EXECUTIVE NOTE

THE SCOTTISH LOCAL GOVERNMENT ELECTIONS ORDER 2011

SSI 2011/399

The above instrument, if approved, will be made by Scottish Ministers in exercise of the powers conferred by sections 3, 3A and 16 of the Local Governance (Scotland) Act 2004 and all other powers enabling them to do so. The instrument is subject to affirmative resolution procedure.

Policy Objectives

The purpose of the instrument is to replace the Scottish Local Government Election Order 2007 (S.S.I. 2007/42 as amended) which provides rules governing the conduct of elections of members of Scottish local authorities.

Schedule 1 to the Order sets out the rules which will apply for the purpose of the conduct of local government elections. These rules contain some differences from the rules in the 2007 Order, in many cases to follow amendments made to the parliamentary elections rules, and others which are designed to ensure consistency with further developments in electoral administration for other elections in Scotland (e.g. the introduction of the Local Electoral Administration (Scotland) Act 2011).

In particular, the provisions of rule 1 (timetable) now provide that nomination papers must be delivered by not later than the 23rd day before the poll, rather than the 16th day. Rule 4 (nomination of candidates) allows for use of commonly used names by candidates standing for election (e.g. “Bob” rather than “Robert”). There are changes to rule 19 (supply of free copy of register, lists and notices), rule 22 (provision of polling stations), rule 24 (issue of official poll cards and notifications) and rule 26 (appointment of polling and counting agents). Rule 27 (requirement of secrecy) now includes a prohibition on publication of exit polls, in line with other elections throughout the UK.

Rule 33 (voting procedure) clarifies that where a person is waiting to cast his or her vote at a polling station at the close of the poll then he or she must be permitted to vote even if they have not physically put the ballot paper in the box by 10.00 pm. This seeks to address the confusion caused when queues of voters were unable to cast their vote in the 2010 Westminster elections, and the criticism that resulted.

Changes have also been made to the rules for the counting of votes and retention of documents after the election. Rule 42 (counting of votes) now gives the returning officer the discretion to allow non-electronic counting of votes at a by-election and rule 44 (rejected ballot papers) permits void ballot papers to be marked as void electronically by the returning officer. Rule 60 (retention of documents) requires that electronic information be kept by the proper officer of the council for one year after a poll, rather than four years, bringing this into line with the requirement for retention of paper records. Rule 61 (publication of voting information) has been introduced to make some voting information available after a poll where electronic counting is

used. However, rule 61 includes safeguards to ensure that the secrecy of individual votes is protected.

Rule 62 (death of a candidate) has been amended in line with the approach taken at Scottish Parliamentary elections, which allow in some cases a result to be declared where the deceased candidate does not obtain sufficient votes to be elected. However, where a deceased candidate does obtain sufficient votes to be elected, no member will be returned and the poll will be re-arranged.

The forms in Schedule 1 have been revised to take account of changes to electoral procedures. Specifically, the format of the ballot paper (Form 4) has been revised, including the instructions to voters.

Consultation

A public consultation on the Administration of Future Elections in Scotland invited participation from the public, electoral professionals, politicians and academics. Responses to the consultation have informed some of the changes made throughout the Order

The following bodies and stakeholders have been consulted during the preparation of the instrument:

Association of Electoral Administrators
Society of Local Authority Lawyers and Administrators
Electoral Management Board for Scotland
The Electoral Commission (Scotland)

Impact Assessments

A Business Regularity Impact Assessment is deemed not be required in this instance as policy changes will not lead to costs or savings for business, third or public sector organisations, regulators or consumers. There is no additional cost on the public sector as the Scottish Government would continue to meet the costs of associated activity whether or not it was in the legislation and there is no transfer of costs or benefits from one group to another.

The Scottish Government has completed an Equality Impact Assessment as it considers the policy will have an impact on all people entitled to vote at an election.

Financial Effects

Local authorities are responsible for meeting the cost of local government elections from within their overall budget.

As electronic counting will be used at the local government elections in May 2012 the additional core costs of its introduction will be met by the Scottish Government. These core costs cover the provision of hardware (scanners and computer equipment), software programmes, technical support and training.

The instrument has no financial effects on business.

Scottish Government Constitution and International Directorate
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