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DRAFT STATUTORY INSTRUMENTS

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**2012 No.**

**The Police and Crime Commissioner Elections Order 2012**

**PART 1**

**General**

**Citation and commencement**

- 1.—(1) This Order may be cited as the Police and Crime Commissioner Elections Order 2012.  
(2) This Order comes into force on the day after the day on which it is made.

**Interpretation**

- 2.—(1) In this Order—

“the 1983 Act” means the Representation of the People Act 1983(1);

“the 2000 Act” means the Political Parties, Elections and Referendums Act 2000(2);

“the 2001 Regulations” means Representation of the People (England and Wales) Regulations 2001(3);

“the 2011 Act” means the Police Reform and Social Responsibility Act 2011;

“absent voter” means—

- (a) an elector who is entitled to vote by proxy, or  
(b) an elector or proxy who is entitled to vote by post;

“anonymous entry” is to be read in accordance with section 9B of the Representation of the People Act 1983(4);

“authorised person” means a person (other than a barrister or solicitor) who, for the purposes of the Legal Services Act 2007(5), is an authorised person in relation to an activity which constitutes the exercise of a right of audience (within the meaning of that Act);

“bank holiday” means a day which is a bank holiday under the Banking and Financial Dealings Act 1971(6) in England and Wales;

“candidate” is to be read in accordance with article 3;

“the Commission” means the Electoral Commission established by section 1 of the 2000 Act;

“counting agent” is to be read in accordance with rule 31(11) of the PCC elections rules;

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

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(1) 1983 c.2.

(2) 2000 c.41.

(3) S.I. 2001/341.

(4) Section 9B was inserted by section 10(1) of the Electoral Administration Act 2006 (c.22).

(5) 2007 c.29.

(6) 1971 c.80.

“election court” means the court constituted under Part 3 of the 1983 Act, as applied by paragraph 1 of Schedule 9, for the trial of a PCC election petition;

“elector”, in relation to a PCC election, means a person who has for the time being an entry on the register of electors, but does not include—

- (a) those shown in the register as below voting age on the day of the election, or
- (b) in the case of a person with an anonymous entry in the register, those shown in the record of anonymous entries as below voting age on the day of the election;

“electoral area” means any electoral division or ward or, in the case of a parish or community in which there are no wards, the parish or community, for which the election of councillors is held under the Local Government Act 1972(7);

“electoral number” means a person’s number in the register of electors or, pending publication of the register, the person’s number (if any) in the electors lists for that register;

“legal incapacity” includes (in addition, where applicable, to any incapacity arising by virtue of a subsisting provision of the common law) any disqualification imposed by this Order or any other enactment;

“legal process” means a claim form, application notice, writ, summons or other process;

“the list of proxies” means a list kept under paragraph 4(3) of Schedule 2;

“local authority” means—

- (a) a district council,
- (b) a county council in England for a county in which there are no district councils,
- (c) the Council of the Isles of Scilly,
- (d) a county council or county borough council in Wales;

“local government election” means the election of councillors for any electoral area;

“local referendum” means—

- (a) a referendum in England under Part 1A of the Local Government Act 2000(8) (local authority governance in England);
- (b) a referendum in Wales under Part 2 of the Local Government Act 2000 (local authorities in Wales: arrangements with respect to executives etc);
- (c) a referendum in England under Chapter 4ZA of Part 1 of the Local Government Finance Act 1992(9) (council tax increases);

“local returning officer” means a person who, by virtue of section 35 of the 1983 Act, is a returning officer for any elections of members of a local authority;

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

“PCC election” means an election of a police and crime commissioner in accordance with Chapter 6 of Part 1 of the 2011 Act;

“PCC election petition” means a petition presented in pursuance of Part 3 of the 1983 Act as applied by paragraph 1 of Schedule 9;

“PCC elections rules” has the meaning given in article 12;

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(7) 1972 c.70.

(8) 2000 c.22. Part 1A of the Local Government Act 2000 was inserted by section 21 of, and Schedule 2 to, the Localism Act 2011 (c.20).

(9) 1992 (c.14). Chapter 4ZA of Part 1 of that Act was inserted by section 72 of, and Schedule 5 to, the Localism Act 2011.

“person” includes (without prejudice to the provisions of the Interpretation Act 1978<sup>(10)</sup>) an association corporate or unincorporate;

“police area” means a police area listed in Schedule 1 to the Police Act 1996<sup>(11)</sup> (police areas outside London);

“police area returning officer”, in relation to any police area, means the person designated by an Order made by virtue of section 54(1)(b) of the 2011 Act as the returning officer for that police area;

“polling agent” is to be read in accordance with rule 31<sup>(11)</sup> of the PCC elections rules;

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

“postal proxy” means a person who is entitled to vote by post as proxy at a PCC election;

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

“postal voters list” means a list kept under paragraph 4<sup>(2)</sup> of Schedule 2;

“presiding officer” is to be read in accordance with rule 27 of the PCC elections rules;

“proxy postal voters list” means a list kept under paragraph 7<sup>(7)</sup> of Schedule 2;

“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<sup>(12)</sup>;

“register of electors” means the register of local government electors<sup>(13)</sup>;

“registered party” means a party registered under Part 2 of the 2000 Act;

“registration officer” means an electoral registration officer;

“relevant citizen of the Union” means a citizen of the Union who is not a qualifying Commonwealth citizen or a citizen of the Republic of Ireland and “citizen of the Union” is to be construed in accordance with article 9 of the Treaty on European Union<sup>(14)</sup>;

“relevant registration officer”, in relation to voting area, means the registration officer of the local authority in whose area that voting area is situated;

“voter” means a voter voting in the PCC election and includes a person voting as proxy and “vote” (whether noun or verb) is to be construed accordingly; and a reference to an elector voting or an elector’s vote includes a reference to an elector voting by proxy or an elector’s vote given by proxy;

“voting area” has the meaning given by paragraph (2).

(2) Each of the following, as it exists on the day of a PCC election, is a “voting area” for the purposes of this Order—

- (a) a district for which there is a district Council,
- (b) a county in England in which there are no districts with councils,
- (c) the Isles of Scilly,
- (d) a county or county borough in Wales.

(3) For the purposes of this Order a person is deemed not to have attained a given age until the commencement of the relevant anniversary of the day of the person’s birth.

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<sup>(10)</sup> 1978 c.30.

<sup>(11)</sup> 1996 c.16.

<sup>(12)</sup> Paragraph 8A was inserted by section 10(2) of, and paragraphs 2 and 15 of Schedule 1 to the Electoral Administration Act 2006 (c.22).

<sup>(13)</sup> There is a definition of “local government elector” in section 76 of the Police Reform and Social Responsibility Act 2011 (c.13).

<sup>(14)</sup> 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).

### **Meaning of “candidate”**

**3.—**(1) References to a candidate in this Order are to be construed in accordance with this article (except where the context otherwise requires).

(2) A person becomes a candidate at a PCC election—

- (a) on the last day for publication of notice of the election if on or before that day the person is declared by himself or herself or by others to be a candidate at the election, and
- (b) otherwise, on the day on which the person is so declared by himself or herself or by others or on which the person is nominated as a candidate at the election (whichever is the earlier).