

SCHEDULE

HEALTH BOARD ELECTION RULES

PART 5

CANDIDATES

Candidates

- 10.**—(1) An individual is qualified to be a candidate at a Health Board election if—
- (a) aged 16 or over;
 - (b) registered in the register of local government electors in respect of an address in the Health Board area; and
 - (c) not disqualified from being a candidate.
- (2) An individual is disqualified from being a candidate if the individual⁽¹⁾—
- (a) is an appointed member or a councillor member of the Health Board;
 - (b) holds a post included in the list kept by the Health Board under rule 11;
 - (c) is an undischarged bankrupt;
 - (d) is an incapable adult (within the meaning of section 1(6) of the Adults with Incapacity (Scotland) Act 2000)⁽²⁾;
 - (e) is disqualified from being elected under Part 3 of the 1983 Act;
 - (f) has, during the 5 years before being nominated as a candidate, been convicted in the United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland of an offence for which the sentence imposed was imprisonment (whether suspended or not) for a period of 3 months or longer without the option of a fine; or
 - (g) is disqualified from being included in—
 - (i) any list kept under Part 1 or 2 of the 1978 Act; or
 - (ii) any list kept under equivalent legislation in England and Wales or Northern Ireland;
 - (h) is subject to a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986⁽³⁾ or equivalent legislation in Northern Ireland; or
 - (i) is disqualified from being a charity trustee by virtue of section 69(2)(c) or (d) of the Charities and Trustee Investment (Scotland) Act 2005⁽⁴⁾.
- (3) “Undischarged bankrupt” means an individual—
- (a) whose estate has been sequestrated and who has not been discharged (or against whom a bankruptcy order has been made and is still in force);
 - (b) who has granted a trust deed for, or made a composition or arrangement with, creditors (and has not been discharged in respect of it);
 - (c) who is the subject of—

(1) Paragraph 8(1) of Schedule 1A to the 1978 Act also disqualifies individuals from being candidates in a Health Board election if they are members of the European Parliament, the House of Commons, the House of Lords, the Scottish Parliament or local authority councillors.

(2) 2000 asp 4.

(3) 1986 c.46.

(4) 2005 asp 10. Section 69(2)(d) was amended by the Charities Act 2006 (c.50), Schedule 8, paragraph 211.

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- (i) a bankruptcy restrictions order or an interim bankruptcy restrictions order, made under the Bankruptcy (Scotland) Act 1985⁽⁵⁾ or the Insolvency Act 1986⁽⁶⁾; or
- (ii) a bankruptcy restrictions undertaking entered into under either of those Acts; or
- (d) who has been adjudged bankrupt (and has not been discharged), or is subject to any other kind of order, arrangement or undertaking analogous to those described above, in England and Wales, Northern Ireland, the Channel Islands, the Isle of Man or the Republic of Ireland.

List of restricted posts

11.—(1) Each Health Board must keep a list of Health Board posts which involve—

- (a) giving advice on a regular basis to the Board (or to any of its committee or sub-committees), or
- (b) speaking on the Board’s behalf on a regular basis to journalists or broadcasters.

(2) The person appointed under section 3(1) of the Local Government and Housing Act 1989⁽⁷⁾ (the “adjudicator”) may give advice to a Health Board about the determination of any question arising by virtue of the Board’s duty to keep the list (and the Health Board must have regard to that advice when preparing and maintaining the list).

(3) An individual holding a Health Board post included in the list (or which the Health Board is proposing to so include) may apply to the adjudicator for the post to be exempt from the list.

(4) A Health Board must give the adjudicator any information which the adjudicator may reasonably require for the purposes of determining such an application.

(5) If the adjudicator is satisfied that a post to which such an application relates does not involve any of the activities described in paragraph (1), the adjudicator must direct that the post—

- (a) is not to be considered a restricted post; and
- (b) is to be removed from (or is not to be included in) the list,

and a Health Board must comply with such a direction.

(6) The adjudicator must give priority to any such application which states that it is being made for the purpose of enabling the applicant to be a candidate in a forthcoming Health Board election.

Nomination papers

12. The returning officer must ensure that nomination papers, in such form as the returning officer thinks fit, are available during the nomination period at the place specified in the election notice.

Nomination

13.—(1) A candidate is nominated if a completed nomination paper is delivered to the place specified in the election notice during the nomination period.

(2) A nomination paper is completed if it—

- (a) states the candidate’s full name and address;
- (b) states that the candidate consents to nomination;
- (c) is signed by the candidate and one witness; and
- (d) states the witness’ full name and address.

(5) 1985 c.66.

(6) 1986 c.45.

(7) 1989 c.42. Section 3(i) was amended by the Local Government and Public Involvement in Health Act 2007 (c.28), section 202.

(3) If the candidate commonly uses a surname or forename which is different from any other name the candidate has, the nomination paper may state the commonly used name in addition to the other name.

Candidate statements

14.—(1) A candidate may submit a candidate statement to the returning officer (together with the candidate’s nomination paper or at any other time before the nomination period ends).

(2) A candidate statement is a statement by the candidate—

- (a) not exceeding 250 words;
- (b) addressed to the voters in the Health Board election; and
- (c) which relates to that election only.

(3) A candidate statement may not include a description of a candidate which is likely to lead electors to associate the candidate with a registered political party unless—

- (a) the party is, on the day falling two days before the end of the nomination period, registered in respect of Scotland in the Great Britain register mentioned under Part 2 of the 2000 Act;
- (b) the description consists of either—
 - (i) the name of the party registered under section 28 of the 2000 Act; or
 - (ii) a description of the party registered under section 28A(8) of the 2000 Act; and
- (c) the description is authorised by a certificate—
 - (i) issued by or on behalf of the party’s registered nominating officer; and
 - (ii) received by the returning officer during the nomination period.

(4) A candidate statement may not include a description of a candidate which is likely to lead electors to associate the candidate with two or more registered political parties unless—

- (a) the parties are, on the day falling two days before the end of the nomination period, registered in respect of Scotland in the Great Britain register mentioned under Part 2 of the 2000 Act, and
- (b) the description is registered for the use of the parties under section 28B(9) of the 2000 Act; and
- (c) the description is authorised by a certificate—
 - (i) issued by or on behalf of each party’s registered nominating officer; and
 - (ii) received by the returning officer during the nomination period.

(5) “Registered political party” means a party registered under Part 2 of the 2000 Act on the day falling two days before the end of the nomination period.

Withdrawal of nomination

15.—(1) A nominated candidate may withdraw from an election for the purposes of paragraph 5(2) of Schedule 1A to the 1978 Act by delivering a notice of withdrawal to the returning officer at the place to which completed nomination papers must be delivered.

(2) A notice of withdrawal must be—

- (a) in such form as the returning officer thinks fit; and
- (b) signed by the candidate and one witness.

(8) Section 28A was added by the Electoral Administration Act 2006 (c.22), Part 7, section 49(1).

(9) Section 28B was added by the Electoral Administration Act 2006, Part 7, section 49(1).

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Prohibition of nomination in more than one Health Board election

16.—(1) A candidate who is nominated in relation to more than one Health Board election must withdraw in accordance with rule 15 from all but one of the elections.

(2) If such a candidate does not so withdraw the candidate is to be treated as having withdrawn from every election for which the candidate was nominated.

Validity of nomination

17.—(1) A candidate ceases to be nominated if—

- (a) the candidate withdraws before the nomination period ends;
- (b) the candidate is treated as having withdrawn under rule 16(2);
- (c) the candidate is disqualified by rule 10 (or becomes so disqualified before the nomination period ends);
- (d) the candidate dies before the nomination period ends; or
- (e) the returning officer decides, no later than 24 hours after the nomination period ends, that the candidate’s nomination paper is invalid.

(2) A returning officer may decide that a nomination paper is invalid only if it is not completed in accordance with rule 13(2).

(3) If a returning officer decides that a nomination paper is invalid, the officer must—

- (a) endorse on the paper the decision and the reasons for it;
- (b) sign the paper; and
- (c) send notice of the decision to the candidate’s address as stated on the paper.

(4) A returning officer’s decision on validity of a nomination paper is final (but does not prevent the validity of a nomination from being questioned on an election petition).

Correction of minor errors in nomination paper

18.—(1) A returning officer may, no later than 24 hours after the nomination period ends, correct minor errors in a nomination paper.

(2) Anything done by a returning officer under this rule may not be questioned other than in proceedings on an election petition.

Inspection of nomination papers

19. The returning officer must make nomination papers available for inspection (and copying) at such reasonable times between the end of the nomination period and the poll closing as the returning officer considers appropriate.

Counting agents

20.—(1) The returning officer must, no later than 24 hours after the nomination period ends, give each candidate written notice of the maximum number of counting agents each candidate may appoint.

(2) A candidate may appoint one or more counting agents (up to the maximum number determined by the returning officer) by giving the returning officer written notice of the counting agent’s names and addresses no later than 21 days before the election day.

(3) A counting agent is entitled to attend—

- (a) the sending of voting packs (if appointed before they are sent); and

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(b) the count.