
STATUTORY INSTRUMENTS

1999 No. 787

The Scottish Parliament (Elections etc.) Order 1999

PART I
GENERAL

Citation and commencement

1. This Order may be cited as the Scottish Parliament (Elections etc.) Order 1999 and shall come into force on the day after the day on which it is made.

Interpretation

2.—(1) In this Order, except where the context otherwise requires—

“the 1983 Act” means the Representation of the People Act 1983⁽¹⁾;

“the 1985 Act” means the Representation of the People Act 1985⁽²⁾;

“the 1986 Regulations” means the Representation of the People (Scotland) Regulations 1986⁽³⁾;

“the 1998 Act” means the Scotland Act 1998;

“appropriate returning officer” means—

- (a) in relation to a candidate for return as a constituency member (or to an election agent or sub-agent for such a candidate) the constituency returning officer for that constituency; and
- (b) in relation to an individual candidate for return as a regional member or to a registered party submitting a regional list for a particular region, (or to an election agent or sub-agent for such a candidate or such a registered party) the regional returning officer for that region,

a reference to a ballot paper shall, in relation to a general election for membership of the Scottish Parliament be construed as a reference to both the constituency ballot paper and the regional ballot paper;

a reference to a numbered article shall be construed as a reference to the article bearing that number in this Order;

“Citizen of the Union” shall be construed in accordance with Article 8.1 of the Treaty establishing the European Community (as amended by Title II of the Treaty on European Union), and “relevant citizen of the Union” means such a citizen who is not a commonwealth citizen or a citizen of the Republic of Ireland;

“constituency returning officer” means the officer who, in accordance with article 14, is the constituency returning officer for a Scottish parliamentary election in a constituency;

(1) 1983 c. 2
(2) 1985 c. 50
(3) S.I.1986/1111

“European Parliamentary Election” has the same meaning as in section 27(1) of the 1985 Act;
“local authority” has the same meaning as in the Local Government (Scotland) Act 1973(4);
“nominating officer” means the person registered under the Registration of Political Parties Act 1998(5) as the officer with responsibility for the matters referred to in paragraph 5(2) of Schedule 1 to that Act in respect of a registered party;

“ordinary local government election” means an ordinary election of councillors for local government areas in Scotland;

“regional returning officer” means a regional returning officer for the purposes of the 1998 Act;

“register of electors” means the register of local government electors;

“registered emblem” means an emblem registered by a political party under the Registration of Political Parties Act 1998;

“registered party” means a party registered under the Registration of Political Parties Act 1998;

“registration officer” means an electoral registration officer within the meaning of the 1983 Act;

“service voter” means a person who has made a service declaration in accordance with section 15 of the 1983 Act and is registered or entitled to be registered in pursuance of it; and

“Scottish parliamentary election” means an election for membership of the Scottish Parliament and “Scottish parliamentary general election” shall be construed accordingly.

(2) For the purposes of this Order a person shall be deemed not to have attained a given age until commencement of the relevant anniversary of the day of his birth.

PART II

THE FRANCHISE AND ITS EXERCISE

Registers of electors etc.

3.—(1) An alteration made in a register of electors under section 11(1) or (2) or 57 of the 1983 Act (correction of registers and registration appeals) after the last day on which the nomination papers at an election may be delivered to the constituency returning officer shall not have effect for the purposes of that election.

(2) Schedule 1 (which makes provision in connection with electors lists and registers) has effect.

Registration appeals

4.—(1) An appeal lies to the sheriff court from any decision under this Order of the registration officer disallowing a person’s application to vote—

(a) by proxy or by post as elector; or

(b) by post as proxy,

in any case where the application is not made for a particular Scottish parliamentary election only.

(2) An appeal lies on any point of law from any decision of the sheriff under this article to the court of three judges constituted under section 57(2) of the 1983 Act.

(3) An appeal made by virtue of this article or section 57 of the 1983 Act which is pending when notice of an election is given shall not prejudice the operation as respects that election of the

(4) 1973 c. 65

(5) 1998 c. 48

decision appealed against, and anything done in pursuance of the decision shall be as good as if no such appeal had been brought and shall not be affected by the decision of the appeal.

(4) Notice shall be sent to the registration officer by recorded delivery post of the decision of the sheriff court or of the Court of three judges referred to in paragraph (2) above on any appeal by virtue of this article, and the registration officer shall make such alterations in the—

- (a) record kept under article 8(4); or
- (b) record kept under article 11(6),

as may be required to give effect to the decision.

(5) Where, as a result of the decision on an appeal under this article or section 57 of the 1983 Act an alteration in the register is made on or before the last day for the delivery of nomination papers at an election paragraph (3) above does not apply to that appeal as respects that election.

(6) The registration officer shall on an appeal brought under this article be deemed to be a party to the proceedings, and the registration expenses payable to a registration officer shall include any expenses properly incurred by him by virtue of this paragraph.

Polling districts and places at elections

5.—(1) Every constituency shall be divided into polling districts and, subject to the provisions of this article there shall be a polling place designated for each polling district.

(2) The polling districts and polling places designated under this article shall be the same as those used or designated for parliamentary elections, except where it appears to those responsible for the designation of parliamentary polling districts and polling places under section 18(3) of the 1983 Act that special circumstances make it desirable for some other polling district or polling place to be designated for the purpose of a Scottish parliamentary election.

- (3) An election shall not be questioned by reason of—
- (a) any non-compliance with the provisions of this article; or
 - (b) any informality relating to polling districts or polling places.

Rules for Scottish parliamentary elections

6.—(1) The proceedings at Scottish parliamentary elections (including the return of members) shall be conducted in accordance with the Scottish Parliamentary Election Rules in Schedule 2 to this Order.

(2) It is the general duty of every returning officer at a Scottish parliamentary election to do all such acts and things as may be necessary for effectually conducting the election in the manner provided by those Scottish Parliamentary Election Rules.

(3) No Scottish parliamentary election shall be declared invalid by reason of any act or omission by a returning officer or any other person in breach of his official duty in connection with the election or otherwise of those Rules if it appears to the tribunal having cognizance of the question that—

- (a) the election was so conducted as to be substantially in accordance with the law as to Scottish parliamentary elections; and
- (b) the act or omission did not affect the result.

(4) Schedule 2 to this Order (Scottish Parliamentary Election Rules) has effect.

Manner of voting at Scottish parliamentary elections

7.—(1) This article applies to determine the manner of voting of a person entitled to vote as an elector at a Scottish parliamentary election.

(2) He may vote in person at the polling station allotted to him under this Order, unless he is entitled as an elector to an absent vote at the election.

(3) He may vote by post if he is entitled as an elector to vote by post at the election.

(4) If he is entitled to vote by proxy at the election, he may so vote unless, before a ballot paper has been issued for him to vote by proxy, he applies at the polling station allotted to him under this Order for a ballot paper for the purposes of voting in person, in which case he may vote in person there.

(5) If he is not entitled as an elector to an absent vote at the election but cannot reasonably be expected to go in person to the polling station allotted to him under this Order by reason of the particular circumstances of his employment, either as a constable or by a returning officer, on the date of the poll for a purpose connected with the election, he may vote in person at any polling station in the constituency.

(6) For the purposes of the provisions of this Order a person entitled to vote as an elector at a Scottish parliamentary election is entitled as an elector to vote by post or entitled to vote by proxy at the election if he is shown in the absent voter list for the election as so entitled; and references in those provisions to entitlement as an elector to an absent vote at an election are references to an entitlement as an elector to vote by post or entitlement to vote by proxy at the election.

Absent vote at Scottish parliamentary elections for an indefinite period

8.—(1) Where a person applies to the registration officer to vote by post, or to vote by proxy, at Scottish parliamentary elections for an indefinite period, the registration officer shall grant the application (subject to paragraph (6) below) if—

- (a) he is satisfied that the applicant is eligible for an absent vote at Scottish parliamentary elections for an indefinite period;
- (b) he is satisfied that the applicant is or will be registered in the register of electors; and
- (c) the application meets the requirements set out in Schedule 3.

(2) For the purposes of this article, a person is eligible for an absent vote at Scottish parliamentary elections for an indefinite period—

- (a) if he is or will be registered as a service voter;
- (b) if he is no longer resident at his qualifying address or at any other address in the same area;
- (c) if he cannot reasonably be expected—
 - (i) to go in person to the polling station allotted or likely to be allotted to him under this Order; or
 - (ii) to vote unaided there,
 by reason of blindness or other physical incapacity;
- (d) if he cannot reasonably be expected to go in person to that polling station by reason of the general nature of his occupation, service or employment or that of his spouse; or
- (e) if he cannot go in person from his qualifying address to that polling station without making a journey by air or sea.

(3) For the purposes of paragraph (2)(b), two addresses are in the same area only if both addresses are in the same electoral ward.

(4) The registration officer shall keep a record of those whose applications under this article have been granted showing—

- (a) in the case of those who may vote by post, the addresses provided by them in their application as the addresses to which their ballot papers are to be sent; and

- (b) in the case of those who may vote by proxy, the names and addresses of those appointed as their proxies.
- (5) The registration officer shall remove a person from the record kept under paragraph (4) above—
 - (a) if he applies to the registration officer to be removed;
 - (b) in the case of any registered person, if he ceases to be registered or registered at the same qualifying address or ceases to be, or becomes, registered as a service voter; or
 - (c) if the registration officer gives notice that he has reason to believe there has been a material change of circumstances.
- (6) A person shown in the record kept under paragraph (4) as voting by post or, as the case may be, voting by proxy may subsequently alter his choice (subject to paragraph (7) below) on an application to the registration officer that meets the requirements set out in Schedule 3 and the registration officer shall amend the record accordingly.
- (7) A person applying to vote by post must provide an address in the United Kingdom as the address to which his ballot papers are to be sent.

Absent vote at a particular Scottish parliamentary election and absent voters list

9.—(1) Where a person applies to the registration officer to vote by post, or to vote by proxy, at a particular Scottish parliamentary election, the registration officer shall grant the application (subject to paragraph (4)) if—

- (a) he is satisfied that the applicant’s circumstances on the date of the poll will be or are likely to be such that he cannot reasonably be expected to vote in person at the polling station allotted or likely to be allotted to him under this Order;
- (b) he is satisfied that the applicant is or will be registered in the register; and
- (c) the application meets the requirements set out in Schedule 3.

(2) Paragraph (1) above does not apply to a person who is included in the record kept under article 8 but such a person may, in respect of a particular Scottish parliamentary election, apply to the registration officer—

- (i) for his ballot papers to be sent to a different address in the United Kingdom; or
- (ii) to vote by proxy,

if he is shown in the record so kept as voting by post.

(3) The registration officer shall grant an application under paragraph (2) above if it meets the requirements set out in Schedule 3.

(4) Subject to paragraph (2) above, the registration officer shall, in respect of each Scottish parliamentary election, keep a special list (“the absent voters list”) consisting of—

- (a) a list of—
 - (i) those who are for the time being shown in the record kept under article 8 as voting by post (excluding those so shown whose applications under paragraph (2) above to vote by proxy at the election have been granted), together with the addresses provided by them in their applications under article 8 or, as the case may be, paragraph (2) above as the addresses to which their ballot papers are to be sent; and
 - (ii) those whose applications under paragraph (1) above to vote by post at the election have been granted, together with the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent; and
- (b) a list (“the list of proxies”) of those who are for the time being shown in the record kept under article 8 as voting by proxy or whose applications under this article to vote by proxy

at the election have been granted, together with the names and addresses of those appointed as their proxies.

(5) A person applying to vote by post must provide an address in the United Kingdom as the address to which his ballot papers are to be sent.

Proxies at Scottish parliamentary elections

10.—(1) Subject to the provisions of this article, any person is capable of being appointed proxy to vote for another (in this article and article 11 referred to as “the elector”) at any Scottish parliamentary election and may vote in pursuance of the appointment.

(2) The elector cannot have more than one person at a time appointed as proxy to vote for him at Scottish parliamentary elections.

(3) A person is not capable of being appointed to vote, or voting, as proxy at a Scottish parliamentary election—

- (a) if he is subject to any legal incapacity (age apart) to vote at that election as an elector; or
- (b) if he is neither a Commonwealth citizen nor a citizen of the Republic of Ireland nor a relevant citizen of the Union.

(4) A person is not capable of voting as proxy at a Scottish parliamentary election unless on the date of the poll he has attained the age of eighteen.

(5) A person is not entitled to vote as proxy in any constituency at the same Scottish parliamentary election on behalf of more than two electors of whom that person is not the husband, wife, parent, grandparent, brother, sister, child or grandchild.

(6) Where the elector applies to the registration officer for the appointment of a proxy to vote for him at Scottish parliamentary elections for an indefinite period, the registration officer shall make the appointment if the application meets the requirements set out in Schedule 3 and he is satisfied that the elector is or will be—

- (a) registered in the register of electors for that election; and
- (b) shown in the record kept under article 8 as voting by proxy at such elections,

and that the proxy is capable of being and willing to be appointed to vote as proxy at such elections.

(7) Where the elector applies to the registration officer for the appointment of a proxy to vote for him at a particular Scottish parliamentary election, the registration officer shall make the appointment if the application meets the requirements set out in Schedule 3 and he is satisfied that the elector is or will be—

- (a) registered in the register of electors for that election; and
- (b) entitled to vote by proxy at that election by virtue of an application under article 9,

and that the proxy is capable of being and willing to be appointed.

(8) The appointment of a proxy under this article is to be made by means of a proxy paper issued by the registration officer.

(9) The appointment may be cancelled by the elector by giving notice to the registration officer and shall also cease to be in force, where the appointment related to a Scottish parliamentary election or Scottish parliamentary elections, on the issue of a proxy paper appointing a different person to vote for him at a Scottish parliamentary election or Scottish parliamentary elections (whether in the same Scottish parliamentary constituency or elsewhere).

(10) Subject to paragraph (9) above, the appointment shall remain in force—

- (a) in the case of an appointment for a particular election, for that election; and

- (b) in any other case, while the elector is shown as voting by proxy in the record kept under article 8 in pursuance of the same application under that article.

Voting as proxy

11.—(1) A person entitled to vote as proxy at a Scottish parliamentary election may do so in person at the polling station allotted to the elector under this Order unless he is entitled to vote by post as proxy for the elector at the election, in which case he may vote by post.

(2) Where a person is entitled to vote by post as proxy for the elector at any election, the elector may not apply for a ballot paper for the purpose of voting in person at the election.

(3) For the purposes of this Order, a person entitled to vote as proxy for another at a Scottish parliamentary election is entitled so to vote by post if he is included in the list kept under paragraph (9) below in respect of the election.

(4) Where a person applies to the registration officer to vote by post as proxy at Scottish parliamentary elections for an indefinite period, the registration officer shall (subject to paragraphs (10) and (12) below) grant the application if—

- (a) the applicant is included in any record kept under article 8 in respect of a constituency for the whole or any part of which the registration officer acts; or
- (b) the address provided by the applicant in his application as the address to which his ballot papers are to be sent is not in the same area as the elector's qualifying address,

and the application meets the requirements set out in Schedule 3.

(5) For the purposes of this article, two addresses are in the same area only if both addresses are in the same electoral ward.

(6) The registration officer shall keep a record of those whose applications under paragraph (4) have been granted showing the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent.

(7) Where a person applies to the registration officer to vote by post as proxy at a particular election and the application meets the requirements set out in Schedule 3, the registration officer shall (subject to paragraphs (10) and (12) below) grant the application if—

- (a) he is satisfied that the applicant's circumstances on the date of the poll will be or are likely to be such that he cannot reasonably be expected to vote in person at the polling station allotted or likely to be allotted to the elector under this Order; or
- (b) the applicant is, or the registration officer is satisfied that he will be, included in respect of the constituency for the whole or any part of which the registration officer acts in any of the absent voters lists for that election.

(8) Where, in the case of a particular election, a person included in the record kept under paragraph (6) above applies to the registration officer for his ballot papers to be sent to a different address in the United Kingdom, the registration officer shall grant the application if it meets the requirements set out in Schedule 3.

(9) The registration officer shall, in respect of each Scottish parliamentary election, keep a special list of—

- (a) those who are for the time being included in the record kept under paragraph (6) above, together with the addresses provided by them in their applications under that paragraph or, as the case may be, paragraph (8) above as the addresses to which their ballot papers are to be sent; and
- (b) those whose applications under paragraph (7) above have been granted in respect of the election concerned, together with the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent,

and shall forthwith supply to the constituency returning officer a copy of that list on completion of the compilation of it.

- (10) The registration officer shall not grant any application under this article unless—
- (a) he is satisfied that the elector is or will be registered in the register of electors; and
 - (b) there is in force an appointment of the applicant as the elector’s proxy to vote for him at Scottish parliamentary elections or, as the case may be, the election concerned.
- (11) The registration officer shall remove a person from the record kept under paragraph (6) above—
- (a) if he applies to the registration officer to be removed;
 - (b) where he was included in the record on the ground mentioned in paragraph (4)(a) above, if he ceases to be included in any record kept under article 8 above in respect of a Scottish Parliamentary constituency for the whole or any part of which the registration officer acts or becomes so included in pursuance of a further application under that article;
 - (c) if the elector ceases to be registered as mentioned in paragraph(10)(a) above; or
 - (d) if the appointment of the person concerned as the elector’s proxy ceases to be in force (whether or not he is re-appointed).
- (12) A person applying to vote by post as proxy must provide an address in the United Kingdom as the address to which his ballot papers are to be sent.

Absent voting at elections: miscellaneous

12.—(1) Section 59 of the 1983 Act (supplemental provisions as to members of forces and service voters) shall apply for the purposes of a Scottish parliamentary election subject to the following modification)–

- (a) in subsection (3)(a), “this Act” shall be construed as including a reference to this Order in connection with the rights conferred by this Order on a person having a service qualification by virtue of section 14(1)(a) or (b) of that Act in relation to the making and cancellation of appointments of a proxy and in relation to voting by post; and
- (b) in subsection (3)(b), “this Act and any regulations made under it” shall be similarly construed.

(2) Schedule 3 (which makes provision in connection with absent voting at Scottish parliamentary elections) has effect.

(3) Schedule 4 (which makes provision in connection with the issue and receipt of postal ballot papers) has effect.

Combination of polls

13.—(1) Where the polls at a Scottish parliamentary general election and an ordinary local government election, are to be taken on the same date, they shall be taken together.

(2) Where the polls at a Scottish parliamentary election and another election for related areas are to be taken on the same date but are not required by paragraph (1) to be taken together, they may nevertheless may be so taken if the returning officer for each election thinks fit.

(3) In paragraph (2) the reference to another election means a local government election; and for the purposes of that paragraph two areas are related if one is coterminous with or situated wholly or partly within the other.

(4) Where the polls at a Scottish parliamentary election and a local government election are combined under this article the cost of taking the combined polls (excluding any cost solely

attributable to one election) and any cost attributable to their combination shall be apportioned in such proportions as the Secretary of State may determine.

(5) Schedule 5 (which makes provision about the combination of polls) has effect.

Constituency returning officers

14.—(1) The constituency returning officer for a Scottish parliamentary election in a constituency other than the Orkney Islands and the Shetland Islands shall be the person who under section 25 of the 1983 Act (returning officers: Scotland) is, the returning officer for parliamentary elections in that parliamentary constituency.

(2) The constituency returning officer for a Scottish parliamentary election in the Orkney Islands shall be the person who, under section 41 of the 1983 Act (local government elections in Scotland) is, or may discharge the functions of, the returning officer at elections of councillors for the Orkney Islands Council.

(3) The constituency returning officer for a Scottish parliamentary election in the Shetland Islands shall be the person who, under section 41 of the 1983 Act (local government elections in Scotland) is, or may discharge the functions of, the returning officer at elections of councillors for the Shetland Islands Council.

Officers of councils to be placed at disposal of returning officers

15.—(1) Every local authority in Scotland shall place at the disposal of the constituency returning officer for a constituency wholly or partly situated in their area, for the purpose of assisting the constituency returning officer in the discharge of any functions conferred on him in relation to a Scottish parliamentary election the services of officers employed by the authority.

(2) Every local authority in Scotland shall place at the disposal of the regional returning officer for a region wholly or partly situated in their area, for the purpose of assisting the regional returning officer in the discharge of any function conferred on him in relation to a Scottish parliamentary election the services of officers employed by the authority.

Returning officers: discharge of functions

16.—(1) A returning officer at a Scottish parliamentary election may, in writing, appoint one or more persons to discharge all or any of his functions.

(2) Except in the case of an election to fill a vacancy in the seat of a constituency member, it shall be the duty of each regional returning officer and each constituency returning officer for a Scottish parliamentary constituency within that region to co-operate with each other in the discharge of their functions.

(3) The duty imposed by paragraph (2) above applies as between constituency returning officers in any region as well as between such officers and the regional returning officer for that region.

Returning officers: general

17.—(1) A Scottish parliamentary election is not liable to be questioned by reason of a defect in the title, or want of title, of the person presiding at or conducting the election, if that person was then in actual possession of, or acting in, the office giving the right to preside or conduct the election.

(2) A person is not subject to any incapacity to vote at a Scottish parliamentary election by reason of being or acting as a constituency returning officer or a regional returning officer at that election.

Payments by and to returning officers

18. Section 29 of the 1983 Act shall apply for the purposes of a Scottish parliamentary election subject to the following modifications:—

- (a) any reference to a parliamentary election shall be construed as a reference to an election for membership of the Scottish Parliament;
- (b) any reference to a returning officer shall be construed as a reference to a constituency returning officer and a regional returning officer;
- (c) subsections (1) and (2) shall be omitted;
- (d) the reference in subsection (5) to “section 30 below” shall be construed as a reference to article 19;
- (e) in subsection (8), for “Regulations may” substitute “The Secretary of State may by regulations”; and
- (f) after subsection (8) there shall be inserted—

“(8A) Any order made under subsection (3) above and any regulations made under subsection (8) above may make different provision in relation to different cases or in relation to different classes of case.”.

Taxation of returning officer’s accounts

19.—(1) An application for the accounts to be taxed shall be made to the Auditor of the Court of Session.

(2) On any such application the Auditor has jurisdiction to tax the account in such manner and at such time and place as he thinks fit, and finally to determine the amount payable to the constituency returning officer or, as the case may be, regional returning officer.

(3) On any such application the returning officer may apply to the Auditor to examine any claim made by any person against him in respect of matters charged in the account; and the Auditor, after notice given to the claimant and after giving him an opportunity to be heard and to tender any evidence, may allow or disallow or reduce the claim objected to with or without costs; and the determination of the Auditor shall be final for all purposes and against all persons.

Loan of equipment for Scottish parliamentary elections

20.—(1) Any ballot boxes, fittings and compartments provided for parliamentary elections out of money provided by Parliament, may, on request, be lent to a constituency returning officer at a Scottish parliamentary election on such terms and conditions as the Secretary of State may determine.

(2) Any ballot boxes, fittings and compartments provided by or belonging to a local authority shall, on request, and if not required for immediate use by that authority, be lent to a constituency returning officer at a Scottish parliamentary election on such terms and conditions as may be agreed.

Effect of registers

21.—(1) The register of electors shall for the purposes of this Part be conclusive on the following questions—

- (a) whether or not a person registered in it was on the qualifying date resident at the address shown; and
- (b) whether or not that address is in any local government area or any particular part of a local government area.

(2) Any entry in the register of local government electors, if it gives a date as that on which the person named will attain voting age, shall for any purpose of this Part relating to him as elector be conclusive that until the date given in the entry he is not of voting age nor entitled to be treated as an elector except for the purposes of a Scottish parliamentary election at which the date fixed for the poll is that or a later date.

(3) A person registered as a local government elector, or entered in the list of proxies, shall not be excluded from voting at a Scottish parliamentary election on any of the grounds set out in paragraph (4) below; but this shall not prevent the rejection of the vote on a scrutiny, or affect his liability to any penalty for voting.

(4) The grounds referred to in paragraph (3) above are—

- (a) that he is not of voting age;
- (b) that he is not, or, on the qualifying date or the date of his appointment (as the case may be); was not—
 - (i) a Commonwealth citizen;
 - (ii) a citizen of the Republic of Ireland,
 - (iii) a relevant citizen of the Union;
- (c) that he is, or, on the qualifying date or the date of his appointment (as the case may be), was, otherwise subject to any other legal incapacity to vote.

Effect of misdescription

22. No misnomer or inaccurate description of any person or place named—

- (a) in the register of electors; or
- (b) in any list, record, proxy paper, nomination paper, ballot paper, notice or other document required for the purposes of this Order,

affects the full operation of the document with respect to that person or place in any case where the description of the person or place is such as to be commonly understood.

Discharge of registration duties

23.—(1) A registration officer shall comply with any general or specific directions which may be given by the Secretary of State with respect to the arrangements to be made by the registration officer in carrying out his functions under this Order.

(2) Any of the duties and powers of a registration officer under this Order may be performed and exercised by any deputy for the time being approved by the local authority which appointed the registration officer, and the provisions of this Order apply to any such deputy so far as respects any duties or powers to be performed or exercised by him as they apply to the registration officer.

(3) It shall in the duty of each local authority to assign such officers to assist the registration officer appointed by that authority as may be required for carrying out his functions under this Order.

Payment of expenses of registration

24.—(1) Any expenses properly incurred by a registration officer in the performance of his functions under this Order (in this Order referred to as “registration expenses”) shall be paid by the local authority by whom the registration officer was appointed.

(2) Any fees paid to the registration officer under this Order shall be accounted for by him and paid to the local authority by whom he was appointed.

(3) On the request of a registration officer for an advance on account of registration expenses, the local authority by whom the registration officer was appointed may, if it thinks fit, make such an advance to him of such an amount and subject to such conditions as it may approve.

Personation

25.—(1) A person shall be guilty of a corrupt practice if he commits, or aids, abets, counsels or procures the commission of, the offence of personation.

(2) A person shall be deemed to be guilty of personation at a Scottish parliamentary election if he—

- (a) votes in person or by post as some other person, whether as an elector or as proxy, and whether that other person is living or dead or is a fictitious person; or
- (b) votes in person or by post as proxy—
 - (i) for a person whom he knows or has reasonable grounds for supposing to be dead or to be a fictitious person; or
 - (ii) when he knows or has reasonable grounds for supposing that his appointment as proxy is no longer in force.

(3) For the purposes of this article, a person who has applied for a ballot paper for the purpose of voting in person or who has marked, whether validly or not, and returned a ballot paper issued for the purpose of voting by post, shall be deemed to have voted.

Other voting offences

26.—(1) A person shall be guilty of an offence if—

- (a) he votes in person or by post, whether as an elector or as proxy, or applies to vote by proxy or by post as elector at a Scottish parliamentary election, or at Scottish parliamentary elections, knowing that he is subject to a legal incapacity to vote at the election or, as the case may be, at elections of that kind; or
- (b) he applies for the appointment of a proxy to vote for him at any Scottish parliamentary election or at Scottish parliamentary elections knowing that he or the person to be appointed is subject to a legal incapacity to vote at the election or, as the case may be, at elections of that kind; or
- (c) he votes, whether in person or by post, as proxy for some other person at a Scottish parliamentary election, knowing that that person is subject to a legal incapacity to vote.

(2) For the purposes of paragraph (1) above, references to a person being subject to a legal incapacity to vote do not, in relation to things done before polling day at the election or first election at or for which they are done, include his being below voting age if he will be of voting age on that day.

(3) A person shall be guilty of an offence if—

- (a) he votes as elector—
 - (i) more than once in any constituency at a poll for the return of a constituency member; or
 - (ii) more than once in any constituency at a poll for the return of regional members; or
 - (iii) in more than one constituency at a Scottish parliamentary general election;
- (b) he votes as elector in person at a Scottish parliamentary election at which he is entitled to vote by post;

- (c) he votes as elector in person at a Scottish parliamentary election, knowing that a person appointed to vote as his proxy at the election either has already voted in person at the election or is entitled to vote by post at the election; or
 - (d) he applies for a person to be appointed as his proxy to vote for him at Scottish parliamentary elections in any constituency without applying for the cancellation of a previous appointment of a third person then in force in respect of that or another constituency or without withdrawing a pending application for such an appointment in respect of that or another constituency.
- (4) A person shall be guilty of an offence if—
- (a) he votes as proxy for the same elector either—
 - (i) more than once in the same constituency at any Scottish parliamentary election; or
 - (ii) in more than one constituency at a Scottish parliamentary general election;
 - (b) he votes in person as proxy for an elector at a Scottish parliamentary election at which he is entitled to vote by post as proxy for that elector; or
 - (c) he votes in person as proxy for an elector at a Scottish parliamentary election knowing that the elector has already voted in person at the election.
- (5) A person shall also be guilty of an offence if he votes at a Scottish parliamentary election in any constituency as proxy for more than two persons of whom he is not the husband, wife, parent, grandparent, brother, sister, child or grandchild.
- (6) A person shall also be guilty of an offence if he knowingly induces or procures some other person to do an act which is, or but for that other person's want of knowledge would be, an offence by that other person under the foregoing paragraphs of this article.
- (7) For the purposes of this article a person who has applied for a ballot paper for the purpose of voting in person, or who has marked, whether validly or not, and returned a ballot paper issued for the purpose of voting by post, shall be deemed to have voted, but for the purpose of determining whether an application for a ballot paper constitutes an offence under paragraph (4) above, a previous application made in circumstances which entitle the applicant only to mark a tendered ballot paper shall, if he does not exercise that right, be disregarded.
- (8) An offence under this article shall be an illegal practice, but—
- (a) the court before whom a person is convicted of any such offence may, if they think it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of section 173 of the 1983 Act (as applied by this Order); and
 - (b) a candidate shall not be liable, nor shall his election be avoided, for an illegal practice under this article of any agent of his other than an offence under paragraph (6) above.
- (9) Where a person is entitled to give two votes in an election (whether in person as elector or proxy, or by post as elector or proxy) and so exercises that right he shall, for the purposes of this article, be treated as voting once in relation to each poll for which his votes are given.

Breach of official duty

27.—(1) If a person to whom this article applies is, without reasonable cause, guilty of any act or omission in breach of his official duty, he shall be liable on summary conviction to a fine not exceeding the amount specified as level 5 on the standard scale.

(2) No person to whom this article applies shall be liable for breach of his official duty to any penalty at common law and no action for damages shall lie in respect of the breach by such a person of his official duty.

(3) The persons to whom this article applies are—

- (a) any sheriff clerk, registration officer, returning officer or presiding officer;
- (b) any postmaster; and
- (c) any deputy of a person mentioned in any of sub-paragraphs (a) or (b) or any person appointed to assist or in the course of his employment assisting a person so mentioned in connection with his official duties,

and “official duty” shall for the purpose of this article be construed accordingly, but shall not include duties imposed otherwise than by the law relating to Scottish parliamentary elections or the registration of local government electors.

Tampering with nomination papers, ballot papers etc.

28.—(1) A person shall be guilty of an offence, if, at a Scottish parliamentary election, he—

- (a) fraudulently defaces or fraudulently destroys any nomination paper;
- (b) fraudulently defaces or fraudulently destroys any ballot paper, or the official mark on any ballot paper, or any declaration of identity or official envelope used in connection with voting by post;
- (c) without due authority supplies any ballot paper to any person;
- (d) fraudulently puts into any ballot box any paper other than the ballot paper which he is authorised by law to put in;
- (e) fraudulently takes out of the polling station any ballot paper;
- (f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election; or
- (g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts.

(2) A person shall be guilty of an offence if—

- (a) at a Scottish parliamentary election, he forges any nomination paper, delivers to a returning officer any nomination paper knowing it to be forged, or forges or counterfeits any ballot paper or the official mark on any ballot paper;
- (b) he signs any nomination paper as candidate or as nominating officer for any registered political party (or as a person authorised by such officer), or in any other capacity certifies the truth of any statement contained in it, knowing such statement to be false; or
- (c) he fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts.

(3) If a returning officer, a presiding officer or a clerk appointed to assist in taking the poll, counting the votes or assisting at the proceedings in connection with the issue or receipt of postal ballot papers, is guilty of an offence under this article, he shall be liable—

- (a) on conviction on indictment to a fine, or to imprisonment for a term not exceeding two years, or to both;
- (b) on summary conviction, to a fine not exceeding the amount specified as level 5 on the standard scale, or to imprisonment for a term not exceeding three months, or to both.

(4) If any other person is guilty of an offence under this article he shall be liable on summary conviction to a fine not exceeding the amount specified as level 5 on the standard scale, or to imprisonment for a term not exceeding three months, or to both.

(5) In this article “nomination paper” includes a regional list of a registered party.

Requirement of secrecy

29.—(1) The following persons attending at a polling station, namely—

- (a) a returning officer;
- (b) a presiding officer or clerk;
- (c) a candidate (including a candidate on a party’s regional list);
- (d) a nominating officer of a registered party which has submitted a regional list;
- (e) an election agent; or
- (f) a polling agent,

shall maintain and aid in maintaining the secrecy of voting and shall not, except for some purpose authorised by law, communicate to any person before the poll is closed any information as to—

- (i) the name of any elector or proxy for an elector who has or has not applied for a ballot paper or voted at a polling station;
- (ii) the number on the register of electors of any elector who, or whose proxy, has or has not applied for a ballot paper or voted at a polling station; or
- (iii) the official mark.

(2) Every person attending at the counting of the votes shall maintain and aid in maintaining the secrecy of voting and shall not—

- (a) ascertain or attempt to ascertain at the counting of the votes the number on the back of any ballot paper;
- (b) communicate any information obtained at the counting of the votes as to the candidate for whom or, as the case may be, registered political party for which, any vote is given on any particular ballot paper.

(3) No person shall—

- (a) interfere with or attempt to interfere with a voter when recording his vote;
- (b) otherwise obtain or attempt to obtain in a polling station information as to the candidate for whom or, as the case may be, the registered political party for which, a voter in that station is about to vote or has voted;
- (c) communicate at any time to any person any information obtained in a polling station as to the candidate for whom or, as the case may be, the registered political party for which a voter in that station is about to vote or has voted, or as to the number on the back of a ballot paper given to a voter at that station; or
- (d) directly or indirectly induce a voter to display a ballot paper after he has marked it so as to make known to any person the name of the candidate for whom or, as the case may be, the registered political party for which he has or has not voted.

(4) Every person attending the proceedings in connection with the issue or the receipt of ballot papers for persons voting by post shall maintain and aid in maintaining the secrecy of the voting and shall not—

- (a) except for some purpose authorised by law, communicate, before the poll is closed, to any person any information obtained at those proceedings as to the official mark;
- (b) except for some purpose authorised by law, communicate to any person at any time any information obtained at those proceedings as to the number on the back of any ballot paper sent to any person;
- (c) except for some purpose authorised by law, attempt to ascertain at the proceedings in connection with the receipt of ballot papers the number on the back of any ballot paper; or

(d) attempt to ascertain at the proceedings in connection with the receipt of the ballot papers the name of the candidate for whom or, as the case may be, the registered political party for which any vote is given in any particular ballot paper or communicate any information with respect thereto obtained at those proceedings.

(5) No person having undertaken to assist a blind voter to vote shall communicate at any time to any person any information as to the name of the candidate for whom or, as the case may be, the registered political party for which that voter intends to vote or has voted, or as to the number on the back of a ballot paper given for the use of that voter.

(6) If a person acts in contravention of this article he shall be liable on summary conviction to a fine not exceeding the amount specified as level 5 on the standard scale or to imprisonment for a term not exceeding three months.

PART III

THE ELECTION CAMPAIGN

Appointment of election agent

30.—(1) Not later than the latest time for delivery of notices of withdrawal of candidature for a Scottish parliamentary election, a person shall be named by, or on behalf of—

- (a) each candidate for return as a constituency member;
- (b) each individual candidate for return as a regional member; and
- (c) each registered party submitting a regional list,

as the election agent for that candidate or, as the case may be registered party in relation to that list and that person's name and address shall be declared in writing by or on behalf of such a candidate or, in the case of a registered party, by the candidate who is highest in that party's regional list, to the appropriate returning officer.

(2) A candidate for return as a constituency member and any individual candidate for return as a regional member may name himself as election agent.

(3) A candidate included on a registered party's regional list may be named as election agent for that party in relation to that regional list.

(4) Where a candidate has been named or has named himself as an election agent he shall, so far as circumstances admit, be subject to the provisions of this Order both as a candidate and as an election agent, and, except where the context otherwise requires, any reference in this Order to an election agent shall be construed to refer to the candidate acting in his capacity as election agent.

(5) One election agent only shall be appointed for—

- (a) each candidate for return as a constituency member;
- (b) each individual candidate for return as a regional member; and
- (c) each registered party in relation to each regional list submitted by that party,

but the appointment, whether the election agent appointed be a candidate himself or not, may be revoked.

(6) If, whether before, during or after the election the appointment (or deemed appointment) of an election agent is revoked or an election agent dies, another election agent shall be appointed forthwith and his name and address declared in writing to the appropriate returning officer.

(7) The declaration as an election agent of—

- (a) a candidate of a person other than that candidate; or

(b) a registered party submitting a regional list, of a person other than a candidate on that list, shall be of no effect under this article unless it is made and signed by that person or is accompanied by a written declaration of acceptance signed by him.

(8) Upon the name and address of an election agent being declared to the appropriate returning officer the appropriate returning officer shall forthwith give public notice of that name and address.

Nomination of sub-agent

31.—(1) An election agent of a candidate for return as a constituency member may appoint to act in any part of the constituency one, but not more than one, deputy election agent.

(2) An election agent of an individual candidate for return as a regional member or registered party which has submitted a regional list may appoint to act in any part of the region one, but not more than one, deputy election agent.

(3) In this Order, any deputy election agent appointed under paragraph (1) or (2) above is referred to as a sub-agent.

(4) As regards matters in a part of the constituency or, as the case may be, region, for which there is a sub-agent the election agent may act by the sub-agent and—

- (a) anything done for the purposes of this Order by or to the sub-agent in his part of the constituency or, as the case may be, region shall be deemed to be done by or to the election agent;
- (b) any act or default of a sub-agent which, if he were the election agent, would be an illegal practice or other offence against this Order shall be an illegal practice and offence against this Order committed by the sub-agent, and the sub-agent shall be liable to punishment accordingly; and
- (c) the candidate or, as the case may be, each candidate on the registered party's regional list shall suffer the like incapacity as if that act or default had been the election agent's act or default.

(5) Not later than the second day before the day of the poll the election agent shall declare in writing the name and address of every sub-agent to the appropriate returning officer, and the appropriate returning officer shall forthwith give public notice of the name and address of every sub-agent so declared.

(6) The appointment of a sub-agent—

- (a) shall not be vacated by the election agent who appointed him ceasing to be election agent; but
- (b) may be revoked by whoever is for the time being the election agent,

and in the event of the revocation of the appointment or of the death of a sub-agent another sub-agent may be appointed, and his name and address shall be forthwith declared in writing to the appropriate returning officer, who shall forthwith give public notice of the name and address so declared.

(7) The declaration to be made to the appropriate returning officer, and such notice to be given by him, under paragraph (5) or (6) above shall specify the part of the constituency or, as the case may be, region within which any sub-agent is appointed to act.

Office of election agent

32.—(1) Every election agent and every sub-agent shall have an office to which all claims, notices, writs, summonses and documents may be sent, and the address of the office shall be—

- (a) declared to the appropriate returning officer at the same time as the appointment of the agent or, as the case may be, sub-agent, is declared to him; and

(b) stated in the public notice of the name of the agent or, as the case may be, sub-agent.

(2) Any claim, notice, writ, summons or document delivered at the office of the election agent or sub-agent and addressed to him, shall be deemed to have been served on him and every election agent or sub-agent may, in respect of any matter connected with the election in which he is acting be sued in any court having jurisdiction at the place where his office is situated.

Effect of default in election agent's appointment

33.—(1) If no person's name and address is given as required by article 30 as the election agent of—

- (a) a candidate who remains validly nominated; or
- (b) a registered party submitting a regional list,

at the latest time for delivery of notices of withdrawal of candidature—

- (i) in the case of a candidate for return as a constituency member or an individual candidate for return as a regional member, the candidate shall be deemed at that time to have named himself as election agent and to have revoked any appointment of another person as his election agent; and
- (ii) in the case of a registered party, the candidate who is highest in that party's regional list shall be deemed at that time to have named himself as election agent and to have revoked any appointment of another person as that party's election agent.

(2) This paragraph applies if—

- (a) the person whose name and address have been so given as those of an election agent for a candidate (not being the candidate himself) or of a registered party dies; and
- (b) a new appointment is not made on the day of the death or on the following day.

(3) Where paragraph (2) above applies—

- (a) in the case of a candidate for return as a constituency member or an individual candidate for return as a regional member, he shall be deemed to have appointed himself as from the time of death; and
- (b) in the case of the death of an election agent for a registered party—
 - (i) the candidate who is highest in that party's regional list shall be deemed to have appointed himself from the time of the death; or
 - (ii) where paragraph (2) above applies through the death of such a candidate, the candidate whose name is next highest in that registered party's regional list shall be deemed to have been appointed from the time of the death.

(4) If the appointment of an election agent is revoked without a new appointment being made—

- (a) in the case of a candidate for return as a constituency member or an individual candidate for return as a regional member, the candidate himself shall be deemed to have been appointed (or re-appointed) election agent; and
- (b) in the case of a registered party, the candidate who is highest in that party's regional list shall be deemed to have been appointed (or re-appointed) election agent.

(5) The deemed appointment of an election agent may be revoked as if it were an actual appointment.

(6) Where a candidate for return as a constituency member is by virtue of this article to be treated as an election agent he shall be deemed to have his office at his address as given in the statement of persons nominated as candidates for return as a constituency member.

(7) Where an individual candidate for return as a regional member or a candidate on a registered party's regional list is by virtue of this article to be treated as an election agent he shall be deemed to have his office at the address given in the statement of persons and parties standing nominated.

(8) The appropriate returning officer on being satisfied that a person is by virtue of this article to be treated as an election agent, shall forthwith proceed to give such like notice as if the name and address of the person and the address of his office had been duly given to him under article 30 above.

Making of contracts

34.—(1) The election agent of a candidate or of a registered party shall appoint every polling agent, clerk and messenger employed for payment on behalf of the candidate or party at that election, and hire every committee room hired on behalf of such candidate or party.

(2) A contract by which any election expenses are incurred shall not be enforceable against a candidate or against a registered party submitting a regional list at the election unless made by—

- (a) in the case of a candidate, the candidate himself or by his election agent; or
- (b) in the case of a registered party, the registered party, the nominating officer of that party, its election agent, or any candidate included in the regional list of that party,

but this paragraph does not relieve any candidate for return as a constituency member from the consequences of any corrupt or illegal practice having been committed by his agent.

(3) The references in this article to an election agent shall be taken as references to the election agent acting by himself or a sub-agent.

Expenses of registered political parties

35. For the purposes of this Part of this Order—

- (a) sums paid and expenses incurred by a candidate for return as a constituency member in respect of whom the constituency returning officer has received a certificate issued by a nominating officer of a registered party under rule 7 of the Scottish Parliamentary Election Rules are not to be regarded as having been made or incurred by that party; but
- (b) a sum is to be treated as paid, and an expense is to be treated as incurred, by a registered party if the payment is made or the expenses incurred—
 - (i) by an election agent of the party;
 - (ii) by the party's nominating officer;
 - (iii) by any candidate included on a regional list submitted by that party; or
 - (iv) by any other person in accordance with arrangements for which the nominating officer is responsible.

Payment of expenses through election agent: constituency and individual candidates

36.—(1) Except as permitted by article 38 below, or in pursuance of article 43 or 44 below, no payment and no advance or deposit shall be made—

- (a) by a candidate for return as a constituency member or an individual candidate for return as a regional member;
- (b) by any agent on behalf of such a candidate; or
- (c) by any other person,

at any time in respect of election expenses otherwise than by or through the candidate's election agent.

(2) Every payment made by an election agent in respect of any election expenses shall, except where less than £20, be vouched for by a bill stating the particulars and by a receipt.

(3) The references in the foregoing provisions of this article to an election agent shall be taken as references to the election agent acting by himself or a sub-agent.

(4) All money provided by any person other than a candidate for any election expenses, whether as gift, loan, advance or deposit, shall be paid to the candidate or his election agent and not otherwise.

(5) The foregoing provisions of this article shall not be deemed to apply to any sum disbursed by any person out of his own money for any small expense legally incurred by him if the sum is not repaid to him.

(6) A person who makes any payment, advance or deposit in contravention of paragraph (1) above, or pays in contravention of paragraph (4) above any money so provided as mentioned, shall be guilty of an illegal practice.

Payment of expenses: registered political parties etc.

37.—(1) Except as permitted by article 38 below, or in pursuance of articles 43 or 44 below, no payment and no advance or deposit shall be made at any time in respect of election expenses of a registered party at a Scottish parliamentary general election unless made in accordance with paragraph (2) below.

(2) No such payment, advance or deposit shall be made—

- (a) by the party or by any agent on behalf of the party;
- (b) by any candidate included in a regional list submitted by that party or by any agent on behalf of such a candidate; or
- (c) by any other person,

otherwise than—

- (i) by or through an election agent of that party; or
- (ii) by the nominating officer of that party or by any other person in accordance with arrangements for which that nominating officer is responsible.

(3) Every payment made under paragraph (2) above in respect of any election expenses shall, except where less than £20, be vouched for by a bill stating the particulars and by a receipt.

(4) The references in the foregoing provisions of this article to an election agent shall be taken as references to the election agent acting by himself or a sub-agent.

(5) All money provided for any election expenses of a registered political party (whether as gift, loan, advance or deposit) provided by any person other than—

- (a) any candidate appearing on a regional list submitted by that party; or
- (b) the nominating officer of that party or such other person as is mentioned in paragraph (2) (ii) above,

shall be paid in accordance with paragraph (6) below.

(6) Such money shall be paid to—

- (a) any election agent of the registered party, or any candidate appearing on a regional list submitted by that party; or
- (b) the nominating officer of that party or such other person as is mentioned in paragraph 2(ii) above,

and not otherwise.

(7) The foregoing provisions of this article shall not be deemed to apply to any sum disbursed by any person out of his own money for any small expense legally incurred by him if the sum is not repaid to him.

(8) A person who makes any payment, advance or deposit in contravention of paragraphs (1) and (2) above, or pays money in contravention of paragraphs (5) and (6) above shall be guilty of an illegal practice.

Candidate's personal expenses, and petty expenses

38.—(1) A candidate (including a candidate on a registered party's regional list) may pay any personal expenses incurred by him on account of or in connection with or incidental to the election, but the amount which a candidate may pay shall not exceed—

- (a) £600 in the case of a candidate for return as a constituency member who is not also a candidate for return as a regional member; and
- (b) £900 in the case of a candidate for return as a regional member (whether or not he is also a candidate for return as a constituency member),

and any further personal expenses incurred by him shall be paid by the election agent.

(2) A candidate shall send to the election agent within the time permitted by this Order for sending in claims, a written statement of the amount of personal expenses paid as mentioned in paragraph (1) above by the candidate; and, when that candidate is standing for return as a constituency member and for return as a regional member he shall send the statement to the election agent acting on his behalf in relation to his candidacy for return as a constituency member.

(3) Any person may, if so authorised in writing by an election agent pay any necessary expenses of stationery, postage, facsimile communication (or any other similar means of communication) and other petty expenses, to a total amount not exceeding that named in the authority, but any excess above the total amount so named shall be paid by the election agent.

(4) A statement of the particulars of payments made by any person so authorised shall be sent to the election agent who authorised them within the time limited by this Order for sending in claims, and shall be vouched for by a bill containing that person's receipt.

Prohibition of expenses not authorised by election agent: candidates for return as constituency members and individual candidates for return as regional members

39.—(1) Unless article 40 applies, no expenses, with a view to promoting or procuring the election of a candidate for return as a constituency member or an individual candidate for return as a regional member at a Scottish parliamentary election shall be incurred at such an election by any person other than the candidate or his election agent and persons authorised in writing by the election agent on account—

- (a) of holding public meetings or organising any public display;
- (b) of issuing advertisements, circulars or publications; or
- (c) of otherwise presenting to the electors a candidate, or the views of such a candidate or the extent or nature of that candidate's backing or disparaging of another candidate or, in the case of an individual candidate for return as a regional member, of a registered party,

but sub-paragraph (c) of this paragraph shall not—

- (i) restrict the publication of any matter relating to the election in a newspaper or any other periodical or in a broadcast made by the British Broadcasting Corporation or by Sianel

Pedwar Cymru or in a programme included in any service licensed under Part I or III of the Broadcasting Act 1990⁽⁶⁾ or Part I or II of the Broadcasting Act 1996⁽⁷⁾; or

- (ii) apply to any expenses, not exceeding in the aggregate the sum of £500, which may be incurred by an individual and are not incurred in pursuance of a plan suggested by or concerted with others or to expenses incurred by any person in travelling or in living away from home or similar personal expenses.

(2) Where a person incurs any expense required by this article to be authorised by the election agent—

- (a) that person shall within 21 days after the day on which the result of the election is declared deliver to the appropriate returning officer a return of the amount of those expenses stating the election at which and the candidate in whose support they were incurred; and
- (b) the return shall be accompanied by a declaration made by that person (or in the case of an association or body of persons by a director, general manager, secretary or other similar officer of the association or body) verifying the return and giving particulars of the matters for which the expenses were incurred,

but this paragraph does not apply to any person engaged or employed for payment or promise of payment by a candidate or his election agent.

(3) The return and declaration under the foregoing provisions of this article shall be in the form A and B set out in the Appendix and the authority received from the election agent shall be annexed to and deemed to be part of the return.

(4) A copy of every return and declaration made under paragraph (2) above in relation to an election shall be sent to the Secretary of State within 21 days after the day on which the result of the election is declared by the person making the return or declaration.

(5) If a person—

- (a) incurs, or aids, abets, counsels or procures any other person to incur, any expenses in contravention of this article; or
- (b) knowingly makes the declaration required by paragraph (2) above falsely,

he shall be guilty of a corrupt practice, and if a person fails to deliver or send any declaration or return or a copy of it as required by this article he shall be guilty of an illegal practice, but—

- (i) the court before whom a person is convicted under this article may, if they think it is just in certain circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of section 173 of the 1983 Act (as applied by this Order); and
- (ii) a candidate shall not be liable, nor shall his election be avoided, for a corrupt or illegal practice under this article committed by an agent without his consent or connivance.

(6) Where any act or omission of an association or body of persons, corporate or unincorporate, is an offence declared to be a corrupt or illegal practice by this article, any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he proves—

- (a) that the act or omission took place without his consent or connivance; and
- (b) that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the other circumstances.

(6) 1990 c. 42.

(7) 1996 c. 55.

Prohibition of expenses not authorised by election agent etc.: registered parties

40.—(1) No expenses shall, with a view to promoting or procuring the election of any candidate or candidates be incurred by any person other than in accordance with paragraph (2) below or article 39.

(2) Expenses required by paragraph (1) above to be incurred in accordance with this paragraph shall be incurred by—

- (a) any candidate on a registered party's regional list;
- (b) the nominating officer of a registered party;
- (c) the election agent of a registered party and any person authorised in writing by that election agent; or
- (d) by any other person in accordance with arrangements for which the nominating officer is responsible,

on account—

- (i) of holding public meetings or organising any public display;
- (ii) of issuing advertisements, circulars or publications; or
- (iii) of otherwise presenting to the electors any candidate appearing on that list or the views of any such candidate or the extent to which any such candidate backs or disparages an individual candidate for return as a regional member or any other registered party which has submitted a regional list or any candidate included on the regional list of such other registered party,

but sub-paragraph (iii) of this paragraph shall not—

- (ia) restrict the publication of any matter relating to the election in a newspaper or any other periodical or in a broadcast made by the British Broadcasting Corporation or by Sianel Pedwar Cymru or in a programme included in any service licensed under Part I or III of the Broadcasting Act 1990, or Part I or II of the Broadcasting Act 1996; or
- (ib) apply to any expenses not exceeding in the aggregate the sum of £1000 which may be incurred by an individual and are not incurred in pursuance of a plan suggested or consorted with others or to expenses incurred by any person in travelling or living away from home or similar personal expenses.

(3) Where a person incurs any expense required by this article to be authorised by the election agent for a registered party—

- (a) that person shall within 21 days after the day on which the result of the election is declared deliver to the Secretary of State a return of the amount of those expenses; and
- (b) the return shall be accompanied by a declaration made by that person (or in the case of an association or body of persons by a director, general manager, secretary or other similar officer of the association or body) verifying the return and giving particulars of the matters for which the expenses were incurred,

but this paragraph does not apply to any person engaged or employed for payment or promise of payment by the registered party or its election agent or any candidate included in the party's regional list.

(4) The return and declaration under the foregoing provisions of this article shall be in the form C and D set out in the Appendix and the authority received from the election agent shall be annexed to and deemed to be part of the return.

(5) A copy of the return and declaration made under paragraph (2) above in relation to an election shall be sent to the Secretary of State within 21 days after the day on which the result of the election is declared by the person making the return or declaration.

(6) If a person—

- (a) incurs, or aids, abets, counsels or procures any other person to incur any expenses in contravention of this article; or
- (b) knowingly makes the declaration required by paragraph (3) above falsely,

he shall be guilty of a corrupt practice, and if a person fails to deliver or send any declaration or return or a copy of it as required by this article he shall be guilty of an illegal practice, but—

- (i) the court before whom a person is convicted under this article may, if they think it is just in special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of section 173 of the 1983 Act (as applied by this Order); and
- (ii) a candidate shall not be liable, nor shall his election be avoided, for a corrupt or illegal practice under this article committed by an agent without his consent or connivance.

(7) Where any act or omission of an association or body of persons, corporate or unincorporate, is an offence declared to be a corrupt or illegal practice by this article, any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he proves—

- (a) that the act or omission took place without his consent or connivance; and
- (b) that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the other circumstances.

Limitation of election expenses: candidates

41.—(1) No sum shall be paid and no expense shall be incurred by—

- (a) a candidate for return as a constituency member or his election agent; or
- (b) an individual candidate for return as a regional member or his election agent,

whether before, during or after an election, on account of or in respect of the conduct or management of the election, in excess of the maximum amount specified in this article, and a candidate, or election agent knowingly acting in contravention of this paragraph shall be guilty of an illegal practice.

(2) The maximum amount is (in a case other than that to which paragraph (3) below applies)—

- (a) for a candidate for return as a constituency member in a constituency which is coterminous with a parliamentary constituency which is a county constituency £5,229 together with an additional 5.9p for every entry in a register of electors to be used at the election (as first published);
- (b) for a candidate for return as a constituency member for a constituency which is coterminous with a parliamentary constituency which is a burgh constituency, £5,229 together with an additional 4.4p for every entry in a register of electors to be used at the election (as first published);
- (c) for a candidate for return as a constituency member for the constituencies of the Orkney Islands or the Shetland Islands, £5,229 together with an additional 5.9p for every entry in a register of electors to be used at the election (as first published); and
- (d) for an individual candidate for return as a regional member, a sum calculated by adding together the maximum amounts (calculated in accordance with sub-paragraphs (a) to (c) above) for a single candidate for return as a constituency member in each constituency included in the region.

(3) The maximum amount at an election to fill a vacancy, for a candidate—

- (a) for return as a constituency member in a constituency which is coterminous with a parliamentary constituency which is a county constituency, £20,920 together with an

additional 23.4p for every entry in a register of electors to be used at the election (as first published);

(b) for return as a constituency member for a constituency which is coterminous with a parliamentary constituency which is a burgh constituency, £20,920 together with an additional 17.8p for every entry in a register of electors to be used at the election (as first published);

(c) for return as a constituency member for the constituencies of the Orkney Islands or the Shetland Islands, £20,920 together with an additional 23.4p for every entry in a register of electors to be used at the election (as first published).

(4) If a register to be used at an election is not published before the day of publication of the notice of election then for any reference in paragraph (2) or (3) above to an entry in that register there shall be substituted a reference to an entry in the electors list for that register as first published which gives the name of a person appearing from those lists to be entitled to be registered.

(5) The maximum amount specified in paragraph (2) or (3) above for a candidate is not required to cover personal expenses of that candidate.

(6) Where a poll for the return of a constituency member is countermanded or abandoned by reason of a candidate's death, the maximum amount of election expenses shall, for any of the other candidates who then remain validly nominated, be twice, or if there has been a previous increase under this paragraph, three times what it would have been but for any increase under this paragraph.

(7) The maximum amount specified in paragraph (2) or (3) above for a candidate shall not be affected by the change in the timing of a Scottish parliamentary election or of any step in the proceedings at such an election.

Limitation of election expenses: registered political parties

42.—(1) No sum shall be paid and no expenses shall be incurred by a registered political party at a general election for return of members to the Scottish Parliament, whether before, during or after such an election, on account of or in respect of the conduct or management of the election, in excess of £1,500,000.

(2) Any person knowingly acting in contravention of paragraph (1) above shall be guilty of an illegal practice.

(3) The amount specified in this article is not required to cover the personal expenses of any candidates on a regional list of a registered party.

(4) The amount specified in this article shall not be affected by a change in the timing of a Scottish parliamentary election or of any step in the proceedings at such an election.

(5) Where expenditure is incurred by a registered party in excess of the maximum amount specified in this article, the nominating officer of the party shall be deemed to be guilty of an offence, unless he proves—

(a) that the act or omission took place without his consent or connivance; and

(b) that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the other circumstances.

(6) A person who is guilty of an offence under paragraph (5) above shall be liable—

(a) on conviction or indictment, to a fine; or

(b) on summary conviction to a fine not exceeding the amount specified as level 5 on the standard scale.

Time for sending in and paying claims

43.—(1) Every claim against—

- (a) a candidate for return as a constituency member or his election agent; or
- (b) an individual candidate for return as a regional member or his election agent,

in respect of election expenses which is not sent in to the election agent within 21 days after the day on which the result of the election is declared shall be barred and not paid.

(2) Every claim against—

- (a) any registered party submitting a regional list or any candidate appearing on any list of that party or an election agent of that party; or
- (b) the nominating officer of a registered party submitting a regional list or any other person where that claim arises in accordance with arrangements for which the nominating officer is responsible,

in respect of election expenses which is not sent in—

- (i) to the election agent, where sub-paragraph (a) applies; or
- (ii) to the nominating officer or to such other person as is mentioned in sub-paragraph (b) where sub-paragraph (b) applies,

within 21 days after the day on which the result of the election is declared shall be barred and not paid.

(3) All election expenses shall be paid within 28 days after that date.

(4) Subject to paragraph (5) or (6) below, a person who pays a claim in contravention of paragraph (1) or (2) above or makes a payment in contravention of paragraph (3) above shall be guilty of an illegal practice.

(5) Where the election court reports that it has been proved to the court that any payment made was by an election agent without the sanction or connivance of a candidate—

- (a) the candidate's election shall not be void; nor
- (b) shall he be subject to any incapacity under this Order by reason only of that payment having been made in contravention of this article.

(6) The following person or persons, namely—

- (a) a claimant;
- (b) a candidate for return as a constituency member or his election agent;
- (c) an individual candidate for return as a regional member or his election agent; or
- (d) the nominating officer of a registered political party submitting a regional list, the election agent of such a party, a candidate included a regional list submitted by that party and such other person as is mentioned in paragraph (2)(b) above,

may apply to the Court of Session or to a sheriff court for leave to pay a claim for any election expenses although sent in after the period of 21 days or although sent in—

- (i) to a candidate and not the election agent;
- (ii) to the election agent and not to the registered nominating officer or to such other person as is mentioned in paragraph (2)(b) above; or
- (iii) to the nominating officer or to such other person as is mentioned in paragraph 2(b) above and not to the election agent,

and the court on cause shown to their satisfaction may by order grant leave.

(7) Any sum specified in the order of leave may be paid—

- (a) in the case of a candidate for return as a constituency member or an individual candidate for return as a regional member, by such candidate or his election agent;
- (b) by the nominating officer of a registered party submitting a regional list or that party's election agent or by any candidate appearing on that list or by any other person in accordance with arrangements for which the nominating officer is responsible; and

the amount paid in pursuance of the judgement or order shall not be deemed to be in contravention of paragraph (3) above.

(8) The jurisdiction vested by paragraph (6) above in a sheriff court may be exercised otherwise than in open court.

(9) An appeal lies to the Court of Session from any order of a sheriff court made by virtue of paragraph (6) above.

Disputed claims

44.—(1) If—

- (a) an election agent;
- (b) a nominating officer of a registered party; or
- (c) any other person in accordance with arrangements for which the nominating officer is responsible,

disputes any claim sent to him within the period of 21 days mentioned in article 43 above or refuses or fails to pay the claim within the period of 28 days so mentioned, the claim shall be deemed to be a disputed claim.

(2) The claimant may, if he thinks fit, bring an action for a disputed claim in any competent court and any sum paid by a candidate or such other person as is mentioned in paragraph (1)(a), (b) or (c) above, in pursuance of the judgement or order of the court shall not be deemed to be in contravention of article 36(1), 37(1) or (2) or 43(3) above.

(3) If the defender in the action admits his liability but disputes the amount of the claim, that amount shall, unless the court on the pursuer's application otherwise directs, be forthwith referred for taxation to the auditor of the Court of Session or, as the case may be, sheriff court and the amount found due on the taxation shall be the amount to be recovered in the action in respect of the claim.

(4) Article 43(7) to (10) above applies in relation to a disputed claim as it applies in relation to a claim for election expenses sent in after the period of 21 days.

Election agent's claim

45. So far as circumstances admit, this Order applies to an election agent's claim for his remuneration and to its payment in like manner as if he were any other creditor, and if any difference arises about the amount of the claim, the claim shall be a disputed claim within the meaning of this Order and shall be dealt with accordingly.

Return as to election expenses: candidates for return as constituency members and individual candidates for return as regional members

46.—(1) Within 35 days after the day on which the result of a Scottish parliamentary election is declared the election agent of every—

- (a) candidate for return as a constituency member; and
- (b) individual candidate for return as a regional member,

at the election shall deliver to the appropriate returning officer a true return in the form E set out in the Appendix or to the like effect, containing as respects that candidate a statement of all payments made by the election agent together with all the bills and receipts.

- (2) The return shall deal under a separate heading or subheading with any expenses included in it—
 - (a) as respects which a return is required to be made under article 39(2) above; or
 - (b) which are on account of the remuneration of expenses of speakers at public meetings.
- (3) The return shall also contain as respects that candidate—
 - (a) a statement of the amount of personal expenses, if any, paid by the candidate;
 - (b) a statement of all disputed claims of which the election agent is aware;
 - (c) a statement of all the unpaid claims, if any, of which the election agent is aware, in respect of which application has been or is about to be made to the Court of Session or sheriff court;
 - (d) a statement of all money, securities and equivalent of money received by the election agent from the candidate or any other person for the purposes of election expenses incurred or to be incurred, with a statement of the name of every person from whom they may have been received.

(4) Where the candidate is his own election agent, a statement of all money and securities and equivalent of money paid by the candidate shall be substituted in the return as to election expenses for the statement of money securities and equivalent of money received by the election agent from the candidate.

(5) Where after the date at which the return as to election expenses is delivered leave is given by the court under article 43(7) above for any claims to be paid, the candidate or his election agent shall, within seven days after its payment, deliver to the appropriate returning officer a return of the sums paid in pursuance of the leave accompanied by a copy of the order of the court giving the leave and in default he shall be deemed to have failed to comply with requirements of this article without such authorised excuse as is mentioned in article 53 below.

Return as to election expenses: registered party

47.—(1) Within seventy days after the day on which the result of the election is declared the nominating officer for each registered party on whose behalf candidates stood at that election shall deliver to the Secretary of State a true return of election expenses of the party in the form F set out in the Appendix or to the like effect, containing a statement as respects that party of all payments made by the party's nominating officer, by each of its election agents or by any other person in accordance with arrangements for which that nominating officer is responsible together with all the bills and receipts.

(2) The total amount of all such payments referred to in paragraph (1) above shall be included in the statement.

- (3) The return shall deal under a separate heading or sub-heading with any expenses included in it—
 - (a) as respects which a return is required to be made under article 40(2) above; or
 - (b) which are on account of the remuneration of expenses of speakers at public meetings.
- (4) The return shall also contain as respects that registered party—
 - (a) a statement as respects each candidate on a regional list of that party of the amount of personal expenses, if any, paid by the candidate;
 - (b) a statement of all disputed claims of which the nominating officer is aware;

- (c) a statement of all the unpaid claims, if any, of which the nominating officer is aware in respect of which application has been or is about to be made to the Court of Session or sheriff court;
- (d) a statement of all money, securities and equivalent of money received—
 - (i) by an election agent;
 - (ii) by the nominating officer; or
 - (iii) by any other person in accordance with arrangements for which the nominating officer is responsible,from a candidate or any other person for the purposes of election expenses incurred or to be incurred, with a statement of the name of every person from whom they may have been received.

(5) Where a candidate included in a registered party's regional list is the election agent for the registered party in relation to that list, a statement of all money and securities and equivalent of money paid by the candidate shall be substituted in the return as to election expenses for the statement of monies, securities and equivalent of money received by the election agent for that list from that candidate.

(6) Where after the date at which the return as to election expenses is delivered leave is given by the court under article 43(7) for any claims to be paid, the nominating officer shall, within 7 days after its payment, deliver to the Secretary of State a return of the sums paid in pursuance of the leave accompanied by a copy of the order of the court giving the leave and in default he or they shall be deemed to have failed to comply with requirements of this article without such authorised excuse as is mentioned in article 53 below.

(7) In connection with the discharge of functions under this article by a nominating officer it shall be the duty of any person who is or has been an election agent or sub-agent for a registered party to co-operate with that party's nominating officer and, in particular, to supply to the nominating officer such particulars as he may reasonably require.

Declarations as to election expenses: candidates for return as constituency members and individual candidates for return as regional members

48.—(1) Each return delivered under article 46 above shall be accompanied by a declaration made by the election agent in the form G set out in the Appendix.

- (2) At the same time as the election agent delivers that return, or within seven days thereafter—
 - (a) each candidate for return as a constituency member; and
 - (b) each individual candidate for return as a regional member,

shall deliver to the appropriate returning officer a declaration made by him in the form G set out in the Appendix.

- (3) Where a candidate is out of the United Kingdom when the return is so delivered—
 - (a) the declaration required by paragraph (2) above may be made by him within 14 days after his return to the United Kingdom; and
 - (b) in that case, the declaration shall be forthwith delivered to the appropriate returning officer,

but the delay authorised by this provision in making the declaration shall not exonerate the election agent from complying with the provisions of this Order relating to the return and declaration as to election expenses.

(4) A declaration as to election expenses under this article may be made either before a justice of the peace or before any person who is the proper officer of a local authority.

- (5) Where—

- (a) a candidate for return as a constituency member is his own election agent; or
- (b) an individual candidate for return as a regional member is his own election agent,

the declaration by the election agent as to the election expenses need not be made and the declaration by the candidate as to election expenses shall be modified as specified in the form G set out in the Appendix.

(6) If a candidate or election agent knowingly makes the declaration required by this article falsely, he shall be guilty of a corrupt practice.

Declarations as to election expenses: registered political parties

49.—(1) Each return delivered under article 47 above shall be accompanied by a declaration made by the nominating officer in the form H set out in the Appendix.

(2) At the same time as the nominating officer for a registered party delivers that return, or within 7 days thereafter, each candidate in a regional list submitted by that registered party shall deliver to the Secretary of State a declaration made by that candidate in the form I set out in the Appendix.

(3) Where any such candidate is out of the United Kingdom when the return is so delivered—

- (a) the declaration required by paragraph (2) above may be made by him within 14 days after his return to the United Kingdom; and
- (b) in that case, the declaration shall forthwith be delivered to the Secretary of State,

but the delay authorised by this article in making the declaration shall not exonerate the nominating officer from complying with the provisions of this Order relating to the return and declaration as to election expenses.

(4) A declaration as to election expenses under this article may be made either before a justice of the peace or before any person who is the proper officer of a local authority.

(5) If a person knowingly makes the declaration required by this article falsely, he shall be guilty of a corrupt practice.

Where no return and declaration is needed

50. Notwithstanding anything in articles 48 and 49 above, no return or declaration as to election expenses shall be required in the case of a person—

- (a) who is a candidate, but is so only because he has been declared by others to be a candidate; and
- (b) who has not consented to the declaration or taken any part as a candidate at the election.

Penalty for failure as respects return of declarations

51. Subject to the provisions of article 53 below, if any candidate, nominating officer or election agent fails to comply with the requirements of articles 46 to 49 above he shall be guilty of an illegal practice.

Penalty for sitting or voting where no return and declaration is transmitted

52.—(1) If—

- (a) in the case of a candidate for return as a constituency member or an individual candidate for return as a regional member, the return and declarations as to election expenses; or
- (b) in the case of a candidate included on a registered party's regional list, his declaration as to elections expenses,

are not delivered before the expiry of the time limited for the purpose the candidate shall not, after the expiry of the time, sit or vote in the Parliament as a member for the constituency or, as the case may be, region until—

- (i) where sub-paragraph (a) above applies, that return and those declarations have been delivered;
- (ii) where sub-paragraph (b) applies, that declaration has been delivered; or
- (iii) the date of the allowance of an authorised excuse for the failure to deliver the return and declaration,

and if he sits or votes in contravention of this paragraph he shall forfeit £100 for every day on which he so sits or votes.

Authorised excuses for failure as to return and declarations

53.—(1) A candidate, a party's nominating officer or an election agent may apply for relief under this article to—

- (a) the Court of Session;
- (b) an election court; or
- (c) a sheriff court.

(2) Where an application is made under this article the person or persons making the application shall notify the Lord Advocate of the application and the Lord Advocate may attend or be represented at the hearing of the application and make representations at the hearing in respect of it.

(3) Relief under this article may be granted—

- (a) to a candidate for return as a constituency member, an individual candidate for return as a regional member, in respect of any failure to deliver the return and declaration as to election expenses, or any part of them, or in respect of any error or false statement in them;
- (b) to a candidate on a registered party's regional list, in respect of any failure to deliver the declaration as to election expenses, or any part of it, or in respect of any error or false statement in it;
- (c) to a registered party's nominating officer, in respect of any failure to deliver a return and declaration as to election expenses, or any part of them, or in respect of any error or false statement in them; or
- (d) to an election agent, in respect of any failure to deliver the return and declaration as to election expenses, or any part of them, or in respect of any error or false statement in them.

(4) The application for relief may be made on the ground that the failure, error or false statement arose—

- (a) by reason of the applicant's illness;
- (b) where the applicant is a candidate, by reason of the absence, death, illness or misconduct—
 - (i) in the case of a candidate for return as a constituency member or an individual candidate for return as a regional member, of his election agent or sub-agent (or any clerk or officer of such agent); or
 - (ii) in the case of a candidate included in a registered party's regional list, of any person;
- (c) where the applicant is an election agent, by reason of the death or illness—
 - (i) of any prior election agent;
 - (ii) where he is an election agent for a candidate, of the candidate; or
 - (iii) where he is an election agent for a registered party submitting a regional list, of any candidate included in that list;

- (d) where the applicant is an election agent, by reason of the absence, death, illness or misconduct of any sub-agent, clerk or officer of any election agent;
 - (e) where the applicant is a registered party's nominating officer, by reason of the death, absence or misconduct illness—
 - (i) of any election agent of that party or clerk or officer of such agent;
 - (ii) of any candidate included in a regional list submitted by that party; or
 - (iii) of any person having the authority to act in accordance with arrangements for which the nominating officer is responsible; or
 - (f) by reason of inadvertence or any reasonable cause of a like nature,
- and not by reason of any want of good faith on the applicant's part.

(5) The court may—

- (a) after such notice of the application in the constituency or region in relation to which the election was held, as it considers fit; and
- (b) on production of such evidence of the grounds stated in the application and of the good faith of the application, and otherwise, as it considers fit,

make such order for allowing an authorised excuse for the failure, error or false statement as it considers just.

(6) Where it is proved to the court by a candidate—

- (a) that any act or omission of the election agent of that candidate (or, in the case of a candidate on a party's regional list, the party's nominating officer) in relation to the return or declarations was without the sanction or connivance of the candidate; and
- (b) that the candidate took all reasonable means for preventing the act or omission,

the court shall relieve the candidate from the consequences of the act or omission of the election agent or, as the case may be, nominating officer.

(7) An order under paragraph (5) above may make the allowance conditional on the making of the return and declaration in a modified form or within an extended time, and upon the compliance with such other terms as the court seem best calculated for carrying into effect the objects of this Part of this Order.

(8) An order under paragraph (5) above shall relieve the applicant for the order from any liability or consequences under this Order in respect of the matter excused by the order.

(9) The date of the order, or if conditions and terms are to be complied with, the date at which the applicant fully complies with them, is referred to in this Order as the date of the allowance of the excuse.

(10) The jurisdiction vested by this article in a sheriff court may be exercised other than in open court.

(11) An appeal lies to the Court of Session from any order of a sheriff court made by virtue of this article.

Court's power to require information from election agent or sub-agent

54.—(1) Where on an application under article 53 above it appears to the court that any person who is or has been an election agent or sub-agent or nominating officer has refused or failed to make such return, or to supply such particulars, as will enable a person to comply with the provisions of this Order as to the return or declaration as to election expenses the court before making an order under that article, shall order that person to attend before the court.

(2) The court shall on the attendance of that person unless he shows cause to the contrary, order him—

- (a) to make the return and declaration; or
- (b) to deliver a statement of the particulars required to be contained in the return,

as the court considers just, within such time, to such person and in such manner as it may direct, or may order him to be examined with respect to the particulars.

(3) If a person fails to comply with any order of the court under this article, the court may order him to pay a fine not exceeding the amount specified as level 5 on the standard scale.

Publication of time and place of inspection of returns and declarations

55.—(1) At a Scottish parliamentary election, the appropriate returning officer, within 10 days after the end of the time allowed for delivering to him returns as to election expenses, shall—

- (a) publish in not less than—
 - (i) in the case of a constituency returning officer, two newspapers circulating in the constituency; and
 - (ii) in the case of a regional returning officer, three newspapers circulating in the region; and
- (b) send—
 - (i) in the case of a constituency returning officer, to each of the election agents; and
 - (ii) in the case of a regional returning officer, to the election agents and the nominating officers for each registered party submitting a regional list in relation to that region, a notice of the time and place at which the returns and declarations (including the accompanying documents) can be inspected.

(2) The Secretary of State shall, within 10 days after the end of the time allowed for delivering to him returns as to election expenses—

- (a) publish in not less than five newspapers circulating in Scotland; and
- (b) send to each of the election agents for individual candidates for return as regional members and to the nominating officers of each registered party submitting a regional list,

a notice of the time and place at which the returns and declarations (including the accompanying documents) can be inspected.

(3) But if any return or declaration has not been received by the appropriate returning officer or the Secretary of State before the notice is dispatched for publication, the notice shall so state and the like notice about that return and declaration, if afterwards received, shall within 10 days after the receipt be published in like manner and sent to each of the election agents and each nominating officer for a registered party submitting a regional list other than—

- (a) an agent who is in fault or is agent for the candidate in fault; or
- (b) a nominating officer who is in fault of who is the nominating officer for a registered party submitting a regional list on which there is included a candidate who is in fault.

Inspection of returns and declarations: candidates

56.—(1) Any return or declaration (including the accompanying documents) delivered to the appropriate officer under articles 39, 46 or 48 above—

- (a) shall be kept by the appropriate returning officer at some convenient place appointed by him; and

(b) shall at all reasonable times during the 2 years next after they are received by him be open to inspection by any person on payment of the fees set out in paragraph (2) below, and the appropriate returning officer shall on demand and on payment of the fees set out in paragraph (3) below provide copies of them or any part of them.

(2) The fee for inspecting a return or declaration (including any accompanying documents) specified in paragraph (1) above (which relates to the return and declarations of election expenses) shall be £1.50.

(3) The fee payable for a copy of any such return, declaration or document, shall be at the rate of 15p for each side of each page.

(4) After the expiry of those 2 years the appropriate returning officer—

(a) may cause those returns and declarations (including the accompanying documents) to be destroyed; or

(b) if the candidate or his election agent so require shall return them to the candidate.

(5) Any returns or declarations delivered under article 39 above shall be returned not to a candidate (if he or his election agents require) but to the person delivering them, if he so requires.

Inspection of returns and declarations: registered political parties

57.—(1) Any return or declaration (including the accompanying documents) delivered to the Secretary of State under articles 40, 47 or 49 above—

(a) shall be kept at some convenient place in Scotland appointed by him; and

(b) shall at all reasonable times during the 2 years next after they are received by him be open to inspection by any person on payment of the fee set out in paragraph (2) below, and the Secretary of State shall on demand and on payment of the fees set out in paragraph (3) below provide copies of them or any part of them.

(2) The fee for inspecting a return or declaration (including any accompanying documents) specified in paragraph (1) above (which relate to the return and declarations of election expenses) shall be £1.50.

(3) The fee payable for a copy of any such return, declaration or document, shall be at the rate of 15p for each side of each page.

(4) After the expiry of those 2 years the Secretary of State—

(a) may cause those returns and declarations (including the accompanying documents) to be destroyed; or

(b) if a party's nominating officer so requires, shall return them to him or such other person as the party's nominating officer may require.

(5) Any returns or declarations delivered under article 40 above shall be returned not to a party's nominating officer (if he so requires) but to the person delivering them, if he so requires.

Right to send election address post free

58.—(1) At a Scottish parliamentary election—

(a) each candidate, for return as a constituency member;

(b) each individual candidate for return as a regional member;

(c) the nominating officer of each registered political party which has submitted a regional list, is entitled to send free of charge for postage either—

- (i) one unaddressed postal communication, containing matter relating to the election only not exceeding 60 grammes in weight, to each place in the constituency or, in the case of an individual candidate for return as a regional member or a nominating officer of a registered party submitting a regional list for a particular region, each place in the region, which, in accordance with the Post Office Regulations 1987 (as applied and modified by paragraph (6) below) constitutes a delivery point for the purposes of this article; or
- (ii) one such postal communication addressed to each elector.

(2) Any such candidate or, as the case may be, party's nominating officer is also, subject as mentioned in paragraph (1) above, entitled to send free of any charge for postage to each person entered in the list of proxies for the election one such communication as mentioned in paragraph (1) above for each appointment in respect of which that person is so entered.

(3) A person shall not be deemed to be a candidate for return as a constituency member or to be an individual candidate for return as a regional member for the purposes of this article unless he is shown as standing nominated in the statement of persons nominated but until publication of that statement any person who declares himself to be such a candidate shall be entitled to exercise the right of free postage conferred by this article if he gives such security as may be required by the Post Office for the payment of postage should he not be shown as standing nominated as mentioned above.

(4) A registered party shall not be deemed to have submitted a regional list for the purposes of this article unless that party is shown as standing nominated in the statement published under rule 19 of the Scottish Parliamentary Election Rules but until the publication of that statement the nominating officer of a party which has submitted a regional list shall be entitled to exercise the right of free postage conferred by this article if he gives such security as may be required by the Post Office should the party not be shown as standing nominated as mentioned above.

(5) For the purposes of this article, "elector" means a person—

- (a) who is registered as a local government elector in the constituency or region for which the election is to be held in the register to be used at the election; or
- (b) who, pending the publication of that register appears in the electors' lists for such a register (as corrected by the registration officer) to be entitled to be so registered,

and accordingly includes a person shown in the register or electors lists as below voting age if it appears from that register or those lists that he will be of voting age on the day fixed for the poll, but not otherwise.

(6) The Post Office Regulations 1987 shall have effect in relation to a Scottish parliamentary election subject to the following modifications—

- (a) in regulation 1, the reference to "section 91 of the Representation of the People Act 1983" shall be construed as a reference to this article;
- (b) any reference to "constituency" shall—
 - (i) in relation to a candidate for return as a constituency member, be construed as a reference to a constituency for the purposes of the 1998 Act; and
 - (ii) in relation to a registered party's nominating officer or individual candidate for return as a regional member be construed as a reference to a region for the purposes of the 1998 Act;
- (c) a reference to "candidate" shall be construed as including a reference to a registered party's nominating officer; and
- (d) a reference to "the statement of persons nominated" in the case of an individual candidate for return as a regional member or a registered party's nominating officer shall be construed as a reference to the statement published under rule 19 of the Scottish Parliamentary Election Rules.

(7) If the area of a regional returning officer is situated in the area of more than one Head Postmaster, the controlling Head Postmaster for the purposes of the Post Office Regulations 1987 as applied by paragraph (6) above shall be determined by that regional returning officer.

Broadcasting from outside United Kingdom

59.—(1) No person shall, with intent to influence persons to give or refrain from giving their votes at a Scottish parliamentary election, include, or aid, abet, counsel or procure the inclusion of, any matter relating to the election in any programme service (within the meaning of the Broadcasting Act 1990) provided from a place outside the United Kingdom otherwise than in pursuance of arrangements made with—

- (a) the British Broadcasting Corporation;
- (b) Sianel Pedwar Cymru; or
- (c) the holder of any licence granted by the Independent Television Commission or the Radio Authority,

for the reception and re-transmission of that matter by that body or the holder of that licence.

(2) An offence under this article shall be an illegal practice, but the court before whom a person is convicted of an offence under this article may, if they think it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of section 173 of the 1983 Act as applied by this Order.

(3) Where any act or omission of an association or body of persons, corporate or unincorporate, is an illegal practice under this article, any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or was purporting to act in any such capacity, shall be deemed to be guilty of the illegal practice, unless he proves—

- (a) that the act or omission took place without his consent or connivance; and
- (b) that he exercised all such diligence to prevent the commission of the illegal practice as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

Imitation poll cards

60. No person shall for the purpose of promoting or procuring a particular result at a Scottish parliamentary election issue any poll card or document so closely resembling an official poll card as to be calculated to deceive, and paragraphs (2) and (3) of article 59 above apply as if an offence under this article were an offence under that article.

Schools and rooms for Scottish parliamentary election meetings: candidates for return as constituency members

61.—(1) Subject to the provisions of this article, a candidate for return as a constituency member at a Scottish parliamentary election is entitled for the purpose of holding public meetings in furtherance of his candidature to the use free of charge at reasonable times between the last day on which notice of the election may be published in accordance with the Scottish Parliamentary Election Rules and the day preceding the date of the poll of—

- (a) a suitable room in the premises of a school to which this article applies;
- (b) any meeting room to which this article applies.

(2) This article applies to any school of which the premises are situated in the constituency or an adjoining constituency, not being an independent school within the meaning of the Education

(Scotland) Act 1980(8) but a candidate is not entitled under this article to the use of a room in school premises outside the constituency if there is a suitable room in other premises in the constituency which are reasonably accessible from the same parts of the constituency as those outside and are premises of a school to which this article applies.

(3) This article applies to meeting rooms situated in the constituency, the expense of maintaining which is payable wholly or mainly out of public funds or out of any rate, or by a body whose expenses are so payable.

(4) Where a room is used for a meeting in pursuance of the rights conferred by this article, the person by whom or on whose behalf the meeting is convened—

(a) shall defray any expenses incurred in preparing, warming, lighting and cleaning the room and providing attendance for the meeting and restoring the room to its usual condition after the meeting; and

(b) shall defray any damage done to the room or the premises in which it is situated, or to the furniture, fittings or apparatus in the room or premises.

(5) A candidate is not entitled to exercise the rights conferred by this article except on reasonable notice; and this article does not authorise any interference with the hours during which a room in school premises is used for educational purposes, or from interference with a meeting room either for the purpose of the person maintaining it or under a prior agreement for its letting for any purpose.

(6) For the purposes of this article (except those of sub-paragraph (b) of paragraph (4) above) the premises of a school shall not be taken to include any private dwellinghouse, and in this article—

(a) the expression “meeting room” means any room which it is the practice to let for public meetings; and

(b) the expression “room” includes a hall, gallery or gymnasium.

Schools and rooms for Scottish parliamentary election meetings: candidates for return as regional members

62.—(1) Subject to the provisions of this article—

(a) an individual candidate for return as a regional member at a Scottish parliamentary election is entitled for the purpose of holding public meetings in furtherance of his candidature; and

(b) a registered party submitting a regional list is entitled for the purpose of holding public meetings for the purpose of promoting or procuring the giving of votes for that registered party,

to the use free of charge at reasonable times between the last date on which notice of the election may be published in accordance with the Scottish Parliamentary Election Rules and the day preceding the date of the poll of—

(i) a suitable room in the premises of a school to which this article applies;

(ii) any meeting room to which this article applies.

(2) This article applies to any school of which the premises are situated in the region, not being an independent school within the meaning of the Education (Scotland) Act 1980.

(3) This article applies to meeting rooms situated in the region, the expense of maintaining which is payable wholly or mainly out of public funds or out of any rate or by a body whose expenses are so payable.

(4) Where a room is used for a meeting in pursuance of the rights conferred by this article, the candidate, or as the case may be, registered party by whom or on whose behalf the meeting is convened—

- (a) shall defray any expenses incurred in preparing, warming, lighting and cleaning the room and providing attendants for the meeting and restoring the room to its usual condition after the meeting; and
- (b) shall defray any damage done to the room or to the premises in which it is situated, or to the furniture, fittings or apparatus in the room or premises.

(5) A person is not entitled to exercise the rights conferred by this article except on reasonable notice; and this article does not authorise any interference with the hours during which a room in school premises is used for educational purposes, or any interference with the use of a meeting room either for the purposes of the person maintaining it or under a prior agreement for its letting for any purpose.

(6) The provisions of Schedule 7 to this Order have effect with respect to the rights conferred by this article and article 61 above and the arrangements to be made for their exercise.

(7) For the purposes of this article (except those of paragraph (4)(b) above), the premises of a school shall not be taken to include any private dwellinghouse, and in this article—

- (a) the expression “meeting room” means any room which it is the practice to let for public meetings; and
- (b) the expression “room” includes a hall, gallery or gymnasium.

Disturbances at Scottish parliamentary election meetings

63.—(1) A person who at a lawful public meeting to which this article applies acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together shall be guilty of an illegal practice.

(2) This article applies to a political meeting held—

- (a) in relation to an election for return of a constituency member, in that constituency; and
- (b) in relation to an election for return of regional members, in that region,

during the period beginning with the last day on which notice of election may be published in accordance with the Scottish Parliamentary Election Rules and ending with the day of election.

(3) If a constable reasonably suspects any person of committing an offence under paragraph (1) above, he may if requested so to do by the chairman of the meeting require that person to declare to him immediately his name and address and, if that person refuses or fails so to declare his name and address, or gives a false name and address, he shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

Officials not to act for candidates

64.—(1) If—

- (a) any constituency returning officer or regional returning officer;
- (b) any officer or clerk appointed under the Scottish Parliamentary Election Rules; or
- (c) any partner or clerk of any such person,

acts as an agent for a candidate or a registered party in the conduct or management of the election, he shall be guilty of an offence, but nothing in this article prevents a candidate from acting as his own election agent or a candidate on a registered party’s regional list from acting as election agent for that registered party in relation to that list.

(2) A person guilty of an offence under this article shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Illegal canvassing by police officers

65.—(1) No member of a police force shall, at a Scottish parliamentary election, by word, message, writing or in any other manner, endeavour to persuade any person to give, or dissuade any person from giving, his vote, whether as an elector or as proxy, for the return of any constituency or regional member where the constituency or region falls wholly or partly within the police area for which that police force is maintained.

(2) A person acting in contravention of paragraph (1) above shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale; but nothing in that paragraph shall subject a member of a police force to any penalty for anything done in the discharge of his duty as a member of the force.

No hiring of vehicles to convey voters

66.—(1) A person shall not let, lend, or employ any public vehicle for the purpose of the conveyance of electors or their proxies to or from the poll at a Scottish parliamentary election, and if he does so knowing that the public vehicle is intended to be used for that purpose he shall be guilty of an illegal hiring.

(2) A person shall not hire, borrow or use for the purpose of the conveyance of electors or their proxies to or from the poll at a Scottish parliamentary election any public vehicle the owner of which he knows to be prohibited by paragraph (1) above from letting, lending or employing for that purpose, and if he does so he shall be guilty of an illegal hiring.

(3) In this article “public vehicle” means any public stage or hackney carriage or any carriage kept or used for the purpose of letting out for hiring.

No payments for conveyance of voters

67. If any payment or contract for payment is knowingly made, either before, during or after a Scottish parliamentary election, for the purpose of promoting or procuring the giving of a vote for a candidate or registered party on account of the conveyance of electors or their proxies to or from the poll, whether for the hire of carriages, or for railway fares, or otherwise—

- (a) the person making the payment or contract; and
- (b) if he knew it to be in contravention of this Order, any person receiving the payment or being a party to the contract,

shall be guilty of an illegal practice.

Provisions supplemental to articles 66 and 67

68. Nothing in articles 66 and 67 above prevents a carriage being let, hired, employed or used by an elector or his proxy or several electors or their proxies at their joint cost, for the purpose of being conveyed to or from the poll.

“Carriage” in articles 66 and 67

69. In articles 66 and 67—

- (a) “carriage” includes for the purposes of those articles—
 - (i) any mechanically propelled vehicle intended or adapted for use on roads; and
 - (ii) any vehicle drawn by such a vehicle,

and any such vehicle as so described shall be deemed to be a public vehicle for the purposes of article 66 if used as such; and

- (b) the provisions of those articles apply in relation to horses or other animals as they apply in relation to carriages, and any reference in article 66 to a public vehicle includes a reference to horses or other animals kept or used for drawing such vehicles.

Access to polling place by sea

70.—(1) Where the nature of a Scottish parliamentary constituency or region is such that any electors or proxies for electors resident there are unable at a Scottish parliamentary election to reach their polling place without crossing the sea or a branch or arm of the sea, nothing in this Order prevents the provision of means for conveying those electors or proxies by sea to their polling place.

(2) The amount of any payment for such means of conveyance as are mentioned in paragraph (1) above may be in addition to the maximum amount of expenses allowed by this Order.

(3) No restriction on the expenses to be incurred by a returning officer shall prevent a returning officer employing special steamers or boats for the purposes of a Scottish parliamentary election in any constituency in Scotland having a polling place or polling places so situated as not to be accessible except by sea, but the expenses so incurred shall be included in the returning officer's account, and shall be subject to taxation.

False statements as to candidates

71.—(1) A person who, or any director of any body or association corporate which—

- (a) before or during a Scottish parliamentary election;
- (b) for the purpose of affecting the candidate for whom, or registered political party for which, a vote is given at the election,

makes or publishes any false statement of fact in relation to the personal character or conduct of any candidate (including any candidate included in a registered party's regional list) shall be guilty of an illegal practice, unless he can show that he had reasonable grounds for believing, and did believe, the statement to be true.

(2) A candidate shall not be liable, nor shall his election be avoided, for any illegal practice under paragraph (1) above committed—

- (a) in the case of a candidate for return as a constituency member or an individual candidate for return as a regional member, by his agent other than his election agent;
- (b) in the case of a candidate included in a registered party's regional list, by the agent of that party other than its election agent,

unless—

- (i) it can be shown that the candidate or his election agent or in the case of a candidate on a registered party's regional list, that registered party's election agent in relation to that list has authorised or consented to the committing of the illegal practice by the other agent or has paid for the circulation of the false statement constituting the illegal practice; or
- (ii) an election court find and report that the election of the candidate was procured or materially assisted in consequence of the making or publishing of such false statements.

(3) A person making or publishing any false statement of fact as mentioned above may be restrained by interdict or interim interdict of the Court of Session or the sheriff court from any repetition of that false statement or of a false statement of a similar character in relation to the candidate or candidates.

(4) Any person who, before or during a Scottish parliamentary election, knowingly publishes a false statement of a withdrawal of candidature at the election for the purpose of promoting or procuring a particular result at that election shall be guilty of an illegal practice.

(5) A candidate shall not be liable, nor shall his election be avoided, for any illegal practice under paragraph (4) above committed by his agent (or in the case of a candidate included in a party's regional list, the agent of that party) other than the election agent for that candidate, or as the case may be, party.

Corrupt withdrawal from candidature

72. Any person who corruptly induces or procures any other person to withdraw from being a candidate at a Scottish parliamentary election, in consideration of any payment or promise of payment, and any person withdrawing in pursuance of the inducement or procurement, shall be guilty of an illegal payment.

Premises not to be used as committee rooms

73.—(1) If a person at a Scottish parliamentary election—

- (a) hires or uses any premises to which this article applies, or any part of them, for a committee room for the purpose of promoting or procuring a particular result at the election; or
- (b) lets any premises to which this article applies, or any part of them, knowing that it was intended to use them or that part as a committee room,

he shall be guilty of an illegal hiring.

(2) This article applies to the premises of all schools other than independent schools within the meaning of the Education (Scotland) Act 1980.

(3) For the purposes of this article, the premises of a school shall be taken to include any dwelling house which forms part of the school and is occupied by a person employed for the purposes of the school.

Payments for exhibition of election notices

74.—(1) No payment or contract for payment for the purpose of promoting or procuring a particular result at a Scottish parliamentary election shall be made to an elector or his proxy on account of the exhibition of, or the use of any house, land, building or premises for the exhibition of, any address, bill or notice, unless—

- (a) it is the ordinary business of the elector or proxy as an advertising agent to exhibit for payment bills and advertisements; and
- (b) the payment or contract is made in the ordinary course of that business.

(2) If any payment or contract for payment is knowingly made in contravention of this article either before, during or after an election—

- (a) the person making the payment or contract; and
- (b) if he knew it to be in contravention of this Order, any person receiving the payment or being a party to the contract,

shall be guilty of an illegal practice.

Printer's name and address on election publications

75.—(1) A person shall not—

- (a) print or publish, or cause to be printed or published, any bill, placard or poster having reference to a Scottish parliamentary election or any printed document distributed for the purpose of promoting or procuring a particular result at the election; or
- (b) post or cause to be posted any such bill, placard or poster as mentioned above; or

(c) distribute or cause to be distributed any printed document for that purpose, unless the bill, placard, poster or document bears upon its face the name and address of the printer and publisher.

(2) For the purposes of this article, any process for multiplying copies of a document, other than copying it by hand, shall be deemed to be printing and the expression “printer” shall be construed accordingly.

(3) A candidate or election agent acting in contravention of this article shall be guilty of an illegal practice, and any other person so acting shall on summary conviction be liable to a fine not exceeding the amount specified as level 5 on the standard scale.

Prohibition of paid canvassers

76. If a person is, either before, during or after a Scottish parliamentary election, engaged or employed for payment or promise of payment as a canvasser for the purpose of promoting or procuring a particular result at the election—

- (a) the person so engaging or employing him; and
- (b) the person so engaged or employed,

shall be guilty of illegal employment.

Providing money for illegal purposes

77. Where a person knowingly provides money—

- (a) for any payment which is contrary to the provisions of this Order;
- (b) for any expenses incurred in excess of the maximum amount allowed by this Order; or
- (c) for replacing any money expended in any such payment or expenses,

except where the payment or the incurring of the expenses may have been previously allowed in pursuance of section 167 of the 1983 Act as applied by this Order to be an exception, that person shall be guilty of an illegal payment.

Bribery

78.—(1) A person shall be guilty of a corrupt practice if he is guilty of bribery.

(2) A person shall be guilty of bribery if he, directly or indirectly, by himself or by any other person on his behalf –

- (a) gives any money or procures any office to or for any voter, or to or for any other person on behalf of any voter, or to or for any other person in order to induce any voter to vote or refrain from voting;
- (b) corruptly does any such act as mentioned above on account of any voter having voted or refrained from voting; or
- (c) makes any such gift or procurement as mentioned above to or for any person in order to induce that person to procure, or endeavour to procure, a particular result at a Scottish parliamentary election or the vote of any voter,

or if upon or in consequence of any such gift or procurement as mentioned above he procures or engages, promises or endeavours to procure a particular result at a Scottish parliamentary election or the vote of any voter.

(3) For the purposes of paragraph (2) above—

- (a) references to giving money include references to giving, lending, agreeing to give or lend, offering, promising, or promising to procure or endeavour to procure any money or valuable consideration; and
- (b) references to procuring any office include references to giving, procuring, agreeing to give or procure, offering, promising, or promising to procure or to endeavour to procure any office, place or employment.

(4) A person shall be guilty of bribery if he advances or pays or causes to be paid any money to or for the use of any other person with the intent that that money or any part of it shall be expended in bribery at a Scottish parliamentary election or knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any such election.

(5) The foregoing provisions of this article shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses incurred in good faith at or concerning a Scottish parliamentary election.

(6) A voter shall be guilty of bribery if before or during a Scottish parliamentary election he directly or indirectly by himself or by any other person on his behalf receives, agrees, or contracts for any money, gift, loan or valuable consideration, office, place or employment for himself or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting.

(7) A person shall be guilty of bribery if after a Scottish parliamentary election he directly or indirectly by himself or by any other person on his behalf receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting.

(8) In this article the expression “voter” includes any person who has or claims to have a right to vote.

Treating

79.—(1) A person shall be guilty of a corrupt practice if he is guilty of treating.

(2) A person shall be guilty of treating if he corruptly, by himself or by any other person, either before, during or after a Scottish parliamentary election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing, any meat, drink, entertainment or provision to or for any person—

- (a) for the purpose of corruptly influencing that person or any other person to vote or refrain from voting; or
- (b) on account of that person or any other person having voted or refrained from voting, or being about to vote or refrain from voting.

(3) Every elector or his proxy who corruptly accepts or takes any such meat, drink, entertainment or provision shall also be guilty of treating.

Undue influence

80.—(1) A person shall be guilty of a corrupt practice if he is guilty of undue influence.

(2) A person shall be guilty of undue influence—

- (a) if he, directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of any force, violence or restraint, or inflicts or threatens to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm or loss upon or against any person in order to induce or compel that person to vote or refrain from voting, or on account of that person having voted or refrained from voting; or

- (b) if, by abduction, duress or any fraudulent device or contrivance, he impedes or prevents the free exercise of the franchise of an elector or proxy for an elector, or so compels, induces or prevails upon an elector or proxy for an elector either to vote or to refrain from voting.

Rights of creditors

81. The provisions of this Part prohibiting—

- (a) payments and contracts for payments;
- (b) the payment or incurring of election expenses in excess of the maximum amount allowed by this Order; or
- (c) the incurring of expenses not authorised by an election agent,

do not affect the right of any creditor, who, when the contract was made or the expense was incurred, was ignorant of that contract or expense being in contraven tion of this Order.

Savings as to Scottish parliamentary elections

82.—(1) Where a person has been declared by others to be a candidate at a Scottish parliamentary election without his consent, nothing in this Part shall be construed to impose any liability on that person, unless he has afterwards given his assent to the declaration or has been nominated.

(2) Nothing in this Part makes it illegal for an employer to permit any elector or proxy to absent himself from his employment for a reasonable time for the purpose of voting at the poll at a Scottish parliamentary election without having any deduction from their salaries or wage on account of their absence, if the permission—

- (a) is (so far as practicable without injury to the employer’s business) given equally to all persons alike who are at the time in his employment; and
- (b) is not given with a view to inducing any person to record his vote for any particular candidate or, as the case may be, registered party at the election; and
- (c) is not refused to any person for the purpose of preventing him from recording his vote for any particular candidate or, as the case may be, registered party,

but this paragraph shall not be construed as making illegal any act which would not be illegal apart from this paragraph.

Interpretation of Part III

83. In this Part, unless the context otherwise requires—

“candidate” in relation to a Scottish parliamentary election, means a person who is—

- (a) elected to serve in the Parliament at the election;
- (b) nominated as a candidate; or
- (c) declared by himself or by others to be a candidate on or after publication of the notice of election;

“committee room” does not include any house or room occupied by a candidate as a dwelling, by reason only of the candidate transacting business there with his agents in relation to the election, and no room or building shall be deemed to be a committee room by reason only of the candidate or any agent of the candidate addressing in it electors, committee members or others;

“date of allowance of an authorised excuse” has the meaning given by article 53(9) above;

“declaration as to election expenses” means a declaration made under articles 48 or 49 above;

“disputed claim” has the meaning given by article 44(1) above as extended by article 45 above;

“election expenses”, in relation to a Scottish parliamentary election, means expenses incurred, whether before, during or after the election, on account of or in respect of the conduct or management of the election;

“money” and “pecuniary reward” shall (except in article 78 and 79 above) be deemed to include—

- (a) any office, place or employment;
- (b) any valuable security or other equivalent of money; and
- (c) any valuable consideration,

and expressions referring to money shall be construed accordingly;

“payment” includes any pecuniary or other reward;

“personal expenses” as used with respect to the expenditure of any candidate in relation to any Scottish parliamentary election includes the reasonable travelling expenses of the candidate, and the reasonable expenses of his living at hotels or elsewhere for the purposes of and in relation to the election; and

“return as to election expenses” means a return (including the bills and receipts to be delivered with it) to be made under articles 46 and 47 above.

Computation of time for purposes of Part III

84.—(1) Where the day or last day on which anything is required or permitted to be done by or in pursuance of this Part is any of the days mentioned in paragraph (2)—

- (a) the requirement or permission shall be deemed to relate to the first day thereafter which is not one of those days; and
- (b) in computing any period of not more than seven days for the purposes of this Part any of the days so mentioned shall be disregarded.

(2) The days referred to in paragraph (1) above are a Saturday, Sunday, Christmas Eve, Christmas Day, Good Friday, Easter Monday, a day which is a bank holiday in Scotland under the Banking and Financial Dealings Act 1971⁽⁹⁾, or a day appointed for public thanksgiving or mourning.

PART IV

LEGAL PROCEEDINGS

Application of certain provisions for Scottish parliamentary elections

85.—(1) The provisions of the 1983 Act which are specified in the left-hand column of Part I of Schedule 6 to this Order shall, subject to—

- (a) any modifications and exceptions specified in relation to those provisions in the right-hand column of that Schedule;
- (b) paragraph (2) below; and
- (c) any modifications necessary in consequence of those provisions,

apply for the purposes of a Scottish parliamentary election but only in relation to the election or return of a constituency member of the Scottish Parliament.

(2) The provisions of the 1983 Act which are specified in the left hand column of Part II of Schedule 6 to this Order shall, subject to—

(9) 1971 c. 80.

- (a) any modifications and exceptions specified in relation to those provisions in the right-hand column of that Schedule;
 - (b) paragraph (2) below; and
 - (c) any modifications necessary in consequence of those provisions,
- apply for the purposes of a Scottish parliamentary election but only in relation to the election or return of a regional member of the Scottish Parliament.
- (3) Unless the context otherwise requires, in the provisions applied by Schedule 6 to this Order—
- (a) any provision relating to a local government election or local government electors and references in connection therewith (including a reference to a petition questioning an election under the Local Government (Scotland) Act 1973) shall be disregarded;
 - (b) any reference to a parliamentary election (except the references specified in paragraph (c) below) shall be construed as a reference to a Scottish parliamentary election and any reference to a general election shall accordingly be construed as a reference to a Scottish parliamentary general election;
 - (c) any reference to a constituency (or parliamentary constituency) shall be construed—
 - (i) in relation to any election or return of a constituency member, as a reference to a Scottish parliamentary constituency;
 - (ii) in relation to any election or return of a regional member, as a reference to a region;
 - (d) any reference to promoting or procuring the election of a candidate shall be construed as a reference to promoting or procuring the giving of a vote for a particular candidate or registered party at the election;
 - (e) any reference to a candidate, other than the one referred to in sub-paragraph (d) above, shall be construed as a reference to either—
 - (i) a candidate on a registered party's regional list; or
 - (ii) an individual candidate,
 as the case may be;
 - (f) any reference to a parliamentary elector shall be construed as a reference to an elector at a Scottish parliamentary election;
 - (g) any reference to a member in the context of a Member of Parliament shall be construed as a reference to a member of the Scottish Parliament;
 - (h) any reference to a parliamentary election petition (except in the context of the rota for the trial of parliamentary election petitions) shall be construed as a reference to a Scottish parliamentary election petition;
 - (i) any reference to the High Court shall be construed as a reference to the Court of Session and any reference to the County Court or a judge of that Court shall be construed as a reference to the sheriff court or Sheriff;
 - (j) any reference to the Director of Public Prosecutions or the Attorney General shall be construed as a reference to the Lord Advocate;
 - (k) any reference to a return in the context of a return to the writ of election (and the return to Parliament) shall be construed as a reference to the declaration of the result by the returning officer under rule 60 or, as the case may be, 64 of the Scottish Parliamentary Election Rules;
 - (l) any reference to an enactment or instrument made under an enactment shall be construed as a reference to that enactment or instrument as applied by this Part of this Order; and

- (m) any references to an offence under the 1983 Act or to a practice (or payment, employment or hiring) made corrupt or illegal by any provision of that Act shall be construed, subject to any necessary modifications, as a reference to the offence under, or practice, payment, employment or hiring made illegal by the corresponding provision of this Order.

(4) The references to “parliamentary election” to which paragraph (2)(b) above does not apply are those in section 160(4) of the 1983 Act and the first reference in section 160(5) of that Act.

PART V

MISCELLANEOUS AND SUPPLEMENTAL

Vacancies: constituency seats

86. Where the seat of a constituency member is vacant and the date of the poll at an election to fill that vacancy is fixed by the Presiding Officer of the Scottish Parliament under section 9 of the 1998 Act, he shall forthwith send a notice to the constituency returning officer for that constituency stating—

- (a) that the vacancy exists; and
- (b) the date fixed for the poll at the election to fill that vacancy.

Vacancies: regional member seats

87.—(1) Where it comes to the notice of the Presiding Officer of the Scottish Parliament that the seat of a regional member who was returned from a registered party’s regional list is vacant, he shall forthwith send a notice in accordance with paragraph (2) below to the regional returning officer for that region.

- (2) A notice under paragraph (1) above shall—
 - (a) state that a vacancy exists; and
 - (b) set out the name of the person who had been returned in the seat which is vacant, together with the name of the registered party on whose regional list his name is included.

(3) On receipt of a notice under paragraph (1) above, the regional returning officer shall ascertain the name of the person, if any, who is to fill the vacancy in accordance with section 10 of the 1998 Act as modified by article 88 below.

Modification of section 10 of the 1998 Act

88. Section 10 of the 1998 Act shall be modified by substituting, for subsections (4) and (5) of that section, the following—

“(4) The regional returning officer shall ascertain from that party’s regional list the name and address of the person whose name appears highest on that list (“the first choice”) and shall take such steps as appear to him to be reasonable to contact the first choice to ask whether he will—

- (a) state in writing that he is willing and able to serve as a regional member for that region; and
- (b) deliver a certificate signed by or on behalf of the nominating officer of the registered party which submitted that regional list stating that he may be returned as a regional member from that list.

(4A) Where—

- (a) within such period as the regional returning officer considers reasonable—
 - (i) he decides that the steps he has taken to contact the first choice have been unsuccessful; or
 - (ii) he has not received from that person the statement and certificate referred to in subsection (4) above; or
 - (b) that person has—
 - (i) stated in writing that he is not willing to serve as a regional member for that region; or
 - (ii) failed to deliver the certificate referred to in subsection (4)(b) above,

the regional returning officer shall repeat the procedure required by subsection (4) above in respect of the person (if any) whose name and address appears next in that list (“the second choice”) or, where sub-paragraph (a) or (b) of this subsection applies in respect of that person, in respect of the person (if any) whose name and address appear next highest after the second choice in that list and the regional returning officer shall continue to repeat the procedure until the regional returning officer has notified the Presiding Officer of the name of the person who is to fill the vacancy or the names in the list are exhausted.
- (5) Where a person whose name appears on that list provides the statement and certificate referred to in subsection (4) above, the regional returning officer shall notify to the Presiding Officer the name of that person.
- (5A) Where—
- (a) under subsection (4A) above, the regional returning officer has asked a second or other subsequent choice the questions referred to in subsection (4) above; and
 - (b) the person who was asked those questions on an earlier occasion then provides the statement and certificate referred to in that subsection,
- that statement and certificate shall have no effect unless and until the circumstances described in sub-paragraph (a) or (b) of subsection (4A) apply in respect of the second or other subsequent choice.”.

Dissolution of Parliament: minimum period

89. The “minimum period” for the purpose of section 2(3) of the 1998 Act (ordinary general elections) is a period of 25 days, computed in accordance with rule 2 of the Scottish Parliamentary Election Rules.

Advertisements

90. The Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984⁽¹⁰⁾ shall have effect in relation to the display on any site in Scotland of an advertisement relating specifically to a Scottish parliamentary election as they have effect in relation to the display of an advertisement relating specifically to a parliamentary election.

Forms: variations

91. The forms set out in the Appendix to this Order may be used with such variations as the circumstances may require.

⁽¹⁰⁾ S.I. 1984/467.

Sending of applications, notices etc.

92.—(1) Any application, notice, claim or objection which is required by this Order to be made to a registration officer or a returning officer shall be made in writing and sent by post or delivered to his office or to the address specified by him for the purpose.

(2) Where a registration officer or returning officer is required by this Order to notify any person, such notification shall be in writing and may be sent by post—

- (a) in the case of a person other than a service voter, to the address provided by that person for the purpose of such notification or of any record or, if there is no such address, to the last known place of abode of that person;
- (b) in the case of a service voter, to any address provided by him for the purpose of such notification or of any record or to the address provided for the purpose by the appropriate government department (as defined by section 59(3) of the 1983 Act) or, as the case may be, the British Council.

Publication of documents

93.—(1) Any failure to publish a document in accordance with this Order shall not invalidate the document, but this provision shall not relieve a registration officer from any penalty for such a failure.

(2) Where a document is made available for inspection, any person may make a copy (whether in handwriting or by other means) of the whole or any part of such a document.

Interference with notices etc.

94. If any person without lawful authority destroys, mutilates, defaces or removes any notice published by a registration officer in connection with his registration duties or any copies of a document which have been made available for inspection in pursuance of those duties, he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Premises used for election purposes

95. In relation to premises in Scotland, section 65(6) of the Local Government Finance Act 1988⁽¹¹⁾ (occupation for election meetings and polls) shall have effect as if—

- (a) the reference to public meetings in furtherance of a person's candidature at an election included a reference to public meetings promoting a particular result at a Scottish parliamentary election; and
- (b) the reference to use by a returning officer for the purpose of taking the poll in an election included a reference to use by a constituency returning officer in taking a poll at a Scottish parliamentary election in accordance with Schedule 2.

Effect of demise of the Crown

96. A proclamation dissolving the Parliament as mentioned in section 2(5) of the 1998 Act shall not be affected by the demise of the Crown.

Supplementary, incidental and consequential provisions

97. The enactments mentioned in Schedule 8 are modified to the extent specified in that Schedule.

(11) 1988 c. 41.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

St Andrew's House,
Edinburgh
10th March 1999

Donald C. Dewar
Secretary of State for Scotland