

SCHEDULE 1

Article 4(2)

ELECTORS REGISTERS: MISCELLANEOUS AND RELATED PROVISIONS

ARRANGEMENT OF PARAGRAPHS

1. Supply of free copy of full register for electoral purposes
2. Supply of full register etc under paragraphs 3 and 4: general provisions
3. Supply of full register etc to elected representatives for electoral purposes and restrictions on use
4. Supply of full register etc to certain candidates and restrictions on use
Signature
Explanatory Note

Supply of free copy of full register for electoral purposes

1.—(1) As soon as practicable after the relevant date, a registration officer shall supply free of charge to the returning officer for the council, or as the case may be, each council, constituted under section 2 of the Local Government etc (Scotland) Act 1994 for his registration area as many printed copies of—

- (a) the latest revised version of the register published under section 13(1) or (3) of the 1983 Act, as the case may be;
- (b) any notice setting out an alteration to the version of the register published under section 13A(2) or 13B(3), (3B) or (3D)(1) of that Act; and
- (c) any record of anonymous entries,

as the returning officer may reasonably require for the purposes of a Scottish Parliamentary election.

(2) In sub-paragraph (1)—

- (a) “relevant date” means—
 - (i) in the case of a general election of members of the Scottish Parliament the date of the dissolution of the Scottish Parliament as provided for at section 2(3)(a) of the Scotland Act 1998;
 - (ii) where the Presiding Officer has proposed a day for the holding of the poll under section 2(5) or 3(2) of the Scotland Act 1998, the announcement of Her Majesty’s intention to dissolve the Parliament; or
 - (iii) the occurrence of a vacancy of a constituency seat in the relevant constituency; and
- (b) the duty to supply as many printed copies of the register and notices as the returning officer may reasonably require includes a duty to supply one copy of each in data form.

(3) No person to whom a copy of the register has been supplied under this paragraph may—

- (a) supply a copy of the full register;
- (b) disclose any information contained in it (that is not contained in the edited register); or
- (c) make use of any such information,

except for the purposes of an election.

(1) Sections 13A and 13B were added by the 2000 Act, Schedule 1, paragraph 6. Section 13B was amended by section 11(2) of the 2006 Act.

Status: This is the original version (as it was originally made).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

Supply of full register etc under paragraphs 3 and 4: general provisions

2.—(1) The persons or organisations falling within paragraph 3 or 4 may request the registration officer to supply free of charge the relevant part (within the meaning of those paragraphs) of any of the following:—

- (a) a revised version of the register published under section 13(1) or (3) of the 1983 Act;
- (b) any notice setting out an alteration to the register published under section 13A(2) or 13B(3), (3B) or (3D) of that Act.

(2) Such a request shall be made in writing and shall—

- (a) specify the documents requested;
- (b) subject to sub-paragraph (5), state whether the request is made only in respect of the current documents or whether it includes a request for the supply of any subsequent document on publication for as long as the person making the request falls within the category of person entitled to receive such copies; and
- (c) state whether a printed copy of any of the documents is requested instead of the version in data form.

(3) Unless a request has been made in advance of supply under sub-paragraph (2)(c), the copy of a document supplied under this paragraph shall be in data form.

(4) The registration officer shall supply the relevant part of the documents referred to in sub-paragraph (1) in accordance with a request that has been duly made.

(5) A person falling within paragraph 4 may not make the request set out in sub-paragraph (2)(b).

(6) A person who obtains a copy of any document under sub-paragraph (4) may use it for any purpose for which that person would be entitled to obtain that document under this Schedule and any restrictions which apply under whichever of paragraph 3 or 4 entitles that person to obtain that document for that purpose shall apply to such use.

Supply of full register etc to elected representatives for electoral purposes and restrictions on use

3.—(1) This paragraph applies to—

- (a) a constituency member of the Scottish Parliament for a constituency which is situated wholly or partly within the registration area;
- (b) each regional member of the Scottish Parliament for an electoral region in which the registration area is situated.

(2) For the purposes of paragraph 2(1) the relevant part of the documents listed in that provision—

- (a) in the case of a constituency member of the Scottish Parliament, is so much of them as relates to the whole or any part of the constituency which he represents as falls within the registration area;
- (b) in the case of a regional member of the Scottish Parliament, is the whole of them.

(3) No person to whom this paragraph applies and who has been supplied with a copy of the register may—

- (a) supply a copy of the full register to any person;
- (b) disclose any information contained in it (that is not contained in the edited register); or
- (c) make use of any such information,

except for purposes in connection with the office by virtue of which he is entitled to the full register or for electoral purposes.

(4) In this paragraph and paragraph 4 a reference to the edited register is a reference to the version of the register published under regulation 93 of the Representation of the People (Scotland) Regulations 2001⁽²⁾.

Supply of full register etc to certain candidates and restrictions on use

4.—(1) This paragraph applies to a candidate at a Scottish Parliamentary election where any part of the area in respect of which the candidate stands for election includes the whole or part of the registration area.

(2) In this paragraph “candidate” includes an individual regional candidate at a Scottish Parliamentary election.

(3) In the case of a registered political party which submits a list of candidates as regional members at a Scottish Parliamentary election, the entitlement otherwise conferred by this paragraph on a candidate is conferred on the election agent of that party.

(4) For the purposes of paragraph 2(1), the relevant part of the documents listed in that provision is so much of them as relates to the area for which the candidate is standing.

(5) No candidate or election agent to whom a copy of the register has been supplied by virtue of this regulation may—

- (a) supply a copy of the full register to any person;
- (b) disclose any information contained in it (that is not contained in the edited register); or
- (c) make use of any such information,

except for electoral purposes.

SCHEDULE 2

Article 7(4)

SCOTTISH PARLIAMENTARY ELECTION RULES

ARRANGEMENT OF RULES

PART I

Provisions as to time

1. Timetable
2. Timetable – Election to fill a vacancy in a constituency seat
3. Computation of time

PART II

STAGES COMMON TO CONTESTED AND UNCONTESTED ELECTIONS

Notice of election

4. Notice of election

(2) S.I.2001/497; regulation 93 was inserted by S.I. 2002/1872, article 14.

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

Nomination

5. Nomination of candidate for return as a constituency member
6. Nomination of individual candidate for return as a regional member
7. Nomination of candidates on a regional list
8. Constituency nomination papers: name of registered party
9. Nomination papers and regional lists: miscellaneous
10. Consent to nomination
11. Deposit
12. Place for delivery of constituency nomination papers
13. Place for delivery of individual nomination papers and regional lists
14. Right to attend nomination
15. Decisions as to validity of constituency nomination papers
16. Decisions as to validity of individual nomination papers
17. Decisions as to validity of regional lists and as to the validity of nominations included on such a list
18. Withdrawal of candidates
19. Publication of statement of persons nominated as candidates for return as a constituency member
20. Publication of statement of persons and parties nominated for return as regional members
21. Disqualification by Representation of the People Act 1981: candidates for return as constituency members
22. Disqualification by Representation of the People Act 1981: candidates for return as regional members
23. Adjournment of nomination proceedings in the case of riot
24. Method of election: candidates for return as constituency members
25. Method of election: candidates for return as regional members

PART III

CONTESTED ELECTIONS

General Provisions

26. Poll to be taken by ballot
27. The ballot paper: constituency candidates
28. The ballot paper: regional candidates
29. Corresponding number list
30. The official mark
31. Prohibition of disclosure of vote
32. Use of schools and public rooms

Action to be taken before the poll

33. Notice of poll
34. Postal ballot papers
35. Provision of polling stations
36. Appointment of presiding officers and clerks
37. Issue of official poll cards
38. Equipment of polling stations
39. Appointment of polling and counting agents
40. Notification of requirement of secrecy

The Poll

41. Admission to polling station
42. Keeping of order in station
43. Sealing of ballot boxes
44. Questions to be put to voters
45. Challenge of voter
46. Voting procedure
47. Votes marked by presiding officer
48. Voting by persons with disabilities
49. Tendered ballot papers
50. Spoilt ballot papers
51. Correction of errors on day of poll
52. Adjournment of poll in case of riot
53. Procedure on close of poll

Counting of votes

54. Attendance at counting of votes
55. The count
56. Re-count: constituency election
57. Re-count: regional votes in a constituency
58. Rejected ballot papers
59. Decisions on ballot papers
60. Equality of votes: election for return of constituency members
61. Conveying results of count etc. to regional returning officer

PART IV

FINAL PROCEEDINGS IN CONTESTED AND UNCONTESTED ELECTIONS

62. Declaration of result: constituency members
63. Attendance at allocation of seats for regional members
64. Allocation of seats
65. Equality of votes at poll for return of regional members
66. Declaration of results: regional members
67. Return or forfeiture of deposit

PART V

DISPOSAL OF DOCUMENTS

68. Sealing up of ballot papers
69. Delivery of documents to the sheriff clerk
70. Orders for production of documents and records
71. Retention and public inspection of documents

PART VI

DEATH OF CANDIDATE

72. Countermand or abandonment of poll etc. on death of candidate

PART VII

MISCELLANEOUS

73. Return of members and record of returns etc

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

Signature
Explanatory Note

PART I

Provisions as to time

Timetable

1.—(1) The proceedings at a Scottish Parliamentary election shall, subject to rule 2, be conducted in accordance with the following Table—

<i>Proceeding</i>	<i>Time</i>
Publication of notice of election.	Not earlier than the twenty-eighth day before the date of the poll and not later than the twenty-first day before the date of the poll.
Delivery of nomination papers.	Not later than 4 pm on any day after the date of the publication of the notice of election but not later than the sixteenth day before the date of the poll.
The making of objections to nomination papers.	During the hours allowed for delivery of nomination papers on the last day for their delivery and the hour following, but— (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 (b) the foregoing provisions do not apply to objections made in pursuance of rule 21 or 22.
Delivery of notice of withdrawal of candidature.	Within the time for the delivery of nomination papers at the election.
Publication of statement of persons nominated.	(a) (a) if no objections to nomination papers are made, at the close of the time for doing so, or (b) if any such objections are made, not before they are disposed of but not later than 24 hours after the last time for delivery of nomination papers.
Polling	Between the hours of 7 am and 10 pm on the date of the poll.

(2) Except in relation to the substitutions made by rule 2, in the Table in paragraph (1) the reference to “nomination papers” includes constituency nomination papers, individual nomination papers and regional lists.

Timetable – Election to fill a vacancy in a constituency seat

2. In the case of an election under section 9 of the Scotland Act 1998 (constituency vacancies), the proceedings shall be conducted in accordance with the Table in rule 1(1), but subject to the following substitutions–

(a) for the first entry in the Table substitute–

“Publication of notice of election to fill a constituency vacancy.	Not earlier than the twenty-eighth day before the date of the poll and not later than the fourteenth day before the date of the poll”; and
--	--

(b) for the second entry in the Table substitute–

“Delivery of constituency nomination papers	Not later than 4 pm on any day after the date of the publication of the notice of the election but not later than the eleventh day before the date of the poll.”.
---	---

Computation of time

3. In computing any period of time for the purposes of the Table in rule 1(1)–

- (a) a Saturday or Sunday;
- (b) Christmas Eve, Christmas Day, Good Friday or Easter Monday;
- (c) a day which is a bank holiday in Scotland under the Banking and Financial Dealings Act 1971(3); 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.

PART II

STAGES COMMON TO CONTESTED AND UNCONTESTED ELECTIONS

Notice of election

Notice of election

- 4.—(1) The constituency returning officer shall publish notice of the election stating–
- (a) the place and times at which constituency nomination papers are to be delivered;
 - (b) that forms of such nomination papers may be obtained at that place and at those times; and
 - (c) the date of the poll in the event of a contest.
- (2) The regional returning officer shall publish a notice of election stating–
- (a) the place or places and times at which individual nomination papers and regional lists are to be delivered;

(3) 1971 c. 80.

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

- (b) that forms of such papers and lists 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.
- (3) A notice of election under paragraph (1) or (2) shall state the dates by which—
- (a) applications to vote by post or by proxy; and
 - (b) 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) A notice of election under paragraph (1) or (2) must also state the arrangements which apply for the payment of the deposit required by rule 11 to be made by means of the electronic transfer of funds.

Nomination

Nomination of candidate for return as a constituency member

5.—(1) Each candidate for return as a constituency member shall be nominated by a separate nomination paper (referred to in these Rules as a “constituency nomination paper”), in the form F set out in the Appendix, delivered to the constituency returning officer at the place fixed for the purpose.

(2) The constituency nomination paper shall be signed by the candidate and by a witness to the candidate’s signature.

- (3) The constituency nomination paper shall state the candidate’s—
- (a) name in full;
 - (b) home address in full; and
 - (c) if desired, description,

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

- (4) 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.

- (5) The description, if any, must consist of either—
- (a) the name of the party registered under section 28 of the 2000 Political Parties Act;
 - (b) a description registered for use by a political party or parties under section 28A or 28B of the 2000 Political Parties Act⁽⁴⁾ and which is authorised as mentioned in rule 8; or
 - (c) the word “Independent”.

(6) The constituency nomination paper shall also state the name and address of the witness to the candidate’s signature.

Nomination of individual candidate for return as a regional member

6.—(1) Each individual candidate for return as a regional member shall be nominated by a separate nomination paper (referred to in these rules as an “individual nomination paper”), in the form G set out in the Appendix, delivered to the regional returning officer at the place or a place fixed for the purpose.

(4) Sections 28A and 28B were inserted by the 2006 Act, section 49.

(2) The individual nomination paper shall be signed by the candidate and by a witness to the candidate's signature.

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

- (a) name in full;
- (b) home address in full; and
- (c) if desired, description, consisting of the word “Independent”,

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

(4) 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.

(5) The individual nomination paper shall also state the name and address of the witness to the candidate's signature.

Nomination of candidates on a regional list

7.—(1) A registered party's regional list of candidates to be regional members for a particular region shall be in the form H set out in the Appendix and that party shall be nominated by the submission of that list by the party's nominating officer or a person authorised in writing by him to the regional returning officer at the place or a place fixed for the purpose.

(2) Each regional list shall include the name of the registered party, or a description of that party which has been registered under section 28A of the 2000 Political Parties Act, and the use of that name or description shall be authorised by a certificate issued by or on behalf of the registered nominating officer of the party in the form I set out in the Appendix.

(3) Each regional list shall set out the names and home addresses, in full, of each candidate included in that list and shall be accompanied by a statement of the names by which each such candidate is to be known for the purposes of the election, which may include a different forename or surname if the candidate commonly uses that name.

(4) Each regional list shall include a statement that it is issued by the nominating officer of the registered party in question or by a person authorised in writing by him.

(5) Each regional list may be accompanied by a request made by or on behalf of the nominating officer of the party in question that the regional ballot paper shall contain against the party's name the party's registered emblem (or, as the case may be, one of the party's registered emblems).

(6) In the application of this rule and rule 8, in relation to an election—

- (a) “registered party” and “qualifying party” means a party which was registered under Part II 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; and
- (b) a registered political party is a qualifying party in relation to a constituency if the constituency is in Scotland and the party was at on the relevant day registered in respect of Scotland in the Great Britain register maintained under that Part of that Act.

Constituency nomination papers: name of registered party

8.—(1) A constituency nomination paper may not include a description of a candidate which is likely to lead voters to associate the candidate with a registered party or parties unless the party (or

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

each party) is a qualifying party in relation to the constituency and the description is authorised by a certificate in the form I set out in the Appendix—

- (a) issued by or on behalf of the nominating officer of that party (or each party); 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) A person shall be guilty of a corrupt practice if he fraudulently purports to be authorised to issue a certificate under paragraph (1) on behalf of a registered party's nominating officer.

Nomination papers and regional lists: miscellaneous

9.—(1) The constituency returning officer—

- (a) shall supply any person with a form of constituency nomination paper at the place or a place, and during the time, for delivery of nomination papers; and
- (b) shall at any person's request prepare such a nomination paper for signature,

but it is not necessary for a nomination to be on a form supplied by the constituency returning officer.

(2) The regional returning officer—

- (a) shall supply any person with a form of individual nomination paper at the place and during the time for delivery of nomination papers; and
- (b) shall at any person's request, prepare such a nomination paper for signature,

but it is not necessary for a nomination to be on a form supplied by the regional returning officer.

(3) The regional returning officer shall, on request, supply any person with a form of regional list; but it is not necessary for a regional list to be submitted in the form supplied by the regional returning officer.

Consent to nomination

10.—(1) Subject to paragraph (3) a person shall not be validly nominated as a candidate for return as a constituency member 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 constituency nomination papers.

(2) Subject to paragraph (3), a person shall not be validly nominated as an individual candidate for return as a regional member or as a candidate on a registered party's regional list 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 and regional lists;
- (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 and regional lists.

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

- (4) A candidate's consent given under this rule—
- (a) shall state the day, month and year of his birth; and
 - (b) shall state—
 - (i) that he is aware of the provisions of sections 15 to 18 of the 1998 Act and of any Order in Council made under section 15 of that Act;
 - (ii) that to the best of his knowledge and belief he is not disqualified from being a member of the Scottish Parliament;
 - (iii) in the case of a candidate for return as a constituency member, that he is aware of the provisions of sections 5(2) and 9(6) of the 1998 Act and that, to the best of his knowledge and belief, he may stand as a candidate to be a member for that constituency;
 - (iv) in the case of a candidate on a registered party's regional list, that he is aware of the provisions of section 5(7) of the 1998 Act and that, to the best of his knowledge and belief, he may be included in that list;
 - (v) in the case of an individual candidate for return as a regional member, that he is aware of the terms of section 5(8) of the 1998 Act and, to the best of his knowledge and belief, he may stand as an individual candidate to be a regional member for that region.

Deposit

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

(2) An individual candidate for return as a regional member shall not be validly nominated 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 party shall not be validly nominated in relation to a regional list of that party for a particular region unless the sum of £500 is deposited by or on behalf of the party's nominating officer with the regional returning officer at the place or a place, and during the time, for delivery of regional lists.

- (4) The deposit may be made—
- (a) by the deposit of any legal tender; or
 - (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.

(5) Where the deposit is made on behalf of a candidate for return as a constituency member or an individual candidate for return as a regional member, 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 33 or rule 5 or 6.

(6) Where the deposit is made on behalf of a party's nominating officer the person making the deposit shall at the time he makes it give his name and address to the regional returning officer unless that information has previously been given to him under article 33 or rule 7.

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

Place for delivery of constituency nomination papers

12.—(1) 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 making of objections to them.

(2) The place shall be in—

- (a) the constituency; or
- (b) the local government area or (if more than one) any of the local government areas in which the constituency is situated; or
- (c) any local government area adjoining the local government area or areas (as the case may be) in which the constituency is situated.

Place for delivery of individual nomination papers and regional lists

13.—(1) The regional returning officer shall fix the place or places at which individual nomination papers and regional lists are to be delivered to him, and he shall attend there during the time for their delivery and for making objections to them.

(2) The place or places shall be in the region.

Right to attend nomination

14.—(1) Except for the purpose of delivering a constituency nomination paper or of assisting the constituency returning officer no person is entitled to attend the proceedings during the time for delivery of constituency nomination papers or for making objections to them unless he is—

- (a) a person standing nominated as a candidate for return as a constituency member;
- (b) the election agent of such a person;
- (c) a person who has issued a certificate under rule 8(1)(a) in relation to such a candidate; or,
- (d) a person who is entitled to attend by virtue of section 6A or 6B of the 2000 Political Parties Act⁽⁵⁾,

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) The right to attend conferred by paragraph (1) includes the right to inspect and to object to the validity of any constituency nomination paper.

(3) Paragraph (2) does not apply to a person mentioned in paragraph (1)(d).

(4) Except for the purpose of delivering an individual nomination paper or regional list or of assisting the regional returning officer no person is entitled to attend the proceedings during the time for delivery of individual nomination papers or regional lists or for making objections to them unless he is—

- (a) a person standing nominated as an individual candidate for return as a regional member;
- (b) the election agent of such a person;
- (c) a candidate included on a party's regional list;
- (d) the election agent or nominating officer of a party which has submitted a regional list; or
- (e) a person who is entitled to attend by virtue of section 6A or 6B of the 2000 Political Parties Act,

(5) Sections 6A and 6B were inserted by the 2006 Act, section 29.

but where an individual candidate acts as his own election agent, or a candidate on a party's regional list 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.

(5) The right conferred by paragraph (4) includes the right to inspect and to object to the validity of any individual nomination paper or any regional list (including the nomination of any candidate on such a list).

(6) Paragraph (5) does not apply to a person mentioned in paragraph (4)(e).

Decisions as to validity of constituency nomination papers

15.—(1) Where a constituency nomination paper and the candidate's consent to it are delivered and a deposit is made in accordance with these Rules, the candidate shall be deemed to stand nominated unless and until—

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

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

- (a) that the particulars of the candidate or the witness signing the paper are not as required by law;
- (b) that the paper is not witnessed as so required;
- (c) that the candidate is disqualified by virtue of the Representation of the People Act 1981⁽⁶⁾.

(3) Subject to paragraph (4) the constituency returning officer shall give his decision on any objection to a constituency 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 nomination papers set out in the Table in rule 1.

(4) If in the constituency returning officer's opinion a constituency nomination paper breaches rule 8, he shall give a decision to that effect—

- (a) as soon as practicable after 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.

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

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

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

(6) 1981 c. 34.

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

Decisions as to validity of individual nomination papers

16.—(1) Where an individual nomination paper and the candidate's consent to it are delivered and a deposit is made in accordance with these Rules, the candidate shall be deemed to stand nominated unless and until—

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

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

- (a) that the particulars of the candidate or the witness signing the paper are not as required by law;
- (b) that the paper is not witnessed as so required;
- (c) that the candidate is disqualified by virtue of the Representation of the People Act 1981.

(3) The regional returning officer shall give his decision on any objection to an individual 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 nomination papers set out in the Table in rule 1.

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

(5) The regional returning officer's decision that an individual nomination paper is valid shall be final and shall not be questioned in any proceeding whatsoever.

(6) Subject to paragraph (5), nothing in this rule prevents the validity of a nomination being questioned on an election petition.

Decisions as to validity of regional lists and as to the validity of nominations included on such a list

17.—(1) Where a registered party's regional list and the consent of each candidate included in that list are 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 regional list is invalid.

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

- (a) that the name stated under paragraph (2) of rule 7 breaches that rule;
- (b) that the number of candidates on the list is greater than 12;
- (c) that the list does not contain the statement referred to in rule 7(4).

(3) Where, in respect of a candidate included in a registered party's regional list—

- (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 18,

the regional returning officer shall delete the name and address of that candidate from the list.

(4) Where, in respect of a candidate included on a registered party's regional list—

- (a) his particulars in that list are not as required by law;
- (b) he is disqualified by virtue of the Representation of the People Act 1981; or

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

(c) the consent to nomination of that candidate is not delivered in accordance with these Rules, the regional returning officer shall delete the name and address of that candidate from the list.

(5) The regional returning officer shall give his decision on any objection in respect of a regional list—

- (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.

(6) Where the regional returning officer decides that—

- (a) a regional list is invalid; or
- (b) the name and address of a candidate shall be deleted from a regional list,

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

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

- (a) a regional list is valid; or
- (b) the name and address of a candidate should not be removed from a party list,

shall not be questioned in any proceeding whatsoever.

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

Withdrawal of candidates

18.—(1) A candidate for return as a constituency member may withdraw his candidature by notice of withdrawal—

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

(2) A candidate for return as a regional member 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 and regional lists.

(3) A registered political party may withdraw the candidature of any or all of the candidates included in a regional list of that party by notice of withdrawal—

- (a) signed by the party's nominating officer and attested by one witness; and
- (b) delivered to the regional returning officer at the place or places for the delivery of regional lists.

(4) Where a candidate in a regional list has been withdrawn in accordance with this rule the regional returning officer shall delete the name and address of that candidate from the list.

Publication of statement of persons nominated as candidates for return as a constituency member

19.—(1) The constituency returning officer shall prepare and publish a statement showing the persons who have been and stand nominated as candidates for return as a constituency member and any other persons who have been nominated as such candidates, with the reason why they no longer stand nominated.

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

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

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

(4) If a person's nomination paper gives a commonly used surname or forename in addition to another name—

- (a) the statement shall show the person's commonly used surname or forename (as the case may be) instead of any other name;
- (b) but sub-paragraph (a) does not apply if the constituency returning officer thinks—
 - (i) that the use of the person's commonly used name may be likely to mislead or confuse electors, or
 - (ii) that the commonly used name is obscene or offensive;
- (c) if sub-paragraph (b) applies, the constituency returning officer must give notice in writing to the candidate for his reasons for refusing to allow the use of a commonly used name.

(5) 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 paragraph from such one of the papers as the candidate (or the returning officer in default of the candidate) may select.

(6) The constituency returning officer shall send to the Electoral Commission—

- (a) a copy of the statement; and
- (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 8, a copy of that certificate.

(7) The constituency returning officer may, if he thinks fit, at any time before the publication under this rule of the statement of persons and parties nominated, correct minor errors in a nomination paper, including—

- (a) errors as to a person's electoral number,
- (b) obvious errors of spelling in relation to the details of a candidate.

(8) Anything done by a constituency returning officer in pursuance of paragraph (7) must not be questioned in any proceedings other than proceedings on an election petition.

Publication of statement of persons and parties nominated for return as regional members

20.—(1) The regional returning officer shall prepare and publish a statement showing—

- (a) each registered party which has been and stands nominated together with that party's regional list;
- (b) the persons who have been and stand nominated as individual candidates for return as a regional member;
- (c) any other persons or parties who have been nominated together with the reason why they no longer stand nominated.

(2) The statement shall show the registered parties which have been and stand nominated in alphabetical order with the name or description of the party as given in that list and the names and home addresses of the candidates who appear on the regional list of each party as given in that list and arranged in the order in which their names appear on that list.

(3) The statement shall also show the names, and addresses of the persons nominated as individual candidates as given in their individual nomination papers, with the description as "Independent" if that is requested in those papers.

(4) If a regional list or an individual candidate's nomination paper gives a person's commonly used surname or forename in addition to another name—

(a) the statement shall show the person's commonly used surname or forename (as the case may be) instead of any other name;

(b) but sub-paragraph (a) does not apply if the regional returning officer thinks—

(i) that the use of the person's commonly used name may be likely to mislead or confuse electors, or

(ii) that the commonly used name is obscene or offensive;

(c) if sub-paragraph (b) applies, the regional returning officer must give notice in writing to the candidate for his reasons for refusing to allow the use of a commonly used name.

(5) The statement shall show the names, addresses and descriptions of the persons standing nominated as individual candidates after the names or descriptions of the registered parties standing nominated and the names of those individual candidates shall be 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.

(6) 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 regional returning officer in default of the candidate) may select.

(7) In the case of a registered political party which has delivered more than one regional list for a particular region (and which stands nominated by more than one of those lists), the regional returning officer shall take the particulars required by the foregoing provisions of this rule from such one of the lists as the nominating officer of that party (or the regional returning officer in default of that 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.

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

(9) The regional returning officer may, if he thinks fit, at any time before the publication under this rule of the statement of persons and parties nominated, correct minor errors in a nomination paper, including—

(a) errors as to a person's electoral number;

(b) obvious errors of spelling in relation to the details of a candidate or party.

(10) Anything done by a regional returning officer in pursuance of paragraph (9) must not be questioned in any proceedings other than proceedings on an election petition.

Disqualification by Representation of the People Act 1981: candidates for return as constituency members

21.—(1) If it appears to the constituency returning officer that any of the persons nominated as candidates for return as a constituency member might be disqualified by virtue of the Representation of the People Act 1981 he shall, as soon as practicable after the expiry of the time allowed for the delivery of constituency nomination papers, prepare and publish a draft of the statement required by rule 19.

(2) The draft shall be headed "Draft statement of persons nominated for return as a constituency member" 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 am and 4 pm 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 constituency nomination papers.

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

Disqualification by Representation of the People Act 1981: candidates for return as regional members

22.—(1) If it appears to the regional returning officer that any of the persons nominated as candidates for return as a regional member 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 individual nomination papers and regional lists, prepare and publish a draft of the statement required by rule 20.

(2) The draft shall be headed “Draft statement of persons nominated for return as regional members” 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 am and 4 pm on the day and at the place specified in the notice; and the day so specified shall be the day next after the last day for the delivery of individual nomination papers and regional lists.

Adjournment of nomination proceedings in the case of riot

23.—(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; or
 - (ii) individual nomination papers and regional lists,

the proceedings shall be continued on the next day as if that were the last day for 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;
- (b) done before the abandonment shall be invalidated by reason of the abandonment.

Method of election: candidates for return as constituency members

24.—(1) If the statement required by rule 19 shows more than one person standing nominated, a poll shall be taken in accordance with Part III of these Rules.

(2) If that statement shows only one person standing nominated, that person shall be declared to be elected in accordance with Part IV of these Rules.

Method of election: candidates for return as regional members

25.—(1) Subject to paragraph (2)(b), if the statement of persons required by rule 20 shows more candidates (whether on a registered party’s regional list or individual candidates) than the number of seats for that region a poll shall be taken in accordance with Part III of these Rules.

(2) If that statement shows—

- (a) a number of candidates (whether on a registered party’s regional list or individual candidates) which is the same as, or less than, the number of seats for that region; or
- (b) all of the candidates shown on that statement are on the regional list of the same registered party,

the regional returning officer shall, following receipt of the notification under rule 62(3), allocate the seats in accordance with sections 7 and 8 of the 1998 Act.

PART III CONTESTED ELECTIONS

General Provisions

Poll to be taken by ballot

26.—(1) The votes at the poll for the return of a constituency member shall be given by ballot and the result shall be ascertained by counting the votes given to each candidate, and the candidate to whom the majority of votes has been given shall be declared to have been elected.

(2) The regional votes at a poll for the return of regional members shall be given by ballot, and the regional figure for each individual candidate and each registered party shall be ascertained by counting the regional votes given to each individual candidate and each registered party.

The ballot paper: constituency candidates

27.—(1) The ballot of every voter at a poll for the return of a constituency member shall consist of a ballot paper (referred to in these Rules as a “constituency ballot paper”).

(2) The persons shown in the statement required by rule 19 and no others, shall be entitled to have their names inserted in the constituency ballot paper.

(3) Every constituency ballot paper shall be in the form J set out in the Appendix, and shall be printed in accordance with the directions in that form, and—

(a) shall contain the names and descriptions (but not the addresses) of the candidates as shown in the statement required by rule 19; and

(b) shall have a number and unique identifying mark printed on the back.

(4) The order of the names in the constituency ballot paper shall be the same as in the statement required by rule 19.

(5) If a candidate who is the subject of a certificate under rule 8(1) so requests, the ballot paper shall also contain, to the right of that candidate’s particulars, the party’s registered emblem (or, as the case may be, one of the party’s registered emblems).

(6) The request must—

(a) be made in writing to the constituency returning officer; and

(b) be received by him during the period for delivery of nomination papers set out in the Table in rule 1(1).

The ballot paper: regional candidates

28.—(1) The ballot of every voter at a poll for the return of regional members shall consist of a ballot paper (referred to in these Rules as a “regional ballot paper”).

(2) The following, namely—

(a) the registered political parties shown in the statement required by rule 20; and

(b) the individual candidates shown in that statement,

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

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

(3) Every regional ballot paper shall be in the form K set out in the Appendix, and shall be printed in accordance with the directions in that form, and shall contain—

- (a) the names or, as the case may be, descriptions of the registered political parties referred to in sub-paragraph (2)(a) (being, in each case, the name or description by which that party wishes to be known for the purposes of the election) as shown in the statement required by rule 20;
- (b) the names and, where applicable, descriptions of the individual candidates as shown in the statement required by rule 20; and
- (c) a number and unique identifying mark printed on the back.

(4) The order of the names or, as the case may be, descriptions of the registered parties and of the individual candidates in the regional ballot paper shall be the same as in the statement required by rule 20.

(5) If a request has been made to the regional returning officer under rule 7(5) that a registered party's registered emblem (or, as the case may be, one of the party's registered emblems) be shown on the ballot paper against that party's name or description, the ballot paper shall also contain, to the right of the party's name or description, that emblem.

(6) The regional ballot paper shall be a different colour from the constituency ballot paper.

(7) The regional ballot paper may be printed on the same sheet as a constituency ballot paper.

(8) Where paragraph (7) applies, the sheet comprising the two ballot papers—

- (a) shall set out the regional ballot paper and constituency ballot paper as two separate columns on the front of the sheet, with the regional ballot paper to the left of the constituency ballot paper;
- (b) shall use different colours on the front for each ballot paper;
- (c) need only have one number and one unique identifying mark printed on the back; and
- (d) shall have printed at the top of the sheet the words "YOU HAVE TWO VOTES."

Corresponding number list

29.—(1) The constituency returning officer must prepare a list containing the numbers and other unique identifying marks of all of the ballot papers to be issued by him in pursuance of rule 34(1) or provided by him in pursuance of rule 38(1).

(2) The list shall be in the form Z set out in the Appendix.

The official mark

30.—(1) Every ballot paper shall bear an appropriate security marking (the official mark), but at a Scottish parliamentary general election, if the constituency ballot paper and regional ballot paper are printed on the same sheet, an official mark on that sheet shall be deemed to be the official mark in respect of each ballot paper.

(2) The official mark shall be kept secret, and an interval of not less than seven years shall intervene before the same official mark may be used again at a poll for a Scottish parliamentary election held in that constituency.

(3) The constituency returning officer shall determine the official mark or marks to be used for ballot papers at an election and may use a different official mark for different purposes at the same election.

Prohibition of disclosure of vote

31. No person who has voted at a Scottish parliamentary election shall, in any legal proceeding to question the election or return, be required to state the candidate for whom, or the registered party for which, he voted.

Use of schools and public rooms

32.—(1) At a Scottish parliamentary election the constituency returning officer may use, free of charge, for the purpose of taking the poll or counting the votes—

- (a) a room in a school to which this rule applies;
- (b) a room the expense of maintaining which is payable out of any rate.

(2) This rule applies to a school other than an independent school within the meaning of the Education (Scotland) Act 1980(7).

(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 above by reason of its being used for the purpose of taking the poll or, as the case may be, counting the votes.

Action to be taken before the poll

Notice of poll

33.—(1) The statement required by rule 19 and the statement required by rule 20 shall each include a notice of the poll, stating the day on which and the hours during which the poll will be taken and, in the case of a Scottish parliamentary general election, each such notice may contain such further information about that election as the returning officer who publishes that notice thinks fit.

(2) The constituency returning officer shall also give public notice (which may be combined with the statement required by rule 19) of—

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

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

Postal ballot papers

34.—(1) Subject to paragraph (2), the constituency returning officer shall as soon as practicable send to those entitled to vote by post a ballot paper and a postal voting statement in the form L set out in the Appendix together with an envelope for their return.

(2) In the case of a person who is entitled to a postal constituency vote and a postal regional vote, 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.

(3) The constituency returning officer shall send along with any regional ballot paper a list showing the names of the candidates who appear on the regional list of each party, followed by the names of the individual candidates, as given in the statement prepared under rule 20 and arranged in the order in which their names appear on that list.

(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—

(7) 1980 c. 44.

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

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

(5) 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.

Provision of polling stations

35.—(1) 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

36.—(1) The constituency returning officer shall appoint and pay a presiding officer to attend at each polling station and such clerks as may be necessary, but he shall not appoint any person who has been employed by or on behalf of a candidate or a registered party in or about the election.

(2) The constituency returning officer may 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.

(3) 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

37.—(1) The constituency returning officer shall as soon as practicable after the publication of notice of the election send to each elector and proxy an official poll card.

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

(3) The official poll card shall be in the form set out in the Appendix, and—

- (a) the official poll card issued to an elector shall be in form M;
- (b) the official postal poll card issued to an elector shall be in form M1;
- (c) the official poll card issued to the proxy of an elector shall be in form N;
- (d) the official postal poll card issued to the proxy of an elector shall be in form N1.

(4) The official poll card may, in addition to the matters in the form, set out such other information, not relating to any candidate or registered party, as the constituency returning officer

considers appropriate, and different additional information may be provided to different electors or descriptions of elector.

- (5) In this paragraph, “elector”–
- (a) means a person who is registered in the register of electors for the constituency and the region on the last day for publication of notice of the election; and
 - (b) includes a person then shown in that register or in the record of anonymous entries as below voting age if (but only if) it appears from the register or record that he or she will be of voting age on the day fixed for the poll.

Equipment of polling stations

38.—(1) 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. At a Scottish parliamentary general election, if the constituency ballot paper and the regional ballot paper are not printed on the same sheet, separate ballot boxes will be provided for the constituency ballot papers and for the regional ballot papers.

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

- (3) 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 of electors or such part of it as contains the entries relating to electors allotted to the station, including copies of any notices issued under section 13B(3B) or (3D) of the 1983 Act⁽⁸⁾ in respect of alterations to the register;
 - (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);
 - (d) a list containing that part of the list prepared under rule 29 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;
 - (e) copies of forms and declarations and other documents required for the purpose of the poll; and
 - (f) at least one list showing the names of the candidates who appear on the regional list of each party shown on any regional ballot paper, followed by the names of the individual candidates, as given in the statement prepared under rule 20 and arranged in the order in which their names appear on that list.
- (4) The constituency returning officer shall also provide each polling station with–
- (a) at least one enlarged sample copy of a constituency ballot paper and any regional ballot paper for display at the station and at least one enlarged hand-held sample copy of that or those ballot papers for the assistance of voters who are partially sighted (in each case printed and marked as required by article 89); and
 - (b) a device of the description set out in paragraphs (5) to (10), 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)).
- (5) The device referred to in paragraph (4)(b) shall be such that–
- (a) it satisfies the conditions in paragraphs (6) to (10);
 - (b) a ballot paper can–

⁽⁸⁾ Section 13B(3B) and (3D) were inserted by the 2006 Act, section 11.

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

- (i) be inserted into, and removed from, it; or
 - (ii) be attached to, and detached from, it; and
 - (c) the ballot paper will remain firmly in place once inserted into, or attached to, the device.
- (6) There shall be sufficient space to allow the particulars of each candidate and, where appropriate, registered party named on the ballot paper to be clearly shown.
- (7) There shall be a separate hole in the device for each candidate and, where appropriate, registered party, named on the ballot paper.
- (8) Each hole in the device shall be of equal size.
- (9) Each hole shall be positioned to frame the space to the right of the particulars of the candidate or registered party (as the case may be) on which the vote may be marked (“the relevant space”).
- (10) Each hole shall be sufficiently large to allow a voter to mark a cross in the relevant space on the ballot paper.
- (11) A notice in the form O set out in the Appendix, giving directions for the guidance of the voters in voting, shall be printed in conspicuous characters and exhibited inside and outside every polling station.
- (12) At a Scottish parliamentary general election, a notice in the form P set out in the Appendix, giving information to voters shall be printed and exhibited either inside or outside every polling station and may be exhibited both inside and outside any polling station.
- (13) Subject to paragraphs (14) and (15), in every compartment of every polling station there shall be exhibited the notice—
- “Vote once only on each ballot paper by marking a X. Put no other mark on each ballot paper issued or your vote may not count.”.
- (14) In the case of a poll to fill a vacancy in the seat of a constituency member, the references in paragraph (13) and in form O to “each ballot paper” shall be construed as references to “the ballot paper”.
- (15) At a Scottish parliamentary general election where the constituency ballot paper and the regional ballot paper are printed on the same sheet, the notice referred to in paragraph (13) shall read—
- “There are two columns on the ballot sheet, in different colours. Vote once in each column, by marking a X in each column. Put no other mark on the sheet or your two votes may not count.”.
- (16) The statements required by rules 19 and (except in the case of a poll to fill a vacancy in the seat of a constituency member) 20 shall be printed in conspicuous characters and exhibited inside or outside every polling station and may be exhibited both inside and outside any polling station.

Appointment of polling and counting agents

39.—(1) Each candidate for return as a constituency member, each individual candidate for return as a regional member, and the election agent of each registered party standing nominated, 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 for candidates for return as a constituency member, but the limit set shall be the same for each candidate.
- (3) The constituency returning officer may limit the number of counting agents for individual candidates for return as regional members and for registered parties standing nominated, but the limit set shall be the same for each individual candidate and registered party.

(4) Notice in writing of an appointment, stating the names and addresses of the persons appointed, shall be given by the person making the appointment to the constituency returning officer and shall be so given not later than the fifth day (computed like any period of time in the Table in rule 1(1)) before the day of the poll.

(5) 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.

(6) The foregoing provisions of this rule shall be without prejudice to the requirements of articles 33 and 34 as to the appointment of paid polling agents, and any appointment authorised by this rule may be made, and the notice of appointment given, to the constituency returning officer by the election agent instead of by the candidate.

(7) 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.

(8) 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.

(9) Any candidate (or, in the case of a registered party standing nominated, the election agent of that party) may himself do 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 such any such act or thing.

(10) An election agent for a candidate or registered 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.

(11) 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

40.—(1) The constituency returning officer shall make such arrangements as he thinks fit to ensure that every person attending at a polling station and every person attending at the counting of the votes has been given a copy in writing of the provisions of article 32.

(2) But these arrangements shall not apply to—

- (a) a person attending a polling station for the purpose of voting;
- (b) a person under the age of 18 years of age accompanying a voter;
- (c) a person assisting a voter with disabilities to vote; or
- (d) a constable on duty at a polling station or at the count.

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

The Poll

Admission to polling station

41.—(1) The presiding officer shall regulate the total number of voters and persons under the age of 18 years who accompany them to be admitted to the polling station at the same time, and shall exclude all other persons except—

- (a) the candidates;
- (b) the election agent of any candidate for return as a constituency member, or of any individual candidate for return as a regional member, or of any registered party standing nominated;
- (c) the polling agents appointed to attend at the polling station;
- (d) the clerks appointed to attend at the polling station;
- (e) the constables on duty;
- (f) the companions of voters with disabilities;
- (g) persons who are entitled to attend by virtue of any of sections 6A to 6D of the 2000 Political Parties Act⁽⁹⁾; and
- (h) the constituency and regional returning officers and members of their staff.

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

(3) Not more than one candidate on a registered party's regional list shall be admitted at the same time to a polling station.

(4) 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 the form Q set out in the Appendix and signed by an officer of police of the rank of Inspector or above or by the returning officer in question, as the case may be.

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

Keeping of order in 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—

- (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, again enter the polling station 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.

⁽⁹⁾ Sections 6A to 6D were inserted by the 2006 Act, section 29.

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

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 of the application for a ballot paper (but not afterwards), the questions specified in the second column of the following table—

- (a) may be put by the presiding officer to a person who is mentioned in the first column. and
- (b) in the case of the questions at entries 1 to 4, shall be put if the candidate or the election or polling agent of a candidate or of a registered party standing nominated requires the question to be put:

<i>Person applying for ballot paper</i>	<i>Questions</i>
1. A person applying as an elector.	<ol style="list-style-type: none"> (a) (a) “Are you the person registered in the register of local government electors for this election as follows?” (<i>read out the whole entry from the register</i>)? (b) “Have you already voted, here or elsewhere, at this election, otherwise than as proxy for some other person?”
2. A person applying as proxy.	<ol style="list-style-type: none"> (a) (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.?” (b) “Have you already voted here or elsewhere at this election, as proxy on behalf of C.D.?” (c) “Are you the spouse, civil partner, parent, grandparent, brother/sister, child or grandchild of C.D.?”
3. A person applying as proxy for an elector with an anonymous entry (instead of the questions at entry 2 above).	<ol style="list-style-type: none"> (a) (a) “Are you the person entitled to vote as proxy on behalf of the elector whose number on the register of electors is (<i>read out the number from the register</i>)?” (b) “Have you already voted here or elsewhere as proxy on behalf of the elector whose number on the register of electors is (<i>read out the number from the register</i>)?”

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

<i>Person applying for ballot paper</i>	<i>Questions</i>
	(c) “Are you the spouse, civil partner, parent, grandparent, brother/sister, child or grandchild of the person whose number on the register of electors is (<i>read out the number from the register</i>)?”
4. A person applying as proxy if the question at entry 2(c) or 3(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?”
5. A person applying as an elector in relation to whom there is an entry in the postal voters list.	(a) (a) “Did you apply to vote by post?” (b) “Why have you not voted by post?”
6. A person applying as proxy who is named in the proxy postal voters list.	(a) (a) “Did you apply to vote by post as proxy?” (b) “Why have you not voted by post as proxy?”

(2) In the case of an elector in respect of whom a notice has been issued under section 13B(3B) or (3D) of the 1983 Act(10), the references in the questions at entries 1(a) and 3(a), (b) and (c) to reading from the register must be taken as references to reading from the notice issued under section 13B(3B) or (3D).

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

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

Challenge of voter

45. A person shall not be prevented from voting by reason only that—
- (a) a candidate or the election or polling agent of a candidate or of a registered party standing nominated declares that he has reasonable cause to believe that the person has committed an offence of personation; or
 - (b) the person is arrested on the grounds that he is suspected of committing or about to commit such an offence.

Voting procedure

46.—(1) At a Scottish parliamentary general election, if the constituency ballot paper and regional ballot paper are not printed on the same sheet, a voter may apply for a constituency ballot paper or a regional ballot paper or both. However at any such election, the presiding officer shall assume, in the absence of a clear indication to the contrary, that the voter’s application is for a constituency ballot paper and a regional ballot paper.

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

(10) Section 13B was inserted by the 2006 Act, section 11.

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

- (a) the number and (unless paragraph (3) applies) name of the elector as stated in the copy of the register of electors shall be called out;
- (b) the number of the elector shall be marked on the list mentioned in rule 38(3)(d) beside the number of the ballot paper to be issued to him;
- (c) a mark shall be placed in the register of electors 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;
- (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.

(3) 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 sub paragraph (2)(a).

(4) 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 (11), paragraph (2) is modified as follows—

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

(5) 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, shall show to the presiding officer the back of the paper, so as to disclose the number and other unique identifying mark, and shall then put the ballot paper into the ballot box in the presiding officer’s presence.

(6) 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.

(7) At a Scottish parliamentary general election, if the constituency ballot paper and regional ballot paper are not printed on the same sheet, the same copy of the register of electors may be used under paragraph (2) for a constituency ballot paper and a regional ballot paper and one mark may be placed in that register under paragraph (2)(c) or in the list of proxies under paragraph (2)(d) to denote that each of the ballot papers has been received; and, where one mark is so placed in that register or, as the case may be, list, the mark shall, unless the contrary intention appears, be taken to denote that a constituency ballot paper and regional ballot paper have been received.

Votes marked by presiding officer

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

- (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 in the register of electors of every voter whose vote is marked in pursuance of this paragraph, and the reason why it is so marked, shall be entered on a list (in these Rules referred to as “the list of votes marked by the presiding officer”).

(3) 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 “in 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”.

(11) Section 13B was added by the 2000 Act, Schedule 1, paragraph 6 and was amended by section 11(2) of the 2006 Act.

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

(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.

(5) At a Scottish parliamentary general election, if the constituency ballot paper and regional ballot paper are not printed on the same sheet, the same list of votes marked by the presiding officer may be used for votes marked on constituency ballot papers and votes marked on regional ballot papers and where it is so used, an entry in that list shall, unless the contrary intention appears, be taken to mean that each such 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 this rule; and
 - (ii) has not previously assisted more than one voter with disabilities to vote at the election,

the presiding officer shall grant the application, and then anything which is by these Rules 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 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 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.

(4) The name and number in the register of electors of every voter whose vote is given in accordance with this rule 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) 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 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”.

(6) 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.

(7) The declaration made by the companion—

- (a) shall be in the form R set out in the Appendix;
- (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) At a Scottish parliamentary general election, if the constituency ballot paper and regional ballot paper are not printed on the same sheet, the same list of voters with disabilities assisted by companions may be used for votes marked on constituency ballot papers and votes marked on regional ballot papers and, where it is so used, an entry in that list shall, unless the contrary intention appears, be taken to mean that the votes of the elector in question were so given in relation to each such ballot paper.

Tendered ballot papers

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

- (a) a particular elector named in the register of electors and not named in the special lists kept under article 10(5); 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 paragraph, 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 in 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—

- (a) a particular elector named in 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 a different colour or colours from the other ballot papers;
- (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 in the register of electors, and set aside in a separate packet.

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

(8) The name of the voter and his number in the register of electors 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 in a register or list must be construed as a reference to a person whose number appears on the register or 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 sub-paragraphs (1)(a), (2)(a) and (5)(a) for “named in the register” there were substituted “in respect of whom a notice under section 13B(3B) or (3D) of the 1983 Act has been issued”;
- (b) in sub-paragraph (7)(b) for “his number in 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”;
- (c) in paragraph (8) for “his number in 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) At a Scottish parliamentary general election, the same tendered votes list may be used in relation to all tendered votes in respect of that election and, where it is so used, an entry in that list in relation to a voter shall unless the contrary intention appears, be taken to mean that tendered ballot papers were marked by that voter in relation to both of his votes at that election.

Spoilt ballot papers

50. A voter who has inadvertently dealt with a ballot paper of his 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 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.

Correction of errors on 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 to the constituency returning officer and, except in the case of an election to fill a vacancy in the seat of a constituency member, 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 poll, the presiding officer shall, in the presence of the polling agents, using his own seal and the seals of such polling agents as desire to affix their seals, seal each ballot box in use at the station so as to prevent the introduction of additional ballot papers. He shall then make up into separate packets, sealed with his own seal and the seals of such polling agents as desire to affix their seals—

- (a) the unused and spoilt ballot papers placed together;
- (b) the tendered ballot papers;
- (c) the lists prepared under rule 29, including the parts which were completed in accordance with rule 46(2)(b) (together referred to in these rules as “the completed corresponding number lists”);
- (d) the certificates as to employment on duty on the day of the poll;
- (e) 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;
- (f) 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;
- (g) the postal ballot papers and postal voting statements which have been returned by hand to the polling station (unless previously collected in accordance with paragraph 17(3) of Schedule 4),

and shall deliver the sealed ballot boxes and the packets, or cause them to be delivered, to the constituency returning officer to be taken charge of by him; but if the boxes and 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.

(2) The marked copies of the register of electors and of the list of proxies shall be in one packet but shall not be in the same packet as the completed corresponding number lists or the certificates as to employment on duty on the day of the poll.

(3) The packets shall be accompanied by a statement (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; and if at a Scottish parliamentary general election the constituency ballot paper and regional ballot paper are not printed on the same sheet, a separate ballot paper account shall be made for the constituency ballot papers and the regional ballot papers.

Counting of votes

Attendance at counting of votes

54.—(1) The constituency returning officer shall make arrangements for counting the votes in the presence of the counting agents as soon as practicable after the close of the poll and shall give to the counting agents and the regional returning officer notice in writing of the time and place at which he will begin to count the votes.

(2) No person other than—

- (a) the constituency returning officer and members of his staff;
- (b) the candidates and one other person chosen by each of them;

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

- (c) the election agents;
- (d) the counting agents;
- (e) a person who is entitled to attend by virtue of any of sections 6A to 6D of the 2000 Political Parties Act;
- (f) (except in the case of an election to fill a vacancy in the seat of a constituency member), the regional returning officer,

may be present at the counting of the votes, unless permitted by the constituency returning officer to attend.

(3) A person not entitled to attend 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.

(4) 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.

(5) 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 ballot paper; or
- (b) an individual candidate or a registered party for whom or which a vote is given in the case of a regional ballot paper,

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) The constituency returning officer shall—

- (a) in the presence of the counting agents appointed for the purposes of the election open each ballot box and count and record separately the number of ballot papers there are in each box (and at a Scottish parliamentary general election if the constituency ballot paper and regional ballot paper are not printed on the same sheet, count separately the number of constituency ballot papers and regional ballot papers there are in each box);
- (b) in the presence of the election agents appointed for the purposes of the election verify each ballot paper account; and
- (c) count such of the postal ballot papers as have been duly returned and record their number (and at a Scottish parliamentary general election if the constituency ballot paper and regional ballot paper are not printed on the same sheet record separately the number of constituency postal ballot papers counted and the number of regional postal ballot papers counted).

(2) A postal ballot paper shall not be deemed to be duly returned unless it is returned—

- (a) by hand to a polling station in the same constituency;
- (b) by hand or by post to the constituency returning officer,

before the close of the poll and is accompanied by the postal voting statement duly signed.

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

(4) Ballot papers may be counted by electronic means, but where ballot papers are not being counted by such means the constituency returning officer shall not count the votes given on any

ballot papers from a ballot box (including the postal ballot box) until those ballot papers have been mixed with the ballot papers in at least one other ballot box.

(5) The constituency returning officer, while counting and recording the number of ballot papers and counting the votes, shall take all proper precautions for preventing any person from identifying the voter who cast the vote.

(6) 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.

(7) 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 any or all of the hours between 7 pm and 9 am the following day.

(8) For the purposes of the exception in paragraph (7) the agreement of—

- (a) a candidate for return as a constituency member or his election agent; or
- (b) an individual candidate for return as a regional member or the election agent of such a candidate or the election agent of a registered party standing nominated,

shall be as effective as the agreement of the counting agent of that candidate or, as the case may be, registered party.

(9) 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, equipment and documents.

Re-count: constituency election

56.—(1) A candidate for return as a constituency member or his election agent may, if present when the counting or any re-count of the votes given in the constituency ballot papers is completed, require the constituency returning officer to have these 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 given in the constituency ballot papers 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: regional votes in a constituency

57.—(1) An individual candidate for return as a regional member or his election agent, or the election agent for a registered party standing nominated (or any person authorised in writing by that agent) may prior to the publication of the statement required by rule 61, if present when the counting or any re-count of the votes given in the regional ballot papers 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 individual candidates and election agents present at its completion have been given a reasonable opportunity to exercise the right conferred by this rule.

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

Rejected ballot papers

58.—(1) Any ballot paper—

- (a) which does not bear the official mark and the unique identifying mark;
- (b) in the case of a constituency ballot paper, on which votes are given for more than one candidate;
- (c) in the case of a regional ballot paper, on which votes are given for more than one registered party or individual candidate, or for a registered party and an individual candidate;
- (d) on which anything is written or marked by which the voter can be identified except the printed number and other unique identifying mark on the back; or
- (e) which is unmarked or void for uncertainty,

shall, subject to the provisions of paragraphs (3), (4) and (5), be void and not counted.

(2) At a Scottish parliamentary general election, if the constituency ballot paper and regional ballot paper are printed on the same sheet, and either ballot paper is rejected on the ground set out in paragraph (1)(a) or (d), the other ballot paper on the sheet shall also be treated as void on the same ground and not counted.

(3) Where votes are counted manually, the constituency returning officer shall check that each ballot paper bears the official mark, and where votes are counted electronically he shall check that each ballot paper bears the unique identifying mark, but in neither case is he required to check that each ballot paper bears both the official mark and the unique identifying mark.

(4) 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 that the vote shall be for one of the candidates (or in the case of a regional ballot paper, for one of the individual candidates or registered parties) 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.

(5) Where different numbers have been written by a voter on a ballot paper apparently as a vote in a sequential order of preference, and the ballot would otherwise be rejected under this rule, the ballot shall be treated as a vote for the candidate (or in the case of a regional ballot paper, for the individual candidate or registered party) against whom the number 1 appears.

(6) The constituency returning officer shall record, by marking the ballot paper or an electronic copy thereof, the rejection of any ballot paper which under this rule is not to be counted, and shall also record any objection that is made by a counting agent to the decision to reject the ballot paper.

(7) The constituency returning officer shall draw up a statement showing the number of constituency ballot papers and the number of regional ballot papers, respectively, rejected under each of sub-paragraphs (1)(a) to (e).

Decisions on ballot papers

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

Equality of votes: election for return of constituency members

60. Where, after the counting of the votes (including any re-count) given in a poll for the return of a constituency member 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.

Conveying results of count etc. to regional returning officer

61.—(1) As soon as practicable after the conclusion of the counting of the votes (including any re-count) given in a constituency in a poll for return of regional members, the constituency returning officer shall, in accordance with any directions given by the regional returning officer, draw up a statement showing the number of votes given for each registered party and each individual candidate (excluding any votes given on any rejected ballot papers).

(2) The constituency returning officer shall forthwith inform the regional returning officer of the contents of that statement.

(3) The constituency returning officer shall give public notice of the statement prepared under paragraph (1) as soon as practicable after he has informed the regional returning officer.

PART IV

FINAL PROCEEDINGS IN CONTESTED AND UNCONTESTED ELECTIONS

Declaration of result: constituency members

62.—(1) In a contested election for return of a constituency member, when the result of the poll for the return of a constituency member 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 or on behalf of the nominating officer of a registered party under rule 8(1) in respect of that candidate, the name of that party, to the Clerk of the Scottish Parliament (“the Clerk of the Parliament”); and
- (c) give public notice of—
 - (i) his name and, if applicable, the name of the registered party referred to in sub paragraph (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.

(2) In an uncontested election, the statement of persons nominated for return as a constituency member, 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 or on behalf of the nominating officer of a registered party under rule 8(1) in respect of that candidate, the name of that party, to the Clerk of the Parliament.

(3) In any case to which paragraph (1) or (2) applies (except in an election to fill a vacancy in the seat of a constituency member) the constituency returning officer shall forthwith also notify the regional returning officer of the candidate who has been returned and, if applicable, the name of the registered political party referred to in paragraph (1)(b) or, as the case may be, (2).

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

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

- (a) completing a certificate in the form S set out in the Appendix; and
- (b) delivering it, or causing it to be delivered, to the Clerk of the Parliament.

Attendance at allocation of seats for regional members

63.—(1) At a contested election, the regional returning officer shall make arrangements for making the calculation and allocation referred to in rule 64 as soon as practicable after receipt by him of the statement prepared under rule 61 and of the notification under rule 62(3) from each constituency returning officer in that region.

- (2) No person other than—
 - (a) the regional returning officer and members of his staff;
 - (b) the candidates on a registered party's regional list and one other person chosen by each of them;
 - (c) the individual candidates and one other person chosen by each of them;
 - (d) the election agent of each individual candidate or registered party standing nominated, or a person acting on his behalf;
 - (e) the nominating officer of each registered party standing nominated,
 - (f) a person who is entitled to attend by virtue of any of sections 6A to 6D of the 2000 Political Parties Act;

may be present at that calculation and allocation unless permitted by the regional returning officer to attend.

(3) A person not entitled to attend the proceedings under rule 64 shall not be permitted to do so by the regional returning officer unless he—

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

(4) The regional returning officer shall give to—

- (a) the nominating officer and election agent of each registered party standing nominated;
- (b) each individual candidate and his election agent; and
- (c) each constituency returning officer for a constituency included in that region,

notice in writing of the place at which he will begin the proceedings under rule 64.

Allocation of seats

64.—(1) The regional returning officer shall calculate the total number of regional votes given for each registered party and each individual candidate in all of the constituencies included in the region by adding together the votes given for that registered party or, as the case may be, individual candidate as shown in the statements received under rule 61.

(2) An individual candidate for return as a regional member or his election agent, or the election agent for a party standing nominated (or, in the absence of such agent, any candidate included in that party's list) may, prior to the allocation of the seats by the regional returning officer under paragraph (3), if present when the calculation under paragraph (1) (or any recalculation under this paragraph) is completed, require the regional returning officer to recalculate or again recalculate the total number of regional votes given for each registered party and each individual candidate in all of the constituencies included in the region, but the regional returning officer may refuse to do so if in his opinion the request is unreasonable.

(3) The regional returning officer shall then allocate the seats in accordance with sections 7 and 8 of the 1998 Act.

Equality of votes at poll for return of regional members

65. Section 8(7) of the 1998 Act shall be modified by substituting, for the words after “candidates”, the following words:—

- “(a) the subsection in question shall apply to each of them; or
 - (b) if paragraph (a) would result in more than the correct number of seats for the region being allocated, the subsection in question shall apply as if the regional figure for each of those parties or candidates had been adjusted in accordance with subsection (8).
- (8) The regional figure for a party or candidate is adjusted in accordance with this subsection by—
- (a) adding one vote to the total number of regional votes given for the party or candidate in all the constituencies included in the region; and
 - (b) (in the case of a party) recalculating the regional figure accordingly.
- (9) If, on the application of the subsection in question in accordance with subsection (7) (b), seats would be allocated to two or more parties or individual candidates and that would result in more than the correct number of seats for the region being allocated, the regional returning officer shall decide between them by lot.”.

Declaration of results: regional members

66.—(1) When the regional returning officer has allocated the regional member seats he shall forthwith—

- (a) announce the individual candidates or the candidates on a registered party’s regional list to whom seats have been allocated;
- (b) declare those candidates to have been elected;
- (c) return the names of those persons to the Clerk of the Parliament in accordance with paragraph (2);
- (d) give public notice—
 - (i) of the name of any individual candidate elected;
 - (ii) of the name of any candidate elected who was included on a registered party’s regional list (and the name of the registered party on whose list he was included);
 - (iii) (in a contested election) of the total number of votes given for each individual candidate or registered party together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers; and
 - (iv) whether, in the case of a registered party, there are candidates remaining on that party’s regional list who have not been declared to be elected;
- (e) send a copy of that notice to each constituency returning officer for a constituency included in that region.

(2) For the purposes of paragraph (1) the regional returning officer shall return those names required to be returned by—

- (a) completing a certificate in the form T set out in the Appendix;
- (b) delivering it, or causing it to be delivered, to the Clerk of the Parliament.

Return or forfeiture of deposit

67.—(1) The deposit made under rule 11 shall either be returned to the person making it or his personal representatives or be forfeited to Her Majesty.

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

(2) Except in the cases mentioned below 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 is or are declared.

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

- (a) a day shall be disregarded if it would be disregarded under rule 3 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 a candidate for return as a constituency member is not shown as standing nominated in the statement required by rule 19, or if the poll is countermanded or abandoned by reason of his death, the deposit shall be returned as soon as practicable after the publication of the statement or after his death, as the case may be.

(5) Where–

- (a) a registered party or an individual candidate for return as a regional member is not shown as standing nominated in the statement prepared under rule 20; or
- (b) in the case of an individual candidate, that candidate dies,

the deposit shall be returned as soon as practicable after the publication of that statement or the time when the regional returning officer is satisfied of the candidate's death, as the case may be.

(6) Subject to paragraph (4), the deposit made by or on behalf of a candidate for return as a constituency member shall be forfeited if 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 not to have polled more than one twentieth of the total number of votes polled by all the candidates.

(7) Subject to paragraph (5), the deposit made by or on behalf of any individual candidate for return as a regional member or any registered party standing nominated shall be forfeited if after the total number of regional votes given for each registered party and each individual candidate in all of the constituencies included in the region has been calculated (or recalculated) under rule 64, the registered party or individual candidate is found not to have polled more than one twentieth of the total number of votes polled by all the registered parties and individual candidates in all of the constituencies included in the region and has not been allocated a seat under section 8 of the 1998 Act.

PART V

DISPOSAL OF DOCUMENTS

Sealing up of ballot papers

68.—(1) On the completion of the counting at a contested election the constituency returning officer shall–

- (a) where the votes have been counted by electronic means, seal up in packets the ballot papers and a complete electronic copy of the information stored in the electronic counting system held in a device suitable for the purposes of its storage; or
- (b) where the votes have been counted by manual means, seal up in separate packets the counted and rejected ballot papers.

(2) 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

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

- (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.

(3) Where the votes have been counted electronically, the constituency returning officer shall thereafter arrange for all original electronic data and records relating to the election to be removed from the electronic counting system.

Delivery of documents to the sheriff clerk

69.—(1) The constituency returning officer shall then forward to—

- (a) the sheriff clerk of the sheriff court district comprising the constituency; or
- (b) if the constituency comprises the whole or part of more sheriff court districts than one, the sheriff clerk of such one of those sheriff court districts as the Secretary of State may by order appoint,

the following documents—

- (c) the packets of ballot papers in his possession;
- (d) the ballot paper accounts and the statements of rejected ballot papers and of the result of the verification of the ballot paper accounts;
- (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;
- (f) the packets of the completed corresponding number lists;
- (g) the packets of certificates as to employment on duty on the day of the poll;
- (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 lists of proxies; and
- (i) where applicable, the electronic copy of information made pursuant to rule 68(1)(a).

(2) The constituency returning officer may forward the documents either by delivering them by himself or his agent to the sheriff clerk or by sending them by recorded delivery post.

(3) On forwarding the documents, the constituency returning officer must deliver or send to the sheriff clerk along with the documents a letter specifying the number and descriptions of the documents forwarded, and must endorse on each packet—

- (a) a description of its contents;
- (b) the date of the election to which they relate; and
- (c) the name of the constituency in which the votes were given.

(4) Where the documents are delivered by the constituency returning officer himself or his agent, the sheriff clerk must, on receipt of the documents, provide the person delivering them with a signed receipt showing the date and time of receipt.

Orders for production of documents and records

70.—(1) An order—

- (a) for the inspection or production of any rejected ballot papers in the custody of the sheriff clerk;
- (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; or

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

(c) for the presentation of evidence about the content of any electronic copy of information forwarded to the sheriff clerk under rule 69(1)(i),
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 election petition, by the Court of Session or the sheriff.

(2) An order—

- (a) for the opening of a sealed packet of the completed corresponding number lists or of certificates;
- (b) for the presentation of evidence about the contents of any electronic copy of information forwarded to the sheriff clerk under rule 69(1)(i); or
- (c) for the inspection of any counted ballot papers in the sheriff clerk'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;
- (d) production or opening,

as the court making the order may think expedient; but in making and carrying into effect such an order 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—

- (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 Court of Session from any order of the sheriff under this rule.

(5) Any power given under this rule to the Court of Session or to the sheriff, 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 sheriff clerk of any document, record or electronic copy of information in his possession relating to any specified election—

- (a) the production by him or his agent of the document, record or electronic copy ordered in such manner as may be directed by that order shall be conclusive evidence that the document, record or electronic copy 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 by this paragraph provided, no person shall be allowed to inspect any rejected or counted ballot papers in the possession of the sheriff clerk, to open any sealed packets of the completed corresponding number lists or of certificates, or to examine any electronic copy of information forwarded to the sheriff clerk under rule 69(1)(i).

Retention and public inspection of documents

71.—(1) The sheriff clerk shall retain for a year all documents and records 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 Court of Session, shall cause them to be destroyed.

(2) The documents mentioned in paragraph (1) except—

- (a) ballot papers;
- (b) the completed corresponding number lists; and
- (c) certificates as to employment on duty on the day of the poll,

shall be open to public inspection.

(3) Any electronic copy of information forwarded to the sheriff clerk under rule 69(1)(i) shall not be open to public inspection.

(4) The sheriff clerk may, on request, supply copies of or extracts from the documents open to public inspection on payment of such fees and subject to such conditions as may be sanctioned by the Treasury.

PART VI

DEATH OF CANDIDATE

Countermand or abandonment of poll etc. on death of candidate

72.—(1) If at a contested election for the return of a constituency member 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 as candidate in the ballot papers has died, then the constituency returning officer shall—

- (a) countermand notice of the poll; or
- (b) if polling has begun, direct that the poll be abandoned; and
- (c) except in the case of an election to fill a vacancy in the seat of a constituency member, forthwith notify the regional returning officer for the region in which the constituency is situated of the action that he has taken,

and all proceedings with reference to the election for the return of a constituency member for that constituency shall be commenced afresh in all respects as if publication of notice of election had been given 28 days after the day on which proof was given to the returning officer of the death.

(2) Where paragraph (1) applies, no fresh nominations shall be necessary in the case of a person shown in the statement of persons nominated as standing nominated.

(3) Where there is a contested election for return of regional members and the poll at a constituency election for a constituency included within that region is abandoned, or notice of the poll countermanded, in accordance with paragraph (1), rule 63 shall be satisfied when the regional returning officer has received the statement prepared under rule 61 and the notification under rule 62(3) in respect of each of the other constituencies in that region (other than a constituency in relation to which paragraph (1) also applies); and in such a case section 7(1) of the 1998 Act shall apply with the modification that the reference in that subsection to “constituencies included in the region” shall be construed as a reference to the constituencies included in the region except those in relation to which paragraph (1) applies.

(4) Where paragraph (3) applies, the subsequent election of a candidate for the constituency shall have no effect upon the validity of the election or return of any regional member.

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

(5) If at a contested election for return of regional members proof is given to the regional returning officer's satisfaction before the result of the election is declared that one of the persons named or to be named as candidate in the ballot papers (whether as an individual candidate or as a candidate on a regional list) 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 region of the action that he has taken.

(6) If at a contested election for return of regional members proof is given to the regional returning officer's satisfaction before the result of the election is declared that one of the persons named or to be named as a candidate on the ballot paper (whether as an individual candidate or as a candidate on a regional list) has died, but notwithstanding that death the election continues to remain contested, the notice of poll shall not be countermanded nor, as the case may be, shall the poll be abandoned.

(7) Where such a death occurs, it shall have no effect upon the validity of the election or return of any regional members for that region and the regional returning officer shall take such steps as he considers reasonable to publicise—

- (a) the name of that candidate and the fact of his death;
- (b) whether that candidate was an individual candidate or a candidate on a regional list; and
- (c) if he was a candidate on a regional list the name of the registered party on whose regional list he appeared,

in the region for which the election is held.

(8) Subject to paragraph (9), where a poll is abandoned by reason of a candidate's death the proceedings at or consequent on that poll shall be interrupted, and the presiding officer at any polling station shall 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 in due course, and the constituency returning officer shall dispose of ballot papers and other documents in his possession as he is required to do on the completion in due course of the counting of the votes, but—

- (a) it shall not be necessary for any ballot paper account to be prepared or verified; and
- (b) the constituency returning officer, without taking any step or further step for the counting of the ballot papers or of the votes shall seal up all the ballot papers, whether the votes on them have been counted or not.

(9) At a Scottish parliamentary general election where only one poll is abandoned the steps required to be taken by the presiding officer at such a polling station by paragraph (8) shall take place on the close of the poll, and paragraph (8) shall have effect as if, after “the constituency returning officer” in sub-paragraph (b) there were inserted “having separated the ballot papers relating to the other poll”.

(10) 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 to any such documents relating to a poll abandoned by reason of a candidate's death, with the following modifications—

- (a) ballot papers on which the votes were neither counted nor rejected shall be treated as counted ballot papers; and
- (b) no order shall be made for the production or inspection of any ballot papers or for the opening of a sealed packet of corresponding number lists or certificates as to employment on duty on the day of the poll unless the order is made by a court with reference to a prosecution.

PART VII

MISCELLANEOUS

Return of members and record of returns etc.

73.—(1) The Clerk of the Parliament shall on receipt of a certificate delivered under rule 62 or 66 enter the information contained in that certificate in a book kept for that purpose at the Parliament (in this paragraph referred to as “the returns book”).

(2) Where the Presiding Officer of the Scottish Parliament—

(a) sends a notice under article 84 or 85; or

(b) concludes that an election to fill a vacancy in the seat of a constituency member shall not be held because section 9(4) of the 1998 Act applies,

he shall—

(i) record in the returns book the fact of the vacancy; and

(ii) where sub paragraph (b) applies, that no election shall be held to fill the vacancy because section 9(4) of the 1998 Act applies.

(3) Where it comes to the notice of the Presiding Officer of the Scottish Parliament that—

(a) the seat of a regional member is vacant; and

(b) the person was returned as an individual candidate,

he shall record—

(i) in the returns book the fact of that vacancy; and

(ii) that the seat (in accordance with section 10(2) of the 1998 Act) is to remain vacant until the next ordinary election.

(4) 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.

SCHEDULE 3

Article 13(2)

ABSENT VOTING

ARRANGEMENT OF PARAGRAPHS

1. General requirements for applications
2. Additional requirements for applications for ballot papers to be sent to different address from that shown in the record kept under article 9(4) or 12(5)
3. Additional requirements for applications on grounds of disability
4. Additional requirements for applications based on occupation, service or employment
5. Additional requirements for applications for a proxy vote in respect of a particular election
6. Additional requirements for applications for appointment of a proxy

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

7. Closing dates for applications
 8. Grant or refusal of applications
 9. Notice of appeal
 10. Cancellation of proxy appointment
 11. Inquiries by registration officer
 12. Records and lists kept under articles 9, 10 and 12
 13. Marked register for polling stations
- Signature
Explanatory Note

General requirements for applications

1.—(1) Applications under article 9, 10, 11 or 12 shall, in the case of a person applying to vote by post, state—

- (a) the applicant's name in full;
- (b) except in the case of an application under article 12, the address in respect of which the applicant is registered or has applied to be (or is treated as having applied to be) registered in the register of electors;
- (c) in the case of an application under article 12, the address of the applicant, together with the name of the elector for whom he acts as proxy and the address of that elector for the purposes of paragraph (b);
- (d) in the case of an application under article 9(1), 10(1) or (2), or 12(4), the grounds on which the applicant claims to be entitled to an absent vote; and
- (e) the address to which the ballot paper should be sent,

and the application shall be signed by the applicant and made and sent or delivered in accordance with article 90.

(2) For the purposes of sub paragraph (1)(b), the address in respect of which the applicant is or has applied to be (or is treated as having applied to be) registered includes—

- (a) in the case of a service voter, the address given in the service declaration in accordance with section 16(d) of the 1983 Act⁽¹²⁾;
- (b) in the case of a voluntary mental patient, the address of the mental hospital or the address shown on the declaration of local connection in accordance with section 7B(3)(d) of the 1983 Act⁽¹³⁾;
- (c) in the case of a person remanded in custody, the address of the place at which he is detained or the address shown on the declaration of local connection in accordance with section 7B(3)(d) of the 1983 Act; and
- (d) in the case of a homeless person, within the meaning of section 7B(2)(c) of the 1983 Act, the address shown on the declaration of local connection in accordance with section 7B(3)(d) of that Act.

(3) An application under article 10(1), (2) or (4), 11(7) or 12(4) or (6) shall specify the election in respect of which it is made. An application under article 10(1), (2) or (4) shall also specify whether it is for an indefinite period or for a particular period specified in the application.

(4) An application to vote by proxy under article 9(2) or (6) or 10(2) or (4) shall include an application for the appointment of a proxy which meets the requirements of paragraph 5.

(5) An application under article 9, 10, 11 or 12 shall comply with such further requirements of this Schedule as apply to such an application including the requirements as to time set out by paragraph 6.

⁽¹²⁾ Section 16(d) was amended by the 2000 Act, Schedule 1, paragraph 9(c).

⁽¹³⁾ Section 7B was inserted by the 2000 Act, section 6.

Additional requirements for applications for ballot papers to be sent to different address from that shown in the record kept under article 9(4) or 12(5)

- 2.—(1) Sub-paragraph (3) applies to an application under—
- (a) article 10(4)(a) by a person shown as voting by post in the record kept under article 9(4); or
 - (b) article 12(6) a person shown as voting by post in the record kept under article 12(5),
- for his ballot paper to be sent to a different address from the address shown in that record.
- (2) Sub-paragraph (3) also applies where—
- (a) in the case of an application to vote by post under article 9(1) or (6) or article 10(1) the address stated in accordance with paragraph 1(1)(b) and the address stated in accordance with paragraph 1(1)(e) are different;
 - (b) in the case of an application by a proxy to vote by post under article 12(4) the proxy's address stated in accordance with paragraph 1(1)(c) and the address stated in accordance with paragraph 1(1)(e) are different.
- (3) Subject to sub-paragraph (4), the application must set out why the applicant's circumstances will be or are likely to be such that he requires his ballot paper to be sent to that address.
- (4) The requirement in sub-paragraph (3) does not apply where an applicant has, or has applied for, an anonymous entry.

Additional requirements for applications on grounds of disability

- 3.—(1) An application under paragraph (1), as read with paragraph (3)(c), of article 9 shall specify the disability by reason of which the application is made.
- (2) Subject to sub-paragraphs (3) and (6), such an application shall be attested and signed by—
- (a) a registered medical practitioner;
 - (b) a nurse registered on the register maintained by the Nursing and Midwifery Council under article 5 of the Nursing and Midwifery Order 2001(14) by virtue of qualifications in nursing;
 - (c) a registered dentist as defined by section 53(1) of the Dentists Act 1984(15);
 - (d) a registered dispensing optician or a registered optometrist within the meaning of the Opticians Act 1989(16);
 - (e) a registered pharmaceutical chemist as defined by section 24(1) of the Pharmacy Act 1954(17);
 - (f) a registered osteopath as defined by section 41 of the Osteopaths Act 1993(18);
 - (g) a registered chiropractor as defined by section 43 of the Chiropractors Act 1994(19);
 - (h) a Christian Science practitioner;
 - (i) a person for the time being listed in the British Psychological Society's register of chartered psychologists;
 - (j) a person registered as a member of a profession to which the Health Professions Order 2001(20) for the time being extends;

(14) S.I. 2002/253.

(15) 1984 c. 24.

(16) 1989 c. 44.

(17) 1954 c. 61.

(18) 1993 c. 21.

(19) 1994 c. 17.

(20) S.I. 2002/254.

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

- (k) the person managing a care home service registered under Part 1 of the Regulation of Care (Scotland) Act 2001⁽²¹⁾;
 - (l) the warden of premises forming one of a group of premises provided for persons of pensionable age or disabled persons for which there is a resident warden, where the applicant states that he resides in such premises;
 - (m) a manager (or a person on behalf of a manager) within the meaning of section 329 of the Mental Health (Care and Treatment) (Scotland) Act 2003⁽²²⁾ responsible for the administration of a hospital within the meaning of that section; or
 - (n) a person registered as a social worker in the register maintained in accordance with section 44 of the Regulation of Care (Scotland) Act 2001.
- (3) A person who qualifies—
- (a) by virtue of any of paragraphs (a) to (j) of sub-paragraph (2) may not attest an application for these purposes unless—
 - (i) he is treating the applicant for the disability specified in the application; or
 - (ii) the applicant is receiving care from him in respect of that disability; or
 - (b) by virtue of paragraph (n) of sub-paragraph (2) may not attest an application for these purposes unless—
 - (i) he is treating the applicant for the disability specified in the application;
 - (ii) the applicant is receiving care from him in respect of that disability; or
 - (iii) he has arranged care or assistance for the applicant in respect of their disability.
- (4) The person attesting an application under sub-paragraph (2), other than a person attesting by virtue of sub-paragraph (2)(m), shall state—
- (a) his name and address and the qualification by virtue of which he attests the application;
 - (b) where the person who attests the application is a person referred to in sub-paragraph (3) (a), that he is treating the applicant for the disability specified in the application or that the applicant is receiving care from him in respect of that disability;
 - (c) where the person who attests the application is a person referred to in sub paragraph (3) (b), that he is treating the applicant for the disability specified in the application, that the applicant is receiving care from him in respect of that disability, or that he has arranged care or assistance for the applicant in respect of that disability;
 - (d) that, to the best of his knowledge and belief, the applicant has the disability specified in the application and that he cannot reasonably be expected to go in person to his allotted polling station or to vote unaided there, by reason of that disability; and
 - (e) that, to the best of his knowledge and belief, the disability specified in the application is likely to continue either indefinitely or for a period specified by the person attesting the application.
- (5) A manager (or a person on behalf of a manager) attesting an application under sub paragraph (2)(m) shall state—
- (a) the name of the manager attesting the application;
 - (b) that the manager is authorised to attest the application;
 - (c) the position of the manager in the hospital at which the applicant is liable to be detained or at which he is receiving treatment;

⁽²¹⁾ 2001 asp 8.

⁽²²⁾ 2003 asp 13.

- (d) the statutory provision under which the applicant is detained, or liable to be detained, at the hospital, where applicable;
 - (e) that, to the best of the manager's knowledge and belief, the applicant has the disability specified in the application and that he cannot reasonably be expected to go in person to his allotted polling station or to vote unaided there, by reason of that disability; and
 - (f) that, to the best of the manager's knowledge and belief, the disability specified in the application is likely to continue either indefinitely or for a period specified by the manager attesting the application.
- (6) Sub-paragraphs (2), (4) and (5) shall not apply where—
- (a) the application is based on the applicant's blindness and the applicant is registered as a blind person by a local authority, which is specified in the application;
 - (b) the application states that the applicant is (under section 73 of the Social Security Contributions and Benefits Act 1992)(23) in receipt of the higher rate of the mobility component of a disability living allowance (payable under section 71 of that Act) because of the disability specified in the application in pursuance of sub-paragraph (1).
- (7) The fact that an applicant is registered as a blind person with a local authority shall be deemed sufficient evidence that he is eligible for an absent vote on the grounds set out in article 9(3)(b).
- (8) In this paragraph and paragraphs 4 and 5 below, "his allotted polling station", in relation to an elector, means the polling station allotted or likely to be allotted to him under this Order.

Additional requirements for applications based on occupation, service or employment

- 4.—(1) An application under article 9 and under paragraph (1), as read with paragraph (3)(c), of article 9 shall state—
- (a) whether the occupation, service or employment, in respect of which it is made, is that of the applicant or his spouse or civil partner, as the case may be, it is the applicant or his spouse or civil partner who is attending the course provided by an educational institution in respect of which the application is made;
 - (b) the nature of the occupation, service, employment or course provided by an educational institution giving rise to the application;
 - (c) where the person in respect of whose occupation, service or employment it is made (in this paragraph referred to as "the employed person") is self-employed, that fact and, in any other case, the name of that person's employer, and
 - (d) the reason relevant to the general nature of the employment, service or occupation in question or the course provided by an educational institution, why the applicant cannot reasonably be expected to go in person to his allotted polling station.
- (2) Such an application shall be attested and signed—
- (a) where the employed person is self-employed, by a person who—
 - (i) is aged 18 years or over;
 - (ii) knows the employed person; and
 - (iii) is not related to him;
 - (b) by the employer of the employed person or by another employee to whom this function is delegated by the employer; and

(23) 1992 c. 4.

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

- (c) in the case of a course provided by an educational institution, by the director or tutor of that course or by the principal or head of that institution or an employee to whom this function is delegated by the principal or head.
- (3) For the purposes of sub-paragraph (2)(a) and of sub-paragraph (4)(b)(i), one person is related to another if he is the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild of the other.
- (4) The person attesting an application under sub-paragraph (2) shall—
 - (a) where the applicant is the employed person or the person attending the course, certify that the statements included in the application in accordance with the requirements of sub-paragraph (1)(a) to (d) are true; or
 - (b) where the applicant is the spouse or civil partner of the employed person or the person attending the course, certify that the statements included in the application in accordance with the requirements of sub-paragraphs (1)(a) to (c) are true,and, in addition, he shall state—
 - (i) in the case of a person who attests an application under sub-paragraph (2)(a), his name and address, and that he is aged 18 years or over, knows the employed person, but is not related to him; or
 - (ii) in the case of a person who attests an application under sub-paragraph (2)(b), either that he is the employer of the employed person or the position he holds in the employment of that employer; or
 - (iii) in the case of a person who attests under sub-paragraph (2)(c), the post he holds at the institution.

Additional requirements for applications for a proxy vote in respect of a particular election

5.—(1) An application under article 10(2) to vote by proxy at a particular election shall set out why the applicant's circumstances on the date of the poll for that election in respect of which it is made will be or are likely to be such that he cannot reasonably be expected to vote in person at his allotted polling station.

- (2) Where an application under article 10(2)—
 - (a) is made on the grounds of the applicant's disability; and
 - (b) is made after 5 pm on the sixth day before the date of poll at the election for which it is made,

the requirements of paragraph 3 as to the matters to be specified and the attestation shall apply.

(3) Where an application mentioned in sub-paragraph (2) is made, the person who attests the application shall state, in addition to those matters specified in paragraph 3(4), to the best of his knowledge and belief, the date upon which the applicant became disabled.

(4) Where an application under article 10(2) is made by a person to whom paragraph 2(5A) of Schedule 4 to the 2000 Act⁽²⁴⁾ (mental patients who are not detained offenders) applies after 5 pm on the sixth day before the date of the poll at the election for which it is made, the requirements of sub-paragraph (5) as to the matters to be specified and as to attestation shall apply.

- (5) Where an application mentioned in sub-paragraph (4) is made—
 - (a) the application shall additionally state the name and address of the hospital at which the applicant is liable to be detained; and

(24) Paragraph 2(5A) was inserted by the 2006 Act, section 35.

- (b) the application shall be attested by a manager (or a person on behalf of a manager) within the meaning of section 329 of the Mental Health (Care and Treatment) (Scotland) Act 2003 responsible for the administration of the hospital at which the applicant is liable to be detained, and the attestation shall state—
 - (i) the name of the manager attesting the application;
 - (ii) that the manager is authorised to attest the application;
 - (iii) the position of the manager in the hospital at which the applicant is liable to be detained; and
 - (iv) the statutory provision under which the applicant is liable to be detained at the hospital.
- (6) This paragraph does not apply where an applicant has an anonymous entry.

Additional requirements for applications for appointment of a proxy

6. An application for the appointment of a proxy under article 11(6) or (7) shall state the full name and address of the person whom the applicant wishes to appoint as his proxy, together with his family relationship, if any, with the applicant, and—
- (a) if it is signed only by the applicant, shall contain a statement by him that he has consulted the person so named and that that person is capable of being and willing to be appointed to vote as his proxy; or
 - (b) if it is also signed by the person to be appointed, shall contain a statement by that person that he is capable of being and willing to be appointed to vote as the applicant's proxy.

Closing dates for applications

- 7.—(1) An application—
- (a) to vote by post under article 9(1);
 - (b) to vote by proxy under article 9(6);
 - (c) to vote by post under article 9(6); or
 - (d) from a proxy to vote by post under article 12(4),

shall be disregarded for the purposes of any particular election, and an application by a postal voter for his ballot papers to be sent to a different address or to vote instead by proxy at a particular election under article 10(4) shall be refused, if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that election.

- (2) An application—
- (a) to vote by proxy under article 9(2);
 - (b) for the appointment of a proxy under article 11(6),

shall be disregarded for the purposes of any particular election if it is received by the registration officer after 5 pm on the sixth day before the date of the poll at that election.

- (3) Subject to sub-paragraph (4), an application—
- (a) to vote by proxy under article 10(2);
 - (b) for the appointment of a proxy under article 11(7),

shall be refused if it is received by the registration officer after 5 pm on the sixth day before the date of the poll at the election for which it is made.

- (4) Where—

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

- (a) an application to vote by proxy under article 10(2) is made on the grounds of the applicant's disability; and
- (b) the applicant became disabled after 5 pm on the sixth day before the date of the poll at the election for which it is made,

the application, or an application under article 11(7) made by virtue of that application, shall be refused if it is received after 5 pm on the day of the poll at that election.

(5) An application—

- (a) to vote by post under article 10(1);
- (b) from a proxy postal voter for his ballot papers to be sent to a different address at a particular election under article 12(6),

shall be refused if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at the election for which it is made.

(6) The following, namely—

- (a) an application under article 9(5)(a) by an elector to be removed from the record kept under article 9(4);
- (b) an application under article 12(9)(a) by a proxy to be removed from the record kept under article 12(5); and
- (c) a notice under article 11(9) of the cancellation of a proxy's appointment,

shall be disregarded for the purposes of a particular election if it is received by the registration officer after 5 pm on the eleventh day before the date of the poll at that election.

(7) In computing a period of days for the purposes of this paragraph—

- (a) a Saturday or a Sunday;
- (b) Christmas Eve, Christmas Day, Easter Monday or Good Friday; or
- (c) a day which is a bank holiday in Scotland under the Banking and Financial Dealings Act 1971,

shall be disregarded.

Grant or refusal of applications

8.—(1) Where the registration officer grants an application under article 9, 10, 11 or 12 he shall, where practicable, notify the applicant of his decision.

(2) Where the registration officer grants an application for the appointment of a proxy, he shall, where practicable, confirm in writing to the elector that the proxy has been appointed, his name and address and the duration of the appointment.

(3) The proxy paper to be issued by the registration officer on the appointment of a proxy may be combined with another form of proxy paper if the registration officer is issuing a proxy paper appointing that person as proxy for the same elector in respect of another election or other elections.

(4) Where the registration officer does not grant an application under article 9, 10, 11 or 12, he shall notify the applicant of his decision and, in the case of an application under article 9(1) or 12(4), of the reason for his decision; and he shall date such notification.

(5) Where under paragraph 7(1), (2) or (6) the registration officer disregards an application for the purposes of any particular election, he shall, where practicable, notify the applicant of this.

(6) Where a person is removed from the record kept in pursuance of article 9(4), the registration officer shall, where practicable, notify him of this and the reason for it.

(7) At an election where the registration officer is not the returning officer for any constituency or part of a constituency for which he is the registration officer, he shall send to that officer details of any application to vote by post which he has granted as soon as practicable after doing so.

Notice of appeal

9.—(1) A person desiring to appeal under article 5(1) against the decision of a registration officer must give notice of the appeal to the registration officer within 14 days of the receipt of the notice given under paragraph 8(4), specifying the grounds of the appeal.

(2) The registration officer shall forward any such notice to the sheriff with a statement of the material facts which in his opinion have been established in the case, of his decision upon the whole case, and on any point which may be specified as a ground of appeal and shall also give to the sheriff any other information which the sheriff may require and which the registration officer is able to give.

(3) Where it appears to the registration officer that any notices of appeal given to him are based on similar grounds, he shall inform the sheriff so that the sheriff may consolidate the appeals or select a case as a test case.

Cancellation of proxy appointment

10.—(1) Where the appointment of a proxy is cancelled by notice given to the registration officer under article 11(9) or ceases to be in force under that provision or is no longer in force under article 11(10)(b), the registration officer shall—

- (a) notify the person whose appointment as proxy has been cancelled, has expired, ceases to be or is no longer in force, unless the registration officer has previously been notified by that person that he no longer wishes to act as proxy; and
- (b) remove his name from the record kept under article 9(4).

(2) The registration officer shall, where practicable, also notify the elector that the appointment has been cancelled or, as the case may be, notify him that the appointment has ceased and the reason for it.

Inquiries by registration officer

11.—(1) The registration officer may, at such times as he thinks fit, make inquiries of a person who is shown in the record kept under article 9(4) by virtue of an application under that article on the grounds set out in article 9(3)(d) or (e);

(2) The registration officer may treat the failure by a person of whom inquiries have been made under sub-paragraph (1) to respond to such inquiries within one month of the date on which they were made as sufficient evidence of a material change in circumstances.

Records and lists kept under articles 9, 10 and 12

12.—(1) Subject to the provisions of this paragraph, the records kept under articles 9(4) and 12(5) and the lists kept under articles 10(5) and 12(7) shall be in such form as the registration officer thinks fit.

(2) In that part of the special list referred to in article 10(5)(a), the address to which a ballot paper shall be sent to a person who is entitled to vote by post as an elector shall be placed on the right hand side of his name and electoral number (except in the case of a person to whom article 10(6) applies).

(3) In that part of the special list referred to in article 10(5)(b) (the list of proxies), the name and address of the proxy shall be placed on the right hand side of the elector's name and electoral number (except in the case of a person to whom article 10(6) applies).

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

(4) In the list kept under article 12(7) (those proxies who are entitled to vote by post), the name of the proxy, together with the address to which his ballot paper shall be sent, shall be placed on the right hand side of the elector's name and electoral number (except in the case of a person to whom article 12(8) applies).

(5) The registration officer shall make available for inspection at his office a copy of the records kept under articles 9(4) and 12(5).

(6) As soon as practicable after the sixth day before the date of the poll at an election (calculated in accordance with paragraph 7) the registration officer shall publish the lists kept under articles 10(5) and 12(7) by making a copy of them available for inspection at his office; and he shall continue to make a copy of those lists so available until the date of the poll.

(7) Subject to sub-paragraph (8), as soon as practicable after the publication of the lists referred to in sub-paragraph (6), the registration officer shall, on request, supply free of charge a copy of them to each—

- (a) candidate for return as a constituency member, or his election agent; or
- (b) individual candidate for return as a regional member or nominating officer of a party standing nominated or the election agent of such a candidate or party.

(8) But if such a request is made before any issue of postal ballot papers, he shall before that issue supply a copy of those lists or so much of them as relates to that issue.

(9) In this paragraph, "electoral number" means a person's number in the register to be used at the election.

Marked register for polling stations

13. To indicate that an elector or his proxy is entitled to vote by post and is for that reason not entitled to vote in person, the letter "A" shall be placed against the entry of that elector in any copy of the register, or part of it, provided for a polling station.

SCHEDULE 4

Article 13(3)

ISSUE AND RECEIPT OF POSTAL BALLOT PAPERS

ARRANGEMENT OF PARAGRAPHS

1. Interpretation

Issue of postal ballot papers

- 2. Combination of polls
- 3. Form of postal voting statement
- 4. Persons entitled to be present at proceedings on issue of postal ballot papers
- 5. Persons entitled to be present at receipt of postal ballot papers
- 6. Notification of requirement of secrecy
- 7. Time when postal ballot papers are to be issued
- 8. Procedures on the issue of postal ballot papers
- 9. Refusal to issue postal ballot paper
- 10. Envelopes

11. Delivery of postal ballot papers
12. Security of marked lists
13. Spoilt postal ballot paper
14. Lost postal ballot paper

Receipt of postal ballot papers

15. Notice of opening of postal ballot paper envelopes
 16. Postal ballot boxes and receptacles
 17. Receipt of covering envelope and collection of postal votes
 19. Opening of covering envelopes
 20. Procedure in relation to postal voting statements
 21. Opening of ballot paper envelopes
 22. Cancellation of postal ballot papers
 23. Lists of rejected postal ballot papers
 24. Checking of lists kept under paragraph 23
 25. Confirming receipt of postal votes and postal voting statements
 26. Sealing of receptacles
 27. Abandoned poll
 28. Forwarding of documents
- Signature
Explanatory Note

Interpretation

1. For the purposes of this Schedule, unless the context otherwise requires—
 - “agent” includes an election agent and a person appointed to attend in the election agent’s place;
 - “ballot paper envelope” and “covering envelope” mean the envelopes referred to in paragraph 10;
 - “issue” includes the original and any subsequent issue;
 - “proxy postal voters list” means the list kept under article 12(7);
 - “postal ballot paper” means a ballot paper issued to a postal voter;
 - “postal voter” means a voter who is entitled to vote by post (and includes a proxy postal voter);
 - “postal voters’ ballot box” means the ballot box referred to in paragraph 16(1)(a);
 - “receptacle for ballot paper envelopes”, “receptacle for postal voting statements”, “receptacle for rejected ballot paper envelopes” and “receptacle for rejected votes” mean, respectively, the receptacles referred to in paragraph 16(5); and
 - “spoilt postal ballot paper” means a ballot paper referred to in paragraph 13(1).

Issue of postal ballot papers

Combination of polls

2. Where the polls at elections are taken together under article 14(1) or (2) the proceedings on the issue and receipt of postal ballot papers in respect of each election may, if the returning officers concerned agree, be taken together.

Form of postal voting statement

3. The postal voting statement sent with the postal ballot paper to a postal voter shall be—

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

- (a) in the form L set out in the Appendix at a Scottish parliamentary election other than one to which sub paragraph (b) or (c) applies;
- (b) in the form U set out in the Appendix to a Scottish parliamentary election where the proceedings on the issue and receipt of ballot papers are taken together with those proceedings at another election under paragraph 2; and
- (c) in the form V set out in the Appendix at a Scottish parliamentary election the poll at which is taken together with a poll at another election under article 14(1) or (2) in any part of the constituency but where the proceedings on the issue and receipt of postal ballot papers are not taken together under paragraph 2, for use in that part of the constituency in which polls at more than one election are taken together.

Persons entitled to be present at proceedings on issue of postal ballot papers

4.—(1) Without prejudice to the provisions of section 6A, 6B, 6C, or 6D of the 2000 Political Parties Act⁽²⁵⁾, no person may be present at the proceedings on the issue of postal ballot papers other than the constituency returning officer and members of his staff.

(2) The constituency returning officer shall be the relevant officer for the purposes of section 6E of that Act.

Persons entitled to be present at receipt of postal ballot papers

5.—(1) Without prejudice to the provisions of section 6A, 6B, 6C, or 6D of the 2000 Political Parties Act, no person may be present at the proceedings on the receipt of postal ballot papers other than—

- (a) the constituency returning officer and members of his staff;
- (b) a candidate for return as a constituency member or an election agent of such a candidate or any person appointed by a candidate to attend in his election agent's place;
- (c) except in the case of an election to fill a vacancy in the seat of a constituency member—
 - (i) the regional returning officer;
 - (ii) an individual candidate for return as a regional member or his election agent or any person authorised by the candidate to attend in his election agent's place or;
 - (iii) the election agent of a registered party standing nominated or the nominating officer of that party or any person authorised by that officer to attend in his place; and
- (d) an agent appointed under sub paragraph (3).

(2) The constituency returning officer shall be the relevant officer for the purposes of section 6E of the 2000 Political Parties Act.

(3) Each—

- (a) candidate for return as a constituency member; and
- (b) except in the case of an election to fill a vacancy in the seat of a constituency member, individual candidate for return as a regional member and each election agent for a registered party standing nominated,

may appoint one or more agents up to the number he may be authorised by the constituency returning officer to appoint, so, however, that the number authorised should be the same in the case of each candidate or, as the case may be, election agent for a registered party standing nominated.

(4) Notice of the appointment stating the names and addresses of the persons appointed shall be given by the candidate or election agent to the constituency returning officer before the time fixed

⁽²⁵⁾ These sections, and section 6E, were inserted by the 2006 Act, section 29.

for the opening of the postal voters' ballot boxes, and if a notice of appointment states more names than may be authorised by the constituency returning officer, none of the persons named on that notice shall be appointed.

(5) Where postal ballot papers for more than one election are issued together under paragraph 2, the constituency returning officer to whom notice shall be given under sub-paragraph (4) and sub-paragraphs (6) and (7) is the returning officer who issues the postal ballot papers.

(6) If an agent dies or becomes incapable of acting, the candidate or election agent 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) Agents may be appointed and notice of appointment given to the constituency returning officer by a candidate's election agent instead of by the candidate.

(8) In this Schedule references to agents shall be taken as references to agents whose appointments have been duly made and notified and, in the case of agents appointed under sub-paragraph (3), who are within the number authorised by the constituency returning officer.

(9) Any of the following persons, namely—

- (a) a candidate for return as a constituency member;
- (b) an individual candidate for return as a regional member;
- (c) the election agent of a registered party standing nominated,

may himself do any act or thing which any agent of his, if appointed, would have been authorised to do, or may assist his agent in doing any such act or thing.

(10) Where in this Schedule any act or thing is required or authorised to be done in the presence of the candidates or their agents, the non-attendance of any such person 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

6. The constituency returning officer shall make arrangements to ensure that every person attending the proceedings in connection with the issue or receipt of postal ballot papers has been given a copy in writing of the provisions of article 32(5) and (7).

Time when postal ballot papers are to be issued

7.—(1) In the case of a person shown in the record kept under—

- (a) article 9(4)(a); or
- (b) article 12(5),

no postal ballot paper (and no postal voting statement) shall be issued until after 5 pm on the eleventh day before the date of the poll (computed in accordance with paragraph 7(7) of Schedule 3).

(2) In the case of any other person, the postal ballot paper (and postal voting statement) shall be issued by the constituency returning officer as soon as practicable after the registration officer has granted the application to vote by post.

Procedures on the issue of postal ballot papers

8.—(1) Each postal ballot paper issued shall bear the official mark and the name and number of the elector as stated in the register shall be called out, and such number shall be marked on the corresponding number list, next to the number and unique identifying mark of the ballot paper issued to that elector, and a mark shall be placed in the special lists kept under article 10(5) or the proxy postal voters list against the number of the elector to denote that a ballot paper has been issued to the elector or his proxy but without showing the particular ballot paper issued.

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

(2) The number of a postal ballot paper shall be marked on the postal voting statement sent with that paper.

(3) Where postal ballot papers for more than one election are issued together under paragraph 2—

(a) one mark shall be placed in the special lists or the proxy postal voters list under sub-paragraph (1) to denote that ballot papers have been issued in respect of all of those elections, except that where ballot papers are not so issued a different mark shall be placed in the special lists or proxy postal voters list to identify the election in respect of which the ballot paper was issued; and

(b) the number of each ballot paper shall be marked on the postal voting statement under sub-paragraph (2).

(4) Where the poll at a Scottish parliamentary election is taken with the poll at another election under article 14(1) or (2) but the proceedings on the issue and receipt of postal ballot papers are not taken together under paragraph 2, the colours of the postal ballot papers (or, as the case may be, the colour of the postal ballot paper) shall also be marked on the postal voting statement sent with those papers (or as the case may be, that paper).

(5) The address to which the postal ballot paper, postal voting statement and the envelopes referred to in paragraph 10 are to be sent is—

(a) in the case of an elector, the address shown in the special list kept under article 10(5)(a); and

(b) in the case of a proxy, the address shown in the special list kept under article 10(5)(b).

(6) Where a person has an anonymous entry in the register, the items specified in sub paragraph (5) must be sent (as the case may be) to the address to which postal ballot papers should be sent—

(a) as shown in the record kept under article 9(4); or

(b) as given in pursuance of an application made under article 10(1) or (2).

Refusal to issue postal ballot paper

9. Where a constituency returning officer is satisfied that two or more entries in either the special lists kept under article 10(5), or the proxy postal voters list, or in each of those lists relate to the same elector he shall not issue more than one constituency ballot paper or, as the case may be, more than one regional ballot paper in respect of the same elector in respect of the same election.

Envelopes

10.—(1) The envelope which the constituency returning officer is required by rule 34 of the Scottish Parliamentary Election Rules to send to a postal voter for the return of postal ballot papers (or, as the case may be, a postal ballot paper) and the postal voting statement (referred to as a “covering envelope”) shall be marked with the letter “B”.

(2) In addition to the documents referred to in sub-paragraph (1), the constituency returning officer shall send to a postal voter a smaller envelope (referred to as a “ballot paper envelope”) which shall be marked with—

(a) the letter “A”;

(b) the words “Ballot paper envelope”; and

(c) the number of each ballot paper.

(3) Where the poll at one election is taken together with the poll at another election under article 14(1) or (2) but the proceedings on the issue and receipt of postal ballot papers are not to be taken together under paragraph 2—

- (a) the envelope referred to in sub-paragraph (1) shall also be marked “Covering envelope for the [insert colour of ballot paper(s)] coloured ballot paper(s)”; and
- (b) on the envelope referred to in sub-paragraph (2), after the words “Ballot paper envelope” there shall be added the words “for the [insert colour of ballot paper(s)] coloured ballot paper(s)”.

Delivery of postal ballot papers

11.—(1) For the purpose of delivering postal ballot papers, the constituency returning officer may use—

- (a) a universal postal service provider;
- (b) a commercial delivery firm; or
- (c) members of his own staff.

(2) Where the services of a universal postal service provider or commercial delivery firm are to be used, envelopes addressed to postal voters shall be counted and delivered by the constituency returning officer with such form of receipt to be endorsed by that provider or firm as may be arranged.

(3) Postage shall be prepaid on envelopes addressed to the postal voters (except where sub paragraph (1)(c) applies).

(4) Return postage shall be prepaid on all covering envelopes where the address provided by the postal voter for the receipt of the postal ballot paper is within the United Kingdom.

(5) In this paragraph, “universal postal service provider” has the meaning given in the Postal Services Act 2000 to a “universal service provider”.

Security of marked lists

12.—(1) As soon as practicable after the issue of each batch of postal ballot papers, the constituency returning officer shall make up into a packet the corresponding number list of those ballot papers which have been issued and shall seal such a packet.

(2) Until the time referred to in paragraph 19(8), the constituency returning officer shall take proper precautions for the security of the marked copy of the postal voters list and the postal proxy voters list.

Spoilt postal ballot paper

13.—(1) If a postal voter has inadvertently dealt with his postal ballot paper or postal voting statement in such a manner that it cannot be conveniently used as a ballot paper (referred to as “a spoilt ballot paper”) or, as the case may be, a postal voting statement (referred to as “a spoilt postal voting statement”) he may return (either by hand or by post) to the constituency returning officer the spoilt ballot paper or as the case may be, the spoilt postal voting statement.

(2) Where a postal voter exercises the entitlement conferred by sub-paragraph (1), he shall also return—

- (a) the postal ballot paper or, as the case may be, the postal voting statement, whether spoilt or not;
- (b) where two or more postal ballot papers have been issued together to him (whether at a Scottish parliamentary general election or under paragraph 2), all other ballot papers so issued, whether spoilt or not; and
- (c) the envelopes supplied for the return of the documents mentioned in sub-paragraph (1) or paragraph (a) or (b) above.

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

(3) Subject to sub-paragraph (4), on receipt of the documents referred to in sub-paragraphs (1) and (2) the constituency returning officer shall issue a replacement ballot paper or, as the case may be, papers except where those documents are received after 5 pm on the day of the poll.

(4) Where the constituency returning officer receives the documents referred to in sub-paragraphs (1) and (2) after 5 pm on the day before the day of the poll, he shall only issue another postal ballot paper or, as the case may be, ballot papers if the postal voter returns the documents by hand.

(5) Paragraphs 4, 5, 6 and 8 to 12 shall apply to the issue of postal ballot papers under sub-paragraph (3).

(6) Any postal ballot paper and the postal voting statement, whether spoilt or not, returned in accordance with sub-paragraphs (1) and (2) shall be immediately cancelled.

(7) The constituency returning officer, as soon as practicable after cancelling those documents, shall make up those documents in a separate packet and shall seal the packet; and if on any subsequent occasion documents are cancelled as mentioned above, the sealed packet shall be opened and the additional cancelled documents included in it and the packet shall be again made up and sealed.

(8) Where a postal voter applies in person—

- (a) by 5 pm on the day before the day of the poll, the constituency returning officer may hand a replacement postal ballot paper to him;
- (b) after 5 pm on the day before the day of the poll, the constituency returning officer may only hand a replacement postal ballot paper to him;

instead of delivering it in accordance with paragraph 11.

(9) The constituency returning officer shall enter in a list kept for the purpose (“the list of spoilt postal ballot papers”)—

- (a) the name and number of the elector as stated in the register (or in the case of an elector who has an anonymous entry, his electoral number alone);
- (b) the number of the postal ballot paper (or papers) issued under this paragraph, and
- (c) where the postal voter whose ballot paper is spoilt is a proxy, his name and address.

Lost postal ballot paper

14.—(1) Where a postal voter claims either to have lost or not to have received—

- (a) his postal ballot paper;
- (b) the postal voting statement; or
- (c) one or more of the envelopes supplied for their return,

by the third day before the day of the poll, he may apply (whether or not in person) to the constituency returning officer for a replacement ballot paper.

(2) Such an application shall include evidence of the voter’s identity.

(3) Where a postal voter exercises the entitlement conferred by sub-paragraph (1), he shall return—

- (a) the documents referred to in sub-paragraph (1)(a) to (c); and
- (b) where two or more postal ballot papers have been issued together to him (whether at a Scottish parliamentary general election or under paragraph 2), all other ballot papers so issued,

which he has received and which have not been lost.

(4) Any postal ballot paper and the postal voting statement returned in accordance with sub-paragraph (3) shall be immediately cancelled.

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

(5) The constituency returning officer, as soon as practicable after cancelling those documents, shall make up those documents in a separate packet and shall seal the packet; and if on any subsequent occasion documents are cancelled as mentioned above, the sealed packet shall be opened and the additional cancelled documents included in it and the packet shall be again made up and sealed.

(6) Subject to sub-paragraph (7), where the application is received by the constituency returning officer before 5 pm on the day of the poll and the constituency returning officer—

- (a) is satisfied as to the voter's identity, and
- (b) has no reason to doubt that the postal voter has either lost or has not received the original postal ballot paper or the postal voting statement or one or more of the envelopes provided for their return,

he shall issue another postal ballot paper or, as the case may be, postal ballot papers.

(7) Where the application is received by the constituency returning officer after 5 pm on the day before the day of the poll, he shall only issue another postal ballot paper, or as the case may be, ballot papers if the postal voter applies in person.

(8) The constituency returning officer shall enter in a list kept for the purpose (“the list of lost postal ballot papers”)—

- (a) the name and number of the elector as stated in the register (or, in the case of an elector who has an anonymous entry, his electoral number alone);
- (b) the number of the lost postal ballot paper, the numbers of any ballot papers returned along with it, and the numbers of all replacement ballot papers issued under this paragraph; and
- (c) where the postal voter is a proxy, his name and address.

(9) Paragraphs 4, 5, 6 and 8 to 12 shall apply to the issue of replacement postal ballot papers under sub-paragraph (6).

(10) Where a postal voter applies in person—

- (a) by 5 pm on the day before the day of the poll, the constituency returning officer may hand a replacement ballot paper to him; or
- (b) after 5 pm on the day before the day of the poll, the constituency returning officer may only hand a replacement postal ballot paper to him,

instead of delivering it in accordance with paragraph 11.

(11) Where the constituency returning officer issues another ballot paper, or as the case may be, postal ballot papers under sub-paragraph (6), the lost or unreceived ballot paper shall be void and of no effect.

Receipt of postal ballot papers

Notice of opening of postal ballot paper envelopes

15.—(1) The constituency returning officer shall give not less than 48 hours' notice in writing of each occasion on which a postal voters' ballot box and the envelopes contained in it is to be opened, to—

- (a) each candidate for return as a constituency member; and
- (b) except in each case of an election to fill a vacancy in the seat of a constituency member, each individual candidate for return as a regional member and the election agent for each registered party standing nominated.

(2) Such a notice shall specify—

- (a) the time and place at which such an opening is to take place, and

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

- (b) the number of agents a candidate may appoint under paragraph 5(3) to attend each opening.

Postal ballot boxes and receptacles

16.—(1) The constituency returning officer shall provide a separate ballot box for the reception of—

- (a) the covering envelopes when returned by the postal voters (“postal voters' ballot box”); and
- (b) postal ballot papers (“postal ballot box”).

(2) Each such ballot box shall be marked “postal voters' ballot box” or “postal ballot box”, as the case may be, and with the name of the constituency or electoral area for which the election is, or, as the case may be, the elections are, held.

(3) The postal ballot box shall be shown to the agents present on the occasion of opening the first postal voters' ballot box as being empty.

(4) The constituency returning officer shall then lock the ballot box and apply his seal in such manner as to prevent its being opened without breaking the seal; any of the agents present who wish to add their seals may then do likewise.

(5) The constituency returning officer shall provide the following receptacles—

- (a) the receptacle for rejected votes;
- (b) the receptacle for postal voting statements;
- (c) the receptacle for ballot paper envelopes; and
- (d) the receptacle for rejected ballot paper envelopes.

(6) The constituency returning officer shall take proper precautions for the safe custody of every ballot box and receptacle referred to in this paragraph.

Receipt of covering envelope and collection of postal votes

17.—(1) The constituency returning officer shall, immediately on receipt (whether by hand or by post) of a covering envelope (or an envelope which is stated to include a postal vote) before the close of the poll, place it unopened in a postal voters' ballot box.

(2) Where an envelope, other than a covering envelope issued by the constituency returning officer—

- (a) has been opened; and
- (b) contains a ballot paper envelope, postal voting statement or ballot papers,

the first-mentioned envelope, together with its contents, shall be placed in a postal voters' ballot box.

(3) The constituency returning officer may collect, or cause to be collected, any postal ballot paper or postal voting statement which by virtue of rule 53(1)(g) of the Scottish Parliamentary Election Rules the presiding officer of a polling station would otherwise be required to deliver or cause to be delivered to him.

(4) Where the constituency returning officer collects, or causes to be collected, any postal ballot paper or postal voting statement in accordance with sub-paragraph (3) 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.

Opening of postal voters' ballot box

18.—(1) So long as the constituency returning officer ensures that there is at least one sealed postal voters' ballot box for the reception of covering envelopes up to the time of the close of the poll, the other postal voters' ballot boxes may be opened by him prior to that time.

(2) Each postal voters' ballot box shall be opened by the constituency returning officer in the presence of any agents, if in attendance.

(3) The last postal voters' ballot box and the postal ballot box shall be opened at the counting of the votes under rule 55 of the Scottish Parliamentary Election Rules.

Opening of covering envelopes

19.—(1) When a postal voters' ballot box is opened, the constituency returning officer shall count and record the number of covering envelopes, and shall then open each covering envelope (including any envelope to which paragraph 17(2) applies) separately.

(2) The procedure in paragraph 20 applies where a covering envelope (including any envelope to which paragraph 17(2) applies) contains both—

- (a) a postal voting statement; and
- (b) a ballot paper envelope, or if there is no ballot paper envelope, a ballot paper (or ballot papers).

(3) Where the covering envelope does not contain the postal voting statement separately, the constituency returning officer shall open the ballot paper envelope to ascertain whether the postal voting statement is inside.

(4) Where a covering envelope does not contain both—

- (a) a postal voting statement (whether separately or not); and
- (b) a ballot paper envelope or, if there is no ballot paper envelope, a ballot paper (or ballot papers)

the constituency returning officer shall mark the covering envelope “provisionally rejected”, attach its contents (if any) and place it in the receptacle for rejected votes.

(5) In carrying out the procedures in this paragraph and paragraphs 20 to 24, the constituency returning officer shall keep the ballot papers face downwards and shall take all proper precautions for preventing any person from seeing the votes made on the ballot papers

(6) Where an envelope opened in accordance with sub-paragraph (1) contains a postal voting statement, the constituency returning officer shall place a mark in the marked copy of the postal voters list or proxy postal voters list in a place corresponding to the number of the elector to denote that a postal vote has been returned.

(7) A mark made under sub-paragraph (6) shall be distinguishable from and shall not obscure the mark made under paragraph 8(1) or (3)(a).

(8) As soon as practicable after the last covering envelope has been opened, the constituency returning officer shall make up into a packet the copy of the postal voters list and proxy postal voters list that have been marked in accordance with sub-paragraph (6) and shall seal such a packet.

Procedure in relation to postal voting statements

20.—(1) The constituency returning officer shall satisfy himself that the postal voting statement has been duly signed by the voter (referred to as a “valid postal voting statement”).

(2) Where the constituency returning officer is not so satisfied, he shall mark the statement “rejected”, attach to it the ballot paper envelope, or if there is no such envelope, the ballot paper (or ballot papers), and, subject to sub-paragraph (3), place it in the receptacle for rejected votes.

(3) Before placing the statement in the receptacle for rejected votes, the constituency returning officer shall show it to the agents and, if any of them object to his decision, he shall add the words “rejection objected to”.

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

(4) The constituency returning officer shall then compare the number (or numbers) on the postal voting statement against the number or (numbers) on the ballot paper envelope and, where they are the same, he shall place the statement and the ballot paper envelope in, respectively the receptacle for postal voting statements and the receptacle for ballot paper envelopes.

(5) Where there is a valid postal voting statement but no ballot paper envelope, or where the envelope has been opened under paragraph 19(3), he shall place—

- (a) in the postal ballot box, any ballot paper the number on which is the same as the number (or one of the numbers) on the postal voting statement;
- (b) in the receptacle for rejected votes, any other ballot paper, to which shall be attached the postal voting statement marked “provisionally rejected”; and
- (c) in the receptacle for postal voting statements, any postal voting statement not disposed of under paragraph (b).

(6) Where the number (or numbers) on a valid postal voting statement is (or are) not the same as the number (or numbers) on the ballot paper envelope or where that envelope has no number on it (or only one number where the postal voting statement has more than one), the constituency returning officer shall open the envelope.

(7) Where an envelope has been opened under paragraph 19(3) or sub paragraph (6), the constituency returning office shall—

- (a) place in the postal ballot box any ballot paper the number on which is the same as the number (or one of the numbers) on the valid postal voting statement;
- (b) place in the receptacle for rejected votes any other ballot paper, to which shall be attached the postal voting statement marked “provisionally rejected”;
- (c) place in the receptacle for rejected votes any postal voting statement marked “provisionally rejected” in respect of a ballot paper envelope—
 - (i) which does not contain a ballot paper; or
 - (ii) which does not contain a sufficient number of ballot papers if more than one number appears on the statement,and shall indicate the missing ballot paper, where that is the case; and
- (d) place in the receptacle for postal voting statements, any such statement not disposed of under paragraph (b) or (c).

Opening of ballot paper envelopes

21.—(1) The constituency returning officer shall open separately each ballot paper envelope placed in the receptacle for ballot paper envelopes.

(2) He shall place—

- (a) in the postal ballot box, any ballot paper the number on which is the same as the number (or one of the numbers) on the ballot paper envelope;
- (b) in the receptacle for rejected votes, any other ballot paper which shall be marked “provisionally rejected” and to which shall be attached the ballot paper envelope; and
- (c) in the receptacle for rejected ballot paper envelopes, any ballot paper envelope which shall be marked “provisionally rejected” because it does not contain either a ballot paper or, where more than one number appears on the ballot paper envelope, a sufficient number of ballot papers (and indicating, in such a case, the missing ballot paper or papers).

Cancellation of postal ballot papers

22.—(1) Where it appears to the returning officer that a cancelled postal ballot paper has been placed—

- (a) in a postal voters' ballot box;
- (b) in the receptacle for ballot paper envelopes; or
- (c) a postal ballot box,

he shall proceed as follows.

(2) He shall, on at least one occasion on which a postal voters' ballot box is opened in accordance with paragraph 18, also open any postal ballot box and the receptacle for ballot paper envelopes and—

- (a) retrieve the cancelled ballot paper;
- (b) show the ballot paper number on the cancelled ballot paper to the agents;
- (c) retrieve the postal voting statement that relates to a cancelled ballot paper from the receptacle for postal voting statements;
- (d) attach any cancelled postal ballot paper to the postal voting statement to which it relates;
- (e) place the cancelled documents in a separate packet and deal with that packet in the manner provided for by paragraph 13(7); and
- (f) unless the postal ballot box has been opened for the purposes of the counting of votes under rule 55 of the Scottish Parliamentary Election Rules, re-lock (if it has a lock) and re-seal the postal ballot box in the presence of the agents.

(3) Whilst retrieving a cancelled ballot paper in accordance with sub-paragraph (2), the returning officer and his staff—

- (a) shall keep the ballot papers face downwards and shall take all proper precautions for preventing any person seeing the votes made on the ballot papers, and
- (b) shall not be permitted to view the corresponding number list used at the issue of postal ballot papers.

Lists of rejected postal ballot papers

23.—(1) In respect of any election, the constituency returning officer shall keep two separate lists of rejected postal ballot papers.

(2) In the first list, he shall record the ballot paper number of any postal ballot paper which is not accompanied by a valid postal voting statement.

(3) In the second list, he shall record the ballot paper number of any postal ballot paper which is entered on a valid postal voting statement where that ballot paper is not received with the postal voting statement.

Checking of lists kept under paragraph 23

24.—(1) Where the constituency returning officer receives a valid postal voting statement without the postal ballot paper (or papers or, as the case may be, all of the papers) to which it relates, he shall from time to time prior to the close of the poll, check the list kept under paragraph 23(2) to see whether the number (or numbers) of a postal ballot paper to which the statement relates is (or are) entered in that list.

(2) Where the constituency returning officer receives a postal ballot paper without the postal voting statement relating to it, he may, at any time prior to the close of the poll, check the list kept under paragraph 23(3) to see whether the number of that ballot paper is entered in that list.

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

(3) The constituency returning officer shall conduct the checks described in sub paragraphs (1) and (2) as soon as practicable after the receipt of packets from every polling station in the constituency or, as the case may be, electoral area under rule 53 of the Scottish Parliamentary Election Rules.

(4) Where the ballot paper number in the list matches the number of a valid postal voting statement or, as the case may be, a postal ballot paper, the constituency returning officer shall retrieve the relevant statement or paper.

(5) The constituency returning officer shall then take the appropriate steps under this Schedule as though any document earlier marked “provisionally rejected” had not been so marked and shall amend the document accordingly.

Confirming receipt of postal votes and postal voting statements

25.—(1) An elector or a proxy voter who is shown in the postal voters list or proxy postal voters list may request, at any time before the close of the poll, that the constituency returning officer confirm—

- (a) whether a mark is shown in the marked copy of the postal voters list or proxy postal voters list in a place corresponding to the number of the elector to denote that a postal vote or votes have been returned, and
- (b) whether the number of the ballot paper or papers issued to the elector or his proxy have been recorded on either of the lists of rejected votes kept by the constituency returning officer under sub-paragraphs (2) and (3) of paragraph 23.

(2) The constituency returning officer shall satisfy himself that any such request has been made by the elector or their proxy, and if so satisfied shall provide confirmation of the matters specified in sub-paragraph (1).

Sealing of receptacles

26.—(1) As soon practicable after the completion of the procedure under paragraph 24(3) and (4), the constituency returning officer shall make up into separate packets the contents of—

- (a) the receptacle of rejected votes;
- (b) the receptacle of postal voting statements;
- (c) the receptacle of rejected ballot paper envelopes; and
- (d) the lists of spoilt and lost postal ballot papers,

and shall seal up such packets.

(2) Any document in those packets marked “provisionally rejected” shall be deemed to be marked “rejected”.

Abandoned poll

27.—(1) Where a poll is abandoned or countermanded after postal ballot papers have been issued, by reason of the death of a candidate, the constituency returning officer—

- (a) shall not take any step or further step to open covering envelopes or deal with the contents in accordance with the provisions of this Schedule; and
- (b) shall, notwithstanding paragraphs 19 to 21, treat all unopened covering envelopes and the contents of those that have been opened as if they were counted ballot papers.

(2) Sub-paragraph (1) shall not apply where postal ballot papers for more than one election have been issued together under paragraph 2.

Forwarding of documents

28.—(1) The constituency returning officer shall forward to the sheriff clerk at the same time as he forwards the documents mentioned in rule 69 of the Scottish Parliamentary Election Rules—

- (a) any packets referred to in paragraphs 12, 13(7), 14(5) and 26, subject to paragraph 27, endorsing on each packet a description of its contents, the date of the election to which it relates and the name of the constituency or electoral ward for which the election (or elections) was (or were) held; and
- (b) a completed statement in form W set out in the Appendix of the number of postal ballot papers issued.

(2) Where—

- (a) any covering envelopes are received by the constituency returning officer after the close of the poll (apart from those delivered in accordance with Rule 53(1)(g) of the Scottish Parliamentary Election Rules);
- (b) any envelopes addressed to postal voters are returned as undelivered too late to be readdressed; or
- (c) any spoilt postal ballot papers are returned too late to enable other postal ballot papers to be issued

the constituency returning officer shall put them unopened in a separate packet, seal up such packet and endorse and forward it at a subsequent date in the manner described in sub paragraph (1).

(3) Rules 68 and 69 of the Scottish Parliamentary Election Rules shall apply to any packet or document forwarded under this paragraph.

(4) A copy of the statement referred to in sub-paragraph (1)(b) shall be provided by the constituency returning officer to the Secretary of State and the Electoral Commission in the period which starts 10 days after the day of the poll and ends 15 days after the day of the poll.

SCHEDULE 5

Article 14(5)

COMBINATION OF POLLS

ARRANGEMENT OF PARAGRAPHS

PART I

GENERAL

1. Returning officers and polling stations
2. Functions at combined polls
3. Modification of provisions about expenses in this Order and the 1983 Act

PART II

MODIFICATIONS OF THE SCOTTISH PARLIAMENTARY ELECTION RULES TO APPLY WHERE THE POLL AT A SCOTTISH PARLIAMENTARY

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

ELECTION IS TAKEN TOGETHER WITH A POLL AT A LOCAL
GOVERNMENT ELECTION UNDER ARTICLE 14(1) OR (2)

4. Modifications of the Scottish Parliamentary Election Rules: general provision
5. Rule 28 (The ballot paper: regional candidates)
6. Rule 33 (notice of poll)
7. Rule 37 (issue of official poll cards)
8. Rule 38 (equipment of polling stations)
9. Rule 39 (appointment of polling and counting agents)
10. Rule 44 (questions to be put to voters)
11. Rule 46 (voting procedure)
12. Rule 47 (votes marked by presiding officer)
13. Rule 48 (voting by persons with disabilities)
14. Rule 49 (tendered ballot papers)
15. Rule 52 (adjournment of poll in case of riot)
16. Rule 53 (procedure on close of poll)
17. Rule 54 (attendance at counting of votes)
18. Rule 55 (the count)
19. Rule 69 (delivery of documents to the sheriff clerk)
20. Rule 72 (countermand or abandonment of poll etc. on death of candidate)
21. Form of directions for the guidance of the voters in voting in Schedule 5

PART III

MODIFICATIONS OF THE SCOTTISH LOCAL GOVERNMENT
ELECTION RULES 2007 TO APPLY WHERE THE POLL AT A LOCAL
GOVERNMENT ELECTION IS TAKEN TOGETHER WITH A POLL AT A
SCOTTISH PARLIAMENTARY ELECTION UNDER ARTICLE 14(1) OR (2)

22. Modifications of the local elections rules: general provision
23. Rule 14 of the local elections rules (the ballot papers)
24. Rule 19 of the local elections rules (notice of poll)
25. Rule 23 of the local elections rules (issue of official poll cards and notifications)
26. Rule 24 of the local elections rules (equipment of polling stations)
27. Rule 25 of the local elections rules (appointment of polling and counting agents)
28. Rule 30 of the local elections rules (questions to be put to voters)
29. Rule 32 of the local elections rules (voting procedure)
30. Rule 33 of the local elections rules (votes marked by presiding officer)
31. Rule 34 of the local elections rules (voting by persons with disabilities)
32. Rule 35 of the local elections rules (tendered ballot papers)
33. Rule 38 of the local elections rules (adjournment of poll in case of riot)
34. Rule 39 of the local elections rules (procedure on close of poll)
35. Rule 40 of the local elections rules (attendance at counting of votes)
36. Rule 42 of the local elections rules (the count)
37. Rule 57 of the local elections rules (delivery of documents)
38. Rule 60 of local elections rules (countermand or abandonment of poll on death of candidate)
39. Local elections rules: postal voting statement
40. Local elections rules: declaration by the companion of a voter with disabilities
Signature

Explanatory Note

PART I GENERAL

Returning officers and polling stations

1.—(1) Where the polls at a Scottish parliamentary general election and an ordinary local government election are taken together under article 14(1)—

- (a) those functions of the returning officer at the local government election which are specified in paragraph 2 shall be discharged by the constituency returning officer for the Scottish parliamentary election for such part of the local government area as is situated in the Scottish parliamentary constituency; and
- (b) only polling stations used for the Scottish parliamentary election shall be used for the local government election.

(2) Where the polls for related areas are taken together under article 14(2)—

- (a) the returning officers for those elections shall decide which returning officer shall discharge in the area in which the polls are combined (“the combined area”) those functions of the other which are specified in paragraph 2; and
- (b) the only polling stations which shall be used in the combined area at such elections are the polling stations used at the election for which the returning officer who discharges the functions referred to above acts as returning officer.

Functions at combined polls

2.—(1) The functions referred to in paragraph 1 are the functions conferred or imposed—

- (a) at a Scottish parliamentary election by those rules in the Scottish Parliamentary Election Rules which are specified in sub paragraph (2); and
- (b) at a local government election, by those rules in the rules made under sections 3 and 16 of the Local Governance (Scotland) Act 2004⁽²⁶⁾ which correspond to the provisions specified in sub paragraph (2),

and, where the proceedings on the issue and receipt of postal ballot papers at two or more elections are taken together under paragraph 2 of Schedule 4, the functions conferred or imposed by that Schedule and by Part V of the 2001 Regulations⁽²⁷⁾.

(2) The rules referred to in sub-paragraph (1) are—

- (a) rule 33(2)(a) (notice of situation of polling stations);
- (b) where the proceedings on the issue and receipt of postal ballot papers at two or more elections are taken together under paragraph 2 of Schedule 4, rule 34 (postal ballot papers);
- (c) rule 35 (provision of polling stations);
- (d) rule 36(1) and (2) (appointment of presiding officers and clerks) to the extent that that rule concerns the appointment of presiding officers and clerks to assist them;
- (e) rule 38 (equipment of polling stations);

(26) 2004 asp 9. Section 3 was amended by section 34(6) of the [Local Electoral Administration and Registration Services \(Scotland\) Act 2006](#), asp 14. The current rules are the Scottish Local Government Elections Rules 2007, comprising Schedule 1 of the Scottish Local Government Elections Order 2007 (S.S.I. 2007/42).

(27) S.I. 2001/497 as amended by S.I. 2002/1872, regulations 11 to 13 and S.I. 2006/834, regulations 8 to 11.

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

- (f) rule 40(1) (notification of requirement of secrecy at polling station);
- (g) rule 41(4) (signature of certificate as to employment);
- (h) rule 42(2)(b) (authorisation to order removal from polling station); and
- (i) in rule 55 paragraph (1) (the count) (as substituted by paragraph 18 of this Schedule) and paragraph (5).

Modification of provisions about expenses in this Order and the 1983 Act

3.—(1) Where those functions of a returning officer at an election which are specified in paragraph 2 are discharged by the returning officer at another election under paragraph 1, references to the returning officer or his charges or expenditure—

- (a) in sub-sections (3), (3A), (3B), (3C), (7), and (8) of section 29 of the 1983 Act⁽²⁸⁾ (payments by and to returning officers) as applied and modified by article 19;
- (b) in article 20 (taxation of returning officer's account); and
- (c) in sub-sections (5) and (6) of section 42 of the 1983 Act (expenses at local elections),

shall, to the extent that such functions are so discharged, be construed as references to the returning officer who discharges those functions and his charges or expenditure in respect of those functions.

(2) The reference in section 42(6) of the 1983 Act to the returning officer or person acting as returning officer requesting an advance in respect of his expenses shall, to the extent that those expenses relate to the functions specified in paragraph 2 and in respect of the remuneration of presiding officers and clerks, include a reference to the returning officer who under paragraph 1 discharges those functions at the local government election.

(3) In relation to elections the polls at which are taken together under article 14(1) or (2), the Secretary of State may under section 29(3) of the 1983 Act as applied and modified by article 19 include special provision for services properly rendered, or expenses properly incurred, in respect of the discharge of functions specified in paragraph 2, and in respect of the remuneration of presiding officers and clerks, by the returning officer who discharges those functions by virtue of paragraph 1.

PART II

MODIFICATIONS OF THE SCOTTISH PARLIAMENTARY ELECTION RULES TO APPLY WHERE THE POLL AT A SCOTTISH PARLIAMENTARY ELECTION IS TAKEN TOGETHER WITH A POLL AT A LOCAL GOVERNMENT ELECTION UNDER ARTICLE 14(1) OR (2)

Modifications of the Scottish Parliamentary Election Rules: general provision

4. Where the poll at a Scottish parliamentary election is taken with the poll at a local government election under article 14(1) or (2), the Scottish Parliamentary Election Rules shall have effect subject to the modifications set out in the remaining paragraphs of this Part.

Rule 28 (The ballot paper: regional candidates)

- 5. After paragraph (6) of rule 28 there shall be added—

⁽²⁸⁾ Section 29 was amended by the Representation of the People Act 1991 (C.11), section 1, and the 2006 Act, section 68. It is also amended by the 2000 Political Parties Act, Schedule 21, paragraph 6(3) and the 2006 Act, Schedule 1, paragraph 107(2); these amendments are not yet in force.

“(6A) The ballot paper to be used at a local government election the poll for which is taken together with the poll at a Scottish parliamentary election shall be of a different colour from that of any ballot paper to be used at the Scottish parliamentary election.”.

Rule 33 (notice of poll)

6. At the end of rule 33 there shall be added–

“(3) The notice published under paragraph (2) shall–

- (a) state that the poll at the Scottish parliamentary election is to be taken together with the poll at a local government election;
- (b) specify the relevant local authority and, in the case of a local government election to fill a casual vacancy, the electoral area for which the election is held; and
- (c) where the polls are to be taken together in part of a Scottish parliamentary constituency only, specify that part.”.

Rule 37 (issue of official poll cards)

7. At the end of rule 37 there shall be added–

“(5) An official poll card issued under this rule may be combined with any official poll card or notification issued at a local government election.”.

Rule 38 (equipment of polling stations)

8. After paragraph (1) of rule 38 there shall be added–

“(1A) A different ballot box shall be used for the poll at the local government election from the ballot box or ballot boxes used for the poll at the Scottish parliamentary election.”.

Rule 39 (appointment of polling and counting agents)

9. At the end of paragraph (4) of rule 39 there shall be added–

“Notices of the appointment of polling agents which are required by this paragraph and paragraphs (5) and (6) to be given to the returning officer shall be given to the returning officer who discharges the functions specified in paragraph 2 of Schedule 5.”.

Rule 44 (questions to be put to voters)

10.—(1) In paragraph (1) of rule 44, in questions 1(b), 2(b) and 4 before “election” there shall be inserted “Scottish parliamentary”.

(2) In paragraph (1) of rule 44, in question 3(b) after “elsewhere” there shall be inserted “at this Scottish parliamentary election”.

Rule 46 (voting procedure)

11. At the end of rule 46 there shall be added–

“(9) Where the poll at a Scottish parliamentary election is taken together with a poll at a local government election the same copy of the register of electors may be used under paragraph (2) for each election and one mark may be placed in that register under paragraph (2)(c) or in the list of proxies under paragraph (2)(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,

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

as the case may be, list so as to identify the election in respect of which the ballot paper was issued.”.

Rule 47 (votes marked by presiding officer)

12. At the end of rule 47 there shall be added—

“(6) Where the poll at a Scottish parliamentary election is taken together with a poll at a local government election the same list of votes marked by the presiding officer may be used for each election 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.”.

Rule 48 (voting by persons with disabilities)

13. At the end of rule 48 there shall be added—

“(10) Where the poll at a Scottish parliamentary election is taken together with a poll at a local government election the same list of voters with disabilities assisted by companions may be used for each election and, where it is so used, an entry in that list shall be taken to mean that votes were so given in respect of each election, unless the list identifies the election at which the vote was so given.”.

Rule 49 (tendered ballot papers)

14. At the end of rule 49 there shall be added—

“(13) Where the poll at a Scottish parliamentary election is taken together with a poll at a local government election the same tendered votes list may be used for each election and, where it is so used, an entry in that list shall be taken to mean that tendered ballot papers were marked in respect of each election, unless the list identifies the election at which a tendered ballot paper was marked.”.

Rule 52 (adjournment of poll in case of riot)

15. In rule 52(1) for the words “constituency returning officer” there shall be substituted—

“returning officer who discharges the functions specified in paragraph 2 of Schedule 5.”.

Rule 53 (procedure on close of poll)

16. After rule 53(1) there shall be added—

“(1A) The contents of the packets referred to in paragraph (1)(b), (c), (e), (f) and (g) shall not be combined with the contents of packets made under the corresponding rule that applies at a local government election; nor shall the statement prepared under paragraph (3) be so combined.

(1B) References to the returning officer in paragraph (1) are references to the returning officer who discharges the functions specified in paragraph 2 of Schedule 5.”.

Rule 54 (attendance at counting of votes)

17.—(1) For paragraph (1) of rule 54 there shall be substituted the following paragraphs:—

“(1) Where the constituency returning officer at the Scottish parliamentary election discharges the functions specified in paragraph 2 of Schedule 5, he shall make arrangements for discharging the functions under rule 55 (as amended by paragraph 18 of Schedule 5) in

the presence of the counting agents appointed for the purposes of the Scottish parliamentary election as soon as practicable after the close of the poll and for thereafter counting the votes at the Scottish parliamentary election in the presence of those agents; and he shall give to those counting agents notice in writing of the time and place at which he will begin to discharge the functions under rule 55 (as so amended).

(1A) Where the constituency returning officer at the Scottish parliamentary election does not discharge the functions specified in paragraph 2 of Schedule 5, he shall make arrangements for counting the votes in the presence of the counting agents as soon as practicable after the delivery of the ballot papers to him by the returning officer who does discharge those functions, and who shall give to those counting agents notice in writing of the time after which he will begin to count the votes if by then he has received the ballot papers and of the place at which that count will take place.”.

(2) In rule 54(2), before “at the counting of the votes” there shall be inserted–
“at the proceedings described in rule 55(1) (as substituted by paragraph 18 of Schedule 5) or”.

(3) In rule 54(3), before “the counting of the votes” there shall be inserted–
“proceedings described in rule 55(1) (as so substituted) or”, and

(4) in rule 54(3)(a) before “the efficient” there shall be inserted–
“the efficient separating of the ballot papers or, as the case may be,”.

Rule 55 (the count)

18. For rule 55(1) there shall be substituted–

“(1) Where the constituency returning officer at the Scottish parliamentary election discharges the functions specified in paragraph 2 of Schedule 5 he shall–

- (a) in the presence of the counting agents appointed for the purposes of the Scottish parliamentary election open each ballot box;
- (b) if the votes at a Scottish parliamentary election and the local government election are not both being counted by electronic means, separate the ballot papers relating to the Scottish parliamentary election from the ballot papers relating to the local government election;
- (c) if the votes at a Scottish parliamentary election and the local government election are not both being counted by electronic means, make up into packets the ballot papers for the local government election (including any postal ballot papers which have been duly returned) and seal them up in separate containers endorsing on each a description of the polling station to which the ballot papers relate;
- (d) in the presence of the election agents appointed for the purpose of the Scottish parliamentary election, record separately the number of ballot papers there are in each box (and at a Scottish parliamentary general election if the constituency ballot paper and regional ballot paper are not printed on the same sheet, count separately the number of constituency ballot papers and regional ballot papers there are in each box);
- (e) in the presence of those election agents verify each ballot paper account in relation to the ballot papers for the Scottish parliamentary election;
- (f) count such of the postal ballot papers as have been duly returned and record their number (and at a Scottish parliamentary general election if the constituency ballot paper and regional ballot paper are not printed on the same sheet, record separately the number of constituency postal ballot papers counted and the number of regional postal ballot papers counted);

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

- (g) deliver or cause to be delivered to the returning officer at the local government election to which the ballot papers relate—
 - (i) the containers referred to in sub-paragraph (c), together with a list of them and of the contents of each; and
 - (ii) the ballot paper accounts; and
 - (h) at the same time deliver, or cause to be delivered, to that returning officer the packets which so relate containing—
 - (i) the unused and spoilt ballot papers;
 - (ii) the tendered ballot papers; and
 - (iii) the corresponding number lists of the used ballot papers and the certificates as to employment on duty on the day of the poll.
- (1A) Where a constituency returning officer at a Scottish parliamentary election does not discharge the functions specified in paragraph 2 of Schedule 5 he shall—
- (a) on receipt of containers from the returning officer who does discharge those functions, and after the time specified in the notice given under rule 54(1A) (as substituted by paragraph 17(1) of Schedule 5), in the presence of the counting agents open each container and record separately the number of ballot papers there are in each container (and at a Scottish parliamentary general election if the constituency ballot paper and regional ballot paper are not printed on the same sheet, record separately the number of constituency ballot papers there are in each container and the number of regional ballot papers there are in each container);
 - (b) in the presence of the election agents appointed for the purposes of the election verify each ballot paper account;
 - (c) count such of the postal ballot papers as have been duly returned and record their number (and at a Scottish parliamentary general election if the constituency ballot paper and regional ballot paper are not printed on the same sheet, record separately the number of constituency ballot papers counted and the number of regional ballot papers counted).”.

Rule 69 (delivery of documents to the sheriff clerk)

19. At the end of rule 69(1) there shall be added—

“At an election where the constituency returning officer does not discharge the functions specified in paragraph 2 of Schedule 5, this paragraph shall have effect as if sub-paragraphs (e) and (h) were omitted.”.

Rule 72 (countermand or abandonment of poll etc. on death of candidate)

20.—(1) At the end of paragraph (1) of rule 72 there shall be added—

“Provided that neither the countermand of the poll at the Scottish parliamentary election nor the direction that that poll be abandoned under this paragraph shall affect the poll at the local government election.”.

(2) For paragraph (2) of rule 72 there shall be substituted—

“(2) Where the poll at the Scottish parliamentary election is abandoned by reason of a candidate’s death, no further ballot papers at that election shall be delivered in any polling station and, at the close of the poll for the local government election, the presiding officer at any polling station shall take the like steps for the delivery to the returning officer of ballot boxes and of ballot papers and other documents as he would be required to do if the poll at

the Scottish parliamentary election had not been abandoned, and the returning officer shall dispose of ballot papers used at the Scottish parliamentary election and other documents in his possession as he is required to do on the completion in due course of the counting of the votes, but—

- (a) it shall not be necessary for any Scottish parliamentary ballot paper account to be prepared or verified; and
- (b) the returning officer, having separated the ballot papers relating to the local government election shall take no step or further step for the counting of the ballot papers used at the Scottish parliamentary election or of the votes and shall seal up all those ballot papers, whether the votes in them have been counted or not.”.

Form of directions for the guidance of the voters in voting in Schedule 5

21.—(1) In rule 38, for the notice provided by paragraph (13) there shall be substituted the notice at form O3 in the Appendix of Forms, and paragraphs (14) and (15) shall be omitted.

(2) In the Appendix of Forms, for form P (notice providing further information for voters at polling stations, referred to in rule 38(12)), there shall be substituted form X set out in the Appendix.

PART III

MODIFICATIONS OF THE SCOTTISH LOCAL GOVERNMENT ELECTIONS RULES 2007 TO APPLY WHERE THE POLL AT A LOCAL GOVERNMENT ELECTION IS TAKEN TOGETHER WITH A POLL AT A SCOTTISH PARLIAMENTARY ELECTION UNDER ARTICLE 14(1) OR (2)

Modifications of the local elections rules: general provision

22.—(1) Where the poll at a local government election is taken together with the poll at a Scottish parliamentary election under article 14(1) or (2), Schedule 1 to the Scottish Local Government Elections Order 2007⁽²⁹⁾ shall have effect subject to the modifications set out in the remaining paragraphs of this Part.

(2) In this Part the rules referred to in sub-paragraph (1) are referred to as “the local elections rules”.

Rule 14 of the local elections rules (the ballot papers)

23.—(1) At the end of rule 14(2) of the local elections rules there shall be added—

“(2A) The ballot paper shall be of a different colour from that of any ballot papers used at a Scottish parliamentary election the poll at which is taken together with the poll at the local government election.”.

(2) At the end of rule 14 of the local election rules there shall be added—

“(6) References to a Scottish parliamentary election in paragraph (2A) and elsewhere in these Rules are to an election to the Scottish Parliament; and references to a Scottish parliamentary election (and to a poll at such an election) include a reference to Scottish parliamentary elections (and to polls at such elections) where the context so requires.”.

(29) S.S.I. 2007/42.

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

Rule 19 of the local elections rules (notice of poll)

24. At the end of rule 19 of the local elections rules there shall be added—

- “(5) The notice published under paragraph (4) shall—
- (a) state that the poll at the local government election is to be taken together with the poll at a Scottish parliamentary election;
 - (b) specify the Scottish parliamentary constituency and region and the relevant local authority and, in the case of an election to fill a casual vacancy, the electoral area for which the other election is held; and
 - (c) where the polls are to be taken together in part of the local government area only, specify that part.”.

Rule 23 of the local elections rules (issue of official poll cards and notifications)

25. At the end of rule 23 of the local elections rules there shall be added—

“(5) An official poll card or notification issued under this rule may be combined with the official poll card or notification, as the case may be, issued at a Scottish parliamentary election.”.

Rule 24 of the local elections rules (equipment of polling stations)

26.—(1) After paragraph (1) of rule 24 of the local elections rules there shall be added—

“(1A) A different ballot box shall be used for the poll at the local government election from the ballot box or ballot boxes used for the Scottish parliamentary election.”.

(2) For rule 24(5) of the local elections rules there shall be substituted—

“(5) A notice in the style of form X set out in the Appendix to the Scottish Parliament (Elections Etc.) Order 2007 shall be displayed either inside or outside every polling station and may be exhibited both inside and outside any polling station.

(5A) In every compartment of every polling station there shall be exhibited a notice in the style of form O3 set out in the Appendix to the Scottish Parliament (Elections Etc.) Order 2007.

(5B) The forms referred to in paragraphs (5) and (5A) may be used with such variations as the circumstances may require.”.

Rule 25 of the local elections rules (appointment of polling and counting agents)

27. At the end of rule 25(3) of the local elections rules there shall be added—

“Notices of the appointment of polling agents which are required by this paragraph and paragraphs (4) and (5) to be given to the returning officer shall be given to that returning officer who discharges the functions specified in paragraph 2 of Schedule 5 to the Scottish Parliament (Elections etc.) Order 2007.”.

Rule 30 of the local elections rules (questions to be put to voters)

28.—(1) In paragraph (3) of rule 30 of the local elections rules, in questions 1(b), 2(b) and 4 after the words “this election” there shall be added “for this local government area”.

(2) In paragraph (3) of rule 30 of the local elections rules, in question 3(b) after “elsewhere” there shall be inserted “at the election for this local government area”.

Rule 32 of the local elections rules (voting procedure)

29. At the end of rule 32 of the local elections rules there shall be added—

“(6) The same copy of the register of electors may be used under paragraph (1) for each election and one mark may be placed in that register 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, list so as to identify the election in respect of which the ballot paper was issued.”.

Rule 33 of the local elections rules (votes marked by presiding officer)

30. At the end of rule 33(2) of the local elections rules there shall be added—

“The same list may be used for each election 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.”.

Rule 34 of the local elections rules (voting by persons with disabilities)

31. At the end of rule 34(4) of the local elections rules there shall be added—

“The same list may be used for each election 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 the vote was so given.”.

Rule 35 of the local elections rules (tendered ballot papers)

32. At the end of rule 35(8) of the local election rules there shall be added—

“The same list may be used for each election and, where it is so used, an entry in that list shall be taken to mean that tendered ballot papers were marked in respect of each election, unless the list identifies the election at which a tendered ballot paper was marked.”.

Rule 38 of the local elections rules (adjournment of poll in case of riot)

33. At the end of paragraph (1) of rule 38 of the local elections rules there shall be inserted the words “who discharges the functions specified in paragraph 2 of Schedule 5 to the Scottish Parliament (Elections etc.) Order 2007.”.

Rule 39 of the local elections rules (procedure on close of poll)

34. After rule 39(1) of the local elections rules there shall be added—

“(1A) The contents of the packets referred to in paragraph (1)(b), (c), (e), (f) and (g) shall not be combined with the contents of the packets made under the corresponding rule that applies at a Scottish parliamentary election; nor shall the statement prepared under paragraph (3) be so combined.

(1B) References to the returning officer in paragraph (1) are references to the returning officer who discharges the functions specified in paragraph 2 of Schedule 5 to the Scottish Parliament (Elections etc.) Order 2007.”.

Rule 40 of the local elections rules (attendance at counting of votes)

35.—(1) For rule 40(1) of the local elections rules there shall be substituted—

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

“(1) Where the returning officer at the local government election does not discharge the functions specified in paragraph 2 of Schedule 5 to the Scottish Parliament (Elections etc.) Order 2007 he shall make arrangements for counting the votes in the presence of the counting agents after the delivery of the ballot papers to him by the returning officer who does discharge those functions, as soon as practicable after the end of the Scottish Parliament election count, and shall give to the counting agents notice in writing of the time after which he will begin to count the votes, if by then he has received the ballot papers, and of the place at which that count will take place.

(1A) Where the returning officer at the local government election discharges the functions specified in paragraph 2 of Schedule 5 to the Scottish Parliament (Elections etc.) Order 2007, he shall make arrangements for discharging the functions under rule 42(1) (as substituted by paragraph 36 of Schedule 5 to that Order) in the presence of the counting agents appointed for the purposes of the local government election as soon as practicable after the close of the poll and for thereafter counting the votes at that election in the presence of those agents; and he shall give to those counting agents notice in writing of the time and place at which he will begin to discharge the functions under rule 42(1) (as so substituted).”.

(2) In paragraph (2) of rule 40 before the words “at the counting of the votes” there shall be inserted the words “at the proceedings under rule 42(1) (as so substituted) or”.

(3) In paragraph (3) of rule 40 before the words “counting of the votes” in the first place where they occur, there shall be inserted the words “proceedings under rule 42(1) (as so substituted) or the,” and before the words “the efficient” there shall be inserted the words “the efficient separating of the ballot papers or, as the case may be,”.

Rule 42 of the local elections rules (the count)

36.—(1) For paragraph (1) of rule 42 of the local elections rules there shall be substituted the following paragraphs—

“(1) Where the returning officer at the local government election discharges the functions specified in paragraph 2 of Schedule 5 to the Scottish Parliament (Elections etc.) Order 2007, he shall—

- (a) in the presence of the counting agents appointed for the purposes of the local government election, open each ballot box;
- (b) if the votes at the local government election and the Scottish parliamentary election are not both being counted by electronic means, separate the ballot papers relating to the local government election from the ballot papers relating to the Scottish parliamentary election;
- (c) if the votes at the local government election and the Scottish parliamentary election are not both being counted by electronic means, in the presence of the counting agents appointed for the purpose of the local government election, record separately the number of ballot papers for the local government election;
- (d) if required to do so by a candidate or election agent in the presence of the election agents appointed for the purposes of the local government election verify each ballot paper account;
- (e) count such of the postal ballot papers for the local government election as have been duly returned and record separately the number counted at each election;
- (f) make up into packets the ballot papers for the Scottish parliamentary election and seal them up in separate containers endorsing on each a description of the polling station to which the ballot papers relate;

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

- (g) deliver, or cause to be delivered, to the constituency returning officer for the Scottish parliamentary election to which the ballot papers relate—
 - (i) those containers, together with a list of them and of the contents of each; and
 - (ii) the ballot paper accounts; and
 - (h) at the same time deliver or cause to be delivered to that officer packets which so relate containing—
 - (i) the unused and spoiled ballot papers;
 - (ii) the tendered ballot papers;
 - (iii) the corresponding number lists of the used ballot papers; and
 - (iv) the certificates as to employment on duty on the day of the poll.
- (1A) Where the returning officer at the local government election does not discharge the functions specified in paragraph 2 of Schedule 5 to the Scottish Parliament (Elections etc.) Order 2007, he shall—
- (a) following the receipt of containers from the returning officer who does discharge those functions, and as soon as practicable after the end of the Scottish Parliament election count (but not before the time specified in the notice given under rule 40(1) (as substituted by paragraph 35 of Schedule 5 to the Scottish Parliament (Elections etc.) Order 2007)), in the presence of the counting agents open each container and record separately the number of ballot papers used in the election, checking the number against the ballot paper account;
 - (b) if required to do so by a candidate or election agent in the presence of the election agents appointed for the purposes of the local government election verify each ballot paper account;
 - (c) count such of the postal ballot papers as have been duly returned and record the number counted.”.

Rule 57 of the local elections rules (delivery of documents)

37. At the end of rule 57 of the local elections rules there shall be added—

“At an election where the returning officer does not discharge the functions specified in paragraph 2 of Schedule 5 to the Scottish Parliament (Elections etc.) Order 2007, this rule shall have effect as if sub paragraphs (c) and (f) were omitted.”.

Rule 60 of local elections rules (countermand or abandonment of poll on death of candidate)

38.—(1) At the end of rule 60(1) of the local elections rules there shall be added—

“Provided that neither the countermand of the poll at the local government election nor the direction that that poll be abandoned shall affect the poll at the Scottish parliamentary election.”.

(2) For rule 60(2) of the local elections rules there shall be substituted—

“(2) Where the poll at the local government election is abandoned by reason of a candidate’s death, no further ballot papers shall be delivered in any polling station and, at the close of the poll for the Scottish parliamentary election, the presiding officer shall take the like steps for the delivery to the returning officer of the ballot boxes and of ballot papers and other documents as he would be required to do if the poll at the local government election had not been abandoned, and the returning officer shall dispose of ballot papers used at the local government election (at which a candidate has died) as he is required to do on the completion in due course of the counting of the votes, but—

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

- (a) it shall not be necessary for any ballot paper account at that election to be prepared or verified; and
- (b) the returning officer, having separated the ballot papers relating to the Scottish parliamentary election shall take no step or further step for the counting of the ballot papers used at the local government election (at which a candidate has died) or of the votes and shall seal up all of those ballot papers, whether the votes on them have been counted or not.”.

Local elections rules: postal voting statement

39. In Part VI of Schedule 1 to the local elections rules (forms for use at Scottish local government elections), for Form 8 (form of postal voting statement) there shall be substituted form U or, as the case may be, form Y set out in the Appendix (which may be used with such variations as the circumstances may require).

Local elections rules: declaration by the companion of a voter with disabilities

40. In Part VI of Schedule 1 to the local elections rules (forms for use at Scottish local government elections), in Form 15 (form of declaration by the companion of a voter with disabilities), after “this election” wherever occurring add “and the election now being held in this Scottish parliamentary constituency”.

SCHEDULE 6

Article 83

LEGAL PROCEEDINGS

PART I

ELECTION OR RETURN OF CONSTITUENCY MEMBER

<i>Provision applied</i>	<i>Modification</i>
Section 120 (method of questioning parliamentary election)	
Section 121 (presentation and service of parliamentary election petition)	
Section 122 (time for presentation or amendment of parliamentary election petition)	
Section 123 (constitution of election court and place of trial)	
Section 125 (judges' expenses and reception: Scotland)	
Section 126 (attendance of House of Commons shorthand writer)	In subsection (1) for the words from the beginning to “deputy” substitute “A shorthand writer”. In subsection (2) for “Speaker” substitute “Clerk of the Scottish Parliament”.

<i>Provision applied</i>	<i>Modification</i>
Section 136 (security for costs)	
Section 137 (petition at issue)	
Section 138 (list of petitions)	In subsection (1) the words from “, a copy of which” onwards shall be omitted.
Section 139 (trial of petition)	In subsection (3) the words from “the acceptance” to “notwithstanding”, in the third place where it occurs, shall be omitted. In subsection (6), the reference to the Parliamentary Election Rules shall be construed as a reference to the Scottish Parliamentary Election Rules.
Section 140 (witnesses)	Omit subsection (6).
Section 141 (duty to answer relevant questions)	
Section 143 (expenses of witnesses)	
Section 144 (conclusion of trial of parliamentary election petition)	In subsections (2), (4) and (6), for “Speaker” substitute “Clerk of the Scottish Parliament”. Omit subsections (5) and (7).
Section 146 (special case for determination of High Court)	In subsection (2) for “Speaker” substitute “Clerk of the Scottish Parliament”.
Section 147 (withdrawal of petition)	
Section 154 (costs of petition)	
Section 155 (neglect or refusal to pay costs)	
Section 156 (further provision as to costs)	
Section 157 (appeals and jurisdiction)	Omit subsections (1), (4), (6) and (8). For subsection (2) substitute— “(2) Subject to the provisions of this Act and the rules made under it, the principles, practice and rules on which election courts act in dealing with parliamentary election petitions shall be observed, so far as is appropriate having regard to the different system of election, by the Court of Session and election court in the case of Scottish Parliamentary election petitions”.
Section 158 (report as to candidate guilty of corrupt or illegal practice)	
Section 159 (candidate reported guilty of corrupt or illegal practice)	
Section 160 (persons reported personally guilty of corrupt or illegal practices)	In subsection (4)— after “Commons”, in each place where it occurs, insert “or the Scottish Parliament”.

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

<i>Provision applied</i>	<i>Modification</i>
	Omit subsection (6).
Section 161 (justice of the peace)	
Section 162 (member of legal and certain other professions)	
Section 163 (holder of licence or certificate under Licensing Acts).	
Section 164 (avoidance of election for general corruption etc.)	
Section 165 (avoidance of election for employing corrupt agent)	
Section 166 (votes to be struck off for corrupt or illegal practices)	
Section 167 (application for relief)	Omit subsection (5).
Section 168 (prosecutions for corrupt practices)	In subsection (1)(b) for “6 months” substitute “3 months” and for “statutory maximum” substitute “amount specified as level 5 on the standard scale”.
Section 169 (prosecutions for illegal practices)	After “exceeding” insert “the amount specified as”.
Section 170 (conviction of illegal practice on charge of corrupt practice etc.)	
Section 173 (incapacities on conviction of corrupt or illegal practice)	In subsection (1) after “Commons”, in each place where it occurs, insert “or the Scottish Parliament”. In subsection (7) after “Commons” insert “, the Scottish Parliament” and after “functions”, where it second occurs, insert “as a member of the Scottish Parliament or”.
	Omit subsection 10.
Section 173A (incapacity to hold public or judicial office in Scotland)	
Section 174 (mitigation and remission etc.)	
Section 175 (illegal payments etc.)	
Section 176 (time limit for prosecutions)	Omit subsections (2A) to (2G)(30)
Section 178 (prosecution of offences committed outside United Kingdom)	
Section 179 (offences by associations)	
Section 180 (evidence by certificate of holding of elections)	

(30) These subsections were inserted by the 2006 Act, section 70.

<i>Provision applied</i>	<i>Modification</i>
Section 180A (evidence by certificate of electoral registration)	
Section 181 (Director of Public Prosecutions)	Omit subsections (2) to (6).
Section 183 (costs)	
Section 184 (service of notices)	
Section 185 (interpretation of Part III)	
Section 186 (computation of time for purposes of Part III)	The reference to “section 119 above” shall be construed as a reference to article 82 and the reference to “Part II of this Act” shall be construed as a reference to Part III of this Order.

PART II

ELECTION OR RETURN OF REGIONAL MEMBER

<i>Provision applied</i>	<i>Modification</i>
Section 120 (method of questioning parliamentary election)	At the end insert– “(3) No election petition may be brought on the grounds of the commission of corrupt or illegal practices or of illegal payments, employments or hirings. (4) No election petition may be brought in any case in which an application may be made under section 18 of the Scotland Act 1998”.
Section 121 (presentation and service of parliamentary election petition)	For subsection (2) substitute– “(2) If the petition complains of the conduct of– (a) the regional returning officer, (b) any constituency returning officer, the officer (or officers) in question shall be deemed to be the respondent (or respondents), together with any regional member returned at the election.”.
Section 122 (time for presentation or amendment of parliamentary election petition)	For the section substitute– “ 122. An election petition shall be presented within 21 days after the day on which the result of the election was declared under rule 66 of the Scottish Parliamentary Election Rules in Schedule 2 to the Order.”
Section 123 (constitution of election court and place of trial)	Omit subsections (3) and (4).

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

<i>Provision applied</i>	<i>Modification</i>
Section 125 (judges' expenses and reception: Scotland)	
Section 126 (attendance of House of Commons of shorthand writer)	In subsection (1) for the words from the beginning to “deputy” substitute “A shorthand writer”. In subsection (2) for “Speaker” substitute “Clerk of the Scottish Parliament”.
Section 136 (security for costs)	
Section 137 (petition at issue)	
Section 139 (trial of petition)	In subsection (3) for the words from “the acceptance” to the end substitute “that one (or more) of the respondents is no longer a member of the Scottish Parliament.”. Omit subsection (4). In subsection (6), the reference to the Parliamentary Election Rules shall be construed as a reference to the Scottish Parliamentary Election Rules.
Section 140 (witnesses)	Omit subsection (6).
Section 141 (duty to answer relevant questions)	
Section 143 (expenses of witnesses)	
Section 144 (conclusion of trial of parliamentary election petition)	In subsection (1) for the words from “the member” to “void” substitute— <ul style="list-style-type: none"> “(a) the member or members whose election is complained of was or were duly elected, (b) some other person or persons should have been declared to be elected, or (c) the election of all members for that region was void.”. In subsection (2) for “Speaker” substitute “Clerk of the Scottish Parliament”. For subsection (3) substitute— “(3) If the judges constituting the election court differ as to any matter which they are required to determine, they shall certify that difference and, except to the extent that the judges are agreed otherwise, the result of the election shall stand.”. Omit subsections (4) to (7).
Section 154 (costs of petition)	
Section 155 (neglect or refusal to pay costs)	

<i>Provision applied</i>	<i>Modification</i>
Section 157 (appeals and jurisdiction), subsections (3) and (7)	
Section 160 (persons reported personally guilty of corrupt or illegal practices)	Omit subsections (1) to (3) and (6). In subsection (4)– (a) for the words “reported by an election court personally guilty” substitute “convicted”; (b) after “Kingdom” insert “or election to the Scottish Parliament”; and (c) after “Commons”, in each place where it occurs, insert “or the Scottish Parliament”.
Section 167 (application for relief)	Omit subsection (5).
Section 168 (prosecutions for corrupt practices)	In subsection (1)(b) for “6 months” substitute “3 months” and for “statutory maximum” substitute “amount specified as level 5 on the standard scale”.
Section 169 (prosecutions for illegal practices)	For the words from the beginning to “prosecution” substitute– “A person who is guilty of an illegal practice shall be liable– (a) in the case of an illegal practice under article 42 or 47 of the Order (as applied by article 83 of the Order), on conviction on indictment to a fine; (b) in the case of any illegal practice (including the ones mentioned in paragraph (a)), on summary conviction, to a fine not exceeding the amount specified as level 5 on the standard scale; and on a prosecution”.
Section 170 (conviction of illegal practice on charge of corrupt practice etc.)	
Section 173A (incapacity to hold public or judicial office in Scotland)	
Section 174 (mitigation and remission etc.)	Omit subsections (1) to (4). In subsection (5) omit– (a) “or the report of an election court”; and (b) “or report”, in both places where the words occur.
Section 175 (illegal payments etc.)	In subsection (2) omit the words from “and if” to the end.

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

<i>Provision applied</i>	<i>Modification</i>
Section 176 (time limit for prosecutions)	Omit subsections (2A) to (2G)
Section 178 (prosecution of offences committed outside United Kingdom)	
Section 179 (offences by associations)	
Section 180 (evidence by certificate of holding of elections)	Omit paragraph (b). After paragraph (ii) insert “and (iii) that a registered party named in the certificate submitted a regional list at the election.”.
Section 180A (evidence by certificate of electoral registration)	
Section 181 (Director of Public Prosecutions)	Omit subsections (2) to (6).
Section 183 (costs)	
Section 184 (service of notices)	
Section 185 (interpretation of Part III)	At the end, insert “the Order” means the Scottish Parliament (Elections etc.) Order 2007.”.
Section 186 (computation of time for purposes of Part III)	The reference to “section 119 above” shall be construed as a reference to article 82 and the reference to “Part II of this Act” shall be construed as reference to Part III of this Order.

SCHEDULE 7

Article 66(6)

USE FOR ELECTION MEETINGS OF ROOMS IN SCHOOL PREMISES AND OF MEETING ROOMS

ARRANGEMENT OF PARAGRAPHS

1. Use of rooms in school premises
 2. Lists of rooms in school premises
 3. Inspection etc. of lists
- Signature
Explanatory Note

Use of rooms in school premises

1.—(1) Any arrangements for the use of a room in school premises shall be made with the education authority managing the school or, in the case of a room in the premises of a self governing school, with the board of management of the school.

(2) Any question—

- (a) as to the rooms in school premises in any constituency which a candidate for return as a constituency member is entitled to use;
- (b) as to the rooms in school premises in any region which an individual candidate for return as a regional member or a registered party is entitled to use;
- (c) as to the times at which that candidate or party is entitled to use them; or
- (d) as to the notice which is reasonable,

shall be determined by the Secretary of State.

Lists of rooms in school premises

2.—(1) It is the duty of the proper officer of every local authority to prepare and keep for each Scottish parliamentary constituency wholly or partly situated in the area of that authority—

- (a) a list of rooms in school premises;
- (b) a list of meeting rooms,

which candidates for return as constituency members or individual candidates for return as regional members or registered parties are entitled to use.

(2) The list shall include the rooms in premises outside, as well as those in premises inside, the constituency.

Inspection etc. of lists

3.—(1) Subject to sub-paragraph (2), in the event of a publication of a notice of election any person stating himself to be, or to be authorised by—

- (a) a candidate or his election agent; or
- (b) a registered party's nominating officer or the election agent of that registered party in relation to a regional list submitted by that party,

shall be entitled at all reasonable hours to inspect the lists kept in accordance with sub paragraph 2(1) or a copy of them.

(2) The rights conferred by sub-paragraph (1) on an individual candidate for return as a regional member or a registered party's nominating officer (or the election agent of such a candidate or party) shall not apply in relation to an election to fill a vacancy in the seat of a constituency member.