

*Draft Order laid before Parliament under section 115 of, and Schedule 7 to, the Scotland Act 1998,
for approval by resolution of each House of Parliament.*

DRAFT STATUTORY INSTRUMENTS

2007 No.

**CONSTITUTIONAL LAW
DEVOLUTION, SCOTLAND**

**The Scottish Parliament (Elections
etc.) (Amendment) Order 2007**

Made - - - - 2007

Coming into force in accordance with article 1

This Order is made in exercise of the powers conferred by section 12(1)(a) of the Scotland Act 1998(1).

The Secretary of State has consulted the Electoral Commission as required by section 7 of the Political Parties, Elections and Referendums Act 2000(2).

A draft of this Order has been laid before Parliament in accordance with section 115 of, and Schedule 7 to, the Scotland Act 1998 and approved by a resolution of each House of Parliament.

Accordingly the Secretary of State for Scotland makes the following Order:

Citation and commencement

1. This Order may be cited as the Scottish Parliament (Elections etc.) (Amendment) Order 2007 and shall come into force on the day after the day on which it is made.

Amendment of the Scottish Parliament (Elections etc.) Order 2007

2. In rule 70 of Schedule 2 to the Scottish Parliament (Elections etc.) Order 2007(3) (orders for production of documents and records) after paragraph (7) insert—

“(7A) The Electoral Commission may require the production and opening of any sealed packet of ballot papers and of any sealed packet containing an electronic copy of information made pursuant to rule 68(1)(a), but only—

(1) 1998 c. 46. Section 12 was amended by the Political Parties, Elections and Referendums Act 2000 (c. 41) (“the 2000 Political Parties Act”), Schedule 21, paragraph 13 and by the European Parliamentary Elections Act 2002 (c. 24), Schedule 3, paragraph 7.

(2) 2000 c. 41.

(3) S.I.2007/937.

- (a) in connection with any review which they are conducting under section 6(2) of the 2000 Political Parties Act (whether instituted before or after the commencement of this sub-paragraph), and
- (b) if the request that they undertake that review includes a request that they examine ballot papers.

(7B) In their scrutiny of any documents or records to which they have access by virtue of paragraph (7A) the Electoral Commission shall take care to ensure that the way in which a particular elector has given their vote is not ascertained and at the termination of their scrutiny the Electoral Commission shall reseal in their packets the documents and records, return them to the sheriff clerk and cause to be destroyed any copies made of the documents and records provided to them.”.

2007

One of Her Majesty’s Principal Secretaries of
State Scotland Office

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends a provision as to the conduct of elections for the Scottish Parliament, established by the Scotland Act 1998.

Rules 68 to 71 of Schedule 2 to the Scottish Parliament (Elections etc.) Order 2007 provide that on the completion of counting at a contested election the ballot papers and various other documents and records shall be sealed up and delivered to sheriff clerks for safe-keeping. Those rules also prescribe circumstances in which the documents and records can be scrutinised, and the parameters of such scrutiny.

This Order enables scrutiny by the Electoral Commission, where they have been asked by the Secretary of State to undertake a review of an electoral or political matter and as part of that request have also been requested to examine ballot papers. Safeguards to protect the secrecy of the vote are provided. These include the omission of any right of access to the sealed packets of the completed corresponding number lists, which link the numbers or barcodes on the ballot papers with the identifying numbers for electors.

The Electoral Commission have been consulted on the draft of this Order, as required by section 7 of the Political Parties, Elections and Referendums Act 2000.