

## SCHEDULE 1

### SCOTTISH LOCAL GOVERNMENT ELECTIONS RULES

#### PART VI

#### DEATH OF CANDIDATE

##### **Independent candidate**

**62.**—(1) This rule applies if at a contested election proof is given to the returning officer's satisfaction before the result of the election is declared that one of the persons named or to be named as an independent candidate in the ballot papers for a particular electoral ward has died.

(2) Subject to this rule and rules 63 and 64, these rules apply to the election as if the candidate had not died.

(3) The following provisions of these rules do not apply in relation to the deceased candidate—

- (a) rule 28(1)(c) and (d) (admission to polling station); and
- (b) rule 41(2)(b) to (d) (attendance at count).

(4) If there are an equal number of remaining candidates and vacancies the returning officer must—

- (a) if polling has not begun, countermand the notice of poll;
- (b) if polling has begun, direct that the poll is abandoned;
- (c) subject to rule 66, treat the election as an uncontested election.

(5) For the purposes of this rule a person is named or to be named on the ballot papers as an independent candidate if the description on the candidate's nomination paper is the word "Independent" or the candidate has no description on that nomination paper.

##### **Deceased independent candidate wins**

**63.**—(1) This rule applies if at an election mentioned in rule 62(1) the deceased candidate obtains sufficient votes to be elected.

(2) Rule 56 (declaration of result) does not apply but the returning officer must—

- (a) declare that the deceased candidate has obtained sufficient votes to be elected;
- (b) declare that no member is returned; and
- (c) give public notice of the total number of votes given for each candidate together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers.

(3) The proceedings with reference to the election must be commenced afresh subject to the following provisions of this rule.

(4) The new notice of election must be published on the first working day after the end of the period of seven days starting on the day of the election mentioned in rule 62(1).

(5) No fresh nomination is necessary in the case of a person shown in the notice of poll previously published pursuant to rule 20, and no other nomination may be made.

(6) The last day on which a notice of withdrawal of candidature by a person who stands nominated by virtue of paragraph (5) may be delivered is the seventh working day after the day on which the new notice of election is published.

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(7) Subject to paragraph (8), the poll must be held on a day in the period “the first period” which starts 21 working days after the day on which the new notice of election is published and ends 28 working days after that day.

(8) If any of the days within the first period is a day in the period which starts with 22nd December and ends with 3rd January following, the day of the poll may be held in the period which starts 25 working days after the day on which the new notice is published and ends 32 working days after that day.

(9) For the purposes of this rule a working day is a day which is not a day specified in rule 2(1) (a) to (d).

### **Deceased independent candidate with equality of votes**

64. In an election mentioned in rule 62(1), if at any stage of the count the number of votes credited to a deceased candidate is equal with the number of votes credited to another candidate, the number of votes credited to the deceased candidate must be regarded for the purposes of that stage as being the lower number.

### **Party candidate**

65.—(1) This rule applies if—

- (a) at a contested election proof is given to the returning officer’s satisfaction before the result of the election is declared that one of the persons named or to be named as a candidate in the ballot paper has died; and
- (b) that person is standing in the name of a registered political party.

(2) The returning officer must—

- (a) countermand notice of the poll; or
- (b) if polling has begun, direct that the poll be abandoned.

(3) The proceedings with reference to the election must be commenced afresh subject to the following provisions of this rule.

(4) The new notice of election must be published on the first working day after the end of the period of seven days starting on the day the proof is given to the returning officer.

(5) No fresh nomination is necessary in the case of a person shown in the notice of poll previously published pursuant to rule 20.

(6) No other nomination may be made except for a person standing in the name of the same registered political party in whose name the deceased candidate was standing.

(7) The last day on which a nomination mentioned in paragraph (6) may be delivered is the seventh working day after the day on which the notice is published.

(8) The last day on which a notice of withdrawal of candidature by a person who stands nominated by virtue of paragraph (5) or in pursuance of paragraph (6) may be delivered is the seventh working day after the day on which the notice is published.

(9) Subject to paragraph (10), the poll must be held on a day in the period (“the first period”) which starts 21 working days after the day on which the notice is published and ends 28 working days after that day.

(10) If any of the days within the first period is a day in the period which starts with 22nd December and ends with 3rd January following, the day of the poll may be held in the period which starts 25 working days after the day on which the new notice is published and ends 32 working days after that day.

(11) For the purposes of this rule—

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- (a) a person stands in the name of a registered political party if that person's nomination paper contains a description which is authorised as mentioned in rule 4(5) or (7).
- (b) a working day is a day which is not a day specified in rule 2(1)(a) to (d).

### **Abandoned poll**

**66.**—(1) This rule applies to a poll which is abandoned in pursuance of rule 62(4)(b) or rule 65(2)(b).

(2) The presiding officer at a polling station must take the like steps (so far as not already taken) for the delivery to the returning officer of ballot boxes and of ballot papers and other documents as the presiding officer is required to take on the close of the poll.

(3) The returning officer must dispose of ballot papers and other documents in that officer's possession as would be required on the completion of the counting of the votes.

(4) It is not necessary for a ballot paper account to be prepared or verified.

(5) No step or further step is to be taken for the counting of the ballot papers or of the votes.

(6) The returning officer must seal up all the ballot papers (whether the votes on them have been counted or not) and it is not necessary to seal up counted and rejected ballot papers in separate packets.

(7) The provisions of these rules as to the inspection, production, retention and destruction of ballot papers and other documents relating to a poll at an election apply subject to paragraphs (8) and (9).

(8) Ballot papers on which the votes were neither counted nor rejected must be treated as counted ballot papers.

(9) No order is to be made for—

(a) the production or inspection of any ballot papers; or

(b) the opening of a sealed packet of the completed corresponding number lists or of certificates as to employment on the day of the poll,

unless the order is made by a court with reference to a prosecution.