

SCHEDULE 5

Article 17(1)

Assembly election rules

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PART 1

Provision as to time

Timetable

1.—(1) The proceedings at an Assembly election shall be conducted in accordance with the following Table—

<i>Proceeding</i>	<i>Time</i>
Publication of notice of election.	Not later than the twenty-fifth day before the day of election
Delivery of nomination papers.	Between— (a) the hours of 10 in the morning and 4 in the afternoon on any day after the date of publication of notice of election but before the nineteenth day before the day of election, and

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<i>Proceeding</i>	<i>Time</i>
The making of objections to nomination papers.	<p>(b) the hours of 10 in the morning and noon on the nineteenth day before the day of election.</p> <p>During the hours allowed for delivery of nomination papers on the last day for their delivery and the hour following, but—</p> <p>(a) no objection may be made in the afternoon of that last day except to a nomination paper delivered within 24 hours of the last time for its delivery and, in the case of a nomination paper so delivered, no objection may be so made to the sufficiency or nature of the particulars of a candidate unless made at or immediately after the time of the delivery of the nomination paper, and</p> <p>(b) the foregoing provisions do not apply to objections made under rule 19(2).</p>
Delivery of notices of withdrawal of candidature.	Not later than noon on the seventeenth day before the day of election.
Publication of statement of persons nominated.	Not later than noon on the sixteenth day before the day of the election.
Polling.	Between the hours of 7 in the morning and 10 at night on the day of election.

(2) In the Table, “making of objections to nomination papers”, in the case of making of an objection to a party nomination paper includes the making of an objection to the nomination of any party list candidate on the list of candidates accompanying a party nomination paper.

Computation of time

2. In computing any period of time for the purposes of the Timetable—

- (a) a Saturday or a Sunday;
- (b) Christmas Eve, Christmas Day or Good Friday;
- (c) a day which is a bank holiday in Wales under the Banking and Financial Dealings Act 1971⁽¹⁾; or
- (d) a day appointed for public thanksgiving or mourning,

shall be disregarded, and any such day shall not be treated as a day for the purpose of any proceedings up to the completion of the poll nor shall a constituency returning officer be obliged to proceed with the counting of votes on such a day.

⁽¹⁾ 1971 c. 80.

PART 2

Stages common to contested and uncontested elections

Notice of election

Notice of election: constituency election and regional election

3.—(1) At a constituency election, the constituency returning officer shall publish notice of the election stating—

- (a) the place and times at which nomination papers are to be delivered;
- (b) that forms of nomination paper may be obtained at that place and at those times; and
- (c) the date of the poll in the event of a contest.

(2) At a regional election, the regional returning officer shall prepare a notice of election stating—

- (a) the place or places and times at which nomination papers are to be delivered;
- (b) that forms of nomination papers may be obtained at that place or those places and at those times; and
- (c) the date of the poll in the event of a contest,

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

(3) A notice of election under paragraph (1) or (2) must also state—

- (a) the arrangements which apply for the payment of the deposit required by rule 10 to be made by means of electronic transfer of funds; and
- (b) the date by which—

- (i) applications to vote by post or proxy; and
- (ii) other applications and notices about postal or proxy voting,

must reach the registration officer in order that they may be effective for the election.

(4) On receipt of a notice under paragraph (2) a constituency returning officer shall publish it.

Nomination

Nomination of candidates at a constituency election

4.—(1) Each candidate at a constituency election shall be nominated by a separate nomination paper (“constituency nomination paper”), in form CE set out in English and Welsh in Schedule 10, delivered—

- (a) by the candidate himself; or
- (b) in a case where in respect of the candidate a certificate issued under rule 5(1) or (3) is also delivered, by the registered nominating officer of a registered political party,

to the constituency returning officer at the place fixed for the purpose, but the paper may be so delivered on the candidate’s behalf by his election agent if the agent’s name and address have been previously given to the returning officer as required by article 37 or are so given at the time the paper is delivered.

(2) The constituency nomination paper shall state the candidate’s—

- (a) full names;

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(b) home address in full; and
 (c) if desired (but subject to paragraph (4)), description,
 and the surname shall be placed first in the list of his names.

(3) If a candidate commonly uses—

- (a) a surname which is different from any other surname he has; or
- (b) a forename which is different from any other forename he has,

the constituency nomination paper may state the commonly used surname or forename in addition to the other name.

(4) The description, if any, must consist of either—

- (a) a description which is authorised as mentioned in rule 5(1) or (3); or
- (b) the word “Independent” or the word “Annibynnol”(2) or both.

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

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

Constituency nomination paper: name or description of registered political party

5.—(1) A constituency nomination paper may not include a description of a candidate which is likely to lead electors to associate the candidate with a registered political party unless the party is a qualifying party(3) in relation to the constituency and the description is authorised by a certificate in form CF set out in English and Welsh in Schedule 10—

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

(2) In paragraph (1) an authorised description may be either—

- (a) the name or names of the party registered under section 28 of the 2000 Political Parties Act(4); or
- (b) a description of the party registered under section 28A of that Act(5).

(3) A nomination paper may not include a description of a candidate which is likely to lead electors to associate the candidate with two or more registered political parties unless the parties are each qualifying parties in relation to the constituency and the description is a registered description authorised by a certificate in form CG set out in English and Welsh in Schedule 10—

- (a) issued by the registered nominating officer of each of the parties; and
- (b) received by the constituency returning officer at some time during the period for the delivery of nomination papers set out in the Table in rule 1(1).

(2) The word “independent” is specified by section 23(3)(a)(i) of the Political Parties, Elections and Referendums Act 2000. “Annibynnol” is the Welsh form of “Independent” and is prescribed by the National Assembly for Wales (Elections: Nomination Papers)(Welsh Form) Order 2001 (S.I 2001/2914).

(3) See paragraph 80 of Schedule 5 to this Order as to the meaning of “a qualifying party”

(4) By virtue of section 28 as read with paragraph 2(1)(b) of Schedule 4 to the Political Parties, Elections and Referendums Act 2000, a party registered in the Great Britain register may have a name in Welsh and a name in English to be the party’s registered names. There are amendments to section 28 not relevant for the purposes of this Order.

(5) Section 28A is inserted into the Political Parties, Elections and Referendums Act 2000 by section 49(1) of the Electoral Administration Act 2006 (c. 22) from 1st January 2007.

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(4) For the purposes of paragraph (3), a description is a registered description if it is a description registered for use by the parties under section 28B of the 2000 Political Parties Act(6).

(5) If it is proposed that a party's registered emblem(7) is to be shown on the ballot paper against the candidate's particulars, a certificate issued under paragraph (1) or (3) shall request that it be so shown; but so that—

- (a) in a case in which a party has more than one registered emblem, only one of its emblems may be requested to be shown on the ballot paper; and
- (b) in a case to which paragraph (3) applies, the registered emblem of only one of the parties may be requested to be shown on the ballot paper.

(6) A certificate issued under paragraph (1) or (3) may be combined with a constituency nomination paper delivered under rule 4(1).

(7) A person shall be guilty of a corrupt practice if he fraudulently purports to be authorised, by virtue of rule 81, to issue a certificate under paragraph (1) or (3) on behalf of a party's registered nominating officer.

Nomination of individual candidates at a regional election

6.—(1) Each individual candidate at a regional election shall be nominated by a separate nomination paper (“individual nomination paper”), in form CH set out in English and Welsh in Schedule 10, delivered by the candidate himself to the regional returning officer at the place or a place fixed for the purpose, but the paper may be so delivered on the candidate's behalf by his election agent if the agent's name and address have been previously given to the returning officer as required by article 37 or are so given at the time the paper is delivered.

- (2) The individual nomination paper shall state the candidate's—
- (a) full names;
 - (b) home address in full; and
 - (c) if desired, a description consisting of the word “Independent” or the word “Annibynno!” or both(8),

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

- (3) If a candidate commonly uses—
- (a) a surname which is different from any other surname he has; or
 - (b) a forename which is different from any other forename he has,

the nomination paper may state the commonly used surname or forename in addition to the other name.

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

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

(6) Section 28B is inserted into the Political Parties, Elections and Referendums Act 2000 by section 49(1) of the Electoral Administration Act 2006 (c. 22) from 1st January 2007.

(7) As to registered emblems of registered political parties, see section 29 of the Political Parties, Elections and Referendums Act 2000 as amended by paragraph 142 of Schedule 1 to the Electoral Administration Act 2006 (c. 22)

(8) As to the restriction on such candidates representing a registered political party, see section 5(6) of the Government of Wales Act 1998, as amended by paragraph 5(3) of Schedule 11 to the Government of Wales Act 2006, in relation to the Assembly general election in 2007 held under section 3 of that Act of 1998; and, in respect of a subsequent Assembly election, see section 7(6) of that Act of 2006.

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Nomination of parties and party list candidates at a regional election

7.—(1) A registered political party may stand for election at a regional election if it is a qualifying party in relation to that region and is nominated by a separate nomination paper (“party nomination paper”) in form CI set out in English and Welsh in Schedule 10 and delivered by that party’s registered nominating officer to the regional returning officer at the place or a place fixed for the purpose.

(2) A party nomination paper shall, in accordance with rule 8, include either—

- (a) the name or names of the party registered under section 28 of the 2000 Political Parties Act; or
- (b) a description of the party registered under section 28A of that Act.

(3) A party nomination paper shall include the list (“party list”) of candidates (“party list candidates”) submitted by the party for that regional election and the party nomination paper shall be the nomination paper for each candidate on that list.

(4) In respect of each party list candidate, the party list shall state the candidate’s—

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

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

(5) If a party list candidate commonly uses—

- (a) a surname which is different from any other surname he has; or
- (b) a forename which is different from any other forename he has,

the party list may state as regards that candidate the commonly used surname or forename in addition to the other name.

(6) A party nomination paper shall be subscribed by one person who shall also (if he is not a party list candidate) set out his full name and address.

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

Party nomination paper: name or description of registered political party

8.—(1) The name (or, as the case may be, names) or description required by rule 7(2) to be contained in a party nomination paper shall be authorised by a certificate in form CJ set out in English and Welsh in Schedule 10 issued by the registered nominating officer of the registered political party.

(2) If it is proposed that the party’s registered emblem is to be shown on the ballot paper against the party’s name or description the certificate issued under paragraph (1) shall request that it be so shown; but so that in a case in which a party has more than one registered emblem, only one of its emblems may be requested to be shown on the ballot paper.

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

(4) A person shall be guilty of a corrupt practice if he fraudulently purports to be authorised by virtue of rule 81 to issue a certificate under paragraph (1) on behalf of a party’s registered nominating officer.

Consent to nomination

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

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

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

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

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

(4) Subject to paragraph (7), a candidate's consent given under this rule—

- (a) shall state the day, month and year of his birth;
- (b) shall state an address within the relevant area that shall be deemed to be his office as an election agent for the purposes of article 40(7);
- (c) shall state—
 - (i) that he is aware of the provisions of sections 12 to 15 of the 1998 Act (disqualification)⁽⁹⁾ and of any Order in Council under section 12(1)(b) of that Act⁽¹⁰⁾; and
 - (ii) that to the best of his knowledge and belief he is not disqualified for membership of the Assembly;
- (d) shall, in the case of a candidate at a constituency election, state that he is not a candidate at an election for any other constituency, the poll for which is to be held on the same day as that for the election to which the consent relates or, in the case of an election to fill a casual vacancy, that he is not an Assembly member;
- (e) shall, in the case of an individual candidate at a regional election, state that he is not—
 - (i) a party list candidate in the election for that region; nor
 - (ii) a candidate at a constituency election; nor
 - (iii) an individual or party list candidate at an election for any other region,

(9) Section 12 is amended by paragraph 62(a) and (b) of Schedule 6 to the Public Services Ombudsman (Wales) Act 2005, ; and section 13 is amended by paragraph 3 of Schedule 1 to the House of Commons (Removal of Clergy) Disqualification Act 2001, and also by paragraph 63 of Schedule 6 of the said Act of 2005. Sections 12 to 15 are repealed by Schedule 12 to the Government of Wales Act 2006 (see section 161(2) of that Act to the commencement of that repeal).

(10) see the National Assembly for Wales (Disqualification) Order 2006 (S.I 2006/3335) which was made on 14 December 2006 and revoked the National Assembly for Wales (Disqualification) Order 2003. Paragraph 10 of Schedule 11 to the Government of Wales Act 1998 makes transitional provision in relation to disqualification orders.

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the poll for which is to be held on the same day as that for the election to which the consent relates; and

- (f) shall, in the case of a party list candidate at a regional election, state that he is not—
- (i) an individual candidate or a candidate on any other party list in the election for that region; nor
 - (ii) a candidate at a constituency election; nor
 - (iii) an individual or party list candidate at an election for any other region,

the poll for which is to be held on the same day as that for the election to which the consent relates⁽¹¹⁾.

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

(6) For the purposes of paragraph (4)(b), “the relevant area” shall be construed in accordance with—

- (a) in relation to a constituency election, article 39(2)(a); and
- (b) in relation to a regional election, article 39(2)(b).

(7) In respect of an Assembly election after the 2007 Assembly general election, rule 4(c)(i) shall have effect as if—

- (a) the references to sections 12 to 15 of the 1998 Act were a reference to sections 16 to 19 of the 2006 Act; and
- (b) the reference to any Order in Council under section 12(1)(b) of the 1998 Act included a reference to any Order in Council under section 16(1)(b) of the 2006 Act.

Deposit

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

(2) A person shall not be validly nominated as an individual candidate at a regional election unless the sum of £500 is deposited by him, or on his behalf, with the regional returning officer at the place or a place, and during the time, for delivery of individual nomination papers.

(3) A registered political party and each of the party list candidates on the list it has submitted shall not be validly nominated at a regional election unless the sum of £500 is deposited by the party’s registered nominating officer (or by or on behalf of one of the party list candidates) with the regional returning officer at the place or a place, and during the time, for delivery of a party list.

(4) The deposit may be made either—

- (a) by the deposit of any legal tender;
- (b) by means of a banker’s draft; or
- (c) with the appropriate returning officer’s consent, in any other manner (including by means of a debit or credit card or the electronic transfer of funds),

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

(11) As to rule 9(4)(d) to (f), see in relation to the 2007 Assembly general election sections 4(7), 5(5), (6) and 8(7) of the Government of Wales Act 1998 (section 5(5) and (6) is amended by paragraph 5 of Schedule 11 to the Government of Wales Act 2006); and thereafter see sections 7(1), (5), (6) and 10(9) of that Act of 2006.

(5) Where the deposit is made on behalf of a candidate at a constituency election or an individual candidate at a regional election, the person making the deposit shall at the time he makes it give his name and address to the appropriate returning officer unless that information has previously been given to him under article 37.

(6) Where the deposit is made on behalf of a registered political party and its party list candidates at a regional election the person making the deposit shall at the time he makes it—

- (a) if he is the registered political party's registered nominating officer, state that fact to the regional returning officer; or
- (b) if he is not the party's registered nominating officer, give his name and address to the regional returning officer unless that information has previously been given to him under article 37.

Place for delivery of nomination papers

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

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

- (a) the Assembly constituency; or
- (b) the registration area which includes the whole or any part of the Assembly constituency.

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

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

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

Right to attend nomination

12.—(1) In relation to a constituency election, except for the purpose of delivering a constituency nomination paper or of assisting the constituency returning officer, and subject to paragraph (6), no person is entitled to attend the proceedings during the time for delivery of nomination papers or for making objections to them unless he is—

- (a) a person standing nominated as a candidate;
- (b) the election agent of such a person;
- (c) the registered nominating officer of a registered political party that has delivered a certificate under paragraph 5(1) or (3) in respect of a candidate; or
- (d) a person who is entitled to attend by virtue of section 6A or 6B of the 2000 Political Parties Act(12),

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

(2) In relation to a regional election, except for the purpose of delivering an individual nomination paper or a party nomination paper or of assisting the regional returning officer, and subject to paragraph (6), no person is entitled to attend the proceedings during the time for delivery of

(12) Sections 6A and 6B are inserted into the Political Parties, Elections and Referendums Act 2000 by section 29 of the Electoral Administration Act 2006 from 1st January 2007.

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individual nomination papers or party nomination papers or for making objections to them unless he is—

- (a) a person standing nominated as an individual candidate;
- (b) the election agent of such a person;
- (c) a party list candidate;
- (d) the registered nominating officer of a registered political party that has submitted a party list, or the election agent of that party in respect of that list;
- (e) a person who is entitled to attend by virtue of section 6A or 6B of the 2000 Political Parties Act,

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

(3) In relation to a constituency election, the right to attend conferred by this rule includes the right—

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

any constituency nomination paper.

(4) In relation to a regional election, the right to attend conferred by this rule includes the right—

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

any individual nomination paper or any party nomination paper (including the nomination of any party list candidate on the party list submitted with that party nomination paper).

(5) Paragraphs (3) and (4) do not apply to a person mentioned in paragraph (1)(d) or (2)(e).

(6) One other person chosen by the candidate is entitled to be present at the delivery of the nomination paper by which that candidate is nominated, and may afterwards, so long as the candidate stands nominated, attend the proceedings referred to in paragraph (1) or, as the case may be, (2), but without any such right as is conferred by paragraph (3) or, as the case may be, (4).

Decisions as to validity of individual and constituency nomination papers

13.—(1) A candidate to whom this rule applies shall be deemed to stand nominated where the nomination paper by which he is nominated and his consent to nomination are delivered and a deposit is made in accordance with these rules; and such candidate shall be deemed to stand nominated unless and until—

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

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

- (a) that the particulars of the candidate are not as required by law (including, at a constituency election, that a nomination paper breaches rule 5(1) or (3));
- (b) that the paper is not subscribed as so required;

- (c) that the candidate is disqualified by the Representation of the People Act 1981⁽¹³⁾;
 - (d) in the case of an individual candidate at a regional election, that his candidature is in breach of section 5(6) of the 1998 Act⁽¹⁴⁾; or
 - (e) in the case of a candidate at a constituency election, that his candidature is in breach of section 4(7) of the 1998 Act.
- (3) Subject to paragraph (4), the appropriate returning officer shall give his decision on any objection to a nomination paper—
- (a) as soon as practicable after it is made; and
 - (b) in any event, before the end of the period of 24 hours starting with the close of the period for delivery of constituency nomination papers set out in the Table in rule 1(1).
- (4) If in the constituency returning officer's opinion a constituency nomination paper breaches rule 5(1) or (3), he shall give a decision to that effect—
- (a) as soon as practicable after the delivery of the nomination paper; and
 - (b) in any event, before the end of the period of 24 hours starting with the close of the period for delivery of nomination papers set out in the Table in rule 1(1).
- (5) Where the appropriate returning officer decides that a nomination paper is invalid, he shall endorse and sign on the paper the fact and the reasons for his decision.
- (6) The appropriate returning officer's decision that a nomination paper is valid shall be final and shall not be questioned in any proceedings whatsoever.
- (7) Subject to paragraph (6), nothing in this rule prevents the validity of a nomination being questioned on an Assembly election petition.
- (8) In respect of an Assembly election held after the 2007 Assembly general election, paragraph (2) shall have effect as if—
- (a) in sub-paragraph (d) the reference to section 5(6) of the 1998 Act were a reference to section 7(6) of the 2006 Act; and
 - (b) in sub-paragraph (e) the reference to section 4(7) of the 1998 Act were a reference to section 7(1), or as the case may be, section 10(9) of the 2006 Act.
- (9) This rule applies to a constituency candidate and an individual candidate.

Decisions as to validity of party nomination papers

14.—(1) Where a party nomination paper, together with its party list and the consent of each candidate in that list, is delivered and a deposit is made in accordance with these rules the party and (subject to paragraphs (3) and (4)) each candidate on its list shall be deemed to stand nominated unless and until the regional returning officer decides that the party nomination paper is invalid.

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

- (a) that it breaches rule 7(2) or (3);
- (b) that it breaches rule 8(1) or (3);
- (c) that it is not subscribed as so required;
- (d) that the party list includes more than twelve persons; or

⁽¹³⁾ 1981 c. 34. That Act of 1981 is applied to membership of the National Assembly for Wales constituted by the Government of Wales Act 1998 by virtue of section 12(2) of the Government of Wales Act 1998 and to membership of the National Assembly for Wales constituted by the Government of Wales Act 2006 by virtue of section 16(2) of that Act of 2006.

⁽¹⁴⁾ Section 5(6) of the Government of Wales Act 1998 is amended by paragraph 5(3) of Schedule 11 to the Government of Wales Act 2006.

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- (e) that each candidate included on the party list has, in accordance with paragraphs (3) and (4), ceased to stand nominated.
- (3) Where, in respect of a party list candidate—
- (a) proof is given to the regional returning officer's satisfaction of his death; or
 - (b) he withdraws or his candidature is withdrawn in accordance with rule 15(4),
- he shall cease to stand nominated.
- (4) The regional returning officer is entitled to hold that a party list candidate shall cease to stand nominated where—
- (a) his particulars are not as required by law; or
 - (b) he is disqualified by the Representation of the People Act 1981⁽¹⁵⁾; or
 - (c) his candidature is in breach of section 5(5) of the 1998 Act **(16)**.
- (5) Where a candidate ceases to stand nominated by virtue of paragraph (4) it shall not of itself prevent any other candidate included on the party list from continuing to stand nominated.
- (6) Subject to paragraph (7), the regional returning officer shall give his decision on any objection to a party nomination paper or to a party list candidate—
- (a) as soon as practicable after it is made; and
 - (b) in any event, before the end of the period of 24 hours starting with the close of the period for delivery of nomination papers set out in the Table in rule 1(1).
- (7) If in the regional returning officer's opinion a party nomination paper breaches rule 7(2), 8(1) or 8(3), he shall give a decision to that effect—
- (a) as soon as practicable after the delivery of the nomination paper; and
 - (b) in any event before the end of the period of 24 hours starting with the close of the period for delivery of nomination papers set out in the Table in rule 1(1).
- (8) Where the regional returning officer decides that—
- (a) a party nomination paper is invalid; or
 - (b) the name and address of a candidate shall be deleted from a party list,
- he shall endorse and sign on the paper the fact and reasons for his decision.
- (9) The regional returning officer's decision that—
- (a) a party nomination paper is valid; or
 - (b) the name and address of a candidate should not be removed from a party list,
- shall be final and shall not be questioned in any proceedings whatsoever.
- (10) Subject to paragraph (9), nothing in this rule prevents the validity of a nomination being questioned on an Assembly election petition.
- (11) In respect of an Assembly election held after the 2007 Assembly general election, paragraph (4)(c) shall have effect as if the reference to section 5(5) of the 1998 Act were a reference to section 7(5) of the 2006 Act.

Withdrawal of candidates

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

⁽¹⁵⁾ 1981 c. 34.

⁽¹⁶⁾ Section 5(5) of the Government of Wales Act 1998 is amended by paragraph 5(2) of Schedule 11 to the Government of Wales Act 2006

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

Constituency election: publication of statement of persons nominated

- 16.—(1) At a constituency election the constituency returning officer shall prepare and publish a statement showing the persons who have been and stand nominated and any other persons who have been nominated, with the reason why they no longer stand nominated.
- (2) The statement shall show the names, addresses and descriptions of the persons nominated as given in their constituency nomination papers.
- (3) If a person's constituency nomination paper gives a commonly used surname or forename in addition to another name, the statement shall show the person's commonly used surname or forename (as the case may be) instead of any other name.
- (4) Paragraph (3) does not apply if the returning officer thinks—
- (a) that the use of the person's commonly used name may be likely to mislead or confuse electors; or
 - (b) that the commonly used name is obscene or offensive.
- (5) If paragraph (4) applies, the returning officer must give notice in writing to the candidate of his reasons for refusing to allow the use of a commonly used name.
- (6) The statement shall show the persons standing nominated arranged alphabetically in the order of their surnames and, if there are two or more of them with the same surname, of their other names.
- (7) In the case of a person nominated by more than one constituency nomination paper, the constituency returning officer shall take the particulars required by the foregoing provisions of this rule from such one of the papers as the candidate (or the returning officer in default of the candidate) may select.
- (8) The constituency returning officer shall send to the Commission—
- (a) a copy of the statement; and

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- (b) in the case of each candidate standing nominated in respect of whom a certificate has been received by the returning officer in accordance with rule 5(1) or (3), a copy of that certificate as well.

Regional election: publication of statement of parties and other persons nominated

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

- (a) the names of the persons who have been and stand nominated as individual candidates;
- (b) the registered political parties which have been and stand nominated (together with in respect of each such party the list of candidates it has submitted and who have been and stand nominated as the candidates of that party); and
- (c) any other persons or parties who have been nominated together with the reason why they are no longer nominated,

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

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

(3) The statement shall show—

- (a) in respect of individual candidates, the names, addresses and descriptions of the persons nominated as given in their individual nomination papers; and
- (b) in respect of the registered political parties who have submitted a party list, the names of those parties together with, in respect of each such party—
 - (i) the name, names or description referred to in rule 7(2); and
 - (ii) the names and addresses of the persons nominated as appear in that party's list.

(4) If an individual candidate's nomination paper gives a commonly used surname or forename in addition to another name, the statement shall show the person's commonly used surname or forename (as the case may be) instead of any other name.

(5) If as regards a candidate included in a party list, the party list gives a commonly used surname or forename in addition to another name, the statement shall show the person's commonly used surname or forename (as the case may be) instead of any other name.

(6) Paragraph (4) and (5) do not apply if the regional returning officer thinks—

- (a) that the use of the person's commonly used name may be likely to mislead or confuse electors, or
- (b) that the commonly used name is obscene or offensive.

(7) If paragraph (6) applies, the regional returning officer must give notice in writing to the candidate of his reasons for refusing to allow the use of a commonly used name.

(8) The statement shall show—

- (a) the individual candidates standing nominated arranged together alphabetically; and
- (b) the registered political parties which have submitted a party list arranged together alphabetically and (in respect of each such party) the candidates standing nominated arranged (immediately after the entry for the relevant party) in the order that they appear on the party list.

(9) The arrangement of registered political parties referred to in paragraph (8)(b) is to be shown in the statement before the arrangement of individual candidates referred to in paragraph (8)(a) is so shown.

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(10) For the purposes of paragraph (8)(a) alphabetical order is to be determined by reference to the surnames of the individual candidates and, if there are two or more of them with the same surname, of their other names.

(11) For the purposes of paragraph (8)(b)—

(a) a registered political party is to be shown in the statement by reference to the name (or names) or, as the case may be, the description referred to in rule 7(2) in respect of the party; and

(b) alphabetical order is to be determined by disregarding the definite or indefinite article and, where there are two or more words in the name or names or, as the case may be, description (having disregarded the definite or indefinite article), by reference to the first of those words and, if there are two or more parties with the same first word, of the other words.

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

(13) In the case of a registered political party which has delivered more than one party nomination paper (and where party list candidates of that party stand nominated by more than one party list submitted with those papers), the regional returning officer shall take the particulars required by the foregoing provisions of this paragraph from such one of the papers and the party list with that paper as the registered nominating officer of the party (or the returning officer in default of that registered nominating officer) may select; and if any candidate is shown standing nominated by a list not so selected but is not so shown in the selected list he shall no longer stand nominated.

(14) The regional returning officer shall send to the Commission a copy of the statement.

(15) Other than in rule 19 the statement required by this paragraph is referred to in this Order as a statement of persons nominated.

Correction of minor errors

18.—(1) A returning officer may, if he thinks fit, at any time before the publication under paragraph 16 or 17 of the statement of persons nominated, correct minor errors in a nomination paper (including in a party list submitted with a party nomination paper).

(2) Errors which may be corrected include obvious errors of spelling in relation to the details of a candidate or of those of a registered political party.

(3) Anything done by a returning officer in pursuance of this rule must not be questioned in any proceedings other than proceedings on an Assembly election petition.

(4) A returning officer must have regard to any guidance issued by the Commission for the purposes of this rule.

Disqualification by Representation of the People Act 1981

19.—(1) If it appears to the appropriate returning officer that any person nominated as a constituency candidate or as an individual candidate or as a party list candidate might be disqualified by the Representation of the People Act 1981 he shall, as soon as practicable after the expiry of the time allowed for the delivery of—

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

(b) individual nomination papers or party nomination papers, in the case of a regional election, prepare and publish a draft of the statement required by rule 16 or, as the case may be, 17.

(2) The draft shall be headed—

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(a) in the case of a constituency election—

“Draft statement of persons nominated

Datganiad drafft o'r personau a enwebwyd”; or

(b) in the case of a regional election—

“Draft statement of registered political parties and other persons nominated

Datganiad drafft y pleidiau gwleidyddol cofrestredig a phobl eraill a enwebwyd”,

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

Adjournment of nomination proceedings in the case of riot

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

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

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

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

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

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

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

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

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

Method of election at a constituency election

21. At a constituency election—

(a) if the statement of persons nominated shows more than one person standing nominated, a poll shall be taken in accordance with Part 3 of these rules; or

(b) if the statement of persons nominated shows only one person standing nominated, that person shall be declared to be elected in accordance with Part 4 of these rules.

Method of election at a regional election

22.—(1) Subject to paragraph (2), if the statement of persons standing nominated at a regional election shows more persons standing nominated (whether as individual candidates or party list candidates) than the number of seats for that Assembly electoral region a poll shall be taken in accordance with Part 3 of these rules.

(2) Where each person is included on the same party list, those persons shall be declared to be elected in accordance with Part 4 of these rules in the order that they are included on that list (starting with the highest) up to the number of seats for the Assembly electoral region.

(3) But if the statement of persons standing nominated shows the number of persons standing nominated (whether as individual candidates or party list candidates) is the same as, or fewer than, the number of seats for the Assembly electoral region, those persons standing nominated shall be declared to be elected in accordance with Part 4 of these rules.

(4) Paragraph (2) or, as the case may be, (3) shall also apply where notice of poll at a regional election is countermanded or the poll is abandoned under rule 75(1) (election becomes uncontested through death of candidate).

PART 3

Contested elections

General provisions

Poll to be taken by ballot

23.—(1) At a constituency election the votes at the poll shall be given by ballot and the result shall be ascertained, after counting the votes given to each candidate, in accordance with section 4(4) of the 1998 Act; and the candidate to whom the majority of votes has been given shall be declared to have been elected.

(2) At a regional election the votes at the poll shall be given by ballot and the results shall be ascertained, after counting the electoral region votes given to each individual candidate or registered political party, in accordance with sections 4(5) and (6) and 5 to 7(17) of the 1998 Act; and the candidates who, in accordance with those provisions, are returned as Assembly members shall be declared to have been elected.

(3) In respect of an Assembly election held after the 2007 Assembly general election—

- (a) paragraph (1) shall have effect as if the reference to section 4(4) of the 1998 Act were a reference to section 6(4) of the 2006 Act; and
- (b) paragraph (2) shall have effect as if the references to sections 4(5) and (6) and 5 to 7 of the 1998 Act were a reference to sections 6(5) and 7 to 9 of the 2006 Act.

The ballot paper at a constituency election

24.—(1) At a constituency election, the ballot of every voter shall consist of a ballot paper.

(2) The persons shown in the statement of persons nominated as standing nominated, and no others, shall be entitled to have their names inserted in the ballot paper.

(3) Every ballot paper shall be in form CK in Schedule 10, and shall be printed in accordance with the directions in form CK1 in that Schedule and—

- (a) shall contain the names and other particulars of the candidates shown in the statement of persons nominated;
- (b) shall be capable of being folded up; and
- (c) shall have a number and other unique identifying mark printed on the back.

(4) The order of the names in the ballot paper shall be the same as in the statement of persons nominated.

(5) If a certificate received by the constituency returning officer under rule 5(1) or (3) has requested that a registered political party's registered emblem (or, as the case may be, one of the

(17) Sections 5 and 7 are amended by respectively paragraphs 5 and 6 of Schedule 11 to the Government of Wales Act 2006

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party's registered emblems) is to be shown on the ballot paper against the candidate's particulars, the ballot paper shall contain that emblem in that way.

The ballot paper at a regional election

25.—(1) At a regional election, the ballot of every voter shall consist of a ballot paper.

(2) The following, namely—

- (a) the persons shown in the statement of persons nominated standing nominated as individual candidates; and
- (b) the registered political parties which have submitted a party list and are shown in the statement of persons nominated as standing nominated, together with the party list candidates appearing on the party list of each such party and as standing nominated,

and no others, shall be entitled to have their names and descriptions inserted in the ballot paper.

(3) Every ballot paper shall be in form CL in Schedule 10, and shall be printed in accordance with the directions in form CL1 in that Schedule, and—

- (a) shall contain the names and descriptions of the individual candidates shown in the statement of persons nominated;
- (b) shall contain the names or, as the case may be, descriptions of the registered political parties shown in the statement of persons nominated together with the names of the candidates included on those parties' lists;
- (c) shall be capable of being folded up; and
- (d) shall have a number and other unique identifying mark printed on the back (together with a mark or other distinguishing feature by which the Assembly constituency can be identified in which the vote is to be given in relation to the ballot paper).

(4) The order of—

- (a) the names of the individual candidates; and
- (b) the names or, as the case may be, descriptions of the registered political parties (together with, in respect of each such name (or names) or, as the case may be, description of a registered political party, the names of its party list candidates),

in the ballot paper shall be the same order as in the statement of persons nominated.

(5) If a certificate received by the regional returning officer under rule 8(1) has requested that the registered political party's registered emblem (or, as the case may be, one of the party's registered emblems) is to be shown on the ballot paper against the party's description, the ballot paper shall contain that emblem in that way.

Polls with two ballot papers

26.—(1) Where the poll at a regional election is to be taken together with the poll at a constituency election for a relevant constituency, the constituency returning officer shall ensure that the number on the back of a constituency ballot paper is the same as the number on the back of one (but not more than one) regional ballot paper.

(2) A constituency is a relevant constituency for the purposes of paragraph (1) if it is situated in the region in respect of which the regional election is being held.

Corresponding number list

27.—(1) The constituency returning officer must prepare a list containing the numbers and other unique identifying marks of all ballot papers to be issued by him in pursuance of rule 33(1) or provided by him in pursuance of rule 37(1).

(2) The list shall be in form CM as set out in English and Welsh in Schedule 10.

Colour of ballot papers

28. Where at Assembly elections, an elector is entitled to give two votes, the ballot paper for each vote shall be of a different colour.

The official mark

29.—(1) Every ballot paper must contain an appropriate security marking (in this rule and in rule 58 referred to as “the official mark”).

(2) The official mark shall be kept secret, and an interval of not less than seven years shall intervene between the use of the same official mark—

(a) at elections for the same Assembly constituency; or

(b) in relation to the same Assembly constituency, at elections in the same Assembly electoral region.

(3) The appropriate returning officer may use a different official mark for different purposes at the same election.

Prohibition of disclosure of vote

30. No person who has voted at an Assembly election shall, in any legal proceedings to question the election or return, be required to state how he voted.

Use of schools and public rooms

31.—(1) At an Assembly election the constituency returning officer may use, free of charge, for the purpose of taking the poll—

(a) a room in a school to which this paragraph applies; or

(b) a room, the expense of maintaining which is payable wholly or mainly out of public funds.

(2) This rule applies to a school maintained or assisted by a local education authority, or a school in respect of which grants are made out of money provided by the Assembly or by Parliament to the person or body of persons responsible for the management of the school.

(3) The constituency returning officer shall make good any damage done to, and defray any expense incurred by the persons having control over, any such room as mentioned by reason of its being used for the purpose of taking the poll.

Action to be taken before the poll

Notice of poll

32.—(1) The appropriate returning officer shall in the statement of persons nominated include a notice of the poll, stating the day on which and the hours during which the poll will be taken.

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(2) In the case of a constituency election, the constituency returning officer shall also prepare and publish a notice (which may be combined with the statement of persons nominated under paragraph 16) setting out—

- (a) the situation of each polling station; and
- (b) the description of voters entitled to vote there,

and he shall as soon as practicable after publishing such notice give a copy of it to each of the election agents.

(3) In the case of a regional election, the constituency returning officer for each Assembly constituency in the Assembly electoral region shall prepare and publish a notice (which may be combined with the statement of persons nominated under rule 17) setting out—

- (a) the situation of each polling station in the Assembly constituency for which he is returning officer; and
- (b) the description of voters entitled to vote there,

and he shall as soon as practicable after publishing such notice—

- (i) give a copy of it to each of the election agents; and
- (ii) deliver, or cause to be delivered, a copy of it to the regional returning officer.

(4) Where the polls at a constituency election and a regional election are to be taken together the notices prepared by a constituency returning officer under paragraphs (2) and (3) may be combined.

Postal ballot papers

33.—(1) Subject to paragraph (2), at an Assembly election the constituency returning officer shall in accordance with Schedule 3 issue to those entitled to vote by post—

- (a) a ballot paper; and
- (b) a postal voting statement,

in the appropriate forms set out in Schedule 10 together with such envelopes for their return in accordance with paragraph 11 of Schedule 3.

(2) In the case of a person who is entitled to give a constituency vote and an electoral region vote by post the provisions of paragraph (1) shall apply save the reference in paragraph (1) to “a ballot paper” shall be construed as a reference to a constituency ballot paper and a regional ballot paper and following references in this rule to “ballot paper” shall be construed accordingly.

(3) In the case of a ballot paper issued to a person resident in the United Kingdom, the constituency returning officer must ensure that the return of the ballot paper and postal voting statement is free of charge to the voter.

(4) The constituency returning officer must also issue to those entitled to vote by post such information as he thinks appropriate about how to obtain—

- (a) translations into languages other than English and Welsh of any directions to and guidance for voters sent with the ballot paper;
- (b) a translation into Braille of such directions or guidance;
- (c) graphical representations of such directions or guidance; or
- (d) the directions or guidance in any other form (including any audible form).

Provision of polling stations

34.—(1) At an Assembly election the constituency returning officer shall provide a sufficient number of polling stations and, subject to the following provisions of this rule, shall allot the electors to the polling stations in such manner as he thinks most convenient.

(2) One or more polling stations may be provided in the same room.

(3) The polling station allotted to electors from any polling district shall be in the polling place for that district.

(4) The constituency returning officer shall provide each polling station with such number of compartments as may be necessary in which the voters can mark their votes screened from observation.

Appointment of presiding officers and clerks

35.—(1) At an Assembly election the constituency returning officer shall appoint and pay a presiding officer to attend at each polling station and such clerks as may be necessary for the purposes of the election, but he shall not appoint any person who has been employed by or on behalf of—

- (a) a candidate; or
- (b) a registered political party,

in or about the election.

(2) At a regional election the regional returning officer shall appoint and pay such clerks as may be necessary for the purposes of the election, but he shall not appoint any person who has been employed in the circumstances described in paragraph (1)(a) or (b).

(3) The constituency returning officer may, if he thinks fit, preside at a polling station and the provisions of these rules relating to a presiding officer shall apply to a constituency returning officer so presiding with the necessary modifications as to things to be done by the constituency returning officer to the presiding officer or by the presiding officer to the constituency returning officer.

(4) A presiding officer may do, by the clerks appointed to assist him, any act (including the asking of questions) which he is required or authorised by these rules to do at a polling station except order the arrest, exclusion or removal of any person from the polling station.

Issue of official poll cards

36.—(1) At an Assembly election the constituency returning officer shall as soon as practicable after the publication of notice of the election send to electors and their proxies an official poll card.

(2) An elector's official poll card shall be sent or delivered to his qualifying address, and a proxy's to his address as shown in the list of proxies.

(3) In accordance with the following provisions of this rule, the official poll card shall set out—

- (a) the name of the Assembly constituency or electoral region for which the election is to be held, or, where the polls at a constituency election and a regional election are to be taken together, both such areas;
- (b) the elector's name, qualifying address and number on the register;
- (c) the date and hours of the poll and the situation of the elector's polling station; and
- (d) such other information, not relating to any candidate or registered political party, as the constituency returning officer considers appropriate,

and different information may be provided in pursuance of sub-paragraph (d) to different electors or descriptions of electors.

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(4) In the case of an elector with an anonymous entry, instead of containing the matter mentioned in paragraph (3)(b), the official poll card shall contain such matter as is specified in the appropriate form referred to in paragraph (5), (6), (7) or (8).

(5) The official poll card issued to an elector shall be in form CN1 set out in English and Welsh in Schedule 10.

(6) The official poll card issued to the proxy of an elector shall be in form CN2 set out in English and Welsh in Schedule 10.

(7) The official postal poll card issued to an elector shall be in form CN3 set out in English and Welsh in Schedule 10.

(8) The official postal poll card issued to the proxy of an elector shall be in form CN4 set out in English and Welsh in Schedule 10.

(9) In this rule—

“elector” means a person—

- (a) who is registered in the register for the Assembly constituency or as the case may be, Assembly electoral region on the last day for publication of notice of the election in question; and
- (b) includes a person then shown in that register as below voting age if (but only if) it appears from the register that he will be of voting age on the day fixed for the poll.

Equipment of polling stations

37.—(1) At an Assembly election the constituency returning officer shall provide each presiding officer with such number of ballot boxes and ballot papers as in the constituency returning officer’s opinion may be necessary.

(2) Where the polls at a constituency election and a regional election are to be taken together, the same ballot box may be used for the receipt of ballot papers at the regional election and at the constituency election if the constituency returning officer so determines and a determination may make different provision for different polling stations.

(3) Where separate ballot boxes are to be used for the receipt of ballot papers at a constituency election and at a regional election, each ballot box shall be clearly marked with—

- (a) the Assembly election to which it relates; and
- (b) the words “Place the [*specify the colour of the ballot papers in question*] ballot paper here, Rhowch y papur pleidleisio [*nodwch liw'r papurau pleidleisio dan sylw*] yma”.

(4) Every ballot box shall be so constructed that the ballot papers can be put in it, but cannot be withdrawn from it without the seal being broken.

(5) The constituency returning officer shall provide each polling station with—

- (a) materials to enable voters to mark the ballot papers;
- (b) copies of the register or such part of it as contains the entries relating to the electors allotted to the station;
- (c) the parts of any special lists prepared for the election corresponding to the register of electors or the part of it provided under sub-paragraph (b); and
- (d) a list consisting of that part of the list prepared under rule 27 which contains the numbers (but not the other unique identifying marks) corresponding to those on the ballot papers provided to the presiding officer of the polling station in the form CO set out in Schedule 10.

(6) The reference in paragraph (5)(b) to the copies of the register of electors includes a reference to copies of any notices issued under section 13B(3B) or (3D) of the 1983 Act in respect of alterations to the register.

(7) The constituency returning officer shall for the assistance of voters who are partially-sighted provide each polling station with—

- (a) at least one large version of the ballot paper which complies with the relevant provision of article 141(6) and which shall be displayed inside the polling station;
- (b) an enlarged hand-held copy of the ballot paper which complies with the relevant provisions of article 141(7) and (8); and
- (c) a device of the description set out in paragraphs (8) and (9), for enabling voters who are blind or partially-sighted to vote without any need for assistance from the presiding officer or any companion (within the meaning of rule 48(1)).

(8) The device referred to in paragraph (7)(c) must be capable of being attached firmly to a ballot paper and of being removed from it after use without damage to the paper.

(9) On one side of the device there shall be tabs of equal size which satisfy the conditions in paragraphs (10) to (13).

(10) The tabs must be capable of being positioned on the ballot paper so that each one is above one of the spaces to the right of—

- (a) in the case of a constituency election, the particulars of a constituency candidate; or,
- (b) in the case of a regional election—
 - (i) the name or names or, as the case may be, description of a registered political party; or
 - (ii) the particulars of an individual candidate,

and on which the vote is to be marked (“the relevant space”).

(11) Each tab shall be numbered so that when the device is positioned over a ballot paper, the number of each tab corresponds to that of the candidate, or as the case may be, registered political party, whose details (as referred to in paragraph (10)) are to the left of the relevant space covered by the tab in question.

(12) Each number on a tab shall be in raised form so that it can be clearly identified by touch.

(13) Each tab shall be capable of being lifted so as to reveal the relevant space and so that there is sufficient room to allow a voter to mark a cross on that space.

(14) A notice in the form of form CP set out in English and Welsh in Schedule 10, giving directions for the guidance of the voters in voting, shall be printed in conspicuous characters and exhibited inside and outside every polling station.

(15) Where there is a contested constituency election, in every compartment of every polling station there shall be exhibited the notice—

- (a) in the case where votes are also given at the polling station in respect of a contested regional election—

“Vote for one candidate only on the constituency ballot paper coloured [*colour of ballot paper*]. Put no other mark on the ballot paper or your vote may not be counted.

Pleidleisiwch dros un ymgeisydd yn unig ar y papur pleidleisio etholaeth Iliw [*lliw'r papur pleidleisio*]. Peidiwch â rhoi unrhyw farc arall ar y papur pleidleisio, neu fe all na chaiff eich pleidlais ei chyfrif.”; or

- (b) in any other case—

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“Vote for one candidate only on the ballot paper. Put no other mark on the ballot paper or your vote may not be counted.

Pleidleisiwch dros un ymgeisydd yn unig ar y papur pleidleisio. Peidiwch â rhoi unrhyw farc arall ar y papur pleidleisio, neu fe all na chaiff eich pleidlais ei chyfrif.”

(16) Where there is a contested regional election, in every compartment of every polling station there shall be exhibited the notice—

(a) in the case where votes are also given at the polling station in respect of a contested constituency election—

“Vote once only on the regional ballot paper coloured [*colour of ballot paper*]. Put no other mark on the ballot paper or your vote may not be counted.

Pleidleisiwch unwaith yn unig ar y papur pleidleisio rhanbarthol lliw [*lliw'r papur pleidleisio*]. Peidiwch â rhoi unrhyw farc arall ar y papur pleidleisio, neu fe all na chaiff eich pleidlais ei chyfrif.”; or

(b) in any other case—

“Vote once only on the ballot paper. Put no other mark on the ballot paper or your vote may not be counted.

Pleidleisiwch unwaith yn unig ar y papur pleidleisio. Peidiwch â rhoi unrhyw farc arall ar y papur pleidleisio, neu fe all na chaiff eich pleidlais ei chyfrif.”

(17) The appropriate statement of persons nominated referred to in rule 16 and rule 17 shall be printed in conspicuous characters and exhibited inside and outside every polling station.

Appointment of polling and counting agents

38.—(1) Subject to paragraph (2), at a constituency election each candidate may, before the commencement of the poll, appoint—

(a) polling agents to attend at polling stations for the purpose of detecting personation; and

(b) counting agents to attend at the counting of the votes.

(2) The constituency returning officer may limit the number of counting agents that may be appointed under paragraph (1), so that—

(a) the number shall be the same in the case of each candidate; and

(b) the number allowed to a candidate shall not (except in special circumstances) be less than the number obtained by dividing the number of clerks employed on the counting by the number of candidates.

(3) Subject to paragraph (4), at a regional election each—

(a) individual candidate; and

(b) election agent for a registered political party standing nominated,

may, before the commencement of the poll, appoint in relation to each Assembly constituency in the Assembly electoral region—

(i) polling agents to attend at polling stations for the purpose of detecting personation; and

(ii) counting agents to attend at the counting of the votes.

(4) The constituency returning officer may, in relation to the Assembly constituency for which he is the returning officer, limit the number of counting agents that may be appointed under paragraph (3), so that—

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- (a) the number shall be the same in the case of each individual candidate or registered political party; and
 - (b) the number allowed to an individual candidate or registered political party shall not (except in special circumstances) be less than the number obtained by dividing the number of clerks employed on the counting by the total of the number of individual candidates and registered political parties standing nominated.
- (5) Notice in writing of an appointment under paragraph (1) or (3), stating the name and address of the person appointed, shall be given by the person making the appointment to the constituency returning officer and shall be so given not later than the second day (computed like any period of time set out in the Table in rule 1(1)) before the day of the poll.
- (6) If an agent dies, or becomes incapable of acting, the person who appointed him may appoint another agent in his place, and shall forthwith give to the constituency returning officer notice in writing of the name and address of the agent appointed.
- (7) Any appointment authorised by this rule to be made by a constituency or an individual candidate may be made, and the notice of appointment given to the constituency returning officer, by the candidate's election agent instead of by the candidate.
- (8) In the following provisions of these rules references to polling and counting agents shall be taken as references to agents—
- (a) whose appointments have been duly made and notified; and
 - (b) where the number of agents is restricted, who are within the permitted number.
- (9) Any notice required to be given to a counting agent by the constituency returning officer may be delivered at or sent by post to the address stated in the notice of appointment.
- (10) Any candidate may do himself any act or thing which any polling or counting agent, if appointed by him or on his behalf, would have been authorised to do, or may assist such agent in doing any such act or thing.
- (11) An election agent for a constituency or an individual candidate or a registered political party standing nominated may do or assist in doing anything which a polling or counting agent of that candidate or party is authorised to do; and anything required or authorised by these rules to be done in the presence of the polling or counting agents may be done in the presence of such an election agent instead of such polling or counting agents.
- (12) Where by these rules any act or thing is required or authorised to be done in the presence of the polling or counting agents, the non-attendance of any agents or agent at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

Notification of requirement of secrecy

39. At an Assembly election the constituency returning officer shall make such arrangements as he thinks fit to ensure that—

- (a) every person attending at a polling station (otherwise than for the purpose of voting or assisting a voter with disabilities to vote or as a constable on duty there) has been given a copy in writing of the provisions of article 35(1), (3) and (6); and
- (b) every person attending at the counting of the votes (other than any constable on duty at the counting) has been given a copy in writing of the provisions of article 35(2) and (6).

Return of postal ballot papers

40.—(1) Where—

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- (a) a postal vote has been returned in respect of a person who is entered on the postal voters list; or
- (b) a proxy postal vote has been returned in respect of a proxy who is entered on the proxy postal voters list,

the constituency returning officer must mark the appropriate list accordingly.

(2) Rule 55(6) does not apply for the purposes of determining whether, for the purposes of this paragraph, a postal vote or a proxy postal vote is returned.

The poll

Admission to polling station

41.—(1) The presiding officer shall exclude all persons from the polling station except—

- (a) voters;
- (b) persons under the age of 18 who accompany voters to the polling station;
- (c) the candidates and the election agents of any constituency or individual candidates or in relation to any registered political party standing nominated, the election agent of such party in respect of the list it has submitted;
- (d) the polling agents appointed to attend at the polling station;
- (e) the clerks appointed to attend the polling station;
- (f) persons who are entitled to attend by virtue of any of sections 6A to 6D of the 2000 Political Parties Act(18);
- (g) the constables on duty; and
- (h) the companions of voters with disabilities.

(2) The presiding officer shall regulate the total number of voters and persons under the age of 18 who accompany them to be admitted to the polling station at the same time.

(3) Not more than one party list candidate from the same party list submitted by a registered political party shall be admitted at the same time to a polling station.

(4) Not more than one polling agent shall be admitted at the same time to a polling station on behalf of the same constituency or individual candidate or on behalf of the same registered political party.

(5) A constable or person employed by a constituency or regional returning officer shall not be admitted to vote in person elsewhere than at his own polling station under the relevant provision of this Order, except on production and surrender of a certificate as to his employment, which shall be in form CB set out in Schedule 10 and signed by an officer of police of the rank of inspector or above or by the returning officer, as the case may be.

(6) Any certificate surrendered under this rule shall forthwith be cancelled.

Keeping of order in the polling station

42.—(1) It is the presiding officer's duty to keep order at his polling station.

(2) If a person misconducts himself in a polling station, or fails to obey the presiding officer's lawful orders, he may immediately, by the presiding officer's order, be removed from the polling station—

(18) Sections 6A to 6D of the Political Parties, Elections and Referendums Act 2000 were inserted by section 29 of the Electoral Administration Act 2006 (c. 22).

- (a) by a constable in or near that station; or
- (b) by any other person authorised in writing by the constituency returning officer to remove him,

and the person so removed shall not, without the presiding officer's permission, enter the polling station again during the day.

(3) Any person so removed may, if charged with the commission in the polling station of an offence, be dealt with as a person taken into custody by a constable for an offence without a warrant.

(4) The powers conferred by this rule shall not be exercised so as to prevent a voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

Sealing of ballot boxes

43. Immediately before the commencement of the poll, the presiding officer shall—

- (a) show each ballot box proposed to be used for the purposes of the poll empty to such persons, if any, as are present in the polling station, so that they may see that each box is empty;
- (b) place his seal on it in such a manner as to prevent it being opened without breaking the seal;
- (c) place each box in his view for the receipt of ballot papers; and
- (d) keep it so sealed.

Questions to be put to voters

44.—(1) At the time that a person described in an entry in column 1 of the Table to this rule (“the Table”) applies for a ballot paper (but not afterwards) the presiding officer may put to that person the appropriate question (or if more than one any of them) set out opposite that entry.

(2) A question may be asked in English (as set out in column (2) of the Table) or Welsh (as set out in column (3) of the Table).

(3) In respect of a person described in entries 2, 4 or 6 of the Table, the questions set out opposite those entries may be asked only where the polls at a constituency election and a regional election are taken together.

(4) Where the letter “R” appears after a question the presiding officer shall put that question to the person described opposite if the candidate or his election or polling agent (including such an agent of a registered political party standing nominated) so requires.

(5) In the case of an elector in respect of whom a notice has been issued under section 13B (3B) or 13B(3D) of the 1983 Act, the references in the questions at 1(a), 5(a), (b) (c) and 6 to reading from the register must be taken as references to reading from the notice issued under section 13B (3B) or 13B (3D)(**19**).

(6) A ballot paper shall not be delivered to any person required to answer any of the questions unless that person has answered each question satisfactorily.

(7) Except as authorised by this rule, no inquiry shall be permitted as to the right of any person to vote.

(19) Section 13B was inserted into the Representation of the People Act 1983 by paragraph 6 of Schedule 1 to the Representation of the People Act 2000 (c. 2). Subsections (3B) and (3D) were inserted into section 13B by section 11(4) of the Electoral Administration Act 2006 (c. 22).

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Table

<i>Column (1)</i>	<i>Column(2)</i>	<i>Column (3)</i>
Person applying for a ballot paper	Question to be asked in English	Question to be asked in Welsh
1. A person applying as an elector	<p>(a) “Are you the person registered in the register of local government electors as follows(<i>read out the whole entry from the register</i>)?”[R]</p> <p>(b) “Have you already voted, here or elsewhere, at this election, otherwise than as proxy for some other person?”[R]</p>	<p>(a) “Ai chi yw'r person sydd wedi ei gofrestru ar y gofrestr o etholwyr llywodraeth leol fel a ganlyn (<i>darllen allan y cofnod cyfan o'r gofrestr</i>)?”[R]</p> <p>(b) “A ydych eisoes wedi pleidleisio, yma neu yn rhywle arall, yn yr etholiad hwn, ar wahân i fel dirprwy dros berson arall?”[R]</p>
2. A person applying as an elector where that person is entitled to give two votes at the polling station and the presiding officer has asked that person one or more of the questions at entry 1(a) and 1(b)	“Have you already cast a constituency vote and an electoral region vote at this election, here or elsewhere, otherwise than as a proxy for some person?”[R]	“A ydych eisoes wedi bwrw pleidlais etholaedol a phleidlais rhanbarth etholiadol yn yr etholiad hwn, yma neu yn rhywle arall, ar wahân i fel dirprwy dros berson arall?”[R]
3. A person applying as proxy	<p>(a) “Are you the person whose name appears as A.B. in the list of proxies for this election as entitled to vote as proxy on behalf of C.D.?”[R]</p> <p>(b) “Have you already voted, here or elsewhere, at this election, as proxy on behalf of C.D.?”[R]</p> <p>(c) “Are you the spouse, civil partner, parent, grandparent, brother/ sister, child or grandchild of C.D.?”[R]</p>	<p>(a) “Ai chi yw'r person y mae eich enw yn ymddangos fel A.B. ar y rhestr o ddirprwyon ar gyfer yr etholiad hwn fel rhywun sydd â hawl i fwrw pleidlais ddirprwy ar ran C.D.?”[R]</p> <p>(b) “A ydych eisoes wedi pleidleisio, yma neu yn rhywle arall, yn yr etholiad hwn, fel dirprwy ar ran C.D.?”[R]</p> <p>(c) “Ai chi yw priod, partner sifil, rhiant, nain neu daid, brawd / chwaer, plentyn neu wŷr / wyres C.D.?”[R]</p>
4. A person applying as proxy on behalf of an elector who is entitled to give two votes at the polling station if the presiding officer has asked that person one or more of the questions at entry 3(a) and 3(b).	“Have you already cast a constituency vote and an electoral region vote, at this election here or elsewhere, on behalf of C.D.?”[R]	“A ydych eisoes wedi bwrw pleidlais etholiadol a phleidlais rhanbarth etholiadol, yn yr etholiad hwn neu yn rhywle arall, ar ran C.D.?”[R]
5. A person applying as proxy for an elector with an anonymous entry, instead of the questions at entry 3.	(a) “Are you the person entitled to vote as proxy on behalf of the elector whose number on the register of electors is	(a) “Ai chi yw'r person sydd â hawl i bleidleisio fel dirprwy ar ran yr etholwr sydd â'r rhif canlynol ar y gofrestr

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Column (1)	Column(2)	Column (3)
	<i>(read out the number from the register)?</i> ”[R]	etholwyr ar ei gyfer (darllen allan y rhif o'r gofrestr)?”[R]
	(b) “Have you already voted, here or elsewhere, at this election, as proxy on behalf of the elector whose number on the register of electors is <i>(read out the number from the register)?</i> ”[R]	(b) “A ydych eisoes wedi pleidleisio, yma neu yn rhywle arall, yn yr etholiad hwn, fel dirprwy ar ran yr etholwr sydd â'r rhif canlynol ar y gofrestr etholwyr ar ei gyfer (darllen allan y rhif o'r gofrestr)?”[R]
	(c) “Are you the spouse, civil partner, parent, grandparent, brother/ sister, child or grandchild of the elector whose number on the register of electors is <i>(read out the number from the register)?</i> ”[R]	(c) “ Ai chi yw priod, partner sifil, rhiant, nain neu daid, brawd / chwaer, plentyn neu wŷyr / wyres yr etholwr sydd â'r rhif canlynol ar y gofrestr etholwyr (darllen allan y rhif o'r gofrestr)?”[R]
6. A person applying as proxy on behalf of an elector with an anonymous entry and that elector is entitled to give two votes at the polling station, if the presiding officer has asked the person applying to vote as proxy one or more of the questions at entry 5(a) and 5(b).	“Have you already cast a constituency vote and an electoral region vote, here or elsewhere, at this election, on behalf of the elector whose number on the register of electors is <i>(read out the number from the register)?</i> ”[R]	“A ydych eisoes wedi bwrw pleidlais etholiadol a phleidlais rhanbarth etholiadol, yma neu yn rhywle arall, yn yr etholiad hwn, ar ran yr etholwr sydd â'r rhif canlynol ar y gofrestr etholwyr ar ei gyfer (darllen allan y rhif o'r gofrestr)?”[R]
7. A person applying as proxy, if the question at entry 3(c) or 5(c) is not answered in the affirmative.	“Have you at this election already voted in this constituency on behalf of two persons of whom you are not the spouse, civil partner, parent, grandparent, brother/ sister, child or grandchild?”[R]	“A ydych yn yr etholiad hwn eisoes wedi pleidleisio yn yr etholaeth hon ar ran dau berson a chithau heb fod yn briod, partner sifil, rhiant, nain neu daid, brawd / chwaer, plentyn neu wŷyr / wyres iddynt?”[R]
8. A person applying as an elector in relation to whom there is an entry in the postal voters list.	(a) “Did you apply to vote by post?” (b) “ Why have you not voted by post?”	(a) “A wnaethoch wneud cais i bleidleisio drwy'r post?” (b) “ Pam na wnaethoch bleidleisio drwy'r post?”
9. A person applying as proxy who is named in the proxy postal voters list.	(a) “Did you apply to vote by post as proxy?” (b) “Why have you not voted by post as proxy?”	(a) “ A wnaethoch wneud cais i bleidleisio drwy'r post fel dirprwy?” (b) “Pam na wnaethoch bleidleisio drwy'r post fel dirprwy?”

Challenge of voter

45. A person shall not be prevented from voting by reason only that—

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- (a) a candidate or his election or polling agent declares that he has reasonable cause to believe that the person has committed an offence of personation⁽²⁰⁾; or
- (b) the person is arrested on the grounds that he is suspected of committing or of being about to commit such an offence.

Voting procedure

46.—(1) A ballot paper shall be delivered to a voter who applies for one, and immediately before delivery—

- (a) the number and (unless paragraph (2) applies) name of the elector as stated in the copy of the register shall be called out;
- (b) the number of the elector shall be marked on the list mentioned in rule 37(5)(d) beside the number of the ballot paper to be issued to him;
- (c) a mark shall be placed in that copy of the register against the number of the elector to note that a ballot paper has been received but without showing the particular ballot paper which has been received; and
- (d) in the case of a person applying for a ballot paper as proxy, a mark shall also be placed against his name in the list of proxies.

(2) In the case of an elector who has an anonymous entry, he must show the presiding officer his official poll card and only his number shall be called out in pursuance of paragraph (1)(a).

(3) In the case of an elector who is added to the register in pursuance of a notice issued under section 13B(3B) or (3D) of the 1983 Act paragraph (1) is modified as follows—

- (a) in paragraph 1(a), for “copy of the register of electors” substitute “copy of the notice issued under section 13B(3B) or (3D) of the 1983 Act”;
- (b) in paragraph 1(c), for “in the register of electors” substitute “on the copy of the notice issued under section 13B(3B) or (3D) of the 1983 Act”.

(4) The voter, on receiving the ballot paper, shall forthwith proceed into one of the compartments in the polling station and there secretly mark his paper and fold it up so as to conceal his vote, and shall then show to the presiding officer the back of the paper, so as to disclose the number and other unique identifying mark, and put the ballot paper so folded up into the ballot box in the presiding officer’s presence.

(5) The voter shall vote without undue delay, and shall leave the polling station as soon as he has put his ballot paper into the ballot box.

(6) Where the polls at a constituency election and a regional election are to be taken together the same copy of the register of electors or copy of the notice may be used under paragraph (1) for a constituency election and a regional election and one mark may be placed in that register or on that copy under paragraph (1)(c) or in the list of proxies under paragraph (1)(d) to denote that a ballot paper has been received in respect of each election except that, where a ballot paper has been issued in respect of one election only, a different mark shall be placed in the register or, as the case may be, on the copy or in the list so as to identify the election in respect of which the ballot paper was issued.

(7) Subject to rule 50(4) where a voter is entitled to two votes, the constituency ballot paper and the regional ballot paper delivered to a voter shall bear the same number.

Votes marked by presiding officer

47.—(1) The presiding officer on the application of a voter—

(20) Personation is defined in article 30.

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- (a) who is incapacitated by blindness or other disability from voting in a manner directed by these rules; or
- (b) who declares orally that he is unable to read,

shall, in the presence of the polling agents, cause the voter's vote to be marked on a ballot paper in a manner directed by the voter, and the ballot paper to be placed in the ballot box.

(2) The name and number on the register of every voter whose vote is marked in pursuance of this rule, and the reason why it is so marked, shall be entered on a list (in this Schedule called "the list of votes marked by the presiding officer").

(3) For the purposes of paragraph (2) in the case of a person voting as proxy for an elector, the number to be entered together with the voter's name shall be the elector's number.

(4) In the case of a person in respect of whom a notice has been issued under section 13B(3B) or (3D) of the 1983 Act, paragraph (2) applies as if for "on the register of electors of every voter" there were substituted "relating to every voter in respect of whom a notice has been issued under section 13B(3B) or (3D) of the 1983 Act".

(5) Where the polls at a constituency election and a regional election are to be taken together, the same list of votes marked by the presiding officer may be used for the constituency and regional elections at which the voters are entitled to vote and, where it is so used, an entry in that list shall be taken to mean that the ballot papers were so marked in respect of each election, unless the list identifies the election at which the ballot paper was so marked.

Voting by persons with disabilities

48.—(1) If a voter makes an application to the presiding officer to be allowed, on the ground of—

- (a) blindness or other disability; or
- (b) inability to read,

to vote with the assistance of another person by whom he is accompanied (in these rules referred to as "the companion"), the presiding officer shall require the voter to declare, orally or in writing, whether he is so incapacitated by his blindness or other disability, or by his inability to read, as to be unable to vote without assistance.

(2) If the presiding officer—

- (a) is satisfied that the voter is so incapacitated; and
- (b) is also satisfied by a written declaration made by the companion (in these rules referred to as "the declaration made by the companion of a voter with disabilities") that the companion—
 - (i) is a qualified person within the meaning of these rules; and
 - (ii) has not previously assisted more than one voter with disabilities to vote at the Assembly election,

the presiding officer shall grant the application, and then anything which is by this Schedule required to be done to or by that voter in connection with the giving of his vote may be done to, or with the assistance of, the companion.

(3) For the purposes of this rule, a person is a voter with disabilities if he has made such a declaration as is mentioned in paragraph (1), and a person shall be qualified to assist a voter with disabilities to vote, if that person is either—

- (a) a person who is entitled to vote as an elector at the Assembly election; or
- (b) the father, mother, brother, sister, spouse, civil partner, son or daughter of the voter with disabilities and has attained the age of 18 years.

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(4) The name and number in the register of every voter whose vote is given in accordance with this paragraph and the name and address of the companion shall be entered on a list (in these rules referred to as “the list of voters with disabilities assisted by companions”).

(5) For the purposes of paragraph (4), in the case of a person voting as proxy for an elector, the number to be entered together with the voter’s name shall be the elector’s number.

(6) In the case of a person in respect of whom a notice has been issued under section 13B(3B) or (3D) of the 1983 Act, paragraph (4) applies as if for “in the register of every voter” there were substituted “relating to every voter in respect of whom a notice has been issued under section 13B(3B) or (3D) of the 1983 Act”.

(7) The declaration made by the companion—

- (a) shall be in form CQ set out in English and Welsh in Schedule 10;
- (b) shall be made before the presiding officer at the time when the voter applies to vote with the assistance of a companion and shall forthwith be given to the presiding officer who shall attest and retain it.

(8) No fee or other payment shall be charged in respect of the declaration.

(9) Where the polls at a constituency election and a regional election are to be taken together, the same list of voters with disabilities assisted by companions may be used for the constituency and regional elections at which the voters are entitled to vote and, where it is so used, an entry in that list shall be taken to mean that the votes were so given in respect of each election, unless the list identifies the election at which a vote was so given.

Tendered ballot papers

49.—(1) If a person, representing himself to be—

- (a) a particular elector named on the register and not named in the postal voters list; or
- (b) a particular person named in the list of proxies as proxy for an elector and not entitled to vote by post as proxy,

applies for a ballot paper after another person has voted in person either as the elector or his proxy, the applicant shall, on satisfactorily answering the questions permitted by law to be asked at the poll, be entitled, subject to the following provisions of this rule, to mark a ballot paper (in these rules referred to as “a tendered ballot paper”) in the same manner as any other voter.

(2) Paragraph (4) applies if—

- (a) a person applies for a ballot paper representing himself to be a particular elector named on the register;
- (b) he is also named in the postal voters list; and
- (c) he claims that he did not make an application to vote by post at the election.

(3) Paragraph (4) also applies if—

- (a) a person applies for a ballot paper representing himself to be a particular person named as a proxy in the list of proxies;
- (b) he is also named in the proxy postal voters list; and
- (c) he claims that he did not make an application to vote by post as proxy.

(4) The person shall, on satisfactorily answering the questions permitted by law to be asked at the poll, be entitled, subject to the following provisions of this rule, to mark a ballot paper (in these rules referred to as a “tendered ballot paper”) in the same manner as any other voter.

(5) Paragraph (6) applies if before the close of the poll but after the last time at which a person may apply for a replacement postal ballot paper, a person represents himself to be—

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- (a) a particular elector named on the register and who is also named in the postal voters list; or
- (b) a particular person named as a proxy in the list of proxies and who is also named in the proxy postal voters list,

and claims that he has lost or has not received his postal ballot paper.

(6) The person shall, on satisfactorily answering the questions permitted by law to be asked at the poll, be entitled, subject to the following provisions of this rule, to mark a ballot paper (in these rules referred to as a “tendered ballot paper”) in the same manner as any other voter.

(7) A tendered ballot paper shall—

- (a) be of a colour different from the other ballot papers; and
- (b) instead of being put into the ballot box, be given to the presiding officer and endorsed by him with the name of the voter and his number on the register, and set aside in a separate packet.

(8) The name of the voter and his number on the register shall be entered on a list (in these rules referred to as the “tendered votes list”).

(9) In the case of a person voting as proxy for an elector, the number to be endorsed or entered together with the voter’s name shall be the number of that elector.

(10) This rule applies to an elector who has an anonymous entry subject to the following modifications—

- (a) in paragraphs (7)(b) and (8) the references to the name of the voter must be ignored;
- (b) otherwise, a reference to a person named on a register or in a list must be construed as a reference to a person whose number appears on the register or in the list (as the case may be).

(11) This rule applies in the case of a person in respect of whom a notice has been issued under section 13B(3B) or (3D) of the 1983 Act as if—

- (a) in paragraphs (1)(a), (2)(a) and (5)(a) for “named on the register” there were substituted “in respect of whom a notice under section 13B(3B) or (3D) of the 1983 Act has been issued”; and
- (b) in paragraphs (7)(b) and (8) for “his number on the register of electors” there were substituted “the number relating to him on a notice issued under section 13B(3B) or (3D) of the 1983 Act”.

(12) Where the polls at a constituency election and a regional election are to be taken together, the same tendered votes list for the constituency and regional elections at which the voters are entitled to vote may be used and, where it is so used, an entry in that list shall be taken to mean that tendered ballot papers were so marked in respect of each election, unless the list identifies the election at which a tendered ballot paper was so marked.

Spoilt ballot papers

50.—(1) A voter who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper may, on delivering it to the presiding officer and proving to his satisfaction the fact of the inadvertence, obtain another ballot paper (“the replacement ballot paper”) in the place of the ballot paper so delivered (in these rules referred to as a “spoilt ballot paper”), and the spoilt ballot paper shall be immediately cancelled.

(2) Paragraph (1) shall also apply in a case where a voter is entitled to give two votes at a polling station, but subject to paragraphs (3) and (4).

(3) Subject to paragraph (4), if the voter proves to the satisfaction of the presiding officer that only one ballot paper is spoilt inadvertently—

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- (a) he shall nevertheless deliver both ballot papers (“the surrendered ballot papers”) to the presiding officer;
 - (b) the presiding officer shall deliver to the voter two replacement ballot papers; and
 - (c) the presiding officer shall treat both of the surrendered ballot papers as spoilt ballot papers and shall immediately cancel them.
- (4) If a voter proves to the satisfaction of the presiding officer that one ballot paper is spoilt inadvertently and that the other ballot paper (“the used ballot paper”) has been placed in the ballot box—
- (a) the voter shall deliver the spoilt ballot paper (“the returned ballot paper”) to the presiding officer;
 - (b) the presiding officer shall deliver to the voter a replacement ballot paper in place of the returned ballot paper notwithstanding that the number on the replacement ballot paper is not the same as the number on the used ballot paper previously delivered to the voter; and
 - (c) the presiding officer in addition to cancelling the returned ballot paper shall treat the constituency or, as the case may be, regional ballot paper that has the same number as the replacement ballot paper delivered to the voter as a spoilt ballot paper and shall also immediately cancel it.

Correction of errors on the day of poll

51. The presiding officer shall keep a list of persons to whom ballot papers are delivered in consequence of an alteration to the register made by virtue of section 13B(3B) or (3D) of the 1983 Act which takes effect on the day of the poll.

Adjournment of poll in case of riot

52.—(1) Where the proceedings at any polling station are interrupted or obstructed by riot or open violence, the presiding officer shall adjourn the proceedings till the following day and shall forthwith give notice—

- (a) in the case where the polls at a constituency election and at a regional election are taken together, to the constituency and to the regional returning officer; but otherwise
 - (b) in the case of a constituency election, to the constituency returning officer; or
 - (c) in the case of a regional election, to the constituency returning officer for the Assembly constituency in which the polling station is situated and to the regional returning officer.
- (2) Where the poll is adjourned at any polling station—
- (a) the hours of polling on the day to which it is adjourned shall be the same as for the original day; and
 - (b) references in this Order to the close of the poll shall be construed accordingly.

Procedure on close of poll

53.—(1) As soon as practicable after the close of the polls where the polls at a constituency election and at a regional election have been taken together, the presiding officer shall, in the presence of the polling agents, make up into separate packets, sealed with his own seal and the seals of such polling agents as desire to affix their seals—

- (a) each ballot box in use at the station, sealed so as to prevent the introduction of additional ballot papers and unopened;
- (b) the unused and spoilt ballot papers placed together relating to the constituency election;

- (c) the unused and spoilt ballot papers placed together relating to the regional election;
- (d) the tendered ballot papers relating to the constituency election;
- (e) the tendered ballot papers relating to the regional election;
- (f) the marked copies of the register of electors (including any marked copy notices issued under section 13B(3B) or (3D) of the 1983 Act) and of the list of proxies;
- (g) the lists prepared under rule 27, including the parts which were completed in accordance with rule 46(1)(b) (together referred to in these rules as “the completed corresponding number lists”);
- (h) the certificates as to employment on duty on the day of the poll; and
- (i) the tendered votes list, the list of voters with disabilities assisted by companions, the list of votes marked by the presiding officer, a statement of the number of voters whose votes are so marked by the presiding officer under the heads “disability” and “unable to read”, the list maintained under rule 51 and the declarations made by the companions of voters with disabilities.

(2) Where paragraph (1) does not apply at an Assembly election, as soon as practicable after the close of the poll, the presiding officer shall, in the presence of the polling agents, make up into separate packets, sealed with his own seal and the seals of such polling agents as desire to affix their seals—

- (a) each ballot box in use at the station, sealed so as to prevent the introduction of additional ballot papers and unopened;
- (b) the unused and spoilt ballot papers placed together;
- (c) the tendered ballot papers;
- (d) the marked copies of the register of electors (including any marked copy notices issued under section 13B(3B) or (3D) of the 1983 Act) and of the list of proxies;
- (e) the completed corresponding number lists;
- (f) the certificates as to employment on duty on the day of the poll; and
- (g) the tendered votes list, the list of voters with disabilities assisted by companions, the list of votes marked by the presiding officer, a statement of the number of voters whose votes are so marked by the presiding officer under the heads “disability” and “unable to read”, the list maintained under rule 51 and the declarations made by the companions of voters with disabilities.

(3) The presiding officer shall deliver the packets made up under paragraph (1) or (2), or cause them to be delivered, to the constituency returning officer to be taken charge of by him; but if the packets are not delivered by the presiding officer personally to the constituency returning officer, the arrangements for their delivery shall require the constituency returning officer’s approval.

(4) The packets shall be accompanied by—

- (a) a separate statement relating to each Assembly election where paragraph (1) applies; or
- (b) a statement relating to the Assembly election where paragraph (2) applies,

(in these rules referred to as “the ballot paper account”) made by the presiding officer showing the number of ballot papers entrusted to him, and accounting for them under the heads of ballot papers issued and not otherwise accounted for, unused, spoilt and tendered ballot papers.

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Counting of votes

Time of, and attendance at, counting of votes

54.—(1) At an Assembly election the constituency returning officer shall—

- (a) (subject to paragraph (2)) make arrangements for counting the votes in the presence of the counting agents as soon as practicable after the close of the poll; and
- (b) give to the counting agents and, in the case of a regional election, to the regional returning officer, notice in writing—
 - (i) of the time and place at which the proceedings described in rule 55(1) will begin;
 - (ii) in the case where the power conferred by rule 55(3) is exercised, of the time and the place at which he will count the votes following completion of the proceedings described in rule 55(1); and
 - (iii) in the case of a direction under paragraph (2), of the time and the place at which he will count the votes following completion of the proceedings described in rule 55(1),

and a notice under this paragraph may be combined with another such notice.

(2) At an Assembly general election where there are polls at—

- (a) a regional election; and
- (b) constituency elections in the Assembly electoral region for which the regional election is held,

the Secretary of State may direct each constituency returning officer for any constituency within that Assembly electoral region that the counting of votes (as provided for in rule 55(5)) in respect of the regional and each constituency election shall not begin before such time between the hours of 9 in the morning and noon on the day following the close of polls for those elections (disregarding any day mentioned in rule 2) as is specified in the direction.

(3) A direction given under paragraph (2) shall be given not later than 28 days before the date of the poll at the Assembly general election in question.

(4) Where a direction is given under paragraph (2), then during the period beginning with the conclusion of the proceedings described in rule 55(1) and ending with the time specified in the direction, the constituency returning officer shall—

- (a) place the ballot papers and other documents relating to each election under his own seal and the seals of such of the counting agents as desire to affix their seals; and
- (b) otherwise take proper precautions for the security of the papers and documents.

(5) No person other than—

- (a) the constituency returning officer and his clerks;
- (b) the candidates and one other person chosen by each of them;
- (c) the election agents;
- (d) the counting agents;
- (e) persons who are entitled to attend by virtue of any of sections 6A to 6D of the 2000 Political Parties Act; and
- (f) in the case of a regional election, the regional returning officer,

may be present at the proceedings described in rule 55(1) or at the counting of the votes, unless permitted by the constituency returning officer.

(6) A person not entitled to attend at the proceedings described in rule 55(1) or at the counting of the votes shall not be permitted to do so by the constituency returning officer unless he—

- (a) is satisfied that the efficient counting of the votes will not be impeded; and
- (b) has either consulted the election agents or thought it impracticable to do so.

(7) The constituency returning officer shall give the counting agents all such reasonable facilities for overseeing the proceedings, and all such information with respect to them, as he can give them consistently with the orderly conduct of the proceedings and the discharge of his duties in connection with them.

- (8) In particular, where the votes are counted by sorting the ballot papers according to—
- (a) a candidate for whom a vote is given in the case of a constituency election; or
 - (b) an individual candidate for whom, or a registered political party for which, a vote is given in the case of a regional election,

and then counting the number of ballot papers for each such candidate or party, the counting agents shall be entitled to satisfy themselves that the ballot papers are correctly sorted.

The count

55.—(1) Subject to paragraph (8) where the polls at a regional election and at a constituency election for a constituency situated in that region are held on the same day, the constituency returning officer shall—

- (a) in the presence of the counting agents appointed for the purposes of each election open each ballot box and count and record separately the number of ballot papers in each box for each election;
- (b) in the presence of the election agents appointed for the purposes of each election verify each ballot paper account;
- (c) count such of the postal ballot papers as have been duly returned and record separately the number counted for each election; and
- (d) separate the ballot papers relating to each election.

(2) Where separate ballot boxes are used at polls in respect of a regional election and a constituency election for a constituency situated within that region, no vote shall be rendered invalid solely by the ballot paper being placed in the wrong ballot box.

(3) The proceedings described in paragraph (1) may be undertaken at a different place (or at different places) than a place at which the votes given on ballot papers are counted.

(4) But if the power in paragraph (3) is exercised, during the period beginning with the conclusion of the proceedings described in paragraph (1) and ending with the commencement of proceedings described in paragraph (5), the constituency returning officer shall—

- (a) place the ballot papers and other documents relating to each election under his own seal and the seals of such of the counting agents as desire to affix their seals; and
- (b) otherwise take proper precautions for the security of the papers and documents.

(5) Subject to paragraphs (3) and (4) and any direction under rule 54(2), following completion of the proceedings described in sub-paragraph (1) the constituency returning officer shall in respect of the ballot papers relating to each election mix together all the ballot papers used at that election and count the votes given on them.

- (6) A postal ballot paper shall not be taken to be duly returned unless—
- (a) before the close of the poll—
 - (i) it is returned by hand or post and reaches the constituency returning officer; or
 - (ii) it is returned by hand to a polling station in the same constituency as that for which that returning officer is appointed;

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- (b) the postal voting statement duly signed is, before that time also returned either—
 - (i) by hand or post and reaches the constituency returning officer; or
 - (ii) by hand and reaches such a polling station;
- (c) the postal voting statement also states the date of birth of the elector or, as the case may be, proxy; and
- (d) in a case where the constituency returning officer takes steps to verify the date of birth and signature of the elector or, as the case may be, proxy in accordance with paragraph 23 or, as the case may be, 24 of Schedule 3, he so verifies the date of birth and signature of that elector or, as the case may be, proxy.

(7) The presiding officer of the polling station shall deliver or cause to be delivered any postal ballot paper or postal voting statement returned to that polling station to the constituency returning officer in the same manner and at the same time as he delivers, or causes to be delivered, the packets referred to in rule 53.

(8) The constituency returning officer may collect, or cause to be collected, any postal ballot paper or postal voting statement which by virtue of paragraph (7) the presiding officer of a polling station would otherwise be required to deliver or cause to be delivered to him.

(9) Where the constituency returning officer collects, or causes to be collected, any postal ballot paper or postal voting statement in accordance with paragraph (8) the presiding officer shall first make it (or them) up into a packet (or packets) sealed with his own seal and the seals of such polling agents as are present and desire to affix their seals.

(10) The constituency returning officer shall not count any tendered ballot paper.

(11) The constituency returning officer, while counting and recording the number of ballot papers and counting the votes, shall keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers or other unique identifying marks printed on the back of the papers.

(12) The constituency returning officer shall verify each ballot paper account by comparing it with the number of ballot papers recorded by him, and the unused and spoiled ballot papers in his possession and the tendered votes list (opening and resealing the packets containing the unused and spoiled ballot papers and the tendered votes list) and shall draw up a statement as to the result of the verification, which any election agent appointed for the purposes of that election may copy; but where the power conferred by paragraph (3) is exercised in respect of more than one place a statement shall be drawn up in respect of each such place.

(13) The constituency returning officer shall so far as practicable proceed continuously with counting the votes, allowing only time for refreshment, except that he may, in so far as he and the agents appointed for the purpose of that election agree, exclude the hours between 7 in the evening and 9 on the following morning.

(14) For the purposes of the exception in paragraph (13), the agreement of—

- (a) in the case of a constituency election, a candidate or his election agent; or
- (b) in the case of a regional election, an individual candidate or his election agent or the election agent for a registered political party,

shall be as effective as the agreement of his or its counting agents.

(15) During the time so excluded the constituency returning officer shall—

- (a) place the ballot papers and other documents relating to the election under his own seal and the seals of such of the counting agents as desire to affix their seals; and
- (b) otherwise take proper precautions for the security of the papers and documents.

(16) In relation to an Assembly election to which paragraph (1) does not apply—

- (a) paragraph (17) shall apply in its place;
 - (b) the references in paragraphs (3) and (4) and in rule 54(1), (5) and (6) to paragraph (1) shall be construed as references to paragraph (17);
 - (c) “each election” in paragraph (4)(a) shall be construed as a reference to “the election”; and
 - (d) paragraph (18) shall apply in place of paragraph (5) and the reference to paragraph (5) in paragraph (4) shall be construed as a reference to paragraph (18).
- (17) The constituency returning officer shall—
- (a) in the presence of the counting agents open each ballot box and count and record the number of ballot papers in those boxes;
 - (b) in the presence of the election agents verify each ballot paper account; and
 - (c) count such of the postal ballot papers as have been duly returned and record the number counted.
- (18) Subject to paragraphs (3) and (4), following completion of the proceedings described in paragraph (17) the constituency returning officer shall count the votes given on the ballot papers after—
- (a) in the case of postal ballot papers, they have been mixed with the ballot papers from at least one ballot box; and
 - (b) in the case of ballot papers from a ballot box, they have been mixed with the ballot papers from at least one other ballot box.

Re-count at a constituency election

56.—(1) At a constituency election a candidate or his election agent may, if present when the counting or any re-count of the votes is completed, require the constituency returning officer to have the votes re-counted or again re-counted but the constituency returning officer may refuse to do so if in his opinion the request is unreasonable.

(2) No step shall be taken on the completion of the counting or any re-count of votes until the candidates and election agents present at its completion have been given a reasonable opportunity to exercise the right conferred by this rule.

Re-count of electoral region votes in an Assembly constituency

57.—(1) At a regional election and prior to the certification required by rule 61(1)—

- (a) an individual candidate or his election agent;
- (b) a party list candidate or an election agent for a registered political party standing nominated; or
- (c) subject to paragraph (3), a counting agent for an individual candidate or a registered political party standing nominated,

may, if present when the counting or any re-count of the votes is completed in a constituency, require the constituency returning officer to have the votes re-counted or again re-counted but the constituency returning officer may refuse to do so if in his opinion the request is unreasonable.

(2) No step shall be taken on the completion of the counting or any re-count of votes until the candidates, election agents and counting agents present at its completion have been given a reasonable opportunity to exercise the right conferred by this rule.

(3) Where no candidate or election agent is present on the completion of the counting or any re-count of votes, the right conferred on that person by this rule (if he had been present) may be exercised by a counting agent referred to in paragraph (1)(c) so present provided that in his terms

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of appointment as a counting agent he is authorised to exercise the right conferred by this rule; but not more than one such counting agent for the same individual candidate or registered political party standing nominated may be appointed for the purposes of this rule in relation to the same Assembly constituency.

Rejected ballot papers

58.—(1) Any ballot paper—

- (a) which does not bear the official mark;
- (b) on which more than one vote is given;
- (c) on which anything is written or marked by which the voter can be identified except the printed number or other unique identifying mark on the back; or
- (d) which is unmarked or void for uncertainty,

shall, subject to the provisions of paragraph (2), be void and not counted.

(2) A ballot paper on which the vote is marked—

- (a) elsewhere than in the proper place;
- (b) otherwise than by means of a cross; or
- (c) by more than one mark,

shall not for such reason be deemed to be void if an intention how the vote is to be given clearly appears, and the way the paper is marked does not of itself identify the voter and it is not shown that he can be identified by it.

(3) At a regional election, a ballot paper on which a vote is marked for a particular party list candidate on the party list of a registered political party shall, if otherwise valid, be treated as a vote for that party, whether or not there is also a vote marked for that party.

(4) The constituency returning officer shall endorse the word “rejected” on any ballot paper which under this rule is not to be counted, and shall add to the endorsement the words “rejection objected to” if an objection is made by a counting agent to his decision.

(5) The constituency returning officer shall draw up a statement showing the number of ballot papers rejected under the several heads of—

- (a) want of official mark;
- (b) giving more than one vote;
- (c) writing or mark by which voter could be identified; and
- (d) unmarked or void for uncertainty.

Decisions on ballot papers

59. The decision of the constituency returning officer at an Assembly election on any question arising in respect of a ballot paper shall be final, but shall be subject to review on an Assembly election petition.

Equality of votes at a constituency election

60. At a constituency election, where, after the counting of the votes (including any re-count) is completed, an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the constituency returning officer shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

Regional election: conveying results of count etc. to regional returning officer

61.—(1) At the conclusion of the count of ballot papers in an Assembly constituency at a regional election the constituency returning officer shall, in accordance with any directions given by the regional returning officer, certify—

- (a) the number of ballot papers counted by him and the total number of votes given for each individual candidate or registered political party; and
- (b) the number of rejected ballot papers under each head shown in the statement under rule 58(5), and

forthwith convey that information to the regional returning officer.

(2) Where the regional returning officer has received the information required to be conveyed to him under paragraph (1) from each constituency returning officer for an Assembly constituency in the Assembly electoral region, he shall certify the totals of the numbers referred to in paragraph (1) for the electoral region.

(3) After a constituency returning officer has conveyed to the regional returning officer the information required to be conveyed under paragraph (1) he may, subject to paragraph (4) give public notice in such manner as he considers appropriate of the information so conveyed.

(4) The regional returning officer may direct that the constituency returning officer may only give the notice referred to in paragraph (3) after the regional returning officer has given the notice that he is required to give under rule 64(1)(d).

PART 4

Final proceedings in contested and uncontested elections

Declaration of result at a constituency election

62.—(1) At a contested constituency election, when the result of the poll has been ascertained, the constituency returning officer shall forthwith—

- (a) declare to be elected the candidate to whom the majority of votes has been given;
- (b) return his name and, if a certificate has been received by the constituency returning officer issued by the registered nominating officer of one or more registered political parties under rule 5(1) or (3) in respect of the candidate, the name of the party or, as the case may be, parties to the Clerk in accordance with paragraph (4);
- (c) give public notice of—
 - (i) his name and, if applicable, the name of any registered political party referred to in paragraph (1)(b); and
 - (ii) the total number of votes given for each candidate together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers under rule 58(5).

(2) At an uncontested constituency election, the statement of persons nominated, in addition to showing the person standing nominated, shall also declare that person elected, and the constituency returning officer shall forthwith return his name and, if a certificate has been received by the constituency returning officer issued by the registered nominating officer of one or more registered political parties under rule 5(1) or (3) in respect of the candidate, the name of the party or, as the case may be, parties to the Clerk in accordance with paragraph (4).

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(3) Where paragraph (1) or (2) applies at an Assembly general election, the constituency returning officer shall forthwith also notify the regional returning officer for the Assembly electoral region in which the Assembly constituency is situated as to—

- (a) the name of the candidate who has been returned; and
- (b) if applicable, the name of the registered political party or parties referred to in paragraph (1) (b), or as the case may be, paragraph (2) and for which party or parties the candidate is, for the purposes of ascertaining the result at that regional election, returned as the Assembly member for that constituency.

(4) For the purposes of paragraph (1)(b) and (2), the constituency returning officer shall return those names required to be returned by—

- (a) completing a certificate in form CR set out in English and Welsh in Schedule 10 declaring the candidate to be returned⁽²¹⁾; and
- (b) delivering it, or causing it to be delivered, to the Clerk.

(5) References to “the Clerk” in paragraphs (1), (2) and (4) and in rule 64 shall, in relation to the 2007 Assembly general election, include the Clerk to the Assembly constituted by the 1998 Act⁽²²⁾.

(6) In this rule and in rule 63, references to “ascertaining the result” shall in relation to a contested regional election, mean—

- (a) calculating the electoral region figure of each individual candidate and of each registered political party standing nominated at that election; and
- (b) allocating the seats to the electoral region members for that region⁽²³⁾,

and like terms shall be construed accordingly.

Ascertainment of results at a contested regional election

63.—(1) At a contested regional election, the regional returning officer shall make arrangements for ascertaining the results of the poll as soon as practicable after he has—

- (a) given the certification required by rule 61(2); and
- (b) subject to rule 74(1), received the notification required by rule 62(3) from each constituency returning officer for an Assembly constituency in the Assembly electoral region.

(2) At a contested regional election the regional returning officer shall give notice in writing to the election agents and to each constituency returning officer for an Assembly constituency in the Assembly electoral region for which the election is held of the place and time at which he will begin to ascertain the results of the poll (together with such other information as he considers appropriate).

(3) No person other than—

- (a) the regional returning officer and his clerks;
- (b) the individual and party list candidates and one other person chosen by each of them;
- (c) the election agents;
- (d) persons who are entitled to attend by virtue of any of sections 6A to 6D of the 2000 Political Parties Act; and

⁽²¹⁾ By virtue of section 14(6) of the Government of Wales Act 2006, the term of office of an Assembly member begins when the Assembly member is declared to be returned. Paragraph 9 of Schedule 11 to the Government of Wales Act 2006 contains transitional provision in respect of the 2007 Assembly general election.

⁽²²⁾ As to the Clerk to the National Assembly for Wales constituted by the Government of Wales Act 1998, see the post with that title held by a member of staff of that Assembly as provided for in its standing orders.

⁽²³⁾ As to the calculation of electoral region figures and allocation of seats for an Assembly electoral region, see sections 6 and 7 of the Government of Wales Act 1998 as amended by paragraph 6 of Schedule 11 to the Government of Wales Act 2006 in relation to the Assembly general election in 2007.

(e) the constituency returning officer for any Assembly constituency in the Assembly electoral region for which the election is held,
may be present at the proceedings on the ascertainment of the results, unless permitted by the regional returning officer to attend.

(4) A person not entitled to attend at the proceedings shall not be permitted to do so by the regional returning officer unless he—

- (a) is satisfied that the efficient ascertainment of the results will not be impeded; and
- (b) has either consulted the election agents or thought it impracticable to do so.

(5) The regional returning officer shall give the election agents and candidates all such reasonable facilities for overseeing the proceedings and all such information with respect to them (including for satisfying themselves that the ascertainment of the result that he is required to make is accurate), as he can give them consistent with the orderly conduct of the proceedings and the discharge of his duties in connection with them.

(6) The regional returning officer shall provisionally ascertain the results of the poll and notify that provisional ascertainment to such of the following persons who are present, namely—

- (a) an individual candidate or his election agent; and
- (b) the election agent for a registered political party standing nominated or (in his absence) one of the candidates on the list submitted by that party.

(7) A person to whom notification under paragraph (6) has been given may require the regional returning officer to ascertain provisionally those results again but the regional returning officer may refuse to do so if in his opinion the request is unreasonable.

(8) No step shall be taken to complete the ascertainment of the result until the persons notified under paragraph (6) have been given a reasonable opportunity to exercise the right conferred under paragraph (7).

(9) Where the regional returning officer has provisionally ascertained the results again under paragraph (7), paragraphs (6), (7) and (8) and this paragraph shall apply to the further provisional ascertainment.

(10) If in ascertaining the results of the poll the regional returning officer is required to draw lots⁽²⁴⁾, he shall allocate the seat to the individual candidate or party on whom the lot falls.

(11) The regional returning officer shall have completed ascertaining the results of the poll when following a provisional ascertainment—

- (a) there is no request under paragraph (7) for him to make a further provisional ascertainment; or
- (b) if there is such a request, the regional returning officer refuses to make a further provisional ascertainment.

(12) This paragraph applies where the regional returning officer is notified under rule 62(3) that a candidate who is returned as the Assembly member for a constituency is the candidate of more than one registered political party.

(13) In a case to which paragraph (12) applies, the regional returning officer shall, in calculating the electoral region figure of a registered political party named in the notification, include that candidate as a candidate of that party; and in doing so shall disregard the fact that, for the purposes of calculating the electoral region figure of another registered political party named in that notification, the candidate is also included as the candidate of that other registered political party.

⁽²⁴⁾ See section 7(9) of the Government of Wales Act 1998 in relation to the Assembly general election in 2007; and see section 9(9) of the Government of Wales Act 2006 in relation to any subsequent Assembly general election.

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Declaration of results at a regional election

64.—(1) After the regional returning officer has ascertained the results of the poll, he shall forthwith—

- (a) announce the individual candidates or the registered political parties to whom seats have been allocated (together with the names of the party list candidates who are to fill such seats);
- (b) declare those individual or party list candidates to have been elected;
- (c) return the names of those persons to the Clerk (and, in respect of any party list candidate, the name of the registered political party for which he was such a candidate) in accordance with paragraph (3); and
- (d) give public notice—
 - (i) of the name of any individual candidate elected;
 - (ii) of the name of any party list candidate elected (and the name of the registered political party for which he was such a candidate);
 - (iii) of the total number of votes given for each individual candidate or registered political party together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers; and
 - (iv) in respect of the number of votes referred to in sub-paragraph (iii), a breakdown of the number of votes given for each such candidate or party in each Assembly constituency in the Assembly electoral region.

(2) At an uncontested regional election the statement of persons nominated, in addition to showing the registered political parties and other persons standing nominated, shall also—

- (a) set out the individual candidates or the registered political parties to whom seats have been allocated (together with the names of the party list candidates who are to fill such seats); and
- (b) declare those individual or party list candidates to have been elected and returned,

and the regional returning officer shall forthwith return the names of those persons to the Clerk (and, in respect of any party list candidate, the name of the registered political party for which he was such a candidate) in accordance with paragraph (3).

(3) For the purposes of paragraphs (1)(c) and (2) the regional returning officer shall return those names required to be returned, by—

- (a) completing a certificate in form CS set out in English and Welsh in Schedule 10, (declaring the candidate to be returned); and
- (b) delivering it, or causing it to be delivered, to the Clerk.

Return or forfeiture of deposit

65.—(1) The deposit made at an Assembly election under rule 10 shall either be—

- (a) returned to the person making it or his personal representatives, in the case of a candidate at a constituency election or an individual candidate at a regional election;
- (b) returned to the registered nominating officer of a registered political party which has submitted a party list, in the case of a regional election; or
- (c) forfeited to the Secretary of State.

(2) Except in the cases mentioned in this rule, the deposit shall be returned not later than the next day after that on which the result or results of the election are declared.

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

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- (a) a day shall be disregarded if it would be disregarded under rule 2 in computing any period of time for the purposes of the timetable for the election; and
- (b) the deposit shall be treated as being returned on a day if a cheque for the amount of the deposit is posted on that day.

(4) If, in the case of a constituency election, a candidate is not shown as standing nominated in the statement of persons nominated, or if the poll is countermanded or abandoned by reason of his death, his deposit shall be returned as soon as practicable after the publication of the statement or after his death⁽²⁵⁾, as the case may be.

(5) If, in the case of a regional election, an individual candidate or a registered political party is not shown as standing nominated in the statement of persons nominated, his or their deposit shall be returned as soon as practicable after publication of the statement.

(6) Subject to paragraph (4) the deposit shall be forfeited if in the case of a candidate for return as a constituency member, a poll is taken and after the counting of the votes by the constituency returning officer (including any re-count) is completed, the candidate is found to have polled not more than one twentieth of the total number of votes polled by all candidates in the constituency.

(7) Subject to paragraph (5), the deposit shall be forfeited if, in the case of a registered political party standing nominated or an individual candidate for return as a regional member, a poll is taken and after the total number of votes given for each registered party and each individual candidate has been counted, the registered political party or individual candidate is found to have polled not more than one twentieth of the total number of votes polled by all registered political parties and individual candidates in the region.

(8) Notwithstanding anything in paragraphs (2) to (7), if at an Assembly election a person is standing nominated as—

- (a) a candidate at a constituency election; or
- (b) an individual or party list candidate at a regional election,

and by virtue of such nomination he is in breach of—

- (i) in relation to a constituency candidate, section 4(7) or section 8(7) of the 1998 Act; or
- (ii) in relation to an individual or party list candidate, section 5(5) or, as the case may be section 5(6) of the 1998 Act⁽²⁶⁾,

then not more than one of the deposits shall be returned and, if necessary, the Secretary of State shall determine which it is to be.

(9) In respect of an Assembly election held after the 2007 Assembly general election, paragraph (8) shall have effect as if—

- (a) in sub-paragraph (i), the references to sections 4(7) and 8(7) of the 1998 Act were respectively a reference to sections 7(1) and 10(9) of the 2006 Act; and
- (b) in sub-paragraph (ii), the references to section 5(5) and section 5(6) of the 1998 Act, were respectively a reference to section 7(5) and section 7(6) of the 2006 Act.

⁽²⁵⁾ See also Part 6 (Death of candidate) for further provision as to the return of deposits.

⁽²⁶⁾ Section 5(5) and (6) of the Government of Wales Act is amended by paragraph 5 of Schedule 11 to the Government of Wales Act 2006.

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PART 5

Disposal of documents

Sealing up of ballot papers

66.—(1) On the completion of the counting at a contested Assembly election the constituency returning officer shall seal up in separate packets the counted and rejected ballot papers.

(2) Where the polls at a constituency election and a regional election are taken together packets sealed up under paragraph (1) shall not contain ballot papers relating to different elections.

(3) The constituency returning officer shall not open the sealed packets of—

- (a) tendered ballot papers;
- (b) the completed corresponding number lists;
- (c) certificates as to employment on duty on the day of the poll; or
- (d) marked copies of the register of electors (including any marked copy notices issued under section 13B(3B) or (3D) of the 1983 Act) and lists of proxies.

Delivery of documents to relevant registration officer

67.—(1) Where a constituency returning officer has conducted a count where the poll at a constituency election and a regional election have been taken together, he shall then forward to the relevant registration officer the following documents—

- (a) the packets of ballot papers in his possession relating to a constituency election;
- (b) the packets of ballot papers in his possession relating to a regional election;
- (c) the ballot paper accounts and the statements of rejected ballot papers and of the result of the verification of the ballot paper accounts relating to a constituency election;
- (d) the ballot paper accounts and the statements of rejected ballot papers and of the result of the verification of the ballot paper accounts relating to a regional election;
- (e) the tendered votes lists, the lists of voters with disabilities assisted by companions, the lists of votes marked by the presiding officer and the related statements, the lists maintained under rule 51 and the declarations made by the companions of voters with disabilities relating to the election, or as the case may be, elections;
- (f) the packets of the completed corresponding number lists;
- (g) the packets of the certificates as to employment on duty on the day of the poll relating to the election, or as the case may be, elections; and
- (h) the packets containing marked copies of registers (including any marked copy notices issued under section 13B(3B) or (3D) of the 1983 Act) and of the postal voters list, of lists of proxies and of the proxy postal voters list relating to the election, or as the case may be elections,

endorsing on each packet—

- (i) a description of its contents;
- (ii) the date of the election or elections to which they relate;
- (iii) where the packet relates to a constituency election, the name of the Assembly constituency for which the election was held;
- (iv) where the packet relates to a regional election, the name of the Assembly electoral region for which the election was held and the name of the Assembly constituency in which the electoral region votes were given; and

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(v) where the packet relates to both a constituency and a regional election, the name of the Assembly constituency and electoral region for which the elections were held.

(2) Where a constituency returning officer has conducted a count at an Assembly election and paragraph (1) does not apply, he shall then forward to the relevant registration officer the following documents—

- (a) the packets of ballot papers in his possession;
- (b) the ballot paper accounts and the statements of rejected ballot papers and of the result of the verification of the ballot paper accounts;
- (c) the tendered votes lists, the lists of voters with disabilities assisted by companions, the lists of votes marked by the presiding officer and the related statements, the lists maintained under rule 51 and the declarations made by the companions of voters with disabilities;
- (d) the packets of the completed corresponding number lists;
- (e) the packets of the certificates as to employment on duty on the day of the poll; and
- (f) the packets containing marked copies of registers (including any marked copy notices issued under section 13B(3B) or (3D) of the 1983 Act) and of the postal voters list, of lists of proxies and of the proxy postal voters list,

endorsing on each packet—

- (i) a description of its contents;
- (ii) the date of the election to which they relate;
- (iii) the name of the Assembly constituency or electoral region for which the election was held; and
- (iv) in the case of a regional election, the name of the Assembly constituency in which the electoral region votes were given.

Order for production of documents

68.—(1) An order—

- (a) for the inspection or production of any rejected ballot papers in the custody of the relevant registration officer; or
- (b) for the opening of a sealed packet of the completed corresponding number lists or of certificates as to employment on duty on the day of the poll or the inspection of any counted ballot papers in his custody,

may be made if satisfied by evidence on oath that the order is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of an Assembly election petition, by the High Court or a county court.

(2) An order for the opening of a sealed packet referred to in paragraph (1)(b) or for the inspection of any counted ballot papers in the relevant registration officer's custody may be made by an election court.

(3) An order under this paragraph may be made subject to such conditions as to—

- (a) persons;
- (b) time;
- (c) place and mode of inspection; or
- (d) production or opening,

as the court making the order may think expedient; but in making and carrying into effect an order for the opening of a sealed packet referred to in paragraph (1)(b) or for the inspection of counted ballot papers, care shall be taken that the way in which the vote of any particular elector has been given shall not be disclosed until it has been proved—

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- (i) that his vote was given; and
- (ii) that the vote has been declared by a competent court to be invalid.
- (4) An appeal lies to the High Court from any order of a county court under this paragraph.
- (5) Any power given under this rule to the High Court, or to a county court, may be exercised by any judge of the court otherwise than in open court.
- (6) Where an order is made for the production by the relevant registration officer of any document in his possession relating to any specified election—
 - (a) the production by him or his agent of the document ordered in such manner as may be directed by that order shall be conclusive evidence that the document relates to the specified election; and
 - (b) any endorsement on any packet of ballot papers so produced shall be prima facie evidence that the ballot papers are what they are stated to be by the endorsement.
- (7) The production from proper custody of—
 - (a) a ballot paper purporting to have been used at any election; and
 - (b) a completed corresponding number list with a number marked in writing beside the number of the ballot paper,

shall be prima facie evidence that the elector whose vote was given by that ballot paper was the person whose entry in the register of electors or on a notice issued under section 13B(3B) or(3D) of the 1983 Act at the time of the election contained the same number as the number written as mentioned in sub-paragraph (b).

(8) Save as provided by this rule, no person shall be allowed to inspect any rejected or counted ballot papers in the possession of the relevant registration officer or to open any sealed packets referred to in paragraph (1)(b).

Retention and public inspection of documents

69.—(1) The relevant registration officer shall retain for a year all documents⁽²⁷⁾ relating to an election forwarded to him in pursuance of these rules by a constituency returning officer and then, unless otherwise directed by order of the High Court, the Crown Court or a magistrates' court, shall cause them to be destroyed.

(2) Notwithstanding the revocation of the National Assembly for Wales (Representation of the People) Order 2003, rule 64 of Schedule 5 to that Order shall, in relation to documents forwarded to the Assembly under that Schedule and to which that paragraph applied, continue to have effect as if incorporated in this Order.

PART 6

Death of candidate

Constituency election: death of independent candidate

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

⁽²⁷⁾ See sections 42 to 44 of the Electoral Administration Act 2006 (c. 22) as to access to and inspection of such documents. These sections commence on 1st January 2007.

(2) Subject to this rule and rules 71 and 72, these rules apply to the election as if the candidate had not died.

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

- (a) rule 41(1)(c) and (d) (admission to polling station);
- (b) rule 54(5)(b) to (d) (attendance at count); and
- (c) rule 65(6) (forfeiture of deposit).

(4) If only two persons are shown as standing nominated in the statement of persons nominated the returning officer must—

- (a) if polling has not begun, countermand the notice of poll;
- (b) if polling has begun, direct that the poll is abandoned; and
- (c) subject to rule 76, treat the election as an uncontested election.

(5) For the purposes of this rule a person is named or to be named in the ballot paper as an independent candidate if the description (if any) on his nomination paper is not authorised as mentioned in rule 5(1) or (3).

Constituency election: deceased independent candidate wins

71.—(1) This rule applies if at an election mentioned in rule 70(1) the majority of votes is given to the deceased candidate.

(2) Rule 62(1) (declaration of result) does not apply and the constituency returning officer must not complete a certificate under rule 62(4) but must—

- (a) declare that the majority of votes has been given to the deceased candidate;
- (b) declare that no member is returned;
- (c) give public notice of the total number of votes given for each candidate together with the number of rejected ballot papers under each head shown in the statement under rule 58(5); and
- (d) at an Assembly general election, forthwith notify the regional returning officer for the region containing that constituency that the majority of votes has been given to the deceased candidate and that no member is returned for that constituency.

(3) Rule 65 (return or forfeiture of deposit) does not apply in relation to the remaining candidates.

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

(5) A new notice of the election (“the new notice”) must be published on the first working day after the end of the period of seven days starting on the day of the poll of the election mentioned in rule 70(1).

(6) No fresh nomination is necessary in the case of a person shown in the previous statement of persons nominated, and no other nomination may be made.

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

(8) Rule 10 (deposit) does not apply.

(9) Subject to paragraphs (10) and (11), the poll must be held on a day in the period (“the first period”) which starts 15 working days after the day on which the new notice is published and ends 19 working days after that day.

(10) If any of the days within the first period is Maundy Thursday, then—

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- (a) the poll must not be held on Maundy Thursday; but
- (b) the constituency returning officer may fix the day of the poll to be held in the period which starts 20 working days after the day on which the new notice is published and ends 24 working days after that day.

(11) If any of the days within the first period is a day in the period which starts with 22nd December and ends with 2nd January following, the constituency returning officer may fix the day of the poll to be held in the period which starts 20 working days after the day on which the new notice is published and ends 24 working days after that day.

(12) For the purposes of this rule—

- (a) a working day is a day which is not a day mentioned in rule 2; and
- (b) “previous statement of persons nominated” means the statement of persons nominated in operation at the time of the death of the deceased candidate.

Constituency election: deceased independent candidate with equality of votes

72. In an election mentioned in rule 70(1), if—

- (a) rule 60 (equality of votes) applies; and
- (b) any of the candidates to whom that paragraph applies is a deceased candidate,

the deceased candidate must be ignored.

Constituency election: death of party candidate

73.—(1) This rule applies if—

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

(2) The returning officer must—

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

(3) At an Assembly general election, the constituency returning officer must forthwith notify the regional returning officer for the region containing that constituency that notice of the poll at that constituency election has been countermanded or, as the case may be, that the poll has been abandoned and that no member is returned for that constituency.

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

(5) A new notice of the election (“the new notice”) must be published on the first working day after the end of the period of seven days starting on the day the proof of death is given to the constituency returning officer.

(6) No fresh nomination is necessary in the case of a person shown in the previous statement of persons nominated as standing nominated.

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

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

(9) The last day on which a notice of withdrawal of candidature by a person who stands nominated by virtue of paragraph (6) or in pursuance of paragraph (7) may be delivered is the seventh working day after the day on which the new notice of the election is published.

(10) Subject to paragraphs (11) and (12) the poll must be held on a day in the period (“the first period”) which starts 15 working days after the day on which the new notice is published and ends 19 working days after that day.

(11) If any of the days within the first period is Maundy Thursday, then—

- (a) the poll must not be held on Maundy Thursday; but
- (b) the constituency returning officer may fix the day of the poll to be held in the period which starts 20 working days after the day on which the new notice is published and ends 24 working days after that day.

(12) If any of the days within the first period is a day in the period which starts with 22nd December and ends with 2nd January following, the constituency returning officer may fix the day of the poll to be held in the period which starts 20 working days after the day on which the new notice is published and ends 24 working days after that day.

(13) For the purposes of this rule—

- (a) a person stands in the name of a registered political party if his nomination paper contains a description which is authorised as mentioned in rule 5(1) or (3) and where the description is authorised under rule 5(3), references to “party” shall be construed as referring to each party by whom use of that description is authorised;
- (b) a working day is a day which is not specified in rule 2(a) to (d); and
- (c) “previous statement of person nominated” means the statement of persons nominated in operation at the time of the death of the person standing in the name of the registered political party.

Regional election: effect of countermand or abandonment of constituency poll

74.—(1) Where at an Assembly general election, there is a contested regional election and the poll or declaration of result at a constituency election for an Assembly constituency in the Assembly electoral region is postponed in accordance with rule 71 or 73, rule 63(1)(b) shall be satisfied when the regional returning officer has received the notification required by rule 62(3) in respect of each of the other Assembly constituencies in the Assembly electoral region (other than in respect of an Assembly constituency to which this sub-paragraph also applies).

(2) Where paragraph (1) applies, the subsequent election of a candidate for the Assembly constituency shall have no effect upon the validity of the election and return of any member at the regional election.

Regional election: death of candidate

75.—(1) If at a contested regional election proof is given to the regional returning officer’s satisfaction before the results of the election are declared that one of the persons named or to be named as a candidate on the ballot paper (whether as an individual or party list candidate) has died and as a result of that death the election becomes uncontested, then the regional returning officer shall—

- (a) countermand notice of the poll; or
- (b) if polling has begun, direct that the poll be abandoned; and
- (c) in either case, forthwith notify each constituency returning officer in the Assembly electoral region of the action that he has taken.

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(2) If at a contested regional election proof is given to the regional returning officer's satisfaction before the results of the election are declared that one of the persons named or to be named as a candidate on the ballot paper (whether as an individual or party list candidate) has died, but notwithstanding that death the election continues to be contested, the notice of poll shall not be countermanded nor shall the poll be abandoned; and in the event of such a death it shall have no effect upon the validity of the election and return of any other candidate at the regional election.

(3) But where paragraph (2) applies, the regional returning officer shall take such steps as he considers reasonable to publicise in the Assembly electoral region for which the election is held—

- (a) the name of that candidate and the fact of his death;
- (b) whether that candidate was an individual or party list candidate; and
- (c) if he was a party list candidate, the name of the registered political party for which he was such a candidate,

and the regional returning officer shall, in particular, consider whether he should publicise as required by this paragraph by causing notices to be placed outside polling stations.

(4) In respect of an election to which paragraph (1) or (2) applies, rules 41(1)(c) and (d) (admission to polling station) and 54(5)(b) to (d) (attendance at count) do not apply in relation to the deceased candidate; and where the deceased candidate is an individual candidate, rule 65(6) (forfeiture of deposit) also does not apply in relation to that deceased candidate.

Abandoned poll

76.—(1) This rule applies to—

- (a) a poll which is abandoned in pursuance of rule 70(4)(b) or 75(1)(b) as if it were a poll at a contested election; and
- (b) a poll which is abandoned in pursuance of rule 73(2)(b).

(2) Subject to paragraph (10) the presiding officer at a polling station must take the like steps (so far as not already taken) for the delivery to the constituency returning officer of ballot boxes and of ballot papers and other documents as he is required to take on the close of the poll.

(3) The constituency returning officer must dispose of ballot papers and other documents in his possession as he is required to do on the completion of the counting of the votes.

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

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

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

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

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

(9) No order is to be made for—

- (a) the production or inspection of any ballot papers; or
- (b) the opening of a sealed packet of the completed corresponding number lists or of certificates as to employment on the day of the poll,

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

(10) Where the polls at a regional election and at a constituency election for a constituency within that region are held on the same day but the poll at one election is abandoned in any of the circumstances mentioned in paragraph (1)—

- (a) the steps which the presiding officer is required to take at such a polling station by sub-paragraph (2) shall take place at the close of the poll at the other election; and
- (b) sub-paragraph (3) shall have effect as if after “the constituency returning officer”, there was inserted “having separated the ballot papers relating to the other Assembly election”, and

paragraphs (4) to (9) shall apply only to the election at which the poll has been abandoned.

PART 7

Miscellaneous

Vacancies: Assembly constituency seats

77. Where the date of the poll to fill a vacant seat for an Assembly constituency is fixed by the Presiding Officer of the Assembly(28) he shall forthwith send a notice to the returning officer for the Assembly constituency stating—

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

Vacancies: return of electoral region members

78.—(1) Other than where article 101 applies, where it comes to the notice of the Presiding Officer of the Assembly that the seat of an Assembly member returned from a party list for an Assembly electoral region is vacant, he shall forthwith send a notice in accordance with paragraph (2) to the returning officer for the Assembly electoral region(29).

(2) A notice under paragraph (1) shall—

- (a) state that a vacancy exists; and
- (b) set out the name of the person who had been returned to fill that seat, together with the name of the registered political party on whose list he was included.

(3) Where a regional returning officer receives a notice under paragraph (1), he shall ascertain from the list submitted at the previous Assembly general election by the registered political party named in the notice the name and address of the person whose name now appears highest on that list (“the prospective member”).

(4) The regional returning officer shall take such steps as appear to him to be reasonable—

- (a) to contact the prospective member to ask whether he will state that he is willing to serve as an Assembly member for the Assembly electoral region; and
- (b) to contact the registered nominating officer of the registered political party on whose list that person is included and notify that officer of the action he is taking under sub-paragraph (a).

(5) Where within such period as the regional returning officer considers reasonable—

(28) See Section 10(4) of the Government of Wales Act 2006. By virtue of section 8(6) of the Government of Wales Act 1998, section 8 of that Act of 1998 is now spent in relation to such vacancies occurring before the Assembly general election in 2007.

(29) In relation to a vacancy occurring before the Assembly general election in 2007, see section 9 of that Act of 1998 and in relation to subsequent vacancies see section 11 of that Act of 2006 as modified by paragraph 7 of Schedule 11 to that Act of 2006.

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- (a) he decides that the steps he has taken to contact the prospective member have been unsuccessful; or
- (b) he has not received from the prospective member a statement in writing that he is willing to serve as an Assembly member for the Assembly electoral region; or
- (c) the prospective member has stated in writing he is not willing to so serve as an Assembly member; or
- (d) the regional returning officer—
 - (i) is satisfied that the prospective member is not a member of the registered political party on whose list he is included; and
 - (ii) receives notice signed by the registered nominating officer of that party that the prospective member's name is not to be notified to the Presiding Officer of the Assembly as the name of the person who is to fill the vacancy⁽³⁰⁾,

the prospective member shall be treated as ceasing to be included on that list for the purposes of filling that vacancy.

(6) Where a person is so treated, the regional returning officer shall repeat the procedure required by paragraph (4) in respect of the person (if any) whose name and address appears next highest on that list; and paragraph (5) and this paragraph shall also apply with respect to that person.

(7) The regional returning officer shall continue to repeat the procedure until he has notified to the Presiding Officer of the Assembly the name of the person who is to fill the vacancy or the names on that list are exhausted.

(8) Subject to paragraph (5)(d), where a prospective member states in writing in response to the question from the regional returning officer under paragraph (4)(a) (including that sub-paragraph as applied by paragraph (6)) that he is willing to serve as an Assembly member for the Assembly electoral region, the regional returning officer shall forthwith notify to the Presiding Officer of the Assembly the name of that person as the person to fill the vacancy⁽³¹⁾.

(9) The regional returning officer shall forthwith give public notice of the name—

- (a) of the member to be returned; and
- (b) of the registered political party for which such a member was a party list candidate.

(10) Where following the application of this rule the seat continues to be vacant the regional returning officer shall forthwith—

- (a) give public notice that the vacancy cannot be filled and that the seat will remain vacant until the next Assembly general election by virtue of the relevant enactment;
- (b) complete a certificate in form CT set out in English and Welsh in Schedule 10; and
- (c) deliver it, or cause it to be delivered, to the Clerk.

(11) In paragraph (10) “the relevant enactment” means, in respect of a vacancy occurring before the 2007 Assembly general election, section 9(7)(b) of the 1998 Act and in respect of vacancies occurring after that election, section 11(7)(b) of the 2006 Act.

(12) References to “the Clerk” in paragraph (10)(c) and in rule 79(1) shall, in relation to any vacancy in an Assembly electoral region occurring before the 2007 Assembly general election, be construed as references to the Clerk to the Assembly constituted by the 1998 Act.

⁽³⁰⁾ See section 9(4) of the Government of Wales Act 1998 in relation to a vacancy occurring before the Assembly general election in 2007; for subsequent elections see section 11(4) of the Government of Wales Act 2006.

⁽³¹⁾ That person is treated as having been declared to be returned as an Assembly regional member on the day the notification is received by the Presiding Officer of the Assembly, see section 9(6) of the Government of Wales Act 1998 in relation to a vacancy occurring before the 2007 Assembly general election; and section 11(6) of the Government of Wales Act 2006 in relation to subsequent vacancies.

Return of Assembly members and record of returns etc

79.—(1) The Clerk shall on receipt of a certificate delivered under rule 62(4), 64(3) or 78(10) enter the information contained in the certificate in a book kept for that purpose at the Assembly (in this paragraph referred to as “the returns book”).

(2) Where the Presiding Officer of the Assembly sends a notice under rule 77 or 78(1), he shall record in the returns book the fact of the vacancy in the Assembly constituency or electoral region concerned.

(3) Where the Presiding Officer of the Assembly is notified under rule 78(8) of the name of the person who is to fill an Assembly electoral region vacancy, he shall record in the returns book the name of that person, the name of the relevant Assembly electoral region and also the date on which he received that notification.

(4) Where a vacancy in an Assembly constituency can not be filled because, under the relevant enactment, an election to fill that vacancy must not be held⁽³²⁾, the Presiding Officer of the Assembly shall record in the returns book that—

- (a) there is a vacancy in the Assembly constituency concerned; and
- (b) under the relevant enactment, the seat is to remain vacant until the next Assembly general election.

(5) Where it comes to the notice of the Presiding Officer of the Assembly that—

- (a) the seat of an Assembly member returned for an Assembly electoral region is vacant; and
- (b) the person was returned as an individual candidate,

he shall record in the returns book that—

- (i) there is a vacancy in the Assembly electoral region concerned; and
- (ii) under the relevant enactment, the seat is to remain vacant until the next Assembly general election.

(6) The returns book shall be open to public inspection at reasonable times and any person may, on payment of a reasonable fee, obtain copies from the book.

(7) “The relevant enactment” means in relation to—

- (a) a vacancy in an Assembly constituency, section 8(6) of the 1998 Act, in respect of a vacancy occurring before the 2007 Assembly general election and section 10(7) of the 2006 Act in relation to a vacancy occurring after that election; and
- (b) a vacancy in an Assembly electoral region for which an individual candidate was the member, section 9(7)(a) of the 1998 Act, in respect of a vacancy occurring before the 2007 Assembly general election and section 11(7)(a) of the 2006 Act in relation to a vacancy occurring after that election.

Registered political parties

80.—(1) For the purposes of the application of these rules in relation to an Assembly election “registered political party” means a party which was registered under Part 2 of the 2000 Political Parties Act on the day (“the relevant day”) which is two days before the last day for the delivery of nomination papers at the election in accordance with the Table in rule 1(1).

(2) A registered political party is a qualifying party in relation to an Assembly constituency or electoral region if the party was on the relevant day registered in respect of Wales in the Great Britain register maintained under that Part of that Act.

⁽³²⁾ As to the circumstances in which elections to fill vacancies in Assembly constituencies must be held and when they must not, see section 8 of the Government of Wales Act 1998 in respect of vacancies occurring before the Assembly general election to be held in 2007; and section 10 of the Government of Wales Act 2006 in respect of vacancies occurring after that election.

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(3) For the purposes of paragraph (1) any day as mentioned in rule 2 should be disregarded.

Party's registered nominating officer: discharge of functions

81.—(1) A registered nominating officer for a registered political party may, in writing, appoint one or more persons to discharge all or any of his functions conferred or imposed by these rules.

(2) Where an appointment is made under paragraph (1), a copy of the document which records the writing required by that paragraph shall be delivered—

- (a) to the constituency returning officer, in the case of a constituency election;
- (b) to the regional returning officer, in the case of a regional election; and
- (c) to each constituency returning officer for an Assembly constituency in the Assembly electoral region, in the case of a regional election.

(3) Where a returning officer does not receive a copy of the document required to be delivered to him under paragraph (2), he shall be entitled to treat any function of the registered nominating officer purportedly exercised (or to be exercised) on his behalf by another person as not so exercised (or exercisable).