Draft Regulations laid before the Scottish Parliament under section 61 of the Local Electoral Administration and Registration Services (Scotland) Act 2006, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2007 No.

REPRESENTATION OF THE PEOPLE

The Representation of the People (Post-Local Government Elections Supply and Inspection of Documents) (Scotland) Regulations 2007

Made - - - -	*2007*
Coming into force - -	*2nd May 2007*

The Scottish Ministers, in exercise of the powers conferred by section 5(2), (4), (5) and (8) and section 61 of the Local Electoral Administration and Registration Services (Scotland) Act 2006(**a**), and of all other powers enabling them in that behalf, hereby make the following Regulations, a draft of which has, in accordance with section 61 of that Act, been laid before, and approved by resolution of the Scottish Parliament:

Citation and commencement

1.—(1) These Regulations may be cited as the Representation of the People (Post-Local Government Elections Supply and Inspection of Documents) (Scotland) Regulations 2007.

(2) These Regulations shall come into force on 2nd May 2007.

Interpretation

2.—(1) In these Regulations–

"the 2000 Act" means the Representation of the People Act 2000(**b**);

"the 2001 Regulations" means the Representation of the People (Scotland) Regulations 2001(**c**);

"the Absent Voting Regulations" means the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Regulations 2007(**d**); and

"the Postal Voting Regulations" means the Representation of the People (Postal Voting for Local Government Elections) (Scotland) Regulations 2007(**e**).

(**a**) 2006 asp 14.
(**b**) 2000 c.2.
(**c**) S.I. 2001/497.
(**d**) S.S.I. 2007 .
(**e**) S.S.I. 2007/ .

(2) Any reference in these Regulations to a rule is to a rule contained in Schedule 1 to the Scottish Local Government Elections Order 2007(**a**) and any reference to "the Rules" is to be construed as a reference to that Schedule.

(3) In these Regulations references to the "marked register or lists" means any part of the marked copies of–

(a) the full register;

(b) the postal voters list;

(c) the list of proxies; and

(d) the proxy postal voters list,

forwarded to the proper officer of the Council under regulation 31 (Forwarding of documents) of the Postal Voting Regulations or rule 57(b) and (c) (Delivery of documents) of the Rules.

(4) For the purposes of these Regulations any period of days shall be calculated in accordance with regulation 11 (Closing date for applications) of the Absent Voting Regulations.

(5) The following sub-paragraphs (a) to (f) shall be taken to apply to the supply and processing of information supplied under these Regulations as they apply to the supply and processing of the full register under Part VI of the 2001 Regulations–

(a) "enactment" has the same meaning as in section 17(2) of the 2000 Act;

(b) "processor" has the meaning set out in Regulation 114 of the 2001 Regulations;

(c) "relevant conditions" has the same meaning as in section 33(1) of the Data Protection Act 1998(**b**);

(d) "research purposes" shall be construed in accordance with section 33(1) of the Data Protection Act 1998;

(e) any reference to an employee of any person who has access to a copy of the full register shall be deemed to include any person working or providing services for the purposes of that person or employed by or on behalf of, or working for, any person who is so working or who is supplying such a service; and

(f) a processor may not disclose the full register or the information contained in it except to the person who supplied it to the processor or any other person, or an employee of such a person, who is entitled to obtain a copy of the full register under the 2001 Regulations.

(6) Subject to any direction by the Scottish Ministers under section 52(1) of the Representation of the People Act 1983(**c**), any duty on a proper officer of the Council to supply the marked register or lists or make them available for inspection under these Regulations does not impose a duty to supply that information or make it available otherwise than in the form in which it is held.

Supply of marked registers and lists after an election

3.—(1) Any person entitled to be supplied in accordance with regulations–

(a) 99 (Supply of free copy of full register etc. to Electoral Commission and restrictions on use);

(b) 102 (Supply of full register etc. to elected representatives for elector purposes and restrictions on use);

(c) 104 (Supply of full register etc. to local constituency parties and restrictions on use);

(d) 105 (Supply of full register etc. to registered political parties etc. and restrictions on use);

(e) 107 (Supply of full register etc. to certain candidates and restrictions on use);

(**a**) S.S.I. 2007/ .
(**b**) 1998 c.29.
(**c**) 1983 c.2.

(f) 108 (Supply of full register etc. to police forces and other agencies, and restrictions on use); or

(g) 112 (Sale of full register to government departments and other bodies),

of the 2001 Regulations(**a**), with copies of the full register at the time of a local government election, is also a person entitled, subject to this regulation and to regulation 5 below, to request that a proper officer of the Council supply copies of the relevant part (within the meaning of those Regulations) of the marked register or lists that the proper officer is required to keep.

(2) A person whose entitlement to request copies of the marked register or lists under paragraph (1) arises from being in a category of persons covered by regulations 102, 104, 105 or 107 of the 2001 Regulations before a particular election, shall be entitled to request those documents regardless of whether that person remains in an entitled category after that election for which the marked register or list was prepared.

(3) A request under paragraph (1) shall be made in writing and shall–

(a) specify whether the request is for the marked register or lists (or the relevant part of the register or lists);

(b) state whether a printed copy of the marked register or lists is requested or a copy in data form; and

(c) state the purposes for which the marked register or lists will be used and why the supply or purchase of a copy of the full register or unmarked lists would not be sufficient to achieve that purpose.

(4) The proper officer of the Council shall supply a copy of the relevant part of the marked register or lists where a request is made under paragraph (1), if–

(a) the officer is satisfied that the requestor needs to see the marks on the marked register or lists in order to achieve the purpose for which it is requested; and

(b) payment has been made of a fee calculated in accordance with regulation 6.

(5) If the proper officer of the Council is not satisfied in accordance with paragraph (4)(a) the officer may treat the request for a marked register or list as a request for information in unmarked lists under regulation 16 (Records and lists kept under Schedule 4) of the Absent Voting Regulations or for the published copy of the full register in accordance with regulation 101 (Supply of full register etc. under regulations 102 to 108: general provisions)(**b**) of the 2001 Regulations, or both.

(6) A person who obtains a copy of any part of a marked register or list under this regulation other than a person to whom regulation 108 (Supply of full register etc. to police forces and other agencies, and restrictions on use) of the 2001 Regulations applies, may use it only for the permitted purposes specified in paragraph (2) of regulation 5, and any conditions–

(a) specified in that paragraph; or

(b) which would apply to the use of the full register under whichever of regulations 99 (Supply of free copy of full register etc. to Electoral Commission and restrictions on use), 102 (Supply of full register etc. to elected representatives for elector purposes and restrictions on use), 104 (Supply of full register etc. to local constituency parties and restrictions on use), 105 (Supply of full register etc. to registered political parties etc. and restrictions on use), 107 (Supply of full register etc. to certain candidates and restrictions on use) or 112 (Sale of full register to government departments and other bodies), of the 2001 Regulations entitled that person to obtain that document,

shall apply to such use.

(7) A person to whom regulation 108 (Supply of the full register etc. to police forces and other agencies, and restrictions on use) of the 2001 Regulations applies, and who obtains a copy of any part of a marked register, or list under this regulation, may use it only for the permitted purposes

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(**a**) These Regulations were added by S.I. 2002/1987. Regulations 99, 104 and 112 were amended by S.I. 2006/834 and Regulation 99 is further amended by S.I. 2007/ .

(**b**) Regulation 101 was inserted by S.I. 2002/1872.

specified in regulation 108(4) and the restrictions on the supply, disclosure and use of the information in regulations 94 and 95(**a**) of the 2001 Regulations shall apply to that copy as they apply to the full register.

(8) The conditions referred to in paragraphs (6) and (7) apply to a person to whom the marked register or lists, or any information contained in either of them (that is not contained in the edited register) has been supplied or disclosed as they apply to the person, mentioned in those paragraphs, who obtained the information.

(9) Any person who has obtained or is entitled to obtain a copy of the marked register or lists under this regulation may–

(a) supply a copy of the marked register or lists to a processor for the purpose of processing the information contained therein, or

(b) procure that a processor processes and supplies to them any copy of the information in the marked register or lists which the processor has obtained under this regulation,

for use in respect of the purposes for which that person is entitled to obtain such copy or information (as the case may be).

Inspection of documents open to public inspection

4.—(1) Where any person wishes to inspect any documents in accordance with section 5(2)(a) of the Local Electoral Administration and Registration Services (Scotland) Act 2006, that person shall submit a request to the proper officer of the Council in accordance with paragraph (2).

(2) A request under paragraph (1) shall be made in writing and shall specify–

(a) which documents are requested;

(b) the purpose for which the information in any document will be used;

(c) where the request is to inspect the marked register or lists, any reason why inspecting the full register or unmarked lists would not be sufficient to achieve that purpose;

(d) who will inspect the documents;

(e) the date on which they wish to inspect the documents; and

(f) whether they would prefer to inspect the documents in a printed or data form.

(3) Subject to paragraph (4), the proper officer of the Council shall make the documents requested available for inspection under supervision not later than 10 days after the date of receipt of a request made under paragraph (1).

(4) A person who obtains a copy of, or information in, any document open to public inspection under this regulation may use it only for the permitted purposes specified in regulation 5, and any conditions–

(a) specified in that regulation;

(b) specified in paragraph (7); or

(c) which would apply to the use of the full register under regulation 108 (Supply of full register etc. to police forces and other agencies, and restrictions on use) of the 2001 Regulations where such a person has obtained a copy of that document under paragraph (8),

shall apply to such use.

(5) Where inspection takes place by displaying the records or lists on a computer screen or otherwise in data form, the proper officer of the Council shall ensure that the manner in, and equipment on, which that copy is provided do not permit any person consulting that copy to–

(a) search it by electronic means by reference to the name of any person; or

(b) copy or transmit any part of that copy by electronic means.

(**a**) Regulations 94 and 95 were inserted by S.I. 2002/1872. Regulation 95 was amended by S.I. 2006/834.

(6) Subject to paragraph (8) a person who inspects a copy of a document open to public inspection, whether a printed copy or in data form, may not–

(i) make copies of any part of it; or

(ii) record any particulars in it,

except that a person who inspects a copy of the marked register or lists may make hand written notes.

(7) The proper officer of the Council shall on request, supply free of charge copies of any documents open to public inspection, to a person who has inspected those documents and who is entitled to be supplied with a copy of the marked register or lists by virtue of being a person or organisation to which regulation 108 (Supply of full register etc. to police forces and other agencies, and restrictions on use) of the 2001 Regulations applies.

Conditions on the use, supply and disclosure of documents open to public inspection

5.—(1) Subject to paragraphs (2) and (3) the restrictions on the supply, disclosure and use of information in regulations 94 (Restrictions on supply of full register and disclosure of information from it by the registration officer and his staff) and 95 (Restriction on use of the full register, or of information contained in it, supplied in accordance with enactments or obtained otherwise) of the 2001 Regulations shall apply to the documents open to public inspection as they apply to the full register.

(2) Where a person–

(a) obtains copies of the information in the marked register or lists in accordance with regulation 3(1) above; or

(b) a person inspects information in accordance with regulation 4(1) above,

the permitted purpose shall mean either–

(i) research purposes within the meaning of that term in section 33 of the Data Protection Act 1998; or

(ii) electoral purposes.

(3) Where a copy of any information was supplied in the circumstances to which regulation 4(8) applies, the permitted purpose means the purposes set out in regulation 108(4) of the 2001 Regulations.

Fees relating to the supply of marked registers and lists

6. The fee that shall be paid to the proper officer of the Council under regulation 3(4)(b) by a person prior to their being supplied with copies of the marked register or lists (or any relevant part those documents) shall be calculated in accordance with regulation 110(5) (Sale of full register etc: restrictions on supply, charges, etc)(**a**) of the 2001 Regulations.

A member of the Scottish Executive

St Andrew's House,
Edinburgh
2007

(**a**) Regulation 110 was inserted by S.I. 2002/1872 and amended by S.I. 2006/834.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision requiring the proper officer of the Council to supply or disclose information in certain documents that have been used or marked at a local government election and places conditions on the use of information contained in those documents. Breach of those conditions is an offence under section 6 of the Local Electoral Administration and Registration Services Act 2006.

Regulation 3 sets out the procedures to be followed in relation to requests from and the supply of marked registers and lists defined at regulation 2(2) to any person entitled to be supplied with copies of the full electoral register at local government elections in accordance with the Representation of the People (Scotland) Regulations 2001 ("the 2001 regulations").

Regulation 4 sets out the procedures to be followed in relation to requests from members of the public to inspect those election documents that are open to public inspection.

Regulation 5 provides for the conditions that are to be placed on the supply and disclosure of documents which have been provided under regulations 3 and 4.

Regulation 6 applies a formula to be used to calculate the fees to be charged for the supply of documents under regulation 3. This formula is the same as that set out in the 2001 Regulations used for the sale of the full register.

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