Draft Regulations laid before Parliament under section 201(2) of the Representation of the People Act 1983, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2010 No. (S.)

REPRESENTATION OF THE PEOPLE, SCOTLAND

The Representation of the People (Scotland) (Amendment) Regulations 2010

Made - - - - 2010

Coming into force in accordance with regulation 1(1)

These Regulations are made in exercise of the powers conferred by section 201(3) of, and rules 55(1)(f) and 57 in Schedule 1 to, the Representation of the People Act 1983(**a**) and by section 15(5) of the Representation of the People Act 1985(**b**).

The Secretary of State has consulted the Electoral Commission in accordance with section 7(1) and (2)(e) of the Political Parties, Elections and Referendums Act 2000.

In accordance with section 201(2) of the Representation of the People Act 1983(**c**), a draft of this instrument has been laid before and approved by resolution of each House of Parliament.

Accordingly, the Secretary of State makes the following Regulations:

Citation, commencement, savings, interpretation and extent

1.—(1) These Regulations may be cited as the Representation of the People (Scotland) (Amendment) Regulations 2010 and shall come into force two days after the day on which they are made.

(2) These Regulations shall not have effect in relation to any election for which the date of the poll specified in the notice of election issued in relation to that election is before the date on which these Regulations come into force.

(3) These Regulations shall extend to Scotland only.

(**a**) 1983 c. 2; section 201(3) was added by the Representation of the People Act 2000 (c.2), Schedule 1, paragraphs 1 and 21 and amended by the Political Parties, Elections and Referendums Act 2000 (c.41), Schedule 21, paragraph 6; rule 55(1)(f) was added by the Electoral Administration Act 2006 (c.22) ("the 2006 Act"), section 45(3)(b); rule 57 was amended by the 2006 Act, sections 31(8), 41(5) and 70(2). "Prescribed" is defined in section 202(1) of the Representation of the People Act 1983.

(**b**) 1985 c.50.

(**c**) Section 201(2) was substituted by the Representation of the People Act 1985 (c. 50), Schedule 4, paragraph 69 and amended by S.I. 2001/222, article 5(b) and the Political Parties, Elections and Referendums Act 2000, Schedule 21, paragraph 6.

Amendment of the Representation of the People (Scotland) Regulations 2001

2. The Representation of the People (Scotland) Regulations 2001(**a**) are amended in accordance with regulations 3 to 6.

3.—(1) For the heading to regulation 91, substitute "Retention of documents".

(2) Regulation 91 (forwarding of documents) is amended as follows.

(3) In paragraph (1), for "forward to the sheriff clerk at the same time as he forwards", substitute "retain together with".

(4) In paragraph (2), for "forward it at a subsequent date", substitute "retain it".

(5) In paragraph (4), for "Rules 56 and 57" substitute "Rules 56, 57 and 58(**b**)" and for "forwarded" substitute "retained".

4. In regulation 116(1) (meaning of "marked register or lists"), for "forwarded to the sheriff clerk under regulation 91 or rule 55(1)(e)" substitute "retained by the returning officer under regulation 91 or rule 58".

5. In regulation 116(4) (form in which records or lists must be supplied or made available for inspection), 117(1), (4), and (5) (supply of marked registers and lists after an election) and 118(1) (in both places), (3), (4) and (6) (inspection of documents open to public inspection), for "sheriff clerk" substitute "returning officer".

6. In regulation 118(8), for "relevant registration officer", substitute "returning officer".

Amendment of the Representation of the People (Scotland) Regulations 1986

7. In regulation 98(19) of the Representation of the People (Scotland) Regulations 1986(**c**) (modification of rule 55), for "(delivery of documents to sheriff clerk)" substitute "(retention of documents by returning officer)".

Signed by authority of the Secretary of State

Parliamentary Under Secretary of State
Scotland Office

Xth Xxxx 2010

(**a**) S.I 2001/497; relevant amending enactments are the Counter-Terrorism Act 2008 (c. 28) and S.I 2006/834, 2007/925, 2008/305, 2008/1901.

(**b**) Rule 56 was amended by the 2006 Act, sections 31(7) and 41(4); rule 57 was amended by the 2006 Act, sections 31(8), 41(5) and 70(2); rule 58 was substituted by the 2006 Act, section 41(6) and by the Political Parties and Elections Act 2009 (c.12), section 25.

(**c**) S.I. 1986/1111, to which there are amendments not relevant to these Regulations.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the Representation of the People (Scotland) Regulations 2001 (SI. 2001/497) ("the 2001 Regulations") and to the Representation of the People (Scotland) Regulations 1986 (S.I. 1986/1111) ("the 1986 Regulations") which are necessary as a result of amendments made to the Representation of the People Act 1983 ("the 1983 Act") by the Political Parties and Elections Act 2009 ("the 2009 Act"). Section 25 of the 2009 Act transfers responsibility for retaining certain United Kingdom Parliamentary election documents, making them available for public inspection and disposing of them, from sheriff clerks to the parliamentary returning officers.

Regulation 1(2) provides for the amendments made by these Regulations not to apply in relation to elections where the date of the poll is before the date these Regulations come into force (two days after the day on which they are made). Documents relating to such elections will continue to be forwarded to and held by sheriff clerks until destroyed under rule 57 of the Parliamentary Elections Rules in Schedule 1 to the 1983 Act.

Regulations 3 to 6 make changes to the 2001 Regulations and regulation 7 makes a change to the 1986 Regulations. These changes reflect the transfer of functions in relation to retention, public inspection and disposal of election documents from sheriff clerks to the parliamentary returning officers.

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