POLICY NOTE

THE REPRESENTATION OF THE PEOPLE (ANNUAL CANVASS) (MISCELLANEOUS AMENDMENTS) (SCOTLAND) REGULATIONS 2020

SSI 2020/XXX

The above Regulations were made in exercise of the powers sections 9D(3) and (4), sections 53(1) and (3) and paragraphs 1(2), 1A, 1B, 3ZA, 3C, 10(1) and 13(1ZB) of schedule 2 of, the Representation of the People Act 1983 ("the 1983 Act") and section 15 of the Scottish Elections (Reduction of Voting Age) Act 2015 and all other powers enabling them to do so.

Purpose of the instrument
These regulations modernise the Annual Canvass system, giving electoral administrators greater discretion to target their resources at properties where additions or deletions to the register are more likely to be required.

Policy Objectives

An annual canvass of electors is undertaken each year by Electoral Registration Officers (EROs) across Great Britain. The current canvass gathers information on potential additions and changes to, and deletions from, the register.

The current one-size-fits-all approach takes little account of differences within and between registration areas. It is heavily paper based, expensive, complex to administer and stifles innovation

These reforms aim to allow EROs to better focus their resources on households more likely to have experienced changes in composition, i.e. where additions to, or deletions from, the register are required. They will establish a mandatory national data matching step and set out new 'matched' and 'unmatched' property processing routes, one of which EROs must follow based on the results of the data matching step.

The proposed changes should make the process simpler and clearer for citizens; give EROs greater discretion to run a tailored canvass which better suits their local area; reduce the administrative burden on EROs; reduce the financial burden on taxpayers; and help safeguard the completeness, accuracy and security of the registers.

The new canvass will incorporate a 'data step' at the outset of the process. This will inform the ERO, based on the data available to them, which properties are likely to have an unchanged household composition, based on matching their data on registered electors against national government data, such as the Department for Work and Pensions' Customer Information System, and, where relevant, locally held data sources, such as council tax records..

Where the data the ERO holds on registered electors matches data in another reliable and accurate dataset, the ERO can have some confidence that the details they hold on their register remain accurate. The ERO will then follow one of two routes for each property.

Route 1, the matched properties route, will be used for properties where the data indicates no change in household composition.

Route 2, the unmatched properties route, will be used for properties where data matching has highlighted that there may be a change to the information the ERO currently holds for the property.

This will allow the canvass process to be streamlined for those households that have not changed since the previous year. It will enable the ERO to target their resources to where responses and updates to the electoral register are believed to be required. The draft legislation states that electors in both Route 1 and Route 2 properties will be contacted during the canvass to give them the opportunity to inform the ERO of any changes as needed.

A third route, Route 3 - the defined properties route, will be available for property types which do not fit clearly within Routes 1 and 2. The characteristics of these property types mean that the ERO can more effectively and efficiently obtain information on residents using an alternative approach, where they are able to identify a 'responsible person' to provide the information in respect of all residents. Examples of these property types are care homes and student halls of residence. Should the ERO be unable to successfully obtain information about the property from a 'responsible person' they will need to canvass these property types using the Route 2 process. Properties eligible for Route 3 will be identified at the start of the canvass process, but will not be exempted from the data match step.

For a full description of the data matching step and the proposed matched and unmatched property routes, please see the Scottish, UK and Welsh Governments joint Statement of Policy on the reform of the Annual Canvass - https://www.gov.uk/government/consultations/proposals-for-the-reform-of-the-annual-canvass

Effect of Regulations

The Representation of the People (Annual Canvass) (Amendment) Regulations 2019 (the 2019 Regulations) amend the provisions in the Representation of the People (Scotland) Regulations 2001 (2001 Regulations) in respect of the UK parliamentary register of electors.

Regulations 3 to 14 amend the 2001 Regulations to apply those changes in respect of local government register of electors.

Regulation 3 amends the definition of "digital service" in regulation 3(1) (interpretation) of the 2001 Regulations. The 2019 Regulations amended the definition to include the purpose of data matching alongside the existing purposes of processing online applications under sections 10ZC and 10ZD of the 1983 Act and of verifying information under regulation 29ZA of the 2001 Regulations. Regulation 3 extends the application of the definition to a register of local government electors in Scotland.

Regulation 4 revokes regulation 26(3)(eb)(applications for registration) in the 2001 Regulations in order to remove the requirement for what is referred to as the "single occupancy tick box" in relation to a local government register in Scotland. This was introduced in 2016 as part of a set of cost reduction measures ahead of wider canvass reform. Where an elector has indicated that they are the sole occupant of the property, and where no other available information suggests otherwise, the ERO can choose to exempt the property from the next canvass (or the current canvass, if one is already underway). The original thinking was that this would reduce canvass costs as it would allow ERO's to exclude a proportion of properties from the canvass cycle. However, in practice many electors were confused by the tick box which was understood to have resulted in incorrect reporting so that ERO's were unwilling to rely on the tick box information and continue to send the Household Enquiry Form.

Regulations 5 and 6 revoke regulations 32ZA (annual canvass: register of local government electors in Scotland) and 32ZB (steps to be taken by a registration officer where no information in relation to a response to an annual canvass form is received in respect of a particular address) in the 2001 Regulations which make provision in relation to the current annual canvass. The revocation of these provisions is consequential on the application of the new canvass process to a register of local government electors in Scotland.

Regulations 7 to 14 of these Regulations amends Regulations 32ZBA to 32ZBG in the 2001 Regulations so that they will apply, with some variations, to a register of local government electors in Scotland. The text below describes the process as it applies in relation to a register of local government electors in Scotland.

32ZBA ***Annual Canvass***
Sets out the steps of the new canvass. Firstly EROs must complete the data match which is prescribed and then follow the appropriate route for the property.

Paragraph (6) prevents an ERO from using the matched property route if the ERO has information indicating that only persons under the age of 18 are resident in the property.

Paragraph (7) defines the information EROs are required to take into account in determining whether to use the matched property route instead of the unmatched property route. These are the data match results and data the ERO holds on pending electors and recent electors. These are detailed fully in 32ZBD.

Paragraph (8) makes provision for EROs to take into account any other (usually locally-obtained) data which they have access to when informing their choice of process.

32ZBB ***Annual Canvass Data Matching***
As explained above, the new annual canvass will incorporate a mandatory 'data match' at the outset which will allow EROs to match the names and addresses of their registered electors against other data sources. The data match involves data matching entries on the electoral register with a national data set held at the Department of Work and Pensions data warehouse.

The ERO is required to send the prescribed information they hold on electors on the register of UK parliamentary electors and the register of local government electors in Scotland to the

Individual Electoral Registration digital service ("IER DS") which is a Cabinet Office service. This information is then sent to DWP Data and Analytics for matching against a routinely extracted data set in its data warehouse. The results are then sent back to the IER DS, which in turn discloses the results to the ERO.

Certain properties and electors are exempt from the data match step. These include recently successfully determined electors (for a period of up to 90 days after determination) special category electors, such as overseas voters and anonymous registrations.

Determined electors are those whose application to register to vote has been successfully determined by the ERO, but will not be added to the register until the next monthly alteration is published. Since they will not appear on the register at the point of that data match, the EROs will not submit their details for matching. In practice, the ERO will have discretion to set their own time period within which recently successfully determined electors are excluded. They will be able to set the time period from zero up to 90 days.

32ZBC ***Processing of information in connection with annual canvass data matching***
Paragraph (1) makes clear that the results of the data match may only be used for registration purposes or if requested for legal proceedings and paragraph (2) details a new criminal offence for misuse of data shared under the new data matching step. This offence is similar to the one already in place in respect of misuse of data transferred during the data verification step for registration (regulation 29ZB(6) of the 2001 Regulations).

Paragraph (3) sets out that the Minister for the Cabinet Office may impose requirements on any ERO or person who discloses information to the Cabinet Office as part of the data match step. These requirements may cover the processing of data, including the transfer, storage and security of that information. Paragraph (5) sets out that where the Minister for the Cabinet Office imposes requirements on the processing of information for the national data match step, this must have been done before the data match step is due to commence.

32ZBD ***Annual Canvass for properties where it may be necessary to make any addition to, or deletion from, an electoral register and steps to be taken where no response is received***

32ZBD sets out the unmatched property route. This is for properties where results of the data match indicate that the household composition is likely to have changed since the previous canvass was conducted. It requires the ERO to make at least 3 contacts with the property in order to gain a response from the residents to update their details. If they obtain the information at any stage in the cycle they are able to stop contacting the property.

A 3 step chasing cycle is similar to the current canvass. However, there are a number of different ways EROs can make contact with the property, including the use of the paper letter, paper canvass form, e-communications, telephone calls and visits to the property. The paper canvass form will be similar to the current Household Enquiry Form. EROs are not permitted to close the chasing cycle if this form hasn't been sent and they have not yet obtained the information required.

Guidance on the various options available to EROs as part of the unmatched properties route will be provided by the Electoral Commission in their *Guidance for Electoral Administrators*. This will cover the option to use electronic communications such as emails and text messages

to try to increase response rates and close the cycle using less expensive and more innovative methods than the canvas form.

32ZBE Annual canvass for properties where the registration officer is satisfied that it is not necessary to make any deletion from an electoral register and has no reason to believe that any additions to an electoral register may be required

This route is for properties where the registered electors have matched against other data, which indicates the household composition is likely to have remained the same since the previous years' canvass was conducted.

EROs are able to send an e-communication (such as email or text message) to those electors registered at the property to confirm who is living at the property.

The e-communication requires a response as it is to an individual elector rather than the property.

If no response is received or no e-communication is sent (for example because the ERO does not have the relevant contact details) then the ERO is required to send a paper Canvass Communication A to the property. It will contain all the current elector details held by the ERO at that address. If there are no changes to report at an address, no response is required the resident is not required to respond.

32ZBF ***Annual canvass for certain properties***
Some types of residential address are less suited to traditional canvassing methods as described in the policy section of the Regulatory Impact Assessment and so 32ZBF sets out this alternative process for certain properties. Properties eligible for this process will be identified at the start of the canvass process.

It makes provision for this separate process – making clear that the ERO is only able to follow this process where they have been able to identify a responsible person at a property that falls within the defined list of relevant properties.

It also provides that if the ERO is unable to gather the required information within a reasonable time period, they must then revert to the unmatched property route for the relevant property.

32ZBG ***Electoral Commission requirements***
The Electoral Commission has a duty to design new communications in respect of the Annual Canvass for mandatory use by EROs.

Subparagraph (1) (a) lists the two communications and the form:
(i) canvass communication A. This will be a paper communication for use during the matched canvass. It will only require a response if the recipient has changes to report in respect of the household.
(ii) canvass form (which must be accompanied by a pre-paid, pre-addressed envelope) will be used for the unmatched property route.

(iii) canvass communication B. This will be a paper communication alternative to the canvass form for use during the unmatched property route.

The Electoral Commission will, as now, provide these forms to registration officers who will be obligedto use the standardised versions. As is currently the case with the prescribed canvass form, these prescribed communications will be signed off by the Minister for the Cabinet Office. The Minister for the Cabinet Office will be required to consult Scottish Ministers on the forms to be used in Scotland.

Regulation 15 and 16 make a consequential change to the Scottish Elections (Reduction of Voting Age) Act 2014 following the reform of the annual canvass.

Consultation

On 5 October 2018, the Scottish, UK and Welsh Governments jointly published a 'Consultation on Reform of the Annual Canvass', which closed on 30 November 2018.

In all, 83 responses were received from Electoral Registration Officers (EROs), interested individuals and key stakeholders, including the Scottish Assessors Association (SAA) and the Association of Electoral Administrators (AEA).

To comply with section 7(1) and (2)(e) of the Political Parties, Elections and Referendums Act 2000, the Scottish, UK and Welsh Governments have also consulted with the Electoral Commission (EC) and Information Commissioner's Office (ICO) on these proposals.

The consultation responses were overwhelmingly positive, reflecting the high level of stakeholder engagement undertaken during the development of the initial policy proposals.

Drawing on the experiences of the canvass reform pilots in 2016 and 2017, over the summer of 2018 a series of workshops were held across Scotland, England and Wales to introduce EROs and their staff to the new proposals and seeking their views on the options available. As a result of these discussions, the draft policy had already been 'user tested' prior to consultation.

A full list of those consulted and who agreed to the release of this information is attached to the consultation report published on the Scottish Government website: https://consult.gov.scot/elections/reform-of-the-annual-canvass/

Impact Assessments

An Equality Impact Assessment (EQIA) and a draft Data Protection Impact Assessment have been completed and are attached.

Financial Effects

A Business and Regulatory Impact Assessment (BRIA) has been completed and is attached. These regulations are not expected to financially impact on the private or voluntary sectors, however some savings are expected for the public sector as a result of these reforms.

Scottish Government

Directorate for Constitution and Cabinet
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