

SCHEDULE 6

LEGAL PROCEEDINGS

PART 2

ELECTION AND RETURN OF REGIONAL MEMBER

Commencement Information

II Sch. 6 Pt. 2 in force at 16.12.2015 in accordance with art. 1(1)

<i>Provision applied</i>	<i>Modification</i>
Section 120 (method of questioning parliamentary election)	At the end insert— “(3) No election petition may be brought on the grounds of the commission of corrupt or illegal practices or of illegal payments, employments or hirings. (4) No election petition may be brought in any case in which an application may be made under section 18 of the Scotland Act 1998.”
Section 121 (presentation and service of parliamentary election petition)	For subsection (2) substitute— “(2) If the petition complains of the conduct of— (a) the regional returning officer, (b) any constituency returning officer, the officer (or officers) in question shall be deemed to be the respondent (or respondents), together with any regional member returned at the election.”
Section 122 (time for presentation or amendment of parliamentary election petition)	For the section substitute— “ 122. An election petition shall be presented within 21 days after the day on which the result of the election was declared under rule 65 of the Scottish Parliamentary Election Rules in Schedule 2 to the Order.”
Section 123 (constitution of election court and place of trial)	Omit subsections (3) and (4).
Section 125 (judges’ expenses and reception: Scotland)	In paragraph (b) for “the Treasury, out of moneys provided by Parliament” substitute “the Scottish Ministers, out of the Scottish Consolidated Fund”.

Changes to legislation: There are currently no known outstanding effects for the The Scottish Parliament (Elections etc.) Order 2015, PART 2. (See end of Document for details)

<i>Provision applied</i>	<i>Modification</i>
Section 126 (attendance of House of Commons shorthand writer)	In subsection (1) for the words from the beginning to “deputy” substitute “A shorthand writer”. In subsection (2) for “Speaker” substitute “Clerk of the Scottish Parliament”.
Section 136 (security for costs)	
Section 137 (petition at issue)	
Section 139 (trial of petition)	In subsection (3) for the words from “the acceptance” to the end substitute “that one (or more) of the respondents is no longer a member of the Scottish Parliament.”. Omit subsection (4). In subsection (6), the reference to the parliamentary elections rules shall be construed as a reference to the Scottish Parliamentary Election Rules.
Section 140 (witnesses)	Omit subsection (6). In subsection (7), omit the words “Subsection (6) above does not apply to Scotland, and in Scotland”.
Section 141 (duty to answer relevant questions)	
Section 143 (expenses of witnesses)	
Section 144 (conclusion of trial of parliamentary election petition)	In subsection (1) for the words from “the member” to “void” substitute— <ul style="list-style-type: none"> “(a) the member or members whose election is complained of was or were duly elected, (b) some other person or persons should have been declared to be elected, or (c) the election of all members for that region was void.”. In subsection (2) for “Speaker” substitute “Clerk of the Scottish Parliament”. For subsection (3) substitute— “(3) If the judges constituting the election court differ as to any matter which they are required to determine, they shall certify that difference and, except to the extent that the judges are agreed otherwise, the result of the election shall stand.”. Omit subsections (4) to (7).

<i>Provision applied</i>	<i>Modification</i>
Section 154 (costs of petition)	
Section 155 (neglect or refusal to pay costs)	
Section 157 (appeals and jurisdiction)	Omit subsections (1), (4), (6) and (8). For subsection (2) substitute— “(2) Subject to the provisions of this Act and the rules made under it, the principles, practice and rules on which election courts act in dealing with parliamentary election petitions shall be observed, so far as appropriate having regard to the different system of election, by the Court of Session and election court in the case of Scottish parliamentary election petitions.” In subsection (7), omit the words from the beginning to “omitted, but”. Omit subsection (1) to (3) and (6). In subsection (4)— “(a) for the words “reported by an election court personally guilty” substitute “convicted”; (b) omit paragraph (a)(i); and (c) after “Commons”, in each place where it occurs, insert “or the Scottish Parliament”. Omit subsection (4A). In subsection (5) for the words “reported personally guilty” in both places where they appear substitute “convicted”. In subsection (5A) for the words “reported by an election court personally guilty” substitute “convicted”. Omit subsection (6).
[^{F1} Section 160 (persons reported personally guilty of corrupt or illegal practices)	Omit subsection (1) to (3) and (6). In subsection (4)— (a) for the words “reported by an election court personally guilty” substitute “convicted”, (b) after “Kingdom” insert “or election to the Scottish parliament”, and

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<i>Provision applied</i>	<i>Modification</i>
	(c) after “Commons” in each place where it occurs, insert “or the Scottish Parliament”.]
Section 167 (application for relief)	Omit subsection (5).
Section 168 (prosecutions for corrupt practices)	
Section 169 (prosecutions for illegal practices)	For the words from the beginning to “prosecution” substitute— “ <i>A person who is guilty of an illegal practice shall be liable—</i> (a) in the case of an illegal practice under article 42 or 48 of the Order (as applied by article 82 of the Order), on conviction on indictment to a fine; (b) in the case of any illegal practice (including the ones mentioned in paragraph (a)), on summary conviction, to a fine not exceeding the amount specified as level 5 on the standard scale; and on a prosecution”.
Section 170 (conviction of illegal practice on charge of corrupt practice etc.)	
Section 173A (incapacity to hold public or judicial office in Scotland)	
Section 174 (mitigation and remission etc.)	Omit subsections (1) to (4). In subsection (5) omit— (a) “or of the report of an election court”; and (b) “or report”, in both places where the words occur.
Section 175 (illegal payments etc.)	In subsection (2) omit the words from “and if” to the end.
Section 176 (time limit for prosecutions)	Omit subsections (2A) to (2G).
Section 178 (prosecution of offences committed outside United Kingdom)	
Section 179 (offences by associations)	
Section 180 (evidence by certificate of holding of elections)	Omit paragraph (b). After paragraph (ii) insert— “and

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	(iii) that a registered party named in the certificate submitted a regional list at the election.”.
[^{F2} Section 180A (evidence by certificate of electoral registration)]	
Section 181 (Director of Public Prosecutions)	Omit subsections (2) to (6).
Section 183 (costs)	
Section 184 (service of notices)	
Section 185 (interpretation of Part 3)	At the end, insert— ““the Order” means the Scottish Parliament (Elections etc.) Order 2015.”.
Section 186 (computation of time for purposes of Part 3)	The reference to “section 119 above” shall be construed as a reference to article 81 and the reference to “Part II of this Act” shall be construed as reference to Part 3 of this Order.

Textual Amendments

- F1** Words in sch. 6 Pt. 2 Table inserted (11.12.2020) by [The Scottish Parliament \(Elections etc.\) \(Miscellaneous Amendments\) Order 2020 \(S.S.I. 2020/426\)](#), arts. 1(1), **18(3)(a)** (with art. 1(2))
- F2** Words in sch. 6 Pt. 2 Table inserted (11.12.2020) by [The Scottish Parliament \(Elections etc.\) \(Miscellaneous Amendments\) Order 2020 \(S.S.I. 2020/426\)](#), arts. 1(1), **18(3)(b)** (with art. 1(2))

Changes to legislation:

There are currently no known outstanding effects for the The Scottish Parliament (Elections etc.) Order 2015, PART 2.