

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

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2009 No.

REPRESENTATION OF THE PEOPLE

**The Representation of the People (Postal
Voting for Local Government Elections)
(Scotland) Amendment Regulations 2009**

Made - - - - *2009*

Coming into force - - *31st March 2009*

The Scottish Ministers make these Regulations in exercise of the powers conferred by section 53(1) (c) and (3) of, and paragraphs 5A and 12 of Schedule 2 to, the Representation of the People Act 1983(1) and all other powers enabling them to do so.

In accordance with section 201(2) of that Act, a draft of these Regulations has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and transitional provision

1.—(1) These Regulations may be cited as the Representation of the People (Postal Voting for Local Government Elections) (Scotland) Amendment Regulations 2009 and come into force on 31st March 2009.

(2) The Representation of the People (Postal Voting for Local Government Elections) (Scotland) Regulations 2007(2) shall continue to have effect in relation to any local government election for which the date of the poll specified in the notice of election issued in relation to that election is on or before 3rd June 2009 as if the amendments made by these Regulations had not been made.

Amendment of 2007 Regulations

2. The Representation of the People (Postal Voting for Local Government Elections) (Scotland) Regulations 2007 are amended in accordance with the following regulations.

(1) 1983 c. 2. Section 53(3) was amended by paragraph 13(b) of Schedule 4 to the Representation of the People Act 1985 (c. 50). Paragraph 5A of Schedule 2 was inserted by paragraph 8 of Schedule 2 to the 1985 Act and amended by paragraph 11 of Schedule 6 to the Representation of the People Act 2000 (c. 2). Paragraph 12 was amended by paragraph 94 of Schedule 1 to the Electoral Administration Act 2006 (c. 22). The functions of the Secretary of State were, insofar as within devolved competence, transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(2) S.S.I. 2007/263.

Interpretation of “personal identifiers record”

3. In regulation 3(1) (interpretation), after the definition of “lost postal ballot paper”, insert—
- ““personal identifiers record” means the record kept by the registration officer under section 21(6) of the Local Electoral Administration and Registration Services (Scotland) Act 2006(3);”.

Postal ballot boxes and receptacles

4. In regulation 19(5), (receptacles to be provided by returning officers) omit the “and” preceding sub-paragraph (d) and after that sub paragraph insert—
- “(e) rejected votes (verification procedure); and
- (f) postal voting statements (verification procedure).”.

Opening of covering envelopes

- 5.—(1) Regulation 22 (opening of covering envelopes) is amended as follows.
- (2) For paragraph (1), substitute—
- “(1) When a postal voters box is opened, the returning officer must count and record the number of covering envelopes (including any envelope which is stated to include a postal vote and any envelope described in regulation 20(2)).
- (1A) The returning officer must set aside for personal identifier verification not less than 20 per cent of the envelopes recorded on that occasion.
- (1B) The returning officer must open separately each covering envelope that is not set aside (including an envelope described in regulation 20(2)).”.
- (3) In paragraph (2), after “regulation 24” insert “or 24A”.
- (4) After paragraph (4), insert—
- “(4A) Where—
- (a) an envelope contains the postal voting statement of an elector with an anonymous entry; and
- (b) paragraph (4) does not apply,
- the returning officer must set aside that envelope and its contents for personal identifier verification in accordance with regulation 24A.”.
- (5) In paragraph (6), for “(1)” substitute “(1B)”.

Procedure in relation to postal voting statements

- 6.—(1) Regulation 24 (procedure in relation to postal voting statements) is amended as follows.
- (2) For paragraph (1) substitute—
- “(1) This regulation applies to any postal voting statement contained in an envelope that has not been set aside for personal identifier verification in accordance with regulation 22(1A) or (4A).
- (1A) The returning officer must determine whether the postal voting statement is duly completed.”.
- (3) In paragraph (2) for “Where the returning officer is not so satisfied” substitute “Where the returning officer determines that the postal voting statement is not duly completed”.

Procedure in relation to postal voting statements: personal identifier verification

7. After regulation 24, insert–

“Procedure in relation to postal voting statements: personal identifier verification

24A.—(1) This regulation applies to any postal voting statement contained in an envelope that is set aside for personal identifier verification in accordance with regulation 22(1A) or (4A).

(2) The returning officer must open the envelope and determine whether the postal voting statement is duly completed and, as part of that process, must compare the date of birth and the signature on the postal voting statement against the date of birth and the signature contained in the personal identifiers record relating to the person to whom the postal ballot paper was addressed.

(3) Where the returning officer determines that the statement is not duly completed, the returning officer must mark the statement “rejected”, attach it to the ballot paper envelope, or if there is no such envelope, the ballot paper, and, subject to paragraph (4), place it in the receptacle for rejected votes (verification procedure).

(4) Before placing a postal voting statement in the receptacle for rejected votes (verification procedure), the returning officer must show it to the agents and must permit them to view the entries in the personal identifiers record which relate to the person to whom the postal ballot paper was addressed, and if any of them object to the returning officer’s decision, the returning officer must mark the statement “rejection objected to”.

(5) The returning officer must then examine the number on the postal voting statement against the number on the ballot paper envelope and, where they are the same, the returning officer must place the statement and the ballot paper envelope respectively in the receptacle for postal voting statements (verification procedure) and the receptacle for ballot paper envelopes.

(6) Where–

- (a) the number on a valid postal voting statement is not the same as the number on the ballot paper envelope; or
- (b) that envelope has no number on it (or only one number when the postal voting statement has more than one),

the returning officer must open the envelope.

(7) Paragraph (8) applies where–

- (a) there is a valid postal voting statement but no ballot paper envelope; or
- (b) the ballot paper envelope has been opened under regulation 22(3) or paragraph (6).

(8) In the circumstances described in paragraph (7), the returning officer must place–

- (a) in the postal ballot box, any ballot paper the number on which is the same as the number on the valid postal voting statement;
- (b) in the receptacle for rejected votes (verification procedure), any other ballot paper, with the valid postal voting statement attached and marked “provisionally rejected”;
- (c) in the receptacle for rejected votes (verification procedure), any valid postal voting statement marked “provisionally rejected” where–
 - (i) there is no ballot paper, or

- (ii) in the case of a statement on which the number of more than one ballot paper appears, there is not a sufficient number of ballot papers and, in such a case, must mark the statement to indicate which ballot paper is missing;
- (d) in the receptacle for postal voting statements (verification procedure), any valid statement not disposed of under sub-paragraph (b) or (c).

Postal voting statements: additional personal identifier verification

24B.—(1) A returning officer may on any occasion at which a postal voters box is opened in accordance with regulation 21 undertake verification of the personal identifiers on any postal voting statement that has on a prior occasion been placed in the receptacle for postal voting statements.

(2) Where a returning officer undertakes additional verification of personal identifiers, that officer must—

- (a) remove as many postal voting statements from the receptacle for postal voting statements as the officer wishes to subject to additional verification; and
- (b) compare the date of birth and the signature on each such postal voting statement against the date of birth and the signature contained in the personal identifiers record relating to the person to whom the postal ballot paper was addressed.

(3) Where the returning officer is no longer satisfied that the postal voting statement has been duly completed, the officer must mark the statement “rejected” and, before placing the postal voting statement in the receptacle for rejected votes (verification procedure), must—

- (a) show it to the agents and permit them to view the entries in the personal identifiers record which relate to the person to whom the postal ballot paper was addressed, and, if any of them object to the returning officer’s decision, the returning officer must add the words “rejection objected to”;
- (b) open any postal ballot box and retrieve the ballot paper corresponding to the ballot paper number on the postal voting statement;
- (c) show the ballot paper number on the retrieved ballot to the agents; and
- (d) attach the ballot paper to the postal voting statement.

(4) Following the removal of a postal ballot paper from a postal ballot box the returning officer must lock and reseal the postal ballot box in the presence of the agents.

(5) Whilst retrieving a ballot paper in accordance with paragraph (3), the returning officer and the returning officer’s staff—

- (a) must keep the ballot papers face downwards and shall take proper precautions for preventing any person from seeing the votes made on the ballot papers; and
- (b) must not be permitted to view the corresponding number list used at the issue of postal ballot papers.”.

Sealing of receptacles

8. In regulation 29(1) (sealing of receptacles), omit the “and” preceding sub-paragraph (d) and, after that sub-paragraph insert—

- “(e) the receptacle for rejected votes (verification procedure); and
- (f) the receptacle for postal voting statements (verification procedure),”.

Substitution of forms

9. For the form set out in the Schedule, substitute the form set out in the Schedule to these Regulations.

St Andrew's House,
Edinburgh
2009

A member of the Scottish Executive

SCHEDULE

Regulation 9

STATEMENT AS TO POSTAL BALLOT PAPERS
REPRESENTATION OF THE PEOPLE ACTS
SCOTTISH LOCAL GOVERNMENT ELECTION

Local government area

Date of Poll

20

A.	ISSUE AND RECEIPT OF POSTAL BALLOT PAPERS	NUMBER
1.	Number of postal ballot papers issued (including papers issued under regulations 15(3) (spoilt papers) and 16(6) (lost papers))	
2.	Number of postal ballot papers issued under regulations 15(3) and 16(6)	
3.	Number of ballot papers returned as parts of sets of documents under regulations 15(1) and (2) and 16(6) too late for another ballot paper to be issued	
4.	Number of covering envelopes received by the returning officer before the close of poll (excluding any returned as undelivered or returned with spoilt or cancelled ballot papers (regulations 15(3) and 16(6)))	
5.	Number of covering envelopes received by the returning officer after the close of poll, excluding any returned as undelivered	
6.	Number of covering envelopes returned as undelivered up to the date of this statement	
7.	Number of covering envelopes not received by the returning officer by the date of this statement	
B (1).	COUNT OF POSTAL BALLOT PAPERS	
1.	Number of covering envelopes received by the returning officer before the close of poll (excluding any returned as undelivered or returned as lost or spoilt under regulations 15(3) and 16(6))	
2.	Number of cases in which a covering envelope or its contents were marked "rejected"	
3.	Number of ballot papers returned by postal voters which were included in the count of ballot papers.	
B (2).	POSTAL BALLOT PAPERS – PERSONAL IDENTIFIERS	
1.	Number of covering envelopes set aside for the verification of personal identifiers on postal voting statements	
2.	Number of postal voting statements not subject to verification procedure rejected as not completed (excluding prior cancellations)	
3.	Number of postal voting statements subject to verification procedure rejected as not completed (excluding prior cancellations)	

4.	Number of postal voting statements rejected following verification procedures due to the personal identifiers on the postal voting statement not matching those in the personal identifiers record (excluding prior cancellations)	
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Date:.....

Signed:.....

Address:.....

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NOTES

1. The figure entered against A1 should equal the sum of the figures entered against A5-A7.
2. The figure entered against B(1)1 should equal the sum of the figures entered against B(1)2 and B(1)3.
3. This form must be sent to the Scottish Executive during a period of 5 days starting 10 days after the election.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make changes to give effect to sections 21 to 24 of the [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\)](#) which provide for enhanced anti-fraud measures when a person applies (under Schedule 4 to the Representation of the People Act 2000 (c. 2)) to vote by post, by proxy, or by post as a proxy as an absent voter. These Regulations deal with the checking of personal identifiers in relation to the counting of postal votes.

Regulations 4 to 9 do this by amending the Representation of the People (Postal Voting for Local Government Elections) (Scotland) Regulations 2007 (“the 2007 Regulations”). Regulation 1(2) provides that the unamended 2007 Regulations will apply to any local government election held on or before 3rd June 2009.

Regulations 4 and 8 amend regulations 19 and 29 of the 2007 Regulations to make provision for two additional receptacles that are required in consequence of the new procedures as introduced by regulation 7.

Regulation 5 amends regulation 22 of the 2007 Regulations to provide that following receipt of postal ballot papers at least a fifth of the returned postal votes must be set aside for personal identifier checks.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a Scottish Statutory Instrument: *The Representation of the People (Postal Voting for Local Government Elections) (Scotland) Amendment Regulations 2009 No. 128*

Regulation 7 inserts new regulations 24A and 24B into the 2007 Regulations, to specify the procedure for verifying the personal identifiers provided in postal voting statements.

Regulation 9 amends the Schedule to the 2007 Regulations by substituting a new form for the collection of relevant statistics on postal ballot papers. The new form is designed to collect information relating to the verification procedures in connection with personal identifiers.