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STATUTORY INSTRUMENTS

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**2010 No. 2999**

**The Scottish Parliament (Elections etc.) Order 2010**

**PART 1**

**GENERAL**

**Citation, commencement, transitional and saving provisions**

1.—(1) This Order may be cited as the Scottish Parliament (Elections etc.) Order 2010 and shall come into force on the fourteenth day after the day on which it is made.

(2) This Order has no effect for the purposes of any election for which the date of poll is on or before 4th April 2011.

(3) Article 36 (control of donations to candidates) has no effect in relation to any money or other property provided as mentioned in paragraph (1)(a) and (b) of that article before 5th January 2011.

**Interpretation**

2.—(1) In this Order, except where the context otherwise requires—

“the 1983 Act” means the Representation of the People Act 1983(1);

“the 1998 Act” means the Scotland Act 1998(2);

“the 2000 Act” means the Representation of the People Act 2000(3);

“the 2000 Political Parties Act” means the Political Parties, Elections and Referendums Act 2000(4);

“the 2001 Regulations” means the Representation of the People (Scotland) Regulations 2001(5);

“the 2006 Act” means the Electoral Administration Act 2006(6);

“absent voter” means an elector who is entitled to vote by proxy or an elector or proxy who is entitled to vote by post;

“anonymous entry”, in relation to the register of electors, shall be construed in accordance with section 9B of the 1983 Act(7) (anonymous registration);

“appropriate returning officer” means—

(a) in relation to a candidate for return as a constituency member (or to an election agent or sub-agent for such a candidate), the CRO for that constituency; and

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(1) 1983 c.2.

(2) 1998 c.46.

(3) 2000 c.2.

(4) 2000 c.41.

(5) S.I. 2001/497; relevant amending enactments are the Counter-Terrorism Act 2008 (c.28) and S.I. 2002/1872, 2006/594, 2007/925, 2008/305, 1901, and 2010/980.

(6) 2006 c.22.

(7) Section 9B was added by the Electoral Administration Act 2006 (c.22) (“the 2006 Act”).

(b) in relation to an individual candidate for return as a regional member or to a registered party submitting a regional list for a particular region (or to an election agent or sub-agent for such a candidate or such a registered party), the RRO for that region;

“ballot paper”, in relation to a general election for membership of the Scottish Parliament, shall be construed as a reference to both the constituency ballot paper and the regional ballot paper;

“Citizen of the Union” shall be construed in accordance with article 9 of the Treaty on European Union(8), and “relevant citizen of the Union” means such a citizen who is not a commonwealth citizen or a citizen of the Republic of Ireland;

“CRO” means the officer who, in accordance with article 14, is the constituency returning officer for a Scottish parliamentary election in a constituency;

“disability”, in relation to doing a thing, includes a short term inability to do it;

“entitlement as an elector to an absent vote” shall be construed in accordance with article 7(8);

“ERO” means an electoral registration officer within the meaning of the 1983 Act(9);

“European Parliamentary Election” has the same meaning as in section 27(1) of the Representation of the People Act 1985(10);

“list of proxies” means the list of persons kept in pursuance of article 9(5)(b);

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(11);

“nominating officer” means the person registered under Part 2 of the 2000 Political Parties Act as the officer with responsibility for the matters referred to in section 24(3) of that Act in respect of a registered party;

“of voting age” means 18 years of age or over;

“ordinary local government election” means an ordinary election of councillors for local government areas in Scotland;

“polling register” means—

(a) the document provided by an ERO under paragraph 1(3) of Schedule 1 including any notices issued under sections 13B(3B) or (3D) or 13BB(4) or (5) of the 1983 Act(12) (alteration of registers) after that document was produced; or,

(b) where no such document has been provided, the register of electors, including copies of any notices issued under sections 13A(2) 13B(3), (3B) or (3D) or 13BB(4) or (5) of the 1983 Act(13) (alteration of registers) in respect of alterations to the register; and, where a notice has been so issued, any reference to an entry, name or number stated in the polling register is to be taken to be a reference to the entry, name or number stated in that notice.

“postal ballot box” means the ballot box referred to in paragraph 16(1)(b) of Schedule 4;

“the postal voters list” means the list of persons kept in pursuance of article 9(5)(a), showing persons whose applications to vote by post have been granted;

“the proxy postal voters list” means the list of persons kept in pursuance of article 11(7);

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(8) Article 9 was substituted as Article 8 by Article 1.12, and renumbered as Article 9 by Article 5.1, of the Treaty of Lisbon amending the Treaty on European Union and the Treaty Establishing the European Community (2007/C 306/1).

(9) Electoral registration officers are appointed under section 8 of the 1983 Act. In terms of section 8(1) they are referred to as “registration officers” in the 1983 Act.

(10) 1985 c.50; section 27(1) was amended by the European Communities (Amendment) Act 1986 (c.58), sections 3(1) and (3).

(11) 1994 c.39.

(12) Section 13B was substituted by the Representation of the People Act 2000 (c.2) (“the 2000 Act”), Schedule 1, paragraph 6 and section 13BB was added by the Political Parties and Elections Act 2009 (c.12), section 23(1).

(13) Section 13A was substituted by the 2000 Act, Schedule 1, paragraph 6.

“record of anonymous entries” means the record prepared in pursuance of regulations made by virtue of paragraph 8A of Schedule 2 to the 1983 Act<sup>(14)</sup>;

“RRO” means a regional returning officer for the purposes of the 1998 Act<sup>(15)</sup>;

“register of electors” means the register of local government electors;

“registered emblem” means an emblem registered by a political party under Part 2 of the 2000 Political Parties Act;

“registered party” means a party registered under Part 2 of the 2000 Political Parties Act;

“service voter” means a person who has made a service declaration in accordance with section 15 of the 1983 Act<sup>(16)</sup> and is registered or entitled to be registered in pursuance of it;

“Scottish parliamentary election” means an election for membership of the Scottish Parliament and “Scottish parliamentary general election” shall be construed accordingly;

“Scottish Parliamentary Election Rules” means the rules set out in Schedule 2; and

“universal postal service provider” means a universal service provider within the meaning of section 4(3) of the Postal Services Act 2000<sup>(17)</sup> (provision of universal postal service: meaning).

(2) For the purposes of this Order, a person shall be deemed not to have attained a given age until commencement of the relevant anniversary of the day of his or her birth.

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<sup>(14)</sup> Paragraph 8A was inserted by the 2006 Act, Schedule 1, paragraph 15(6).

<sup>(15)</sup> See section 12(6) of the 1998 Act.

<sup>(16)</sup> Section 15 was amended by the 2000 Act, Schedule 1, paragraph 8(2) and (4) and Schedule 7, paragraph 1; the 2006 Act, sections 12(7) and 13(1) and S.I. 1995/1948, Schedule 2, paragraph 4(b).

<sup>(17)</sup> 2000 c.26.