the day after the day on which they are made.

(2) The amendments made by these Regulations do not apply in relation to an election for which the date of poll is before 4th May 2017.

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

**2.** The Representation of the People (Postal Voting for Local Government Elections) (Scotland) Regulations 2007(c) are amended as follows.

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(a) 1983 c.2; section 53(3) was amended by the Representation of the People Act 1985 (c.50), schedule 4, paragraph 13(b). The functions of the Secretary of State were, insofar as within devolved competence, transferred to the Scottish Ministers by virtue of the Scotland Act 1998 (c.46), section 53.

(b) Section 201(2) was substituted by the Representation of the People Act 1985, schedule 4, paragraph 69 and amended by S.I. 1991/1728 and the Northern Ireland (Miscellaneous Provisions) Act 2014 (c.13), section 13(2).

(c) S.S.I. 2007/263, amended by S.S.I. 2009/128, S.I. 2011/2085, S.S.I. 2011/399, and S.S.I. 2012/31.

3. For regulation 9, substitute—

**“Time when postal ballot papers are to be issued**

9. The returning officer must as soon as practicable issue to any person entitled to vote by post a postal ballot paper and postal voting statement.”.

4. In regulation 16 (lost postal ballot papers)—

- (a) in paragraph (1), omit “by the fourth day before the day of the poll,”;
- (b) in paragraph (2), after “identity” insert “and must be received by the returning officer before 5pm on the day of the poll”;
- (c) in paragraph (6), for “paragraph (7)” substitute “paragraphs (7) and (7A)”;
- (d) after paragraph (7), insert—

“(7A) The returning officer may refuse to issue another postal ballot paper if that officer considers that it is reasonable for the voter to allow further time for delivery of the documents in accordance with regulation 14.”.

5. After regulation 16, insert—

**“Cancellation of postal ballot papers**

16A.—(1) Where, after the latest time for delivery of nomination papers for candidature, an application is granted that—

- (a) will result in a voter being removed from the postal voters list or the proxy postal voters list; or
- (b) is an application from a person under paragraph 4(3)(a) or 7(7) of schedule 4 of the 2000 Act (an application by a person, or a proxy for a person, for postal ballot papers to be sent to a different address),

and the grant of that application is not to be disregarded for the purposes of that election under regulation 11 of the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Regulations 2007(a), the electoral registration officer must notify the returning officer who must immediately cancel any postal ballot paper issued to the elector or proxy and, in the case of an application mentioned in sub-paragraph (b), must issue a replacement postal ballot paper or, as the case may be, papers.

(2) Where a person returns a postal ballot paper that has been or is to be cancelled in accordance with paragraph (1) (whether to the electoral registration officer or returning officer), it must be dealt with as follows—

- (a) the ballot paper, together with any other ballot papers, postal voting statements or covering envelopes which are returned to the electoral registration officer must be given by that officer to the returning officer;
- (b) any document returned in accordance with this paragraph, but not cancelled in accordance with paragraph (1), must be cancelled immediately;
- (c) the returning officer, as soon as practicable after receiving and cancelling those documents, must make up those documents in a separate packet and seal that packet, and if on any subsequent occasion further such documents are returned, the sealed packet is to be opened and the additional cancelled documents included in it and the packet is then to be again made up and sealed.

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(a) S.S.I. 2007/170.

(3) The returning officer must enter in a list kept for the purpose of recording postal ballot papers cancelled under this regulation (“the list of cancelled postal ballot papers”)—

- (a) the name and number of the elector as stated in the register of electors (or, in the case of an elector who has an anonymous entry, their electoral number alone);
- (b) the numbers of all cancelled postal ballot papers;
- (c) the numbers of any replacement postal ballot papers issued under paragraph (1); and
- (d) where the postal voter is a proxy, their name and address.

(4) Regulations 10 (except paragraph (6)(a)) and 12 to 14 apply to a replacement postal ballot paper issued under paragraph (1).”.

**6.** In regulation 19 (boxes and receptacles), omit sub-paragraph (b) of paragraph (5).

**7.** In regulation 22 (opening of covering envelopes)—

- (a) omit paragraph (1A); and
- (b) in paragraph (1B), omit “that is not set aside”.

**8.** In regulation 27 (lists of provisionally rejected postal ballot papers)—

- (a) in paragraph (1), for “two separate lists of” substitute “three separate lists relating to”; and
- (b) after paragraph (3) insert—

“(4) In the third such list, the returning officer shall record for every postal voting statement within the receptacle for rejected votes (verification procedure) immediately prior to sealing—

- (a) the elector’s name and address (and the proxy’s name and address if the elector has a proxy);
- (b) the elector’s number on the register of electors (and that of the proxy if the elector has a proxy);
- (c) the specified reason or reasons for the rejection of the postal voting statement; and
- (d) any other information relating to the rejection that the returning officer considers appropriate, but not the ballot paper number.

(5) The specified reasons which may be given under paragraph (4)(c) for the rejection of a postal voting statement are—

- (a) the signature does not match the example held on the personal identifiers record;
- (b) the date of birth does not match the one held on the personal identifiers record;
- (c) the signature field is blank; or
- (d) the date of birth field is blank.”.

**9.** After regulation 31, insert—

**“Forwarding of a rejected ballot paper list**

**32.** Before the returning officer seals up the counted and rejected ballot papers as provided for by rule 57, that person must send to the electoral registration officer a copy of the list compiled under regulation 27(4).”.

**10.** For the form set out in the schedule, substitute the form set out in the schedule of these Regulations.

**Revocations**

**11.** In the Representation of the People (Postal Voting for Local Government Elections) (Scotland) Amendment Regulations 2009<sup>(a)</sup>, regulation 9 and the schedule are revoked.

St Andrew's House,  
Edinburgh  
Date

*Name*  
Authorised to sign by the Scottish Parliament

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<sup>(a)</sup> S.S.I. 2009/128.

## SCHEDULE

Regulation 10

Form to be substituted

| SCOTTISH LOCAL GOVERNMENT ELECTION<br>STATEMENT ON ABSENT VOTERS |  |                  |                       |
|--|--|------------------|-----------------------|
| Council/Ward   | <i>[Name of Council and ward]</i>  | Date of<br>poll: | <i>[Date of poll]</i> |
| <b>A</b>   | <b>Issue of postal ballot packs</b>  |                  | <b>Number</b>         |
| 1  | Number of original postal ballot packs issued  |                  |                       |
| 2  | Number of postal ballot packs replaced due to the original pack being lost or not received   |                  |                       |
| 3  | Number of postal ballot packs replaced due to the original being spoiled   |                  |                       |
| 4  | Number of postal ballot packs replaced due to the elector requesting the pack be sent to a different address (i.e. ballot packs issued but then cancelled and reissued due to elector changing their registered address) |                  |                       |
| 5  | Total number of postal ballot packs issued (i.e. Total of A1 to A4)  |                  |                       |
| <b>B</b>   | <b>Receipt of postal ballot packs</b>  |                  | <b>Number</b>         |
| 1  | Number of complete postal ballot packs received by the close of the poll (excluding those returned in B3 to B6)(i.e. PVS and matching ballot paper returned)   |                  |                       |
| 2a   | Number of postal voting statements received by close of poll without the corresponding ballot paper  |                  |                       |
| 2b   | Number of ballot papers received by close of poll without the corresponding postal voting statements   |                  |                       |
| 3  | Number of postal ballot packs cancelled on request of elector by 5pm on the eleventh working day before the poll   |                  |                       |
| 4  | Number of postal ballot packs cancelled as spoiled by close of poll  |                  |                       |
| 5  | Number of postal ballot packs cancelled as lost or not received by close of poll   |                  |                       |
| 6  | Number of postal ballot packs returned as undeliverable by the seventh calendar day after the poll   |                  |                       |
| 7  | Number of postal ballot packs received between the close of poll and the seventh calendar day after the poll   |                  |                       |
| 8  | Total number of postal ballot packs not returned (including empty envelopes and any ballot packs received more than seven calendar days after the poll)  |                  |                       |
| 9  | Total postal ballot packs (i.e. Total of B1-B8) (Should equal A5)  |                  |                       |
| <b>C</b>   | <b>Checks on personal identifiers</b>  |                  | <b>Number</b>         |
| 1  | Number of postal voting statements checked against the personal identifier record  |                  |                       |
| 2  | Number of postal voting statements where required personal identifiers were verified as valid  |                  |                       |
| 3a   | Number of postal voting statements rejected because there was no signature   |                  |                       |
| 3b   | Number of postal voting statements rejected because there was no date of birth   |                  |                       |
| 3c   | Number of postal voting statements rejected because there was no signature and no date of birth  |                  |                       |

|          |  |               |
|----------|--|---------------|
| 4a       | Number of postal voting statements rejected due to a mismatched signature  |               |
| 4b       | Number of postal voting statements rejected due to a mismatched date of birth  |               |
| 4c       | Number of postal voting statements rejected due to a mismatch of both identifiers  |               |
| 5        | Total checks on personal identifiers (i.e. Total of C2-C4, should equal C1)  |               |
| <b>D</b> | <b>Waivers</b>   | <b>Number</b> |
| 1        | Number of signature waivers granted (as per the personal identifiers record)   |               |
| <b>E</b> | <b>Summary of postal ballot packs</b>  |               |
| 1        | Number of postal ballot packs rejected due to missing ballot paper or PVS (Should equal B2a plus B2b)                    |               |
| 2        | Number of postal voting statements rejected due to absence or mismatch of personal identifiers (Should equal C3a to C4c) |               |
| 3        | Number of postal ballot papers sent to the count (Should equal C2)   |               |
| <b>F</b> | <b>Proxies</b>   | <b>Number</b> |
| 1        | Number of standard proxies (excluding postal proxies) granted  |               |
| 2        | Number of standard proxies with postal votes granted   |               |
| 3        | Number of emergency proxies granted  |               |
| 4        | Total number of proxies (i.e. Total of F1 to F3)   |               |

Signed:  
Local Authority Returning Officer

*The completed statement must be sent to the Electoral Commission.*

## **EXPLANATORY NOTE**

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

These Regulations make various amendments to the Representation of the People (Postal Voting for Local Government Elections) (Scotland) Regulations 2007.

The changes made by these Regulations apply in relation to the local government elections due to be held on 4th May 2017 and subsequent elections.

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