

LOCAL ELECTORAL ADMINISTRATION AND REGISTRATION SERVICES (SCOTLAND) ACT 2006

EXPLANATORY NOTES

THE ACT

Part 1: Electoral Administration

Miscellaneous

Section 34 Miscellaneous amendments

62. This section makes a number of minor amendments to the 1983 Act. Subsection (1)(a) amends the offence provision in section 65 (tampering with nomination papers, ballot papers etc.), insofar as it applies in relation to a local government election in Scotland, to add a reference to the new form of postal voting statement which will be used in place of the current declaration of identity. Subsection (1)(b) amends section 66 (requirement of secrecy of those persons attending the poll and counting of votes) and adds a reference to a unique identifying mark used on the back of any ballot paper to those items about which information is not to be communicated. Subsection (1A) removes the restriction in sections 160(5A) and (5B) to ensure that the disqualification provisions in section 160 are triggered for the office of councillor in Scotland by a conviction of corrupt or illegal practice at a reserved election.
63. Subsection (2) amends section 173A (incapacity to hold public or judicial office in Scotland) and removes the restriction imposed by paragraph 104 of Schedule 1 to the UK Electoral Administration Act. This has the effect of extending to the office of councillor for a local government area in Scotland the provisions of section 173A which set out that a person convicted of a corrupt practice is prevented from holding public or judicial office in Scotland for a period of five years starting from the date of his conviction or, if holding such office, shall vacate it from that date. Subsection (3) amends Schedule 2 of the 1983 Act (provisions which may be contained in regulations as to registration etc.) and inserts a new paragraph 12A which provides that regulations made in relation to local government elections in Scotland may also make provision authorising the cancellation or removal of ballot papers at such an election in any prescribed circumstances.
64. The UK Electoral Administration Act amends paragraph 3(3)(b) of Schedule 4 to the Representation of the People Act 2000 which deals with absent voting. The change replaces the words “physical incapacity” with “disability” to ensure that the link between mental incapacity and legal capacity is removed in relation to a person who applies to vote by proxy. Subsection (4) removes the restriction of the extent of the change so that it now extends to local government elections in Scotland.

These notes relate to the Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14) which received Royal Assent on 1 August 2006

65. Ministers have a power in section 3(1) of the 2004 Act to make an order which, in addition to updating the local government election rules, will also make provision about the detail of the STV system to be used in the 2007 local government elections. That order will be subject to affirmative procedure, as provided for in section 16(5) of the 2004 Act. Subsection 25(5) makes clear that not every order made under section 3(1) of the Local Governance (Scotland) Act 2004 need include provisions set out in section 3(2) (which deals with the counting of votes.) Where the order does not include such provision, it will be subject to negative procedure. Where the order does include provisions in section 3(2), it will continue to be subject to affirmative procedure.