

SCHEDULE 5

CONDUCT OF ASSEMBLY ELECTIONS AND RETURN OF ASSEMBLY MEMBERS

PART II

STAGES COMMON TO CONTESTED AND UNCONTESTED ELECTIONS

NOMINATION

Nomination of candidates at a constituency election

4.—(1) Each candidate at a constituency election shall be nominated by a separate individual nomination paper, in the form set out in English and Welsh in the Appendix delivered—

- (a) by the candidate himself, or
- (b) where in respect of the candidate a certificate issued under paragraph 5(1) is also delivered, by the registered nominating officer of a registered political party,

to the constituency returning officer at the place fixed for the purpose, but the paper may be so delivered on the candidate's behalf by his election agent if the agent's name and address have been previously given to the returning officer as required by article 32 or are so given at the time the paper is delivered.

(2) The individual nomination paper shall state the candidate's—

- (a) full names,
- (b) home address in full, and
- (c) if desired (and subject to paragraph 5(1)), description,

and the surname shall be placed first in the list of his names.

(3) The description, if any, shall not exceed six words in length, and need not refer to his rank, profession or calling so long as, with the candidate's other particulars, it is sufficient to identify him.

(4) Each nomination paper delivered under this paragraph shall be subscribed by one person who shall also (if he is not the candidate) set out his full name and address.

(5) The constituency returning officer shall supply any person upon request with a form of individual nomination paper at the place, and during the time, for delivery of nomination papers but it is not necessary for a nomination to be on a form supplied by the constituency returning officer.

Nomination paper: name of registered political party

5.—(1) At an Assembly election, an individual nomination paper may not include a description of a candidate which is likely to lead voters to associate the candidate with a registered political party unless, in the case of a constituency election, the description is authorised by a certificate in the form set out in English and Welsh in the Appendix—

- (a) issued by the party's registered nominating officer, and
- (b) received by the constituency returning officer at some time during the period for the delivery of nomination papers set out in the Table in paragraph 1(1).

(2) If it is proposed that the party's registered emblem (or as the case may be, one of the party's registered emblems) is to be shown on the ballot paper against the candidate's particulars, a certificate issued under sub-paragraph (1) shall request that it be so shown.

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(3) A certificate issued under sub-paragraph (1) may be combined with an individual nomination paper delivered under paragraph 4(1).

(4) A person shall be guilty of a corrupt practice if he fraudulently purports to be authorised by virtue of paragraph 70, to issue a certificate under sub-paragraph (1) on behalf of a party's registered nominating officer.

Nomination of individual candidates at a regional election

6.—(1) Each individual candidate at a regional election shall be nominated by a separate individual nomination paper, in the form set out in English and Welsh in the Appendix delivered by the candidate himself to the regional returning officer at the place or a place fixed for the purpose, but the paper may be so delivered on the candidate's behalf by his election agent if the agent's name and address have been previously given to the returning officer as required by article 32 or are so given at the time the paper is delivered.

(2) The individual nomination paper shall state the candidate's—

- (a) full names,
- (b) home address in full, and
- (c) if desired (and subject to paragraph 5(1)), description,

and the surname shall be placed first in the list of his names.

(3) The description, if any, shall not exceed six words in length, and need not refer to his rank, profession or calling so long as, with the candidate's other particulars, it is sufficient to identify him.

(4) Each nomination paper delivered under this paragraph shall be subscribed by one person who shall also (if he is not the candidate) set out his full name and address.

(5) The regional returning officer shall supply any person upon request with a form of individual nomination paper at the place or a place, and during the time, for delivery of individual or party nomination papers but it is not necessary for a nomination to be on a form supplied by the regional returning officer.

Nomination of party list candidates at a regional election

7.—(1) Each group of party list candidates at a regional election shall be nominated by a separate party nomination paper in the form set out in English and Welsh in the Appendix delivered by the registered political party's registered nominating officer to the regional returning officer at the place or a place fixed for the purpose.

(2) Each party nomination paper shall include a description of the party (which shall not exceed six words in length).

(3) In respect of each candidate to be included on a party list, the party nomination paper shall state the candidate's—

- (a) full names, and
- (b) home address in full,

and the surname shall be placed first in the list of his names.

(4) The order in which those persons appear on the party nomination paper shall be the order in which they are included on the party's list.

(5) Subject to sub-paragraph (6), where a party nomination paper has been delivered in accordance with this paragraph, the registered political party shall be regarded as having submitted a party list under section 5 of the 1998 Act.

(6) But where in accordance with this Schedule a party nomination paper is held to be invalid or all the candidates included on the list otherwise cease to stand nominated, the party shall cease to be regarded as having submitted a party list under section 5 of that Act.

(7) Each nomination paper delivered under this paragraph shall be subscribed by one person who shall also (if he is not a candidate) set out his full name and address.

(8) The regional returning officer shall supply any person on request with a form of party nomination paper at the place or a place, and during the time, for delivery of individual or party nomination papers but it is not necessary for nominations included on a party list to be on a form supplied by the regional returning officer.

Party nomination paper: name of registered political party

8.—(1) The description required by paragraph 7(2) to be contained in a party nomination paper shall be authorised by a certificate in the form set out in English and Welsh in the Appendix issued by the registered nominating officer of the registered political party.

(2) If it is proposed that the party's registered emblem (or, as the case may be, one of the party's registered emblems) is to be shown on the ballot paper against the party's name the certificate issued under sub-paragraph (1) shall request that it be so shown.

(3) A certificate issued under sub-paragraph (1) shall be combined with the party nomination paper delivered under paragraph 7(1).

(4) A person shall be guilty of a corrupt practice if he fraudulently purports to be authorised by virtue of paragraph 70 to issue a certificate under sub-paragraph (1) on behalf of a party's registered nominating officer.

Consent to nomination

9.—(1) Subject to sub-paragraph (3), at a constituency election a person shall not be validly nominated unless his consent to nomination—

- (a) is given and dated in writing on, or within one month before, the day fixed as the last day for the delivery of nomination papers,
- (b) is attested by one witness, and
- (c) is delivered at the place, and within the time, for the delivery of nomination papers.

(2) Subject to sub-paragraph (3), at a regional election a person shall not be validly nominated (whether as an individual or a party list candidate) unless his consent to nomination—

- (a) is given and dated in writing on, or within one month before, the day fixed as the last day for the delivery of individual or party nomination papers,
- (b) is attested by one witness, and
- (c) is delivered at the place or a place, and within the time, for the delivery of individual or party nomination papers.

(3) If the appropriate returning officer is satisfied that owing to the absence of a person from the United Kingdom it has not been reasonably practicable for his consent in writing to be given as mentioned above, a facsimile communication (or any similar means of communication) consenting to his nomination and purporting to have been sent by him shall be deemed for the purposes of this paragraph to be consent in writing by him on the day on which it purports to have been sent, and attestation of his consent shall not be required.

(4) A candidate's consent given under this paragraph—

- (a) shall state the day, month and year of his birth, and
- (b) shall state—

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- (i) that he is aware of the provisions of sections 12 to 15 of the 1998 Act (disqualification) and the National Assembly for Wales (Disqualification) Order 1999(1), and
- (ii) that to the best of his knowledge and belief he is not disqualified for membership of the Assembly.

(5) A candidate is required to give his consent under this paragraph notwithstanding that he has subscribed the nomination paper by virtue of which he is nominated.

Deposit

10.—(1) In relation to a candidate at a constituency election, a person shall not be validly nominated unless the sum of £500 is deposited by him, or on his behalf, with the constituency returning officer at the place and during the time for delivery of nomination papers.

(2) In relation to candidates at a regional election—

- (a) an individual candidate shall not be validly nominated unless the sum of £500 is deposited by him, or on his behalf, or
- (b) a group or party list candidates shall not be validly nominated unless the sum of £500 is deposited by them, or on their behalf,

with the regional returning officer at the place or a place, and during the time, for delivery of individual or party nomination papers.

(3) The deposit may be made either—

- (a) by the deposit of any legal tender,
- (b) by means of a banker's draft, or
- (c) with the appropriate returning officer's consent, in any other manner,

but the appropriate returning officer may refuse to accept a deposit sought to be made by means of a banker's draft if he does not know that the drawer carries on business as a banker in the United Kingdom.

(4) Where the deposit is made on behalf of a candidate at a constituency election or an individual candidate at a regional election, the person making the deposit shall at the time he makes it give his name and address to the appropriate returning officer unless that information has previously been given to him under article 32.

(5) Where the deposit is made on behalf of a group of party list candidates at a regional election the person making the deposit shall at the time he makes it—

- (a) if he is the registered political party's registered nominating officer, state that fact to the regional returning officer, or
- (b) if he is not the party's registered nominating officer, give his name and address to the regional returning officer unless that information has previously been given to him under article 32.

Place for delivery of nomination papers

11.—(1) In relation to a constituency election, the constituency returning officer shall fix the place at which individual nomination papers are to be delivered to him, and shall attend there during the time for their delivery and for making of objections to them.

(2) The place in relation to a constituency election shall be in—

(1) [S.I. 1999/449](#).

- (a) the Assembly constituency, or
- (b) the registration area which includes the Assembly constituency.

(3) In relation to a regional election, the regional returning officer shall fix the place or places at which individual or party nomination papers are to be delivered to him, and he shall attend there during the time for their delivery and for making objections to them.

(4) A place in relation to a regional election shall be in the Assembly electoral region.

(5) For the purposes of sub-paragraph (2)(b) 'registration area' means the area of two or more Assembly constituencies which have the same registration officer.

Right to attend nomination

12.—(1) In relation to a constituency election, except for the purpose of delivering an individual nomination paper or of assisting the constituency returning officer, and subject to sub-paragraph (5), no person is entitled to attend the proceedings during the time for delivery of individual nomination papers or for making objections to them unless he is—

- (a) a person standing nominated as a candidate,
- (b) the election agent of such a person, or
- (c) the registered nominating officer of a registered political party that has delivered a certificate under paragraph 5(1) in respect of a candidate,

but where a candidate acts as his own election agent he may name one other person who shall be entitled to attend in place of his election agent.

(2) In relation to a regional election, except for the purpose of delivering an individual or party nomination paper or of assisting the regional returning officer, and subject to sub-paragraph (5), no person is entitled to attend the proceedings during the time for delivery of individual or party nomination papers or for making objections to them unless he is—

- (a) a person standing nominated as an individual or party list candidate,
- (b) the election agent of such a person, or
- (c) the registered nominating officer of a registered political party that has submitted a party list,

but where an individual candidate acts as his own election agent, or a party list candidate acts as election agent for a group of party list candidates, he may name one other person who shall be entitled to attend in place of his election agent.

(3) In the case of a constituency election, the right to attend conferred by this paragraph includes the right—

- (a) to inspect, and
- (b) to object to the validity of,

any individual nomination paper.

(4) In the case of a regional election, the right to attend conferred by this paragraph includes the right—

- (a) to inspect, and
- (b) to object to the validity of,

any individual or party nomination paper and, in the case of a party nomination paper, the right to object to the nomination of a party list candidate.

(5) A wife or husband of a candidate is entitled to be present at the delivery of the nomination paper by which that candidate is nominated, and may afterwards, so long as the candidate stands

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nominated, attend the proceedings referred to in sub-paragraph (1) or (2), but without any such right as is conferred by sub-paragraph (3) or (4).

Decisions as to validity of individual nomination papers

13.—(1) At an Assembly election an individual candidate shall be deemed to stand nominated where an individual nomination paper by which he is nominated and his consent to nomination are delivered and a deposit is made in accordance with this Schedule; and such candidate shall be deemed to stand nominated unless and until—

- (a) the appropriate returning officer decides that the nomination paper is invalid,
- (b) proof is given to the appropriate returning officer’s satisfaction of the candidate’s death, or
- (c) the candidate withdraws.

(2) The appropriate returning officer is entitled to hold an individual nomination paper invalid only on one of the following grounds—

- (a) that the particulars of the candidate are not as required by law (including, at a constituency election, that an individual nomination paper breaches paragraph 5(1)),
- (b) that the paper is not subscribed as so required,
- (c) that the candidate is disqualified by the Representation of the People Act 1981(2) (as applied by the 1998 Act), and
- (d) in the case of an individual candidate at a regional election, that he falls within section 5(6) of the 1998 Act.

(3) Subject to sub-paragraph (4), the appropriate returning officer shall give his decision on any objection to an individual nomination paper as soon as practicable after it is made.

(4) If in the constituency returning officer’s opinion an individual nomination paper breaches paragraph 5(1), he shall give a decision to that effect as soon as practicable after the close of the period for delivery of nomination papers set out in the Table in paragraph 1(1).

(5) Where the appropriate returning officer decides that an individual nomination paper is invalid, he shall endorse and sign on the paper the fact and the reasons for his decision.

(6) The appropriate returning officer’s decision that a nomination paper is valid shall be final and shall not be questioned in any proceeding whatsoever.

(7) Subject to sub-paragraph (6), nothing in this paragraph prevents the validity of a nomination being questioned on an election petition.

Decisions as to validity of party nomination papers and as to the validity of nominations included on a party list

14.—(1) At a regional election a party list candidate shall be deemed to stand nominated where a party nomination paper by which he is nominated and his consent to nomination are delivered and a deposit is made in accordance with this Schedule; and such candidate shall be deemed to stand nominated unless and until—

- (a) the regional returning officer decides that the nomination paper is invalid,
- (b) proof is given to the regional returning officer’s satisfaction of the candidate’s death, or
- (c) the candidate withdraws.

(2) The regional returning officer is entitled to hold a party nomination paper invalid only on one of the following grounds—

(2) 1981 c. 34.

- (a) that it breaches paragraph 7(2),
- (b) that it breaches paragraph 8(1) or 8(3),
- (c) that it is not subscribed as so required,
- (d) that the party list includes more than twelve persons, or
- (e) each candidate included on the party list has ceased to stand nominated.

(3) Where, in respect of a party list candidate—

- (a) proof is given to the regional returning officer's satisfaction of his death, or
- (b) he withdraws,

he shall cease to stand nominated, or

- (i) his particulars are not as required by law,
- (ii) he is disqualified by the Representation of the People Act 1981 (as applied by the 1998 Act), or
- (iii) he falls within section 5(5) of the 1998 Act,

the regional returning officer is entitled to hold that the candidate shall cease to stand nominated.

(4) Where a candidate ceases to stand nominated by virtue of sub-paragraph (3) it shall not of itself prevent any other candidate included on the party list from continuing to stand nominated.

(5) Subject to sub-paragraph (6), the regional returning officer shall give his decision on any objection to a party nomination paper or to a party list candidate as soon as practicable after it is made.

(6) If in the regional returning officer's opinion a party nomination paper breaches paragraph 7(2), 8(1) or 8(3), he shall give a decision to that effect as soon as practicable after the close of the period for delivery of nomination papers set out in the Table in paragraph 1(1).

(7) Where the regional returning officer decides that—

- (a) a party nomination paper is invalid, or
- (b) a party list candidate shall cease to stand nominated,

he shall endorse and sign on the paper the fact and reasons for his decision.

(8) The regional returning officer's decision that—

- (a) a party nomination paper is valid, or
- (b) a party list candidate shall continue to stand nominated,

shall be final and shall not be questioned in any proceeding whatsoever.

(9) Subject to sub-paragraph (8), nothing in this paragraph prevents the validity of a nomination being questioned on an election petition.

Withdrawal of candidates

15.—(1) Subject to sub-paragraph (3), a candidate at a constituency election may withdraw his candidature by notice of withdrawal—

- (a) signed by him and attested by one witness, and
- (b) delivered to the constituency returning officer at the place for delivery of nomination papers.

(2) Subject to sub-paragraph (3), a candidate at a regional election may withdraw his candidature by notice of withdrawal—

- (a) signed by him and attested by one witness, and

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- (b) delivered to the regional returning officer at the place or a place for delivery of individual or party nomination papers.
- (3) Where a candidate is outside the United Kingdom, a notice of withdrawal signed by a person and accompanied—
 - (a) by a written declaration also so signed of the candidate's absence from the United Kingdom, and
 - (b) by a written statement signed by the candidate that the person giving the notice is authorised to do so on the candidate's behalf during his absence from the United Kingdom,shall be of the same effect as a notice of withdrawal signed by the candidate.
- (4) At a regional election a registered political party may withdraw the candidature of any or all of a group of party list candidates for the party by notice of withdrawal—
 - (a) signed by the party's registered nominating officer, and
 - (b) delivered to the regional returning officer at the place or a place for the delivery of individual or party nomination papers.

Constituency election: publication of statement of persons nominated

16.—(1) At a constituency election the constituency returning officer shall prepare and publish a statement showing the persons who have been and stand nominated and any other persons who have been nominated, with the reason why they no longer stand nominated.

(2) The statement shall show the names, addresses and descriptions of the persons nominated as given in their individual nomination papers.

(3) The statement shall show the persons standing nominated arranged alphabetically in the order of their surnames and, if there are two or more of them with the same surname, of their other names.

(4) In the case of a person nominated by more than one individual nomination paper, the constituency returning officer shall take the particulars required by the foregoing provisions of this paragraph from such one of the papers as the candidate (or the returning officer in default of the candidate) may select.

Regional election: publication of statement of persons nominated and registered political parties which have submitted a party list

17.—(1) At a regional election the regional returning officer shall prepare a statement showing—

- (a) the persons who have been and stand nominated as individual candidates and any other persons who have been so nominated, with the reason why they no longer stand nominated, and
- (b) the registered political parties which have submitted a party list and, in respect of such parties, the persons who have been and stand nominated and any other persons who have been nominated with the reason why they are no longer nominated,

and he shall deliver, or cause to be delivered the statement to each constituency returning officer for an Assembly constituency in the Assembly electoral region.

(2) On receipt of a statement under sub-paragraph (1) a constituency returning officer shall publish it.

(3) The statement shall show—

- (a) in respect of individual candidates, the names, addresses and descriptions of the persons nominated as given in their individual nomination papers, and

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- (b) in respect of the registered political parties who have submitted a party list, the names of those parties together with, in respect each such party—
 - (i) the description referred to in paragraph 7(2), and
 - (ii) the names and addresses of the persons nominated as given in their party nomination papers.
- (4) The statement shall show—
 - (a) the individual candidates standing nominated arranged together alphabetically, and
 - (b) the registered political parties which have submitted a party list arranged together alphabetically together with (in respect of each such party) the candidates standing nominated arranged in the order that they appear on the party list.
- (5) The arrangement of registered political parties referred to in sub-paragraph (4)(b) is to be shown in the statement before the arrangement of individual candidates referred to in sub-paragraph (4)(a) is so shown.
- (6) For the purposes of sub-paragraph (4)(a) alphabetical order is to be determined by reference to the surnames of the individual candidates and, if there are two or more of them with the same surname, of their other names.
- (7) For the purposes of sub-paragraph (4)(b)—
 - (a) a registered political party is to be shown in the statement by reference to the description referred to in paragraph 7(2) in respect of the party, and
 - (b) alphabetical order is to be determined by disregarding the definite or indefinite article and, where there are two or more words in the description (having disregarded the definite or indefinite article), by reference to the first of those words and, if there are two or more parties with the same first word in the description, of the other words in the description.
- (8) In the case of a person nominated by more than one individual nomination paper, the regional returning officer shall take the particulars required by the foregoing provisions of this paragraph from such one of the papers as the candidate (or the returning officer in default of the candidate) may select.
- (9) In the case of a registered political party which has delivered more than one party nomination paper (and where candidates stand nominated by more than one of those papers), the regional returning officer shall take the particulars required by the foregoing provisions of this paragraph from such one of the papers as the registered nominating officer of the party may select; and if any candidate is shown standing nominated by a paper not so selected but is not so shown in the selected paper he shall no longer stand nominated.
- (10) Other than in paragraph 18 the statement required by this paragraph is referred to in this Order as a statement of persons nominated.

Disqualification by Representation of the People Act 1981

18.—(1) In relation to an Assembly election, if it appears to the appropriate returning officer that any of the persons nominated might be disqualified by the Representation of the People Act 1981 (as applied by the 1998 Act) he shall, as soon as practicable after the expiry of the time allowed for the delivery of—

- (a) nomination papers, in the case of a constituency election, or
 - (b) individual or party nomination papers, in the case of a regional election,
- prepare and publish a draft of the statement required by paragraph 16 or 17.

- (2) The draft shall be headed—
 - (a) in the case of a constituency election—

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“Draft statement of persons nominated

Datganiad drafft o'r personau a enwebwyd, or”

(b) in the case of a regional election—

“Draft statement of persons nominated and registered political parties which have submitted a party list

Datganiad drafft o'r personau a enwebwyd a'r pleidiau gwleidyddol cofrestredig sydd wedi cyflwyno rhestr blaid,”

and shall contain a notice stating that any person who wishes to object to the nomination of any candidate on the ground that he is disqualified for nomination under the Representation of the People Act 1981 (as applied by the 1998 Act) may do so between the hours of 10 in the morning and 4 in the afternoon on the day and at the place specified in the notice; and the day so specified shall be the day next after the last day for the delivery of individual or party nomination papers.

Adjournment of nomination proceedings in the case of riot

19.—(1) Where, at an Assembly election, the proceedings for, or in connection with, nomination are on any day interrupted or obstructed by riot or open violence—

(a) the proceedings shall be abandoned for that day, and

(b) if that day is the last day for the delivery of—

(i) nomination papers, in the case of a constituency election, or

(ii) individual or party nomination papers, in the case of a regional election,

the proceedings shall be continued on the next day as if that were the last day of such delivery, and that day shall be treated for the purposes of this Schedule as being the last day for such delivery (subject to any further application of this paragraph in the event of interruption or obstruction on that day).

(2) Where proceedings are abandoned by virtue of this paragraph nothing—

(a) may be done after they are continued if the time for doing it had passed at the time of the abandonment, or

(b) done before the abandonment shall be invalidated by reason of the abandonment.

Method of election at a constituency election

20. At a constituency election—

(a) if the statement of persons nominated shows more than one person standing nominated, a poll shall be taken in accordance with Part III of this Schedule, or

(b) if the statement of persons nominated shows only one person standing nominated, that person shall be declared to be elected in accordance with Part IV of this Schedule.

Method of election at a regional election

21.—(1) If the statement of persons standing nominated at a regional election shows more persons standing nominated than the number of seats for that Assembly electoral region—

(a) a poll shall be taken in accordance with Part III of this Schedule, or

(b) where each person is included on the same party list (subject to sub-paragraph (4) in the case of an ordinary election), those persons shall be declared to be elected in accordance with Part IV of this Schedule in the order that they are included on that list (starting with the highest) up to the number of seats for the Assembly electoral region.

(2) But if the statement of persons standing nominated shows the same number of persons standing nominated as, or fewer such persons than, the number of seats for the Assembly electoral region (subject to sub-paragraph (4) in the case of an ordinary election), those persons standing nominated shall be declared to be elected in accordance with Part IV of this Schedule.

(3) Sub-paragraph (1)(b) or, as the case may be, (2) shall also apply where notice of poll at a regional election is countermanded or the poll is abandoned under paragraph 65(5) (election becomes uncontested through death of candidate).

(4) No person at an ordinary election shall be declared to be elected in the circumstances described in sub-paragraph (1)(b) or (2) until the regional returning officer has—

- (a) received from each constituency returning officer for an Assembly constituency in the Assembly electoral region the notification required by paragraph 57(3) (unless in any case a poll at a constituency election has been postponed under paragraph 65(1)), and
- (b) disregarded any party list candidate who has been returned as a member for an Assembly constituency in the Assembly electoral region.