LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

AGENDA

7th Meeting, 2007 (Session 2)

Tuesday 6 March 2007

The Committee will meet at 2 pm in Committee Room 2.

1. Decision on taking business in private: The Committee will take a decision on whether to take item 10, which is consideration of a draft annual report for the Parliamentary year 7 May 2006 to 2 April 2007, in private.

2. Petition PE855: The Committee will take evidence on the issue of the maintenance of local authority roads, pavements and footpaths from—

   Bill Baker, Society of Chief Officers of Transportation in Scotland and Graham Mackay, Society of Chief Officers of Transportation in Scotland.

3. Subordinate legislation: Tom McCabe MSP (Minister for Finance and Public Service Reform) to move motion S2M-5587—

   Mr Tom McCabe: The Draft Gambling Act 2005 (Mandatory and Default Conditions) (Scotland) Regulations 2007— That the Local Government and Transport Committee recommends that the draft Gambling Act 2005 (Mandatory and Default Conditions) (Scotland) Regulations 2007 be approved.

4. Subordinate legislation: Tom McCabe MSP (Minister for Finance and Public Service Reform) to move motion S2M-5590—

   Mr Tom McCabe: The Draft Representation of the People (Postal Voting for Local Government Elections) (Scotland) Regulations 2007— That the Local Government and Transport Committee recommends that the draft Representation of the People (Postal Voting for Local Government Elections) (Scotland) Regulations 2007 be approved.
5. **Subordinate legislation**: Tom McCabe MSP (Minister for Finance and Public Service Reform) to move motion S2M-5589—

   Mr Tom McCabe: The Draft Representation of the People (Post-Local Government Elections Supply and Inspection of Documents) (Scotland) Regulations 2007—That the Local Government and Transport Committee recommends that the draft Representation of the People (Post-Local Government Elections Supply and Inspection of Documents) (Scotland) Regulations 2007 be approved.

6. **Subordinate legislation**: Tom McCabe MSP (Minister for Finance and Public Service Reform) to move motion S2M-5647—

   Mr Tom McCabe: The Draft Local Governance (Scotland) Act 2004 (Allowances and Expenses) Regulations 2007—That the Local Government and Transport Committee recommends that the draft Local Governance (Scotland) Act 2004 (Allowances and Expenses) Regulations 2007 be approved.

7. **Subordinate legislation**: Tom McCabe MSP (Minister for Finance and Public Service Reform) to move motion S2M-5585—

   Mr Tom McCabe: The Draft Business Improvement Districts (Ballot Arrangements) (Scotland) Regulations 2007—That the Local Government and Transport Committee recommends that the draft Business Improvement Districts (Ballot Arrangements) (Scotland) Regulations 2007 be approved.

8. **Subordinate legislation**: The Committee will consider the following negative instruments—

   the Local Government Pensions Etc. (Councillors and VisitScotland) (Scotland) Amendment Regulations 2007 (SSI 2007/71)

   the Licensing (Clubs) (Scotland) Regulations 2007 (SSI 2007/76)

   the Personal Licence (Scotland) Regulations 2007 (SSI 2007/77)

   the Public Service Vehicles (Registration of Local Services) (Scotland) Amendment Regulations 2007 (SSI 2007/79)

   the Sale of Alcohol to Children and Young Persons (Scotland) Regulations 2007 (SSI 2007/93)

   the Licensing (Training) (Scotland) Regulations 2007 (SSI 2007/95)

   the Occasional Licence (Scotland) Regulations 2007 (SSI 2007/96)

   the Licensing (Designated Airports) (Scotland) Order 2007 (SSI 2007/97); and

   the Licensing Qualification (Scotland) Regulations 2007 (SSI 2007/98).

9. **British Irish Inter-Parliamentary Body**: The Committee will consider a letter from the British Irish Inter-Parliamentary Body.

Martin Verity  
Clerk to the Committee  
T3.40, Scottish Parliament, Edinburgh, EH99 1SP  
0131 348 5217  
email: martin.verity@scottish.parliament.uk

**Agenda Item 3**

Covering note on The Draft Gambling Act 2005 (Mandatory and Default Conditions) (Scotland) Regulations 2007  
LGT/S2/07/7/1

*The Draft Gambling Act 2005 (Mandatory and Default Conditions) (Scotland) Regulations 2007*

**Agenda Item 4**

Covering note on The Draft Representation of the People (Postal Voting for Local Government Elections) (Scotland) Regulations 2007  
LGT/S2/07/7/2

The Draft Representation of the People (Postal Voting for Local Government Elections) (Scotland) Regulations 2007  
LGT/S2/07/7/3

**Agenda Item 5**

Covering note on The Draft Representation of the People (Post-Local Government Elections Supply and Inspection of Documents) (Scotland) Regulations 2007  
LGT/S2/07/7/4

The Draft Representation of the People (Post-Local Government Elections Supply and Inspection of Documents) (Scotland) Regulations 2007  
LGT/S2/07/7/5

**Agenda Item 6**

Covering note on The Draft Local Governance (Scotland) Act 2004 (Allowances and Expenses) Regulations 2007  
LGT/S2/07/7/6

The Draft Local Governance (Scotland) Act 2004 (Allowances and Expenses) Regulations 2007  
LGT/S2/07/7/7

**Agenda Item 7**

Covering note on The Draft Business Improvement Districts (Ballot Arrangements) (Scotland) Regulations 2007  
LGT/S2/07/7/8

*The Draft Business Improvement Districts (Ballot Arrangements) (Scotland) Regulations 2007*  
LGT/S2/07/7/9

The Draft Business Improvement Districts (Ballot Arrangements) (Scotland) Regulations 2007  
LGT/S2/07/7/10
Agenda Item 8

Covering note on The Local Government Pensions Etc. (Councillors and VisitScotland) (Scotland) Amendment Regulations 2007 (SSI 2007/71)

The Local Government Pensions Etc. (Councillors and VisitScotland) (Scotland) Amendment Regulations 2007, (SSI 2007/71)

Covering note on The Licensing (Clubs) (Scotland) Regulations 2007 (SSI 2007/76)

The Licensing (Clubs) (Scotland) Regulations 2007, (SSI 2007/76)

Covering note on The Personal Licence (Scotland) Regulations 2007 (SSI 2007/77)

The Personal Licence (Scotland) Regulations 2007, (SSI 2007/77)

Covering note on The Public Service Vehicles (Registration of Local Services) (Scotland) Amendment Regulations 2007 (SSI 2007/79)

The Public Service Vehicles (Registration of Local Services) (Scotland) Amendment Regulations 2007, (SSI 2007/79)

Covering note on The Sale of Alcohol to Children and Young Persons (Scotland) Regulations 2007 (SSI 2007/93)

The Sale of Alcohol to Children and Young Persons (Scotland) Regulations 2007 (SSI 2007/93)

Covering note on The Licensing (Training) (Scotland) Regulations 2007 (SSI 2007/95)

The Licensing (Training) (Scotland) Regulations 2007 (SSI 2007/95)

Covering note on The Occasional Licence (Scotland) Regulations 2007 (SSI 2007/96)

The Occasional Licence (Scotland) Regulations (SSI 2007/96)

Covering note on The Licensing (Designated Airports) (Scotland) Order 2007 (SSI 2007/97)

The Licensing (Designated Airports) (Scotland) Order 2007 (SSI 2007/97)

Covering note on The Licensing Qualification (Scotland) Regulations 2007 (SSI 2007/98)

The Licensing Qualification (Scotland) Regulations 2007 (SSI 2007/98)
Agenda Item 9

Letter from the British Irish Inter-Parliamentary Body

Agenda Item 10

Paper from the Clerk
SSI Cover Note For Committee Meeting


Type of Instrument: Affirmative

Meeting: 6 March 2007

Date circulated to members: 12 February 2007

SSI drawn to Parliament’s attention by Sub Leg Committee: No

Purpose: The purpose of this instrument is to apply basic minimum requirements to all premises licences.
SSI Cover Note For Committee Meeting

SSI title and number: The Representation of the People (Postal Voting for Local Government Elections) (Scotland) Regulations 2007, (SSI 2007/draft)

Type of Instrument: Affirmative

Meeting: 6 March 2007

Date circulated to members: 12 February 2007

SSI drawn to Parliament’s attention by Sub Leg Committee: No

Purpose: The purpose of this instrument is to provide for revised procedure on the issue and receipt of postal ballot papers for local government elections and revoke and replace the Scottish Local Government Elections Regulations 2002, (SSI 2002/561).
The Scottish Ministers, in exercise of the powers conferred by section 53(1)(c) and (3) of, and Schedule 2 to, the Representation of the People Act 1983(a), and of all other powers enabling them in that behalf, hereby make the following Regulations, a draft of which has, in accordance with section 201(2) of that Act, been laid before, and approved by resolution of the Scottish Parliament:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Representation of the People (Postal Voting for Local Government Elections) (Scotland) Regulations 2007.

(2) These Regulations shall come into force on 23rd March 2007 except for the purposes of any local government election in Scotland taking place before 2nd May 2007.

(3) These Regulations extend to Scotland only.

Revocations

2. The Scottish Local Government Elections Regulations 2002(b) are hereby revoked except for the purposes of any local government election in Scotland taking place before 2nd May 2007.

Interpretation

3.—(1) For the purposes of these Regulations—

“the 1985 Act” means the Representation of the People Act 1985(c);

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

“ballot paper envelope” and “covering envelope” mean the envelopes referred to in regulation 12;

“corresponding number list” means the list prepared in accordance with rule 15 (corresponding number list);
“local government area” means the area of a council constituted by section 2 of the Local Government etc. (Scotland) Act 1994(a);
“lost postal ballot paper” means a ballot paper referred to in regulation 16;
“postal ballot box” mean the ballot box referred to in regulation 19(1)(b);
“postal ballot paper” means a ballot paper issued to a postal voter;
“postal voter” means an elector or proxy who is entitled to vote by post;
“postal voters box” means the box referred to in regulation 19(1)(a);
“postal voters list” means the list of persons kept in pursuance of paragraph 5(2) (persons whose applications to vote by post have been granted)(b) of Schedule 4 to the 2000 Act;
“proxy postal voters list” means the list of persons kept in pursuance of paragraph 7(8) (persons whose applications to vote by post as proxy have been granted)(c) of Schedule 4 to the 2000 Act;
“spoilt postal ballot paper” means a ballot paper referred to in regulation 15;
“unique identifying mark” means the mark (for example, a bar code, letter, number or numerical sequence) on a ballot paper which is unique to that ballot paper and which identifies that ballot paper as a ballot paper to be issued by the returning officer;
“universal postal service provider” means a “universal service provider” in terms of the Postal Services Act 2000(d); and
“valid postal voting statement” means a postal voting statement in relation to which the returning officer is satisfied as mentioned in regulation 24.

(2) A reference in these Regulations to a numbered rule shall be construed as a reference to the rule of that number in Schedule 1 to the Scottish Local Government Elections Order 2007(e).

Combination of polls

4. Where the polls at elections including a local government election are taken together under section 15(1) or (2) of the 1985 Act, the proceedings on the issue and receipt of postal ballot papers in respect of the local government election may be taken together with such proceedings in relation to the other elections, if the returning officers concerned so agree.

Persons entitled to be present at proceedings on issue of postal ballot papers

5. Without prejudice to the provisions of section 8, 9 or 10 of the Local Electoral Administration and Registration Services (Scotland) Act 2006(f), no person may be present at the proceedings on the issue of postal ballot papers other than the returning officer and the returning officer’s staff.

Persons entitled to be present at proceedings on receipt of postal ballot papers

6. Without prejudice to the provisions of section 8, 9 or 10 of the Local Electoral Administration and Registration Services (Scotland) Act 2006, no person may be present at the proceedings on the receipt of postal ballot papers other than–

(a) the returning officer and the returning officer’s staff;
(b) a candidate;
(c) an election agent or any person appointed by a candidate to attend in such election agent’s place; and
(d) any agents appointed under regulation 7.

(a) 1994 c.39.
(b) Paragraph 5(2) will be amended by paragraph 137 to Schedule 1 of the Electoral Administration Act 2006 (c.22).
(c) Paragraph 7(8) will be amended by paragraph 137 of Schedule 1 to the Electoral Administration Act 2006 (c.22).
(d) 2000 c.26.
(e) S.S.I. 2007/ [I]
(f) 2006 c.14.
Agents of candidates who may attend proceedings on receipt of postal ballot papers

7.—(1) Each candidate may appoint one or more agents to attend the proceedings on the receipt of the postal ballot papers up to the number such candidate may be authorised by the returning officer to appoint and the number authorised shall be the same in the case of each candidate.

(2) Notice in writing of the appointment stating the names and addresses of the persons appointed shall be given by the candidate to the returning officer before the time fixed for the opening of the postal voters box.

(3) Where postal ballot papers for more than one election are issued together under regulation 4, the returning officer to whom notice shall be given under paragraphs (2), (4) and (5) is the returning officer who issues the postal ballot papers.

(4) If an agent dies or becomes incapable of acting, the candidate may appoint another agent in such agent’s place and shall forthwith give to the returning officer notice in writing of the name and address of the agent appointed.

(5) Agents may be appointed and notice of appointment given to the returning officer by the candidate’s election agent instead of by the candidate.

(6) In these Regulations references to agents shall be taken as references to agents whose appointments have been duly made and notified and, in the case of agents appointed under paragraph (1), who are within the number authorised by the returning officer.

(7) A candidate may do any act or thing which any agent of such candidate, if appointed, would have been authorised to do, or may assist such agent in doing any such act or thing.

(8) Where in these Regulations any act or thing is required or authorised to be done in the presence of the candidates or their agents, the non-attendance of any such persons or person at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

Notification of requirement of secrecy

8. The returning officer shall make such arrangements as the returning officer thinks fit to ensure that every person attending the proceedings in connection with the issue or receipt of postal ballot papers has been given a copy in writing of the provisions of section 66(4) and (6) of the Representation of the People Act 1983(a).

Time when postal ballot papers are to be issued

9.—(1) In the case of a person shown in the record kept under–

(a) paragraph 3(4); or

(b) paragraph 7(6),

of Schedule 4 to the 2000 Act (electors and proxies entitled to vote by post for an indefinite or particular period), no postal ballot paper (and postal voting statement) shall be issued until after 5 p.m. on the eleventh day before the date of the poll.

(2) In the case of any other person, the postal ballot paper (and postal voting statement) shall be issued by the returning officer as soon as practicable after the application to vote by post has been granted.

(3) In computing a period of days for the purpose of this regulation, Saturday, Sunday, Christmas Eve, Christmas Day, Good Friday, Easter Monday, a day appointed for public thanksgiving or mourning or a bank holiday shall be disregarded.

(4) In paragraph (3) above “bank holiday” means a day which is a bank holiday in Scotland under the Banking and Financial Dealings Act 1971(b).

---

(a) 1983 c.2. Section 66(4) was amended by paragraph 86 of Schedule 1 to the Electoral Administration Act 2006 (c.22) and section 66(6) was amended by Schedule 3 to the Representation of the People Act 1985 (c.50).

(b) 1971 c.80.
Procedure on issue of postal ballot paper

10.—(1) Each postal ballot paper issued must contain, subject to paragraph (2), an appropriate security marking in accordance with rule 16 (security marking).

(2) The returning officer may use a different official mark for ballot papers issued for the purpose of voting by post than the official mark used at the same election for ballot papers issued for the purpose of voting in person.

(3) The number of the elector as stated in the register shall be marked on the corresponding number list, next to the number and unique identifying mark of the ballot paper issued to that elector.

(4) A mark shall be placed in the postal voters list or the proxy postal voters list against the number of the elector to denote that a ballot paper has been issued to the elector or the elector’s proxy, but without showing the particular ballot paper issued.

(5) The number of a postal ballot paper shall be marked on the postal voting statement sent with that paper.

(6) Where postal ballot papers for more than one election are issued together under regulation 4—

(a) one mark shall be placed in the postal voters list or the proxy postal voters list under paragraph (3) to denote that ballot papers have been issued in respect of all those elections; except that, where ballot papers are not so issued, a different mark shall be placed in the postal voters list or proxy postal voters list to identify that the ballot paper in respect of the local government election have been issued; and

(b) the number of each ballot paper shall be marked on the postal voting statement under paragraph (5).

(7) Where polls are taken together under section 15(1) or (2) of the 1985 Act but not the proceedings on the issue and receipt of postal ballot papers, the colour of the postal ballot paper shall also be marked on the postal voting statement sent with that paper.

(8) Subject to paragraph (9), the address to which the postal ballot paper, postal voting statement and the envelopes referred to in regulation 12 below are to be sent is—

(a) in the case of an elector, the address shown in the postal voters list;

(b) in the case of a proxy, the address shown in the proxy postal voters list.

(9) Where a person has an anonymous entry in the register, the items specified in paragraph (8) must be sent to the address to which postal ballot papers should be sent—

(a) as shown in the record kept under paragraph 3(4) or 7(6) of Schedule 4 to the 2000 Act; or

(b) as given in pursuance of an application made under paragraph 4(1) or 7(4)(b) of Schedule 4 to the 2000 Act(a).

Refusal to issue postal ballot paper

11. Where a returning officer is satisfied that two or more entries in the postal voters list, or the proxy postal voters list or in each of those lists relate to the same elector, the returning officer shall not issue more than one ballot paper in respect of that elector at any one election.

Envelopes

12.—(1) Paragraphs (2) and (3) prescribe the envelopes which are to be issued to a postal voter in addition to the ballot paper and postal voting statement (which are issued under rule 20).

(2) There shall be issued an envelope (referred to as a “covering envelope”) for the return of the postal ballot paper or, as the case may be, ballot papers and the postal voting statement which shall be marked with the letter “B”.

(a) Paragraph 4(1) was amended by section 14 of the Electoral Administration Act 2006 c.22.
(3) There shall also be issued a smaller envelope (referred to as a “ballot paper envelope”) which shall be marked with—
(a) the letter “A”;  
(b) the words “ballot paper envelope”; and  
(c) unless the envelope has a window through which the number on the ballot paper (or ballot papers) can be displayed, the number of the ballot paper or, as the case may be, ballot papers.

(4) Where polls are taken together (under section 15(1) or (2) of the 1985 Act) but not the proceedings on the issue and receipt of postal ballot papers—
(a) the envelope referred to in paragraph (2) shall also be marked “Covering envelope for the [insert colour of ballot paper] coloured ballot paper”; and  
(b) on the envelope referred to in paragraph (3), after the words “ballot paper envelope” there shall be added the words “for the [insert colour of ballot paper] coloured ballot paper”.

Sealing up of completed corresponding number lists and security of special lists

13. —(1) As soon as practicable after the issue of each batch of postal ballot papers, the returning officer shall make up into a packet the completed corresponding number lists for those ballot papers which have been issued and shall seal that a packet.  
(2) Until the returning officer has sealed the packet as described in regulation 22(8), the returning officer shall take all proper precautions for the security of the marked copy of the postal voters list and the proxy postal voters list.

Delivery of postal ballot papers

14.—(1) For the purposes of delivering postal ballot papers, the returning officer may use—
(a) a universal postal service provider;  
(b) a commercial delivery firm; or  
(c) persons appointed under rule 22(1).  
(2) Where the services of a universal postal service provider or commercial delivery firm are to be used, envelopes addressed to postal voters shall be counted and delivered by the returning officer with such form of receipt to be endorsed by that provider or firm as may be arranged.  
(3) Postage shall be prepaid on envelopes addressed to the postal voters (except where paragraph (1)(c) applies).  
(4) Return postage shall be prepaid on all covering envelopes where the address provided by the postal voter for the receipt of the postal ballot paper is within the United Kingdom.

Spoilt postal ballot papers

15.—(1) If a postal voter has inadvertently dealt with a postal ballot paper or postal voting statement in such manner that it cannot be conveniently used as a ballot paper (referred to as a “spoilt postal ballot paper”) or, as the case may be, a postal voting statement (referred to as a “spoilt postal voting statement”) the voter may return (either by hand or by post) to the returning officer the spoilt ballot paper, or, as the case may be, the spoilt postal voting statement.  
(2) Where a postal voter exercises the entitlement conferred by paragraph (1), the voter shall also return—
(a) the postal ballot paper, or as the case may be, the postal voting statement, whether spoilt or not;  
(b) where postal ballot papers for more than one election have been issued together under regulation 4, all other ballot papers so issued, whether spoilt or not; and  
(c) the envelopes supplied for the return of the documents mentioned in paragraph (1) or sub-paragraph (a) or (b).
(3) Subject to paragraph (4), on receipt of the documents referred to in paragraph (1) and, where applicable paragraph (2), the returning officer shall issue another postal ballot paper or, as the case may be, ballot papers except where those documents are received after 5 p.m. on the day of the poll.

(4) Where the returning officer receives the documents referred to in paragraph (1) and, where applicable paragraph (2), after 5 p.m. on the day before the day of the poll, the returning officer shall only issue another postal ballot paper or, as the case may be, ballot papers if the postal voter returns the documents by hand.

(5) Regulations 10 (except paragraph (4)), 12, 13, and, subject to paragraph (7) below, 14 shall apply in relation to a replacement postal ballot paper under paragraph (3) as they apply in relation to a postal ballot paper.

(6) Any postal ballot paper or postal voting statement, whether spoilt or not, returned in accordance with paragraph (1) or (2) shall be immediately cancelled.

(7) The returning officer, as soon as practicable after cancelling those documents, shall make up those documents in a separate packet and shall seal the packet; and if on any subsequent occasion documents are cancelled as mentioned above, the sealed packet shall be opened and the additional cancelled documents included in it and the packet shall again be made up and sealed.

(8) Where a postal voter applies in person—
   (a) by 5 p.m. on the day before the day of the poll, the returning officer may hand a replacement postal ballot paper to the voter; or
   (b) after 5 p.m. on the day before the day of the poll, the returning officer may only hand a replacement postal ballot paper to the voter,

instead of delivering it in accordance with regulation 14.

(9) The returning officer shall enter in a list kept for the purpose (“the list of spoilt postal ballot papers”)—
   (a) the name and number of the elector as stated in the register (or, in the case of an elector who has an anonymous entry, that person’s electoral number alone);
   (b) the number of the postal ballot paper (or papers) issued under this regulation; and
   (c) where the postal voter whose ballot paper is spoilt is a proxy, such voter’s name and address.

Lost postal ballot papers

16.—(1) Where a postal voter claims either to have lost or not to have received—
   (a) the postal ballot paper (referred to as a “lost postal ballot paper”); or
   (b) the postal voting statement; or
   (c) one or more of the envelopes supplied for their return,

by the third day before the day of the poll, the voter may apply (whether or not in person) to the returning officer for a replacement ballot paper.

(2) Such an application shall include evidence of the voter’s identity.

(3) Where a postal voter exercises the entitlement conferred by paragraph (1), the voter shall return—
   (a) the documents referred to in paragraph (1)(a) to (c); and
   (b) where postal ballot papers for more than one election have been issued together under regulation 4, all other ballot papers so issued,

which the voter has received and which have not been lost.

(4) Any postal ballot paper or postal voting statement returned in accordance with paragraph (3) shall be immediately cancelled.

(5) The returning officer, as soon as practicable after cancelling those documents, shall make up those documents in a separate packet and shall seal the packet; and if on any subsequent occasion documents are cancelled as mentioned above, the sealed packet shall be opened and the additional cancelled documents included in it and the packet shall be again made up and sealed.
(6) Subject to paragraph (7), where the application referred to in paragraph (1) is received by the returning officer before 5 p.m. on the day of the poll and the returning officer—

(a) is satisfied as to the voter’s identity; and

(b) has no reason to doubt that the postal voter has either lost or has not received the original postal ballot paper or the postal voting statement or one or more of the envelopes provided for their return,

the returning officer shall issue another postal ballot paper or, as the case may be, postal ballot papers.

(7) Where the application referred to in paragraph (1) is received by the returning officer after 5 p.m. on the day before the day of the poll, the returning officer shall only issue another postal ballot paper or, as the case may be, ballot papers if the postal voter applies in person.

(8) The returning officer shall enter in a list kept for the purpose (“the list of lost postal ballot papers”)—

(a) the name and number of the elector as stated in the register (or, in the case of an elector who has an anonymous entry, that person’s electoral number alone);

(b) the number of the lost postal ballot paper and of its replacement issued under this regulation; and

(c) where the postal voter is a proxy, the name and address of the proxy.

(9) Regulation 10 (except paragraph (4)), 12, 13 and, subject to paragraph (10) below, 14 shall apply in relation to a replacement postal ballot paper under paragraph (6) as they apply in relation to a postal ballot paper.

(10) Where a postal voter applies in person—

(a) By 5 p.m. on the day before the day of the poll, the returning officer may hand a replacement postal ballot paper to the voter; or

(b) After 5 p.m. on the day before the day of the poll, the returning officer may only hand a replacement postal ballot paper to the voter, instead of delivering it in accordance with regulation 14.

(11) Where the returning officer issues another postal ballot paper, or, as the case may be, postal ballot papers under paragraph (6), the lost postal ballot paper shall be void and of no effect.

Alternative means of returning postal ballot paper or postal voting statement

17.—(1) For the purposes of rule 42(1)(c)—

(a) the manner in which a postal ballot paper or postal voting statement may be returned to a polling station in the same local government area is by hand;

(b) the manner in which such a paper or statement may be returned to the returning officer is by post or by hand.

(2) Subject to paragraph (3), the presiding officer of the polling station shall deliver, or cause to be delivered, any postal ballot paper or postal voting statement returned to that station to the returning officer in the same manner and at the same time as delivering or causing to be delivered, the packets referred to in rule 39(1).

(3) The returning officer may collect, or cause to be collected, any postal ballot paper or postal voting statement which by virtue of paragraph (2) the presiding officer of a polling station would otherwise be required to deliver or cause to be delivered to the returning officer.

(4) Where the returning officer collects, or causes to be collected, any postal ballot paper or postal voting statement in accordance with paragraph (2) the presiding officer shall first make it (or them) up into a packet (or packets) sealed with the presiding officer’s seal and the seals of such polling agents as are present and desire to affix their seals.

Notice of opening of postal ballot paper envelopes

18.—(1) The returning officer shall give to each candidate not less than 48 hours’ notice in writing of each occasion on which a postal voters’ box and the envelopes contained in it are to be opened.
(2) Such notice shall specify—
   (a) the time and place at which such an opening is to take place; and
   (b) the number of agents a candidate may appoint under regulation 7(1) to attend each opening.

**Boxes and receptacles**

19.—(1) The returning officer shall provide a separate box for the reception of—
   (a) the covering envelopes when returned by the postal voters; and
   (b) postal ballot papers.

(2) Each such box shall be marked “postal voters box” or “postal ballot box”, as the case may be, and
with the name of the local government area or electoral ward for which the election or elections is or are held.

(3) The postal ballot box shall be shown as being empty to the agents present on the occasion of opening
the first postal voters box.

(4) The returning officer shall then lock the postal ballot box and apply the returning officer’s seal in
such manner as to prevent its being opened without breaking the seal. Any of the agents present who wish
to add their seals may then do likewise.

(5) The returning officer shall provide separate receptacles for—
   (a) rejected votes;
   (b) postal voting statements;
   (c) ballot paper envelopes; and
   (d) rejected ballot paper envelopes.

(6) The returning officer shall take proper precautions for the safe custody of every box and receptacle
referred to in this regulation.

**Receipt of covering envelope**

20.—(1) The returning officer shall, immediately on receipt (whether by hand or by post) of a covering
envelope (or an envelope which is stated to include a postal vote) before the close of the poll, place it
unopened in a postal voters box.

(2) Where an envelope, other than a covering envelope issued by the returning officer—
   (a) has been opened; and
   (b) contains a ballot paper envelope, postal voting statement or ballot paper,
the envelope, together with its contents, shall be placed in a postal voters’ box.

**Opening of postal voters box**

21.—(1) Each postal voters box shall be opened by the returning officer in the presence of any agents, if
in attendance.

(2) So long as the returning officer ensures that there is at least one sealed postal voters box for the
reception of covering envelopes up to the time of the close of the poll, the other postal voters boxes may be
opened by the returning officer.

(3) The last postal voters box and the postal ballot box shall be opened at the counting of the votes under
rule 42.

**Opening of covering envelopes**

22.—(1) When a postal voters box is opened, the returning officer shall count and record the number of
covering envelopes (including any envelope to which regulation 20(2) applies), and shall then open each
covering envelope separately.
(2) The procedure in regulation 24 applies where a covering envelope (including an envelope to which regulation 20(2) applies) contains both—
   (a) a postal voting statement; and
   (b) a ballot paper envelope, or if there is no ballot paper envelope, a ballot paper (or ballot papers).
(3) Where the covering envelope does not contain the postal voting statement separately, the returning officer shall open the ballot paper envelope to ascertain whether the postal voting statement is inside.
(4) Where a covering envelope does not contain both—
   (a) a postal voting statement (whether separately or not); and
   (b) a ballot paper envelope or, if there is no ballot paper envelope, a ballot paper (or ballot papers),
the returning officer shall mark the covering envelope “provisionally rejected”, attach its contents (if any) and place it in the receptacle for rejected votes.
(5) In carrying out the procedures in this regulation and regulations 24 to 28, the returning officer—
   (a) shall keep the ballot papers face downwards and shall take all proper precautions for preventing any person from seeing the votes made on the ballot papers; and
   (b) shall not be permitted to view the corresponding number list used at the issue of postal ballot papers.
(6) Where an envelope opened in accordance with paragraph (1) contains a postal voting statement, the returning officer shall place a mark in the marked copy of the postal voters list or proxy postal voters list in a place corresponding to the number of the elector to denote that a postal vote has been returned.
(7) A mark made under paragraph (6) shall be distinguishable from and shall not obscure the mark made under regulation 10(4).
(8) As soon as practicable after the last covering envelope has been opened, the returning officer shall make up into a packet the copy of the marked postal voters list and proxy postal voters list that have been marked in accordance with paragraph (6) and shall seal that a packet.

Confirmation of receipt of postal voting statement

23.—(1) An elector or a proxy voter who is shown in the postal voters list or proxy postal voters list may make a request, at any time between the first issue of postal ballots under regulation 10 and the close of the poll, that the returning officer confirm—
   (a) whether a mark is shown in the marked copy of the postal voters list or proxy postal voters list in a place corresponding to the number of the elector to denote that a postal vote has been returned; and
   (b) whether the number of the ballot paper issued to the elector or the elector’s proxy has been recorded on either of the lists of provisionally rejected postal ballot papers kept by the returning officer under paragraphs (2) and (3) of regulation 27.
(2) Where a request is received in accordance with paragraph (1) the returning officer shall be satisfied that the request has been made by the elector or their proxy and where the returning officer is so satisfied provide confirmation of the matters under paragraph (1).

Procedure in relation to postal voting statements

24.—(1) The returning officer shall take measures to be satisfied that the postal voting statement has been duly signed by the voter.
(2) Where the returning officer is not so satisfied, the returning officer shall mark the statement “rejected”, attach to it the ballot paper envelope, or if there is no such envelope, the ballot paper (or ballot papers), and, subject to paragraph (3), place it in the receptacle for rejected votes.
(3) Before placing the statement in the receptacle for rejected votes, the returning officer shall show it to the agents and, if any of them object to the returning officer's decision, shall add the words “rejection objected to”.
(4) The returning officer shall then examine the number (or numbers) on the postal voting statement against the number (or numbers) on the ballot paper envelope and, where they are the same, shall place the statement and the ballot paper envelope respectively in the receptacle for postal voting statements and the receptacle for ballot paper envelopes.

(5) Where—

(a) the number (or numbers) on a valid postal voting statement is (or are) not the same as the number (or numbers) 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 shall open the envelope.

(6) Paragraph (7) 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 (5).

(7) The returning officer shall place—

(a) in the postal ballot box, any postal ballot paper the number on which is the same as the number (or one of the numbers) on the valid postal voting statement;

(b) in the receptacle for rejected votes, any other postal ballot paper, with the valid postal voting statement attached and marked “provisionally rejected”;

(c) in the receptacle for rejected votes, any valid postal voting statement marked “provisionally rejected” where—

(i) there is no postal ballot paper; or

(ii) in the case of a statement on which the number of more than one postal ballot paper appears, there is not a sufficient number of postal ballot papers, and in such cases, shall mark the statements to indicate which postal ballot paper is missing; and

(d) in the receptacle for postal voting statements, any valid statement not disposed of under sub-paragraph (b) or (c).

Opening of ballot paper envelopes

25.—(1) The returning officer shall open separately each ballot paper envelope placed in the receptacle for ballot paper envelopes.

(2) The returning officer shall place—

(a) in the postal ballot box, any postal ballot paper the number on which is the same as the number (or one of the numbers) on the ballot paper envelope;

(b) in the receptacle for rejected votes, any other postal ballot paper, which shall be marked “provisionally rejected” and to which shall be attached the ballot paper envelope; and

(c) in the receptacle for rejected ballot paper envelopes, any ballot paper envelope which shall be marked “provisionally rejected” because it does not contain either a postal ballot paper or, where more than one number appears on the ballot paper envelope, a sufficient number of postal ballot papers (and indicating, in such a case, the missing postal ballot paper).

Retrieval of cancelled postal ballot papers

26.—(1) Where it appears to the returning officer that a cancelled postal ballot paper has been placed—

(a) in a postal voters box;

(b) in the receptacle for ballot paper envelopes; or

(c) a postal ballot box,

the returning officer shall proceed as set out in paragraphs (2) and (3).
(2) The returning officer shall, on the next occasion on which a postal voters box is opened in accordance with regulation 21, also open any postal ballot box and the receptacle for ballot paper envelopes and–

(a) retrieve the cancelled postal ballot paper;
(b) show the ballot paper number on the cancelled postal ballot paper to the agents;
(c) retrieve the postal voting statement that relates to a cancelled paper from the receptacle for postal voting statements;
(d) attach any cancelled postal ballot paper to the postal voting statement to which it relates;
(e) place the cancelled documents in a separate packet and deal with that packet in the manner provided for in regulation 15(7); and
(f) unless the postal ballot box has been opened for the purposes of the counting of votes under rule 42 of the elections rules, re-lock (if it has a lock) and re-seal the postal ballot box in the presence of the agents.

(3) Whilst retrieving a cancelled postal ballot paper in accordance with paragraph (2) above, the returning officer–

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

Lists of provisionally rejected postal ballot papers

27.—(1) In respect of any election, the returning officer shall keep two separate lists of provisionally rejected postal ballot papers.

(2) In the first such list, the returning officer shall record the ballot paper number of any postal ballot paper for which no valid postal voting statement was received with it.

(3) In the second such list, the returning officer shall record the ballot paper number of any postal ballot paper which is entered on a valid postal voting statement where that postal ballot paper is not received with the postal voting statement.

Checking of lists kept under regulation 27

28.—(1) Where the returning officer receives a valid postal voting statement without the postal ballot paper (or papers) to which it relates, the returning officer may, at any time prior to the close of the poll, check the list kept under regulation 27(2) to see whether the number (or numbers) of any postal ballot paper to which the statement relates is entered in that list.

(2) Where the returning officer receives a postal ballot paper without the postal voting statement to which it relates, the returning officer may, at any time prior to the close of the poll, check the list kept under regulation 27(3) to see whether the number of that postal ballot paper is entered in that list.

(3) The returning officer shall conduct the checks required by paragraphs (1) and (2) as soon as practicable after the receipt, under rule 39(1), of packets from every polling station in the local government area for which the election (or elections) was (or were) held.

(4) Where the ballot paper number in the list matches that number on a valid postal voting statement or, as the case may be, the postal ballot paper, the returning officer shall retrieve that statement or paper.

(5) The returning officer shall then take the appropriate steps under these Regulations as though any document earlier marked “provisionally rejected” had not been so marked and shall amend the document accordingly.

Sealing of receptacles

29.—(1) As soon as practicable after the completion of the procedure under regulation 28(3) and (4), the returning officer shall make up into separate packets the contents of–
(a) the receptacle for rejected votes;
(b) the receptacle for postal voting statements;
(c) the receptacle for rejected ballot paper envelopes; and
(d) the lists of spoilt and lost postal ballot papers,

and shall seal up such packets.

(2) Any document in those packets marked “provisionally rejected” shall be deemed to be marked “rejected”.

**Abandoned poll**

30.—(1) Where a poll is, by reason of the death of a candidate, abandoned or countermanded after postal ballot papers have been issued, the returning officer—

(a) shall not take any step or further step to open covering envelopes or deal with the contents in accordance with the provisions of these Regulations; and

(b) shall, notwithstanding regulations 22 to 25, treat all unopened covering envelopes and the contents of those that have been opened as if they were counted postal ballot papers.

(2) Paragraph (1) shall not apply where postal ballot papers for more than one election have been issued together under regulation 4.

**Forwarding of documents**

31.—(1) The returning officer shall, at the same time as forwarding the documents mentioned in rule 57, forward to the proper officer of the Council for which the election was held—

(a) any packets referred to in regulations 13, 15(7), 16(5), 22(8) and 29, subject to regulation 30, endorsing on each packet a description of its contents, the date of the election to which it relates and the name of the local government area or electoral ward for which the election (or elections) was (or were) held; and

(b) a completed statement in relation to postal ballot papers in the form set out in the Schedule to these Regulations.

(2) Where—

(a) any covering envelopes are received by the returning officer after the close of the poll (apart from those delivered in accordance with the provisions of regulation 17(2));

(b) any envelopes addressed to postal voters are returned as undelivered too late to be re-addressed; or

(c) any spoilt postal ballot papers are returned too late to enable other postal ballot papers to be issued,

the returning officer shall put them unopened in a separate packet, seal up such packet and endorse and forward it at a subsequent date in the manner described in paragraph (1).

(3) Rules 58 and 59 shall apply to any packet or document forwarded under this regulation as they apply for the purposes of the documents referred to in those rules.

(4) A copy of the statement referred to in paragraph (1)(b) shall be provided by the returning officer to the Scottish Ministers.

A member of the Scottish Executive

St Andrew’s House,
Edinburgh
2007
STATEMENT AS TO POSTAL BALLOT PAPERS

REPRESENTATION OF THE PEOPLE ACTS

SCOTTISH LOCAL GOVERNMENT ELECTION

<table>
<thead>
<tr>
<th>Local government area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date of Poll</td>
</tr>
<tr>
<td>20</td>
</tr>
</tbody>
</table>

### ISSUE AND RECEIPT OF POSTAL BALLOT PAPERS

<table>
<thead>
<tr>
<th>A.</th>
<th>DESCRIPTION</th>
<th>NUMBER</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Number of postal ballot papers issued (including papers issued under regulations 15 (3) (spoilt papers) and 16 (6) (lost papers))</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>Number of postal ballot papers issued under regulations 15(3) and 16 (6)</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>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</td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td>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 and 16))</td>
<td></td>
</tr>
<tr>
<td>5.</td>
<td>Number of covering envelopes received by the returning officer after the close of poll, excluding any returned as undelivered</td>
<td></td>
</tr>
<tr>
<td>6.</td>
<td>Number of covering envelopes returned as undelivered up to the date of this statement</td>
<td></td>
</tr>
<tr>
<td>7.</td>
<td>Number of covering envelopes not received by the returning officer by the date of this statement</td>
<td></td>
</tr>
</tbody>
</table>

### COUNT OF POSTAL BALLOT PAPERS

<table>
<thead>
<tr>
<th>B.</th>
<th>DESCRIPTION</th>
<th>NUMBER</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>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))</td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>Number of cases in which a covering envelope or its contents were marked “rejected”</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>Number of ballot papers returned by postal voters which were included in the count of ballot papers</td>
<td></td>
</tr>
</tbody>
</table>

Date: .....................................................  Signed ............................................................ ..................................  
Address .................................................................
..............................................................................
..............................................................................
NOTEs

1. The figure entered against A1 should equal the sum of the figures entered against A3-A7.
2. The figure entered against B1 should equal the sum of the figures entered against B2 and B3.
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 provide for revised procedures on the issue and receipt of postal ballot papers for local government elections and revoke and replace the Scottish Local Government Elections Regulations 2002 (“the 2002 Regulations”). The Regulations differ from the 2002 Regulations by introducing changes to the procedures for postal voting introduced by the Representation of the People (Scotland) (Amendment) Regulations 2006 (S.I. 2006/834) for Scottish Parliamentary elections and changes being introduced for postal voting at other UK elections as a result of the Electoral Administration Act 2006 (c.22). The Regulations are also updated to take account of the changes made by the Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14).

Regulation 4 provides that the proceedings on the issue of ballot papers for a local government election may take place together with proceedings for other elections where there is a combined poll. Regulations 5 and 6 deal with persons who are entitled to be present at or may attend proceedings at the issue or receipt of postal ballot papers. Regulation 7 sets out the procedures for the appointment of agents by candidates to attend proceedings on the receipt of ballot papers. Regulation 8 deals with the notification of the requirement of secrecy for those attending the proceedings at the issue or receipt of ballot papers. Regulation 9 provides that, subject to special provision in paragraph (1) in respect of those entitled to vote by post for a definite or indefinite period, a postal ballot paper is to be issued as soon as practicable after the application to vote by post has been granted.

Regulations 10 to 13 deal with procedures for the issue of ballot papers and envelopes and for dealing with the completed corresponding number lists and the postal voters and proxy postal voters lists. Provision is made as to when a returning officer is to refuse to issue a postal ballot paper. Detailed provisions are also provided regarding the envelopes to be issued to a postal voter and for the sealing up of batches of postal ballot papers. Regulation 14 sets out the means by which postal ballot papers may be delivered to the voters. Regulation 15 deals with spoilt ballot papers and paragraph (1) covers voters who have inadvertently spoilt their ballot papers. Regulation 16 provides for the replacement of postal ballot papers that have been lost or not been received by a voter. A voter who has not received his or her ballot paper by the third day before the poll will be able to apply, whether or not in person, to the returning officer for a replacement.

Regulation 17 enables a postal ballot paper and a postal voting statement to be validly returned even if they are returned separately provided that they reach the returning officer or a polling station in the constituency in the manner provided by Regulations before the close of the poll. Paragraphs (1) and (2) prescribe the manner of return. Regulations 18, 19 and 20 deal respectively with the procedures for the notice to candidates of the opening of postal ballot boxes and contents, provision of boxes and receptacles and handling of the covering envelopes following their receipt. Regulations 21 to 24 contain revised procedures for the opening of postal ballot boxes and postal ballot papers, envelopes and counting thereof. Regulation 22 provides for the opening of the covering envelopes. Regulation 23 enables an elector or proxy voter to seek confirmation from the returning officer that a postal vote has been returned. Regulation 24 sets out the procedure in relation to postal voting statements for the returning officer to be satisfied that the statement has been properly executed. Regulation 25 deals with the opening of the ballot paper envelopes. Regulation 26 sets out the procedure to be followed by a returning officer to retrieve a cancelled ballot paper placed in a postal voters box, in the receptacle for ballot paper envelopes or a postal ballot box. Regulations 27 and 28 set out procedures for listing rejected postal ballot papers and matching up postal ballot papers and postal voting statements that have been returned separately.

Regulations 29 to 31 set out procedures in relation to rejected votes, postal voting statements, rejected ballot paper envelopes and lists of spoilt and lost postal ballot papers; procedures for dealing with returned postal ballot papers in the event that a poll is abandoned or countermanded; and the forwarding of documents following the election. The Schedule to the Regulations prescribes the form of statement as to postal ballot papers referred to in regulation 31.
SSI Cover Note For Committee Meeting

SSI title and number: The Representation of the People (Post-Local Government Elections Supply and Inspection of Documents) (Scotland) Regulations 2007, (SSI 2007/draft)

Type of Instrument: Affirmative

Meeting: 6 March 2007

Date circulated to members: 26 February 2007

SSI drawn to Parliament’s attention by Sub Leg Committee: No

Purpose: The purpose of this instrument is to make provision requiring the proper officer of the council to supply or disclose information in documents that have been used or marked at a local government election and places conditions on the use of information contained in those documents.

This instrument was originally laid on 8 February 2007 but was subsequently withdrawn.
Draft Regulations laid before the Scottish Parliament under section 61(4) of the Local Electoral Administration and Registration Services (Scotland) Act 2006, for approval by resolution of the Scottish Parliament. This draft replaces the one laid on 8th February 2007.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2007 No.

REPRESENTATION OF THE PEOPLE

The Representation of the People (Post-Local Government Elections Supply and Inspection of Documents) (Scotland) Regulations 2007

Made: - - - - - - 2007

Coming into force: - - - - - - 2nd May 2007

The Scottish Ministers, in exercise of the powers conferred by section 5(2), (4), (5) and (8) and section 61 of the Local Electoral Administration and Registration Services (Scotland) Act 2006(a), and of all other powers enabling them in that behalf, hereby make the following Regulations, a draft of which has, in accordance with section 61 of that Act, been laid before, and approved by resolution of the Scottish Parliament:

Citation and commencement

1.—(1) These Regulations may be cited as the Representation of the People (Post-Local Government Elections Supply and Inspection of Documents) (Scotland) Regulations 2007.

(2) These Regulations shall come into force on 2nd May 2007.

Interpretation

2.—(1) In these Regulations—

"the 2001 Regulations" means the Representation of the People (Scotland) Regulations 2001(b);

"the 2006 Act" means the Local Electoral Administration and Registrations (Scotland) Act 2006;

"the Absent Voting Regulations" means the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Regulations 2007(c).

(2) Any reference in these Regulations to a rule is to a rule contained in Schedule 1 to the Scottish Local Government Elections Order 2007(d) and any reference to "the Rules" is to be construed as a reference to that Schedule.

(a) S.S.I. 2006 asp 14.
(b) S.S.I. 2001/497.
(c) S.S.I. 2007/.
(d) S.S.I. 2007/.

B768672
(3) In these Regulations references to the “marked register or lists” means any part of the marked copies of—
(a) the full register;
(b) the postal voters list;
(c) the list of proxies; and
(d) the proxy postal voters list,
forwarded to the proper officer of the Council under regulation 31 (Forwarding of documents) of the Representation of the People (Postal Voting for Local Government Elections (Scotland) Regulations 2007(a) or rule 57(b) and (c) (Delivery of documents) of the Rules.

(4) For the purposes of these Regulations any period of days shall be calculated in accordance with regulation 11 (Closing date for applications) of the Absent Voting Regulations.

(5) Sub-paragraphs (a) to (c) shall be taken to apply to the supply and processing of information supplied under these Regulations as they apply to the supply and processing of the full register under Part VI of the 2001 Regulations—
(a) “processor” has the meaning set out in Regulation 114 of the 2001 Regulations;
(b) any reference to an employee of any person who has access to a copy of the full register shall be deemed to include any person working or providing services for the purposes of that person or employed by or on behalf of, or working for, any person who is so working or who is supplying such a service; and
(c) a processor may not disclose the full register or the information contained in it except to the person who supplied it to the processor or any other person, or an employee of such a person, who is entitled to obtain a copy of the full register under the 2001 Regulations.

(6) Subject to any direction by the Scottish Ministers under section 52(1) of the Representation of the People Act 1983(b), any duty on a proper officer of the Council to supply the marked register or lists or make them available for inspection under these Regulations does not impose a duty to supply that information or make it available otherwise than in the form in which it is held.

Supply of marked registers and lists after an election

3.—(1) The supply by the proper officer of the Council of a copy of the marked copies of the register or any of the lists referred to in section 5(3) of the 2006 Act shall be made following—
(a) receipt by the proper officer of a request in writing which shall—
(i) specify whether the request is for the marked register or a list (or the relevant part of the register or a list) and, in the case of a list, which list (or part) is requested;
(ii) state whether a printed copy of the marked register or list or a copy in data form is requested; and
(iii) state the purposes for which the copy of the marked register or list will be used and explain why the supply or purchase of a copy of the full register or unmarked lists would not be sufficient to achieve that purpose;
(b) the proper officer being satisfied that the person making the request needs to see the marks on the marked register or list requested in order to achieve the purposes stated in accordance with sub-paragraph (a)(iii);
(c) receipt by the proper officer of a fee calculated in accordance with regulation 6.

(2) If the proper officer of the Council is not satisfied in accordance with paragraph (1)(b) the officer may treat the request for a marked register or list as a request for information in unmarked lists under regulation 16 (records and lists kept under Schedule 4) of the Absent Voting Regulations or for the published copy of the full register in accordance with regulation 101.

(a) S.S.I. 2007 1
(b) 1993 c.2
(supply of full register etc. under regulations 102 to 108: general provisions)(a) of the 2001 Regulations, or both.

(3) A person who obtains a copy of any part of a marked register or list following a request made in accordance with this regulation may use the copy or any information contained in the copy—

(a) for the permitted purposes specified in paragraph (2) of regulation 5; and

(b) subject to the conditions which would apply to the use of the full register under whichever of regulations 102 (supply of full register etc. to elected representatives for elector purposes and restrictions on use), 105 (supply of full register etc. to registered political parties etc. and restrictions on use) or 107 (supply of full register etc. to certain candidates and restrictions on use) of the 2001 Regulations apply to that person in relation to the full register.

(4) The permitted purposes and conditions referred to in paragraph (3) apply to a person to whom a copy of the marked register or lists, or any information contained in either of them (that is not contained in the edited register), has been supplied or disclosed as they apply to the person who obtained the copy or, as the case may be, information from the proper officer of the Council.

(5) Any person who has obtained or is entitled to obtain a copy of the marked register or lists under this regulation may—

(a) supply a copy of the marked register or lists to a processor for the purpose of processing the information contained therein, or

(b) procure that a processor processes and supplies to them any copy of the information in the marked register or lists which the processor has obtained under this regulation,

for use in respect of the purposes for which that person is entitled to obtain such copy or information (as the case may be).

Inspection of documents open to public inspection

4.—(1) Where any person wishes to inspect any documents in accordance with section 5(2)(a) of the 2006 Act, that person shall submit a request to the proper officer of the Council in accordance with paragraph (2).

(2) A request under paragraph (1) shall be made in writing and shall specify—

(a) which documents are requested;

(b) the purpose for which the information in any document will be used;

(c) where the request is to inspect the marked register or lists, any reason why inspecting the full register or unmarked lists would not be sufficient to achieve that purpose;

(d) who will inspect the documents;

(e) the date on which they wish to inspect the documents; and

(f) whether they would prefer to inspect the documents in a printed or data form.

(3) Subject to paragraph (4), the proper officer of the Council shall make the documents requested available for inspection under supervision not later than 10 days after the date of receipt of a request made under paragraph (1).

(4) A person who obtains a copy of, or information in, any document open to public inspection under this regulation may use it only for the permitted purposes specified in regulation 5, and subject to any conditions specified in that regulation or in paragraph (6).

(5) Where inspection takes place by displaying the records or lists on a computer screen or otherwise in data form, the proper officer of the Council shall ensure that the manner in, and equipment on, which that copy is provided do not permit any person consulting that copy to—

(a) search it by electronic means by reference to the name of any person; or

(b) copy or transmit any part of that copy by electronic means.

(a) Regulation 101 was inserted by S.I. 2002/1872.
(6) Subject to paragraph (7) a person who inspects a copy of a document open to public inspection, whether a printed copy or in data form, may not—

(i) make copies of any part of it; or

(ii) record any particulars in it,

except by way of handwritten notes.

(7) Paragraph (6) does not apply where the person who inspects a copy of a document open to public inspection is a person mentioned in regulation 108 of the 2001 Regulations (supply of full register etc to police forces and restrictions on use)(a).

Conditions on the use, supply and disclosure of documents open to public inspection

5.—(1) Subject to paragraphs (2) and (3) the restrictions on the supply, disclosure and use of information in regulations 94 (Restrictions on supply of full register and disclosure of information from it by the registration officer and his staff)(b) and 95 (Restriction on use of the full register, or of information contained in it, supplied in accordance with enactments or obtained otherwise)(c) of the 2001 Regulations shall apply to the documents open to public inspection as they apply to the full register.

(2) Where a person—

(a) obtains copies of the information in the marked register or lists following a request made in accordance with regulation 3(1); or

(b) a person inspects information following a request made in accordance with regulation 4(1),

the permitted purpose shall mean—

(i) research purposes within the meaning of that term in section 33 of the Data Protection Act 1998; or

(ii) electoral purposes.

(3) Where a copy of any information was obtained by a person referred to in regulation 4(7), the permitted purpose means the purposes set out in regulation 108(4) of the 2001 Regulations (supply of full register etc to police forces and restrictions on use).

Fees relating to the supply of marked registers and lists

6. The fee that shall be paid to the proper officer of the Council under regulation 3(1)(e) by a person prior to their being supplied with copies of the marked register or lists (or any relevant part those documents) shall be calculated in accordance with regulation 110(5) (Sale of full register etc: restrictions on supply, charges, etc)(d) of the 2001 Regulations.

St Andrew’s House,
Edinburgh
2007

A member of the Scottish Executive

(a) Regulation 108 was inserted by S.I. 2002/1872 and amended by S.I. 2006/834.

(b) Regulation 94 was inserted by S.I. 2002/1872.

(c) Regulation 95 was inserted by S.I. 2002/1872 and amended by S.I. 2006/834.

(d) Regulation 110 was inserted by S.I. 2002/1872 and amended by S.I. 2006/834.
EXPLANATORY NOTE
(This note is not part of the Regulations)

These Regulations make provision requiring the proper officer of the Council to supply or disclose information in certain documents that have been used or marked at a local government election and places conditions on the use of information contained in those documents. Breach of those conditions is an offence under section 6 of the Local Electoral Administration and Registration Services Act 2006.

Regulation 3 sets out the procedures to be followed in relation to requests from and the supply of marked registers and lists to any person entitled to be supplied with copies of such documents.

Regulation 4 sets out the procedures to be followed in relation to requests from members of the public to inspect those election documents that are open to public inspection.

Regulation 5 provides for the conditions that are to be placed on the supply and disclosure of documents which have been provided under regulations 3 and 4.

Regulation 6 applies a formula to be used to calculate the fees to be charged for the supply of documents under regulation 3. This formula is the same as that set out in the 2001 Regulations used for the sale of the full register.
Executive Note

DRAFT: The Representation of the People (Post-Local Elections Supply and Inspection of Documents) (Scotland) Regulations 2007

The above instrument is laid in exercise of the powers conferred by sections 5(2), (4), (5) and (8) and 61 of the Local Electoral Administration and Registration Services (Scotland) Act 2006. The instrument is subject to affirmative resolution procedure.

Policy Objectives

The purpose of the instrument is to make provision requiring the proper officer of the council to supply or disclose information in documents that have been used or marked at a local government election and places conditions on the use of information contained in those documents. An offence for the breach of those conditions is contained in section 6 of the Local Electoral Administration and Registration Services Act 2006.

Consultation

The following bodies have been consulted on a draft of the instrument:

- Association of Electoral Administrators
- Convention of Scottish Local Authorities
- Society of Local Authority Lawyers and Administrators
- Society of Local Authority Chief Executives and Senior Managers
- The Electoral Commission
- The Scotland Office

Financial Effects

Local authorities are responsible for meeting the cost of local government elections from within their overall budget. The instrument has no financial effects on the Scottish Executive or on business.

Scottish Executive Finance and Central Services Department
January 2007

The Representation Of the People (Post-Local Government Elections Supply and Inspection of Documents) (Scotland) Regulations 2007 were laid before the Scottish Parliament on 8 February 2007 under section 61 of the Local Electoral Administration and Registration Services (Scotland) Act 2006. They are subject to approval by resolution before coming into force.

In terms of Rule 10.8 of the Standing Orders of the Parliament, I wish to withdraw and replace the above named instrument. The reason for this withdrawal is in order to address certain points raised by the Directorate of Legal Services of the Parliament. Replacement regulations are attached.

I would be grateful if you would withdraw the entry from the Business Bulletin and notify the relevant committees.

Please contact me if there is any matter you wish to discuss.

Yours sincerely

Russell Bain
Team Leader
Local Democracy Team
SSI Cover Note For Committee Meeting

SSI title and number: The Local Governance (Scotland) Act 2004 (Allowances and Expenses) Regulations 2007, (SSI 2007/draft)

Type of Instrument: Affirmative

Meeting: 6 March 2007

Date circulated to members: 26 February 2007

SSI drawn to Parliament’s attention by Sub Leg Committee: Yes (see annex)

Purpose: The purpose of this instrument is to abolish the various flat rate allowances and travel expenses that councillors currently receive, regardless of whether any expenses have been incurred, and to require expenses properly incurred for approved duties are reimbursed upon production of a receipt.

This instrument was originally laid on 9 February but was subsequently withdrawn.
The Local Governance (Scotland) Act 2004 (Allowances and Expenses) Regulations 2007, (SSI 2007/draft)

1. The Committee asked the Executive to explain why it chose to use a combination of enabling powers in different enabling Acts which are subject to different Parliamentary procedures (draft affirmative and annulment) on this single instrument.

2. In its response at Appendix 1, the Executive acknowledges that its approach in this regard was not in accordance with normal legislative practice, and that it has withdrawn and re-laid the draft affirmative instrument and will re-lay the negative instrument.

3. The Committee draws the attention of the lead committee and Parliament to this instrument on the grounds of a failure to follow proper legislative practice due to the use of a combination of enabling powers subject to different procedures, acknowledged and remedied by the Executive in re-laid instruments.

APPENDIX 1

The Local Governance (Scotland) Act 2004 (Allowances and Expenses) Regulations 2007, (SSI 2007/draft); and

The Local Electoral Administration and Registration Services (Scotland) Act 2006 (Commencement No. 2 and Transitional Provisions) Order 2007, (SSI 2007/26)


Combining powers – general

2. The Executive is aware of the difficulties which can be caused when a single instrument makes provision in exercise of powers subject to different procedures. The Executive’s general position, as indicated in the Guidance referred to in your letter, is that such exercise of powers in one instrument is likely to give rise to procedural difficulties, and should be avoided unless clearly contemplated by the enabling Act.

3. Having said that, the Executive considers that there will be some cases in which it is appropriate to make such an instrument, in particular in the interests of the ultimate users of the legislation.

4. A recent example is the Tweed Regulation Order 2007 (SSI 2007/19). As the Executive explained to the Committee, the purpose of that Order was to bring together in one document all the subordinate legislation relating to the rivers in the Tweed district, so that all the relevant orders could be identified in a single instrument, with significant benefit to the users of the legislation. There have been similar cases in previous SSIs. For example, The Land Tribunal for Scotland Rules 2003 (SSI 2003/452). This used powers in section 3 of the Lands Tribunal Act 1949 (no procedure) with powers in sections 101 and 104 of the Title Conditions (S) Act 2003 (negative procedure). Both sets of powers are to do with procedural rules for the Tribunal and it would have been difficult, not at all user-friendly, and would have involved a fair amount of duplication, to try and separate them out. Another example is the Compulsory Purchase of Land (S) Regs 2003 (SSI 2003/446).

5. The Executive notes the Committee’s technical point about the effect of a successful motion to annul any such instrument. However, the Executive considers that that point should not, in practice, give rise to any legal or other practical difficulty. In the event of any successful motion to annul, the relevant instrument would require to be revoked (see article
11(4) of The Scotland Act 1998 (Transitory and Transitional Provisions) (Statutory Instruments Order) 1999 (SI 1999/1096)). Thus, the composite instrument would be revoked. However, a further instrument could then be made, with effect from the time of revocation of the first instrument, replicating the provisions of the first instrument that were made under the power that is subject to no procedure. It would be for decision at that time whether or not those provisions should be contained in a single instrument subject to no procedure or, again, be made in a composite order. Either way, the effect of article 11(5) of SI 1999/1096 would be to preserve the validity of anything done under the revoked instrument. So no legal or other practical difficulties should, in the Executive’s view, arise in such a case.

**Combining powers – affirmative and negative**

6. As far as combining affirmative and negative powers is concerned, the Executive acknowledges that this is not in line with our normal practice. In the case of the draft Allowances and Expenses Order, the Executive again considered that the approach taken would assist the user and Parliament in having the “package” of allowances available in one instrument. However, as there are potential difficulties with this approach, the instrument will now be split into two separate instruments. The potential benefits for Parliament and end-users in being able to combine procedures (particularly where a more rigorous scrutiny procedure is chosen) is something which may be worth exploring further, perhaps in the context of the Statutory Instruments Bill in a future Parliament.

**Conclusion**

7. The Executive does not agree that every instrument made in exercise of two powers each of which are subject to different procedure always involves a failure to follow proper legislative practice. We think there can be advantages if one of the powers is not subject to procedures. However, we accept that currently it is not desirable to combine in one instrument exercise of separate powers that are subject to affirmative and negative procedures.
Draft Regulations laid before the Scottish Parliament under section 16(5) of the Local Governance (Scotland) Act 2004, for approval by resolution of the Scottish Parliament. This draft replaces the one laid on 9th February 2007.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2007 No.

LOCAL GOVERNMENT

The Local Governance (Scotland) Act 2004 (Allowances and Expenses) Regulations 2007

Made - 2007

Coming into force - 2nd May 2007

The Scottish Ministers, in exercise of the powers conferred by sections 11 and 16 of the Local Governance (Scotland) Act 2004(a), and of all other powers enabling them in that behalf, after consideration of the information, advice and recommendations given to them by the Scottish Local Authorities Remuneration Committee in accordance with the requirements of section 11(4) of the Local Governance (Scotland) Act 2004, hereby make the following Regulations, a draft of which has, in accordance with section 16(5) of that Act, been laid before and approved by resolution of the Scottish Parliament:

Citation and commencement

1. These Regulations may be cited as the Local Governance (Scotland) Act 2004 (Allowances and Expenses) Regulations 2007 and shall come into force on 2nd May 2007.

Amendment of the Local Government (Scotland) Act 1973

2.—(1) The Local Government (Scotland) Act 1973(b) is amended in accordance with this regulation.

(2) In section 47 (allowances for attending conferences and meetings)(c)—

(a) in subsection (1)—

(i) paragraph (a) is repealed;

(ii) in paragraph (b), for “any other body” substitute “any body”; and

(iii) for “the authority or other body” substitute “the body”;

(b) subsection (3) is repealed; and

(c) in subsection (3A), for “and convened as mentioned in subsection (3) above” substitute “inside or outside the United Kingdom and convened by any person or body (other than a

(a) 2004 asp 9.
(b) 1973 c.65.
(c) Section 47 was amended by the Local Government and Housing Act 1985 (“the 1985 Act”), Schedule 11, and the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 12 and 14. Section 47(3A) was added by the Local Government, Planning and Land Act 1980 (c.65), section 55(5) and amended by section 194(1) and Schedule 11, paragraph 34 of the 1989 Act.
person or body convening it in the course of a trade or business or a body the objects of which are wholly or partly political"

(3) in section 48 (payment of expenses of official and courtesy visits, etc.)—

(a) in subsection (1)(a), after "expenses" insert "receipts and"; and

(b) in subsection (2), for "travelling allowance or subsistence allowance under section 46 of this Act" substitute "any allowances and reimbursement of expenditure by virtue of regulations made under section 11 of the Local Governance (Scotland) Act 2004";

(4) in section 49 (provisions supplementary to sections 45 to 48)—

(a) in subsection (1), paragraph (a) is repealed.

(b) in subsection (2), omit "local authority or other".

Amendment of the Local Government etc. (Scotland) Act 1994

3. Section 4(8) (allowance for payment of expenses of office of convener and depute convener) of the Local Government etc. (Scotland) Act 1994(a) is repealed.

St Andrew's House,
Edinburgh
2007

A member of the Scottish Executive

(a) 0:39
EXPLANATORY NOTE
(This note is not part of the Regulations)

These Regulations are made in accordance with sections 11 and 16 of the Local Governance (Scotland) Act 2004 ("the 2004 Act"). They amend sections 47, 48 and 49 of the Local Government (Scotland) Act 1973, and repeal section 4(8) of the Local Government etc. (Scotland) Act 1994 ("the 1994 Act").

Regulation 2 provides for the amendment of section 47 of the 1973 Act, which concerns allowances for attendance at conferences and meetings, to disapply it to local authorities. Section 47(3), providing for local authorities to pay allowances to members for attendance at certain conferences or meetings, is repealed.

Regulation 2 also provides for amendment of section 48 of the 1973 Act. That section enables local authorities to defray certain travelling and other expenses for official and courtesy visits on behalf of the authority, and certain expenses incurred in reception and entertainment by way of official courtesy. The amendments provide that the local authority may reimburse receipted expenses incurred by members that meet the criteria of the section. The amendment of section 48(2) provides that, for expenses in relation to official and courtesy visits within the United Kingdom, the amount defrayed by the authority shall not exceed the payments that the member would be entitled to receive if the visit had been an approved duty of the member under section 11 of the 2004 Act. This replaces the reference to travel and subsistence allowances under section 46 which no longer applies to local authority members.

Regulation 2, by amending section 49 of the 1973 Act, disapplies section 46 of the 1973 Act to members of local authorities. Such members are not entitled to travelling and subsistence allowance under that section.

Regulation 3 repeals section 4(8) of the 1994 Act, which permitted local authorities to pay an allowance to the convener or depute convener in relation to the expenses of office.
Executive Note

Draft: The Local Governance (Scotland) Act 2004 (Allowances and Expenses) Regulations 2007

The above instrument was made in exercise of the powers conferred by sections 11 and 16 of the Local Governance (Scotland) Act 2004. The instrument is subject to draft affirmative resolution procedure.

Policy Objectives

The purpose of the instrument is to abolish the various flat rate allowances and travel expenses that councillors currently receive, regardless of whether any expenses have been actually incurred, and to require expenses properly incurred for approved duties are reimbursed upon production of a receipt. This structure follows on the recommendations from the Scottish Local Authorities Remuneration Committee (SLARC), as part of the package of measures being introduced for the 2007 local government elections. Current allowances and travel expenses are paid under sections 46 to 49 of the Local Government (Scotland) Act 1973. This instrument amends these provisions to disapply sections 46, 47 and 49 of the 1973 Act to local authorities, and make a required amendment to section 48 of that Act to cater for this policy. It also repeals section 4(8) of the Local Government etc (Scotland) Act 1994, which permits local authorities to pay an allowance to their convener or deputy convener.

Separate Regulations will be made in relation to allowances and expenses to meet the recommendations of SLARC in relation to new allowances and expenses.

The Local Governance (Scotland) Act 2004 enables regulations to make provision for the payment by local authorities of allowances and reimbursement of expenses to their members, and provides for the modification of any enactment as a consequence of such regulations.

Consultation

The following bodies have been consulted on a draft of the instrument in accordance with the requirements of Section 11(4) of the Local Governance (Scotland) Act 2004.

The Scottish Local Authorities Remuneration Committee

The following organisations were also consulted

Convention of Scottish Local Authorities
Society of Local Authority Chief Executives and Senior Managers
National Association of Councillors
Standards Commission for Scotland
Society of Local Authority Lawyers and Administrators in Scotland
Central Scotland Joint Police and Fire Boards
Dumfries and Galloway Council
Fife Council
Grampian Joint Police Board
Grampian Fire Board
Financial Effects

The instrument will have financial saving for Local Government of approximately £0.5m.

Scottish Executive Finance and Central Services Department
February 2007
SSII Cover Note For Committee Meeting

SSI title and number: The Business Improvement Districts (Ballot Arrangements) (Scotland) Regulations 2007, (SSI 2007/draft)

Type of Instrument: Affirmative

Meeting: 6 March 2007

Date circulated to members: 12 February 2007

SSI drawn to Parliament's attention by Sub Leg Committee: No

Purpose: The purpose of this instrument is to define the arrangements in a Business Improvement District (BID) ballot where non-domestic ratepayers and (should the Business Improvement Districts body decide) owners or tenants vote on proposals to introduce works or services payable through a BID levy.
SSI Cover Note For Committee Meeting

SSI title and number: The Local Government Pensions Etc. (Councillors and VisitScotland) (Scotland) Amendment Regulations 2007, (SSI 2007/71)

Type of Instrument: Negative

Meeting: 6 March 2007

Date circulated to members: 26 February 2007

SSI drawn to Parliament’s attention by Sub Leg Committee: No

Purpose: The purpose of this instrument is to provide eligible councillors, as non employees, with access to the Local Government Pension Scheme.
SSI Cover Note For Committee Meeting

SSI title and number: The Licensing (Clubs) (Scotland) Regulations 2007, (SSI 2007/76)

Type of Instrument: Negative

Meeting: 6 March 2007

Date circulated to members: 26 February 2007

SSI drawn to Parliament’s attention by Sub Leg Committee: No

Purpose: The purpose of this instrument is to prescribe certain descriptions of clubs for the purposes of section 125 of the Licensing (Scotland) Act 2005 whose premises will thereby be exempt from the requirements of the sections of the parent Act listed in section 125(2).

The instrument also modifies the effect of the 2005 Act in relation to such prescribed clubs in regulations 3 and 4. This will allow licensed premises of such clubs to be granted an occasional license notwithstanding the provisions of section 56(1) of 2005 Act which otherwise does not apply to licenses premises.
SSI Cover Note For Committee Meeting

SSI title and number: The Personal Licence (Scotland) Regulations 2007, (SSI 2007/77)

Type of Instrument: Negative

Meeting: 6 March 2007

Date circulated to members: 26 February 2007

SSI drawn to Parliament’s attention by Sub Leg Committee: No

Purpose: The purpose of this instrument, which is made under the Licensing (Scotland) Act 2005, is to regulate the application for a personal licence under the 2005 Act. Set out in the Schedule to the Regulations is the form of application for a personal licence and the form of the licence itself.
SSl Cover Note For Committee Meeting

SSI title and number: The Public Service Vehicles (Registration of Local Services) (Scotland) Amendment Regulations 2007, (SSI 2007/79)

Type of Instrument: Negative

Meeting: 6 March 2007

Date circulated to members: 26 February 2007

SSI drawn to Parliament’s attention by Sub Leg Committee: No

Purpose: The purpose of this instrument is to increase local bus service registration fees from £51 to £54 and community bus service registration fees from £11 to £12.
SSI Cover Note For Committee Meeting

SSI title and number: The Sale of Alcohol to Children and Young Persons (Scotland) Regulations 2007, (SSI 2007/93)

Type of Instrument: Negative

Meeting: 6 March 2007

Date circulated to members: 26 February 2007

SSI drawn to Parliament’s attention by Sub Leg Committee: No

Purpose: The purpose of these regulations is to introduce a nationally accepted ID card which will be acceptable under sections 102 and 108 of the Licensing Scotland Act 2005 as proof that a person is over 18. If such identification is provided to the person selling the alcohol it will provide a defence to the offences under those sections.
The Scottish Ministers, in exercise of the powers conferred by sections 102(4)(c), 108(7)(c), 110(3) and 147(1) of the Licensing (Scotland) Act 2005\(^{(a)}\) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1. — (1) These Regulations may be cited as the Sale of Alcohol to Children and Young Persons (Scotland) Regulations 2007 and shall come into force on 1st September 2009.

(a) paragraph (c) of section 102(4) of the Act; and

(b) paragraph (c) of section 108(7) of the Act.

(2) In these Regulations, “the Act” means the Licensing (Scotland) Act 2005.

Prescribed documents

2. — (1) A document of the description specified in paragraph (2) is prescribed for the purposes of—

(a) paragraph (c) of section 102(4) of the Act; and

(b) paragraph (c) of section 108(7) of the Act.

(2) That description is a photographic identity card of a type approved by the British Retail Consortium for the purposes of its Proof of Age Standards Scheme.

Form and dimensions of notice

3. The notice required by section 110 of the Act to be displayed in premises must be—

(a) in the form set out in the Schedule; and

(b) of A4 size or larger.

GEORGE LYON

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
20th February 2007

\(^{(a)}\) 2005 asp 16; see the definition of “prescribed” in section 147(1).
This notice is displayed in accordance with the provisions of section 110 of the Licensing (Scotland) Act 2005.

It is an offence for a person under the age of 18 to buy or attempt to buy alcohol on these premises.

It is also an offence for any other person to buy or attempt to buy alcohol on these premises for a person under the age of 18.

Where there is doubt as to whether a person attempting to buy alcohol on these premises is aged 18 or over, alcohol will not be sold to the person except on production of evidence showing the person to be 18 or over.
EXPLANATORY NOTE
(This note is not part of the Regulations)

Sections 102 and 108 of the Licensing (Scotland) Act 2005 create criminal offences in connection with the sale of alcohol to a person under 18 and the delivery of alcohol by or to such a person. Those sections provide a defence if the person charged with the offence has taken reasonable steps to establish the age of the person involved by looking at a passport or driving licence or another document prescribed for the purposes of those sections. Regulation 2 of these Regulations prescribes for those purposes a photographic identity card of a type approved by the British Retail Consortium for the purposes of its Proof of Age Standards Scheme. Further information about that Scheme may be obtained from the British Retail Consortium, 21 Dartmouth Street, London, SW1H 9BP (tel: 020 7854 8900) or on the Consortium’s website at www.brc.org.uk.

Regulation 3 of, and the Schedule to, these Regulations prescribe the size and form of the notice to be displayed on licensed premises so as to provide statements as to offences in connection with the purchase of alcohol by, or the sale of alcohol to, a person under 18.
SSI Cover Note For Committee Meeting

SSI title and number: The Licensing (Training) (Scotland) Regulations 2007, (SSI 2007/95)

Type of Instrument: Negative

Meeting: 6 March 2007

Date circulated to members: 26 February 2007

SSI drawn to Parliament’s attention by Sub Leg Committee: No

Purpose: The purpose of these regulations is to introduce qualifications that will be a requirement for all Licensing Standard Officers and members of Licensing Boards under schedule 1 of the Licensing (Scotland) Act 2005.
The Scottish Ministers, in exercise of the powers conferred by sections 16 and 147(1) of, and paragraph 11 of schedule 1 to, the Licensing (Scotland) Act 2005(a) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Licensing (Training) (Scotland) Regulations 2007 and shall come into force on 1st May 2007.

Training of Licensing Standards Officers

2. The training requirement prescribed for the purposes of section 16 of the Licensing (Scotland) Act 2005 is that each Licensing Standards Officer must, within 18 months of being appointed as such an Officer, undertake a course of training accredited by the Scottish Ministers for the purposes of this regulation.

Training of Licensing Board members

3. The training requirement prescribed for the purposes of paragraph 11 of schedule 1 to the Licensing (Scotland) Act 2005 is that each Licensing Board member must, within 3 months of being elected or re-elected as such a member, undertake a course of training accredited by the Scottish Ministers for the purposes of this regulation.

GEORGE LYON
Authorised to sign by the Scottish Ministers

St. Andrew’s House,
Edinburgh
20th February 2007

(a) 2005 asp 16; see the definition of “prescribed” in section 147(1).
Section 13(1) of the Licensing (Scotland) Act 2005 (“the Act”) requires each local authority to appoint for their area one or more officers to be known as Licensing Standards Officers. Section 16 of the Act requires such Officers to comply with such requirements as to training as may be prescribed. Regulation 2 prescribes a relevant training requirement.

In terms of paragraph 11 of schedule 1 to the Act, each member of a Licensing Board must, within a specified period of being elected or re-elected, produce evidence that he or she has complied with prescribed training requirements. Regulation 3 prescribes a relevant training requirement.
SSI Cover Note For Committee Meeting

SSI title and number: The Occasional Licence (Scotland) Regulations 2007, (SSI 2007/96)

Type of Instrument: Negative

Meeting: 6 March 2007

Date circulated to members: 26 February 2007

SSI drawn to Parliament’s attention by Sub Leg Committee: No

Purpose: The purpose of these regulations is to prescribe the form and content of the application form for an occasional under section 56 of the Act. It also prescribes the form and content of any occasional licence issued under Part 4 of the parent Act.
Citation and commencement

1. These Regulations may be cited as the Occasional Licence (Scotland) Regulations 2007 and shall come into force on 1st February 2008.

Form of occasional licence

2. An occasional licence is to be in the form set out in Schedule 1.

Application for an occasional licence

3. An occasional licence application is to be in the form set out in Schedule 2.
SCHEDULE 1

OCCASIONAL LICENCE

[Issued by – insert name of Licensing Board – under the terms and conditions of the Licensing (Scotland) Act 2005]

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Occasional licence number</td>
</tr>
<tr>
<td>2.</td>
<td>Duration of occasional licence</td>
</tr>
<tr>
<td></td>
<td>From:</td>
</tr>
<tr>
<td></td>
<td>To:</td>
</tr>
<tr>
<td>3.</td>
<td>Postal address of premises</td>
</tr>
<tr>
<td>4.</td>
<td>Post code</td>
</tr>
<tr>
<td>5.</td>
<td>Telephone number</td>
</tr>
<tr>
<td>6.</td>
<td>Description of premises</td>
</tr>
<tr>
<td>7.</td>
<td>Description of activities to be carried on in the premises</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>8. Statement of the times at which any activities other than the sale of alcohol will be carried on in the premises</td>
<td></td>
</tr>
<tr>
<td>9. Licensed Hours during which alcohol will be sold on the premises</td>
<td></td>
</tr>
<tr>
<td>10. Licensed Hours during which alcohol will be sold off the premises (if appropriate)</td>
<td></td>
</tr>
<tr>
<td>11. Ages of children or young persons permitted entry</td>
<td>12. Times at which children or young persons permitted entry</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>13. Parts of premises to which children or young persons permitted entry</td>
<td></td>
</tr>
<tr>
<td>14. Name (registered) address, telephone number and e-mail (where relevant) of holder of occasional licence</td>
<td></td>
</tr>
</tbody>
</table>
15. Registered number of holder, for example, company number, charity number (if applicable)
### ANNEX

**Licensing (Scotland) Act 2005**

**Licence Conditions**

<table>
<thead>
<tr>
<th>Occasional licence number</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>National mandatory licence conditions</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Additional licence conditions imposed by Licensing Board</th>
</tr>
</thead>
</table>
Application for occasional licence

Before completing this form please read the guidance notes at the end of the form.

If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written or typed in black ink. Use additional sheets, if necessary.

You may wish to keep a copy of the completed form for your records.

<table>
<thead>
<tr>
<th>1. LICENCE DETAILS (see note 1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Premises licence number (if applicable)</td>
</tr>
<tr>
<td>Personal licence number (if applicable)</td>
</tr>
<tr>
<td>Name of voluntary organisation (if applicable)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2. PERSONAL DETAILS</th>
</tr>
</thead>
<tbody>
<tr>
<td>TITLE (delete as appropriate): Mr Mrs Miss Ms Other (please state)</td>
</tr>
<tr>
<td>Surname</td>
</tr>
<tr>
<td>Forenames</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>DATE OF BIRTH</th>
<th>Day</th>
<th>Month</th>
<th>Year</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>ADDRESS WHERE ORDINARILY RESIDENT TO BE USED FOR CORRESPONDENCE PURPOSES</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Post town</th>
<th>Post code</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>TELEPHONE NUMBERS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Daytime</td>
</tr>
<tr>
<td>Evening</td>
</tr>
<tr>
<td>Mobile</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>FAX NUMBER</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>E-MAIL ADDRESS (if you would prefer us to correspond with you by e-mail)</th>
</tr>
</thead>
</table>
### 3. THE PREMISES

<table>
<thead>
<tr>
<th>Description of premises</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Description of activities to be carried on in the premises</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Full postal address of premises which this application refers to</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

### 4. DURATION OF LICENCE

<table>
<thead>
<tr>
<th>From:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>To:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

### 5. Is alcohol to be sold on & off the premises YES/NO* - Provide relevant details as to hours requested when alcohol will be sold on/off the premises-* delete as appropriate

<table>
<thead>
<tr>
<th>Times for sale of alcohol for consumption on premises</th>
<th>Times for sale of alcohol for consumption off premises</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Statement of the times at which any activities other than the sale of alcohol will be carried on in the premises</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>
6. CHILDREN (see note 2)

This section must be completed where alcohol is for sale for consumption on the premises

Are children or young persons permitted entry? YES/NO (if answered yes the remainder of this section must be completed)

<table>
<thead>
<tr>
<th>Ages of children or young persons permitted entry</th>
<th>Times at which children or young persons permitted entry</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Parts of premises to which children or young persons permitted entry

<p>| |</p>
<table>
<thead>
<tr>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

7. CHECKLIST

I have

Please tick yes

- Made or enclosed payment of the fee for the application

8. Signature and declaration by applicant (see note 3)

DECLARATION

IT IS AN OFFENCE TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

(Criminal Law (Consolidation) (Scotland) Act 1995 Section 44(2)(b))

The contents of this Application are true to the best of my knowledge and belief.

<table>
<thead>
<tr>
<th>SIGNATURE</th>
<th>DATE</th>
</tr>
</thead>
</table>
NOTES

1. Section 56 of the Licensing (Scotland) Act 2005 provides that only:
   - The holder of a premises licence;
   - The holder of a personal licence; or
   - A representative of any voluntary organisation

   is eligible to apply for an occasional licence

2. Where alcohol is to be sold for consumption on the premises, the Act requires that a clear statement be made as to whether children or young persons are to be allowed entry and, if they are, a statement of the terms on which they are allowed entry

3. Data Protection Act 1998

   The information on this form may be held on an electronic register which may be available to members of the public on request.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision as to the form of an occasional licence issued under Part 4 of the Licensing (Scotland) Act 2005 and as to the form of an application for such a licence.
SSI Cover Note For Committee Meeting

SSI title and number: The Licensing (Designated Airports) (Scotland) Order 2007, (SSI 2007/97)

Type of Instrument: Negative

Meeting: 6 March 2007

Date circulated to members: 26 February 2007

SSI drawn to Parliament’s attention by Sub Leg Committee: No

Purpose: The purpose of these regulations is to exempt from the requirements of section 124 of the Licensing (Scotland) Act 2005 the airports listed in article 2. This has the effect of making the examination stations at these airports, which handle a significant amount of international air travel, “exempt premises” for the purposes of the Act and accordingly they are exempt from the requirements to hold a licence.
SSI Cover Note For Committee Meeting

SSI title and number: The Licensing Qualification (Scotland) Regulations 2007, (SSI 2007/98)

Type of Instrument: Negative

Meeting: 6 March 2007

Date circulated to members: 26 February 2007

SSI drawn to Parliament’s attention by Sub Leg Committee: No

Purpose: The purpose of this instrument is to prescribe the licensing qualification that will be considered acceptable to meet the eligibility conditions with which an applicant must comply under section 74 of the Act. The qualification will be based on the framework for training developed by the National Licensing Forum. Ministers will only approve a qualification if it has been firstly accredited by the Scottish Qualifications Authority.
The Scottish Ministers, in exercise of the powers conferred by sections 91 and 147(1) of the Licensing (Scotland) Act 2005(a) and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Licensing Qualification (Scotland) Regulations 2007 and shall come into force on 1st September 2007.

**Licensing qualification**

2. In terms of section 91 of the Licensing (Scotland) Act 2005, a “licensing qualification” means a qualification (whether awarded within or outwith Scotland) which has been accredited for the purposes of that section by the Scottish Ministers.

---

(a) 2005 asp 16; see the definition of “prescribed” in section 147(1).
EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 91 of the Licensing (Scotland) Act 2005 provides that the phrase “licensing qualification” as used in that Act is to have the meaning prescribed by regulations. Regulation 2 of these Regulations prescribes the relevant meaning.
LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

British-Irish Inter-Parliamentary Body

1. The attached letter from the Clerk to the Joint Committee C of the British-Irish Inter-Parliamentary Body, invites this Committee to consider the possibility of a meeting between the Transport Committees of the Scottish Parliament, the Dáil Éireann, the House of Commons and the National Assembly for Wales.

2. The purpose of the proposed meeting is to discuss freight and transport links between Ireland and Great Britain.

3. A note on the BIIPB is also attached. It can be viewed on the Scottish Parliament’s website, together with further information, at—

   http://www.scottish.parliament.uk/corporate/elu/interOrg/biip.htm

4. Members are invited to consider the proposal contained in the attached letter.

Martin Verity
Clerk to the Committee
Mr Martin Verity  
Committee Clerk  
Local Government and Transport Committee  
The Scottish Parliament  
Edinburgh  
EH991SP

Dear Mr Verity,

At a recent meeting of Committee C, British Irish Inter-Parliamentary Body, the possibility of arranging a meeting between the Transport Committees of House of Commons, Scottish Assembly, Welsh Assembly and the Irish Parliament, to discuss freight and transport links between Ireland and Great Britain, was muted.

Accordingly I am directed by the Chairman of the Joint Committee on Transport Mr John Ellis T.D and Mr Seamus Kirk T.D. Chairman Committee C-Economic Committee to request you to bring this letter to the attention of your Committee at your earliest convenience.

Yours sincerely,

Eileen Brosnan,  
Clerk to the Joint Committee.  

c.c House of Commons, Welsh Assembly
The British-Irish Inter-Parliamentary Body

The Scottish Parliament joined the BIIPB in February 2001. There are currently five MSPs who are full Members of BIIPB - Murray Tosh MSP (Deputy Presiding Officer), Alasdair Morrison MSP, Bruce Crawford MSP, David McLetchie MSP and Iain Smith MSP - and four Associate Members - Helen Eadie MSP, Alasdair Morgan MSP, Michael McMahon MSP and Robin Harper MSP.

The BIIPB was established in 1990 to bring together members of the Irish and Westminster parliaments to develop understanding between elected representatives of the UK and Ireland. Strand 3 of the Good Friday Agreement established the British-Irish Council which involves the various parts of the UK in governmental level dialogue with the Irish government. Strand 3 states that, as well as government links, "the elected institutions of the members will be encouraged to develop inter-parliamentary links, perhaps building on the British-Irish Inter-Parliamentary Body". The BIIPB now includes representatives from the Scottish Parliament, the Welsh and Northern Ireland Assemblies and the parliamentary bodies of Jersey, Guernsey and the Isle of Man.

The Body holds two Plenary sessions a year. Its four Committees (dealing with Sovereign matters between the Irish and Westminster Parliaments, European Affairs, Economic Matters, Environment and Social Matters) meet several times a year. They produce reports which are submitted for comment to Governments and which are discussed in Plenary. The Scottish Parliament takes part in all these committees except that dealing with Sovereign matters between the Irish and Westminster Parliaments. A Steering Committee organises the work of the Plenary and deals with the Body's institutional matters. The Scottish Parliament also has one Member on the Steering Committee - Deputy Presiding Officer Murray Tosh MSP.

Further details in regard to Scottish Parliament activity in BIIPB and related reports can be found at (link). For further information about the BIIPB itself, please refer to the BIIPB's website at http://www.biipb.org/