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STATUTORY INSTRUMENTS

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**2013 No. 3206**

**The Representation of the People (Scotland) (Description of Electoral Registers and Amendment) Regulations 2013**

**Amendments in relation to the annual canvass, invitations to apply for registration, requiring a person to make an application for registration and civil penalties**

22. After regulation 32, insert—

**“Annual canvass**

**32ZA.**—(1) The annual canvass required by section 9D(1) of the 1983 Act must be conducted in accordance with the following paragraphs.

- (2) The Electoral Commission must—
  - (a) design a canvass form;
  - (b) obtain the approval of the Lord President of the Council to the form; and
  - (c) then make the form available to registration officers.
- (3) The canvass form in paragraph (2) must—
  - (a) require the full name and nationality of each person aged 16 and over who is eligible to register and is residing at the address to which the form is given;
  - (b) require an indication as to whether—
    - (i) there is no one residing at the address;
    - (ii) the address is solely of business premises;
    - (iii) none of the people residing at the address is entitled to be registered by reason of their nationality, together with a statement of their nationalities;
    - (iv) none of the people residing at the address is entitled to be registered for any reason other than their nationality and a statement of why they are not so entitled;
  - (c) include space for a bar code, local authority reference number and security code unique to each form;
  - (d) include a statement that the occupier or (if there is no occupier or it is not reasonably practicable for the occupier to provide the required information) the person in charge of the premises, must provide the required information to the registration officer for the area which includes the address to which the form was delivered, and the manner in which the recipient may do so;
  - (e) include an explanation of the requirements for entitlement to register to vote and state that this form is not an application to register;
  - (f) include a statement that the information provided in the application will be processed in accordance with the Data Protection Act 1998 and as to what information will appear on the electoral register;

- (g) include a statement that failure to provide the information required by the canvass form to the registration officer may be an offence and a statement of the maximum penalty for that offence;
- (h) include a statement that it is an offence to provide false information to the registration officer, and a statement of the maximum penalty for that offence;
- (i) include a signed declaration that the information provided is true, to be made by a named person at the address to which the form is given and includes an indication, if the person who is signing the declaration is not resident at the address, of the capacity in which they are signing;
- (j) include space for the email address and telephone number or numbers of each person residing at the address who is entitled to register to vote and an explanation that provision of this information is not mandatory;
- (k) include space for the registration officer to provide local authority information and details of how the registration officer may be contacted;
- (l) include the web site address of the digital service; and
- (m) require the date of completion of the form.

(4) Each registration officer must send a canvass form in the form designed by the Electoral Commission to each residential address in the area for which the officer acts and the canvass form must be accompanied by a pre-addressed reply envelope, the postage of which has been prepaid.

(5) Before sending a canvass form under paragraph (4), the registration officer must, if practicable, print on the form any information required by the canvass form which the officer already holds in respect of each person who is registered at the address to which the canvass form is provided, with the exception of persons registered as mentioned in section 9D(6) of the 1983 Act.

(6) Where the registration officer has printed on the canvass form information in accordance with paragraph (5) the registration officer must include on the canvass form—

- (a) an explanation of what the edited register is, using the short version of the form of words, which is prescribed in regulation 47 of, and Schedule 3 to, the Representation of the People (Scotland) (Description of Electoral Registers and Amendment) Regulations 2013;
- (b) an indication of whether the name and address of each person, who is currently registered as an elector in respect of that address, are omitted from the edited register; and
- (c) an indication that the person should contact their registration officer if they wish to request that their name and address be included in or omitted from the edited register, as the case may be, and an explanation that return of the canvass form will not constitute a request for the purpose of regulation 93A.

**Steps to be taken by a registration officer where no information in response to an annual canvass form is received in respect of a particular address**

**32ZB.**—(1) If a registration officer has sent an annual canvass form to an address but has not received information in response to the annual canvass form in respect of that address within a reasonable time of sending the form, the officer must send a second canvass form to that address.

(2) If no information in response is received in respect of a second form sent under paragraph (1) within a reasonable time of sending the second form, the registration officer must send a third canvass form to that address.

(3) A registration officer may visit the address at any stage in order to obtain the information required by the canvass form and must make or have made one visit if no information has been received in response to a third canvass form sent under paragraph (2).

(4) The second and third canvass forms, if required, must be in the same form as the first canvass form.

(5) The registration officer must take the steps required by paragraphs (1) to (3) before publishing a revised register under section 13(1)(a) of the 1983 Act.

(6) This regulation does not apply where a registration officer, having inspected records under regulation 35, concludes that there is no-one residing at the address or that the address is solely of business premises.

### **Invitations to apply for registration**

**32ZC.**—(1) The Electoral Commission must—

- (a) design an invitation to apply for registration;
- (b) obtain the approval of the Lord President of the Council to the invitation; and
- (c) then make the invitation available to registration officers.

(2) The invitation in paragraph (1) must include—

- (a) the full name and address of the person to be invited;
- (b) an explanation of how to make an application for registration; and
- (c) a statement as to the circumstances in which a civil penalty may be imposed under section 9E of the 1983 Act, and the amount of the civil penalty.

(3) Where a registration officer is required by section 9E(1) of the 1983 Act to give a person an invitation to apply for registration—

- (a) the registration officer must give the invitation as soon as reasonably practicable and in any event within 28 days of the conditions in section 9E(1) being satisfied;
- (b) the invitation must be in the form designed by the Electoral Commission under paragraph (1);
- (c) the invitation must be accompanied by an application form in the form designed by the Electoral Commission under regulation 26(3), on which the registration officer has, if practicable, printed the full name and address of the person to be invited; and
- (d) the invitation, the application form and a pre-addressed reply envelope, return postage of which has been prepaid, must be given in an envelope on which is printed—
  - (i) a direction requesting that the envelope is not redirected if it is incorrectly addressed; and
  - (ii) a direction requesting that any other person who receives the envelope who is resident at the address to which the invitation is addressed inform the registration officer if the addressee is not resident at that address and the registration officer's contact details in order that they may do so.

### **Steps to be taken by a registration officer to encourage a person to make an application for registration in response to an invitation to do so**

**32ZD.**—(1) If a registration officer has given a person an invitation to apply for registration under section 9E(1) of the 1983 Act and the person has not made an application

to register within a reasonable time of receipt of the invitation, the registration officer must give the person a second invitation.

(2) If no application is received in respect of the second invitation within a reasonable time of receipt of the second invitation, the registration officer must give the person a third invitation.

(3) The registration officer may visit the address at which the first invitation was given in order to encourage the person to make an application for registration at any time and must make or have made one visit if no application has been received in response to the third invitation.

(4) The second and third invitations to apply for registration, if required, must be in the same form as the first invitation to apply for registration.

(5) Paragraphs (1) to (3) do not apply if the registration officer is satisfied that—

- (a) the person is not entitled to be registered at the address at which the invitation or invitations to register was or were given; or
- (b) the person is registered at a different address.

#### **Requiring a person to make an application for registration**

**32ZE.**—(1) Where a registration officer requires a person to make an application for registration by a specified date under section 9E(4) of the 1983 Act, the registration officer must give the person notice in writing of the requirement.

(2) A registration officer may not require a person to apply for registration unless—

- (a) the registration officer has taken the last of the steps required by regulation 32ZD;
- (b) the registration officer has established that the person—
  - (i) has received an invitation to apply for registration;
  - (ii) has been informed how to make an application for registration; and
  - (iii) has been informed that the registration officer may impose a civil penalty if the person is required to make an application but does not do so; and
- (c) the registration officer has established that the person is resident at the address at which the invitations to apply for registration were given.

(3) A notice under paragraph (1) must state—

- (a) the date by which the person must make an application for registration;
- (b) that, if the person does not make an application by that date, the registration officer may impose a civil penalty on that person;
- (c) the amount of any such civil penalty and the rate of interest payable if the penalty is not paid on time;
- (d) that, if the person is not entitled to be registered, they must, before the date in sub-paragraph (a), inform the registration officer of that fact and explain why they are not so entitled, and the person is not required to make an application for registration;
- (e) that, if the person is registered at another address, they must, before the date in sub-paragraph (a), inform the registration officer of that fact and provide that address, and the person is not required to make an application for registration;
- (f) that the person may make other representations before the date in sub-paragraph (a) as to why they should not be required to make an application to

register by the specified date, or why a civil penalty should not be imposed if they do not do so.

(4) The registration officer must give with the notice an application form in the form designed by the Electoral Commission under regulation 26(3) on which the registration officer has, if practicable, printed the full name and address of the person.

(5) A registration officer must cancel a requirement to make an application for registration, and give the person concerned notice in writing of the cancellation, if—

- (a) the registration officer is satisfied that the person is not entitled to be registered at the address at which the invitations to register were given; or
- (b) the registration officer is satisfied that the person is registered at a different address; or
- (c) any of the requirements in paragraph (2) has not been met.

(6) A registration officer may cancel a requirement to make an application for registration if the registration officer considers it appropriate to do so and must give the person concerned notice in writing of the cancellation.

#### **Notice of Civil Penalty**

**32ZF.**—(1) The amount of the civil penalty, which a registration officer may impose under section 9E(7) of the 1983 Act, is £80.

(2) Where the registration officer imposes a civil penalty under that section, the registration officer must give the person notice in writing that the penalty has been imposed and specify the reasons for imposing it.

(3) The notice in paragraph (2) must state that the person must—

- (a) within 28 days of the date of the notice, make an application to register;
- (b) within 28 days of the date of the notice, pay the full amount of the civil penalty; or
- (c) within 14 days of the date of the notice, request a review of the decision to impose the civil penalty.

(4) The notice in paragraph (2) must also state—

- (a) the amount due;
- (b) how to make payment;
- (c) the rate of interest payable if the penalty is not paid on time; and
- (d) that making an application to register within 28 days will prevent the person being liable to pay the civil penalty.

#### **Payment, enforcement and cancellation of civil penalty**

**32ZG.**—(1) Subject to paragraph (2), a person on whom a civil penalty is imposed under section 9E(7) of the 1983 Act must pay the amount of the penalty to the registration officer who imposed it within 28 days of the date of the notice given under regulation 32ZF(2).

(2) If a person on whom a civil penalty is imposed requests a review under regulation 32ZH(1) or brings an appeal under regulation 32ZI(1), the 28 day period in paragraph (1) ceases to run whilst that review or appeal is being considered, and in the calculation of that period—

- (a) the day on which the review is requested or the appeal brought shall be excluded; and
- (b) the day on which the review or appeal is concluded shall be included.

(3) If the person does not pay the civil penalty as required by paragraph (1) or (2), interest at 8% per annum will be charged from the date payment becomes overdue to the date of payment.

(4) A civil penalty not paid in accordance with paragraph (1) or (2) and any interest on the civil penalty is recoverable as a civil debt.

(5) A registration officer must cancel a civil penalty, and give the person concerned notice in writing of the cancellation, if—

- (a) the person makes an application for registration at any time before the time for payment of the civil penalty in paragraph (1) or (2) has elapsed;
- (b) the registration officer is satisfied that—
  - (i) the person is not entitled to be registered at the address at which the invitations to register were given; or
  - (ii) the person is registered at a different address; or
- (c) any of the requirements in regulation 32ZE(2) has not been met.

(6) A registration officer may cancel the civil penalty if the registration officer considers it appropriate to do so and must give the person concerned notice in writing of the cancellation.

#### **Review of registration officer's decision to impose a civil penalty**

**32ZH.**—(1) A person on whom a civil penalty has been imposed may request a review of the registration officer's decision to impose the penalty.

(2) A request under paragraph (1) must be made in writing within 14 days of the date of the notice given under regulation 32ZF(2).

(3) Where a person requests a review of the registration officer's decision under paragraph (1), the registration officer must within 7 days of receiving the request give notice in writing to the person—

- (a) acknowledging the request;
- (b) informing the person that they may within 14 days of the date of the notice—
  - (i) make representations explaining why they have not made an application to register or why the civil penalty should be cancelled;
  - (ii) submit evidence in support of such representations; and
- (c) explaining how such representations may be made and such evidence may be submitted.

(4) The registration officer must carry out a review, and such review may not start before the earlier of—

- (a) the end of the fourteenth day after the date of the notice sent under paragraph (3); or
- (b) the receipt of any representations or evidence.

(5) Following a review under paragraph (4), the registration officer may—

- (a) uphold the decision to issue a civil penalty; or
- (b) cancel the civil penalty.

(6) The registration officer must inform the person in writing of the outcome of the review.

- (7) If the registration officer upholds the decision to impose a civil penalty, the notice must also state that the person on whom the penalty has been imposed—
- (a) may appeal against that decision to the First-tier Tribunal, and how to make such an appeal; and
  - (b) must pay the penalty by a specified date, which shall be the date on which the 28 day period in regulation 32ZG(1) or (2) expires.

**Appeals to the First-tier Tribunal against a notice of civil penalty**

**32ZI.**—(1) If a registration officer upholds the decision to issue a civil penalty under regulation 32ZH(5)(a), the person on whom the penalty was imposed may appeal to the First-tier Tribunal.

- (2) On an appeal under paragraph (1) the First-tier Tribunal may—
- (a) uphold the registration officer’s decision to impose the civil penalty; or
  - (b) cancel the civil penalty.”.