

## SCHEDULE 2

### SCOTTISH PARLIAMENTARY ELECTION RULES

#### PART II

#### STAGES COMMON TO CONTESTED AND UNCONTESTED ELECTIONS

##### *Notice of election*

##### **Notice of election**

- 3.—(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;
  - (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) above 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.

##### *Nomination*

##### **Nomination of candidate for return as a constituency member**

- 4.—(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 J 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) full names;
  - (b) home address in full; and
  - (c) if desired, description,
- and the surname shall be placed first in the list of his names.
- (4) The description, if any, shall not exceed six words in length, and need not refer to his rank, profession or calling so long as, with the candidate’s other particulars, it is sufficient to identify him.
- (5) The constituency nomination paper shall also state the full name and address of the witness to the candidate’s signature.

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### **Nomination of individual candidate for return as a regional member**

5.—(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 K set out in the Appendix, delivered to the regional returning officer at the place or a place fixed for the purpose.

(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) full names;
- (b) home address in full; and
- (c) if desired, description,

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

(4) The description, if any, shall not exceed six words in length, and need not refer to his rank, profession or calling so long as, with the candidate’s other particulars, it is sufficient to identify him. An individual nomination paper may not include a description of an individual candidate which is likely to lead voters to associate the candidate with a registered political party.

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

### **Nomination of candidates on a regional list**

6.—(1) A registered party’s regional list of candidates to be regional members for a particular region shall be in the form L 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 by which the party wishes to be known for the purposes of that election. That name need not be the party’s registered name but must not be such as would be likely to lead voters to associate that party with another registered party.

(3) That name shall not exceed 6 words in length.

(4) Each regional list shall set out the full 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 described in the regional ballot paper.

(5) 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.

(6) 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).

(7) In the application of this rule and rule 7 below, in relation to an election, “registered party” means a party which was registered under the Registration of Political Parties Act 1998 at the time by which the notice of election is required to be published.

### **Constituency nomination papers: name of registered party**

7.—(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 unless the description is authorised by a certificate in the form M set out in the Appendix—

- (a) issued by or on behalf of the nominating officer of the party; and

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(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) above.

(2) A person shall be guilty of a corrupt practice if he fraudulently purports to be authorised to issue a certificate under paragraph (1) above on behalf of a registered party's nominating officer.

### **Nomination papers and regional lists: miscellaneous**

**8.**—(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**

**9.**—(1) Subject to paragraph (3) below 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) below, 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

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- (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 for membership 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 section 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**

**10.**—(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 either—

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

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

(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 30 or rules 4 or 5 above.

(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 30 or rule 6 above.

### **Place for delivery of constituency nomination papers**

**11.**—(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**

**12.**—(1) The regional returning officer shall fix the places 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**

**13.**—(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; or
- (c) a person who has issued a certificate under rule 7(1) above in relation to such a candidate,

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

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

(3) 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; or
- (d) the election agent or nominating officer of a party which has submitted a regional list

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.

(4) The right conferred by paragraph (3) above 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).

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### **Decisions as to validity of constituency nomination papers**

**14.**—(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(1).

(3) Subject to paragraph (4) below the constituency returning officer shall give his decision on any objection to a constituency nomination paper as soon as practicable after it is made.

(4) If in the constituency returning officer's opinion a constituency nomination paper breaches rule 7 above, he shall give a decision to that effect as soon as practicable after the close of the period for delivery of constituency nomination papers set out in the Table in rule 1(1) above.

(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) above, nothing in this rule prevents the validity of a nomination being questioned on an election petition.

### **Decisions as to validity of individual nomination papers**

**15.**—(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 as soon as practicable after it is made.

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(1) 1981 c. 34.

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(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) above, 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**

16.—(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 paragraph (3) and (4) below) 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 6 above 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 6(5) above.

(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 17 below,

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
- (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 as soon as practicable after it is made.

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

#### **Withdrawal of candidates**

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

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- (a) signed by him and attested by one witness; and
  - (b) delivered to the constituency returning officer at the place for delivery of constituency nomination papers.
- (2) 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**

- 18.—(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.
- (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) 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.

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

- 19.—(1) The regional returning officer shall prepare and publish a statement showing—
- (a) the persons who have been and stand nominated as individual candidates for return as a regional member;
  - (b) each registered party which has been and stands nominated together with that party's regional list;
  - (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 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, addresses and descriptions of the persons nominated as individual candidates as given in their individual nomination papers.



(4) The statement shall show the names, addresses and descriptions of the persons standing nominated as individual candidates after the names 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.

(5) 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.

(6) 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.

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

**20.**—(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 18 above.

(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 in the morning and 4 in the afternoon on the day and at the place specified in the notice; and the day so specified shall be the day next after the last day for the delivery of constituency nomination papers.

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

**21.**—(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 19 above.

(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 in the morning and 4 in the afternoon on the day and at the place specified in the notice; and the day so specified shall be the day next after the last day for the delivery of individual nomination papers and regional lists.

#### **Adjournment of nomination proceedings in the case of riot**

**22.**—(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—

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- (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**

**23.**—(1) If the statement required by rule 18 above 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**

**24.**—(1) Subject to paragraph (2)(b) below, if the statement of persons required by rule 19 above 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.

- (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 60(3) below, allocate the seats in accordance with sections 7 and 8 of the 1998 Act.