EXECUTIVE NOTE

The Absent Voting at Scottish Local Government Elections (Provision of Personal Identifiers) Regulations 2009 (S.S.I. 2009/35)

The Representation of the People (Postal Voting for Local Government Elections) (Scotland) Amendment Regulations 2009 (S.S.I. 2009/Draft)

The Scottish Local Government Elections Amendment Order 2009 (S.S.I. 2009/36)

The Absent Voting at Scottish Local Government Elections (Provision of Personal Identifiers) Regulations are made in exercise of the powers conferred by sections 21(7), 22(3), 23(2)(c), 24(1), 33 and 61(2) of the Local Electoral Administration and Registration Services (Scotland) Act 2006. The instrument is subject to negative resolution procedure.

The Representation of the People (Postal Voting for Local Government Elections) (Scotland) Amendment Regulations 2009 are made in exercise of the powers conferred by section 53(1)(c) and (3) of, and paragraphs 5A and 12 to schedule 2 to, the Representation of the People Act 1983. The instrument is subject to affirmative resolution procedure.

The Scottish Local Government Elections Amendment Order 2009 is made in exercise of the powers conferred by sections 3(1) and 16(2) of the Local Governance (Scotland) Act 2004. The instrument is subject to negative resolution procedure.

Policy Objectives

The Local Electoral Administration and Registration Services (Scotland) Act 2006 contained provisions that require absent voters to provide personal identifiers to Electoral Registration Officers. The Act provides for persons voting by post or proxy to provide their signature and date of birth on their application form and on the postal voting statement that accompanies the ballot paper.

The aim of these measures is to improve the security of postal voting, and protect against the risk of electoral fraud. They are also intended to provide greater evidence for a relevant police authority investigating any allegations or possible incidences of electoral fraud.

The regulations detail the process by which personal identifiers are to be collected, and how they will be checked to confirm the validity of returned postal votes. The Regulations set out the requirement for providing a signature and date of birth on an absent vote application form. They provide for the minimum dimensions of the box for providing signatures and the format in which the dates of birth should be provided (dd/mm/yyyy). They also provide for applications from electors who wish to be exempt from providing personal identifiers due to disability or reading and writing difficulties.

The Regulations provide Electoral Registration Officers, when dealing with absent voting applications, with a power to check certain signatures or dates of birth previously provided by the applicant to the local authority. They also require that Electoral Registration Officers

maintain a separate record of absent voter's personal identifiers, and obtain fresh signatures from absent voters every 5 years to ensure signatures are up to date and take account of any changes to a person's signature.

The Regulations also set out how the personal identifiers will be used to check the validity of returned postal votes. They set the minimum mandatory level of checking of identifiers and provide that at an election, on each occasion the postal voter's ballot box is opened, not less than 20% of covering envelopes will be set aside by the Returning Officer for checking. All returned postal voting statements must have a date of birth and signature to be deemed duly completed and valid, unless the signature requirement has been waived. Furthermore, for those statements set aside for checking, the Returning Officer must compare the signature and date of birth on the postal voting statement with those provided by the voter and contained on the personal identifier record. If the signature and/or date of birth do not match, the statement will be invalid and the vote will be rejected. Where a Returning Officer deems that a postal voting statement is invalid he or she shall mark it "rejected".

Consultation

Consultation took place with key electoral stakeholders, including the Society of Local Government Chief Executives (SOLACE), the Society of Local Authority Lawyers & Administrators (SOLAR), the Association of Electoral Administrators (AEA), the Scottish Assessors Association (SAA) and the Electoral Commission, during the preparation of these instruments.

Regulatory Impact Assessment

A Regulatory Impact Assessment has not been carried out for these regulations as they have no impact on Scottish businesses.

Financial Effects

No new associated costs are expected to arise as a result of these regulations. The regulations allow personal identifiers that have previously been collected by Electoral Registration Officers to be used for local government elections. As a result, no significant separate collection exercise is required to collect identifiers. Personal Identifiers will be checked using systems that have previously been put in place for use at other statutory UK elections.

Elections Team

Scottish Government

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