

LOCAL ELECTORAL ADMINISTRATION AND REGISTRATION SERVICES (SCOTLAND) ACT 2006

EXPLANATORY NOTES

THE ACT – PART 3: GENERAL

Section 61 Orders and regulations

157. This section sets out the arrangements for Scottish Ministers to make orders or regulations by statutory instrument under the powers set out in the Act. It provides that orders and regulations made under the Act may make different provision for different purposes and may also make other provisions of a technical ancillary or transitional nature.
158. It also provides that statutory instruments (except for those orders of the type set out in subsections (4) to (5)) made under the Act are to be subject to negative resolution procedure in the Scottish Parliament. That means the instrument is laid after making and is subject to being annulled in pursuance of a resolution of the Parliament passed within 40 days after making. This rule applies to all regulations made under the Act, however there are three exceptions, set out in subsections (4) to (5) relating to orders.
159. The first exception is regulations made under section 5(2)(b), (4), (5) or (8) (powers relating to access to election documents) and orders made under section 62 which amend primary legislation. Those orders make ancillary provision of the kind set out in section 62. They are to be subject to affirmative resolution procedure in the Scottish Parliament which means the instrument is laid in draft and cannot be made until the draft is approved by resolution of the Parliament.
160. Subsection (5) provides that subsection (3) will apply to an order containing provisions under section 7(9) of the Act on access to documents only if that order has not been combined with an order containing provisions that attract affirmative resolution procedure. This is intended to allow orders under s.7(9) of the Act to be combined with orders under s.3 of the Local Governance (Scotland) Act 2004 which may be subject to either negative or affirmative resolution procedure depending on their content.
161. The third exception is orders bringing provisions into force, made under section 63. Those are not subject to Parliamentary procedure.

Section 62 Ancillary provision

162. This section contains the common power for Scottish Ministers to make supplemental, incidental or consequential provisions for giving full effect to the Act, and for transitional purposes as it comes into force.

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

Section 63 Short title and commencement

163. This section states the short title of the Act and makes provision for the coming into force of the Act. Parts 1 and 2 come into force in accordance with provision made by the Scottish Ministers. Part 3 came into force on Royal Assent.