SCHEDULE 5

COMBINATION OF POLLS

PART 3

MODIFICATIONS OF THE SCOTTISH LOCAL GOVERNMENT ELECTIONS RULES

Modifications of the local elections rules: general provision

21.—(1) Where the poll at a local government election is taken together with the poll at a Scottish parliamentary election under article 13(1) or (2), the rules comprised in Schedule 1 to the Scottish Local Government Elections Order 2011(**1**) 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)

22.—(1) After 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—

"(9) References to a Scottish parliamentary election in paragraph (2A) and elsewhere in these Rules are to an election to the Scottish Parliament.".

Rule 20 of the local elections rules (notice of poll)

23. At the end of rule 20 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 24 of the local elections rules (issue of official poll cards and notifications)

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

"(6) 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.".

(**1**) S.S.I. 2011/399, amended by S.S.I. 2012/60 and S.S.I. 2012/342.

Rule 25 of the local elections rules (equipment of polling stations)

25.—(1) After paragraph (1) of rule 25 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 25(4) of the local elections rules there shall be substituted—

"(4) A notice in the form N2 set out in the Appendix to the Scottish Parliament (Elections etc.) Order 2015 shall be printed in conspicuous characters and exhibited inside and outside every polling station.

(4A) In every compartment of every polling station there shall be exhibited a notice in the form W set out in the Appendix to the Scottish Parliament (Elections etc.) Order 2015.

(4B) The forms referred to in paragraphs (4) and (4A) may be used with such variations as the circumstances may require.".

Rule 26 of the local elections rules (appointment of polling and counting agents)

26. After rule 26(5) of the local elections rules there shall be added—

"(5A) Notices of the appointment of polling agents which are required by paragraphs (3), (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 2015.".

Rule 31 of the local elections rules (questions to be put to voters)

27.—(1) In paragraph (3) of rule 31 of the local elections rules, in questions 1(b), 2(b) and 4 after "this election" there shall be inserted "for this local government area".

(2) In paragraph (3) of rule 31 of the local elections rules, in question 3(b) after "elsewhere" there shall be inserted "at the election for this local government area".

Rule 33 of the local elections rules (voting procedure)

28. After rule 33(3) of the local elections rules there shall be added—

"(3A) 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 34 of the local elections rules (votes marked by presiding officer)

29. After rule 34(2) of the local elections rules there shall be added—

"(2A) 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 35 of the local elections rules (voting by persons with disabilities)

30. After rule 35(4) of the local elections rules there shall be added—

"(4A) 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 the votes were so given in respect of each election, unless the list identifies the election at which the vote was so given.".

Rule 36 of the local elections rules (tendered ballot papers)

31. After rule 36(8) of the local election rules there shall be added—

"(8A) 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 39 of the local elections rules (adjournment of poll in case of riot)

32. At the end of paragraph (1) of rule 39 of the local elections rules there shall be inserted "who discharges the functions specified in paragraph 2 of Schedule 5 to the Scottish Parliament (Elections etc.) Order 2015".

Rule 40 of the local elections rules (procedure on close of poll)

33. After rule 40(1) of the local elections rules there shall be added—

"(1A) The contents of the packets referred to in paragraph (1)(a), (b), (d) and (f) shall not be combined with the contents of the packets made up 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 2015.".

Rule 41 of the local elections rules (attendance at counting of votes)

34.—(1) For rule 41(1) of the local elections rules there shall be substituted—

"(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 2015 the returning officer shall make arrangements for counting the votes in the presence of the counting agents after the returning officer has received the ballot papers from the returning officer who does discharge those functions, as soon as practicable after the end of the Scottish parliamentary election count, but in making such arrangements the returning officer shall not knowingly appoint or employ any person who has been employed by or on behalf of a candidate or a registered party in or about the election.

(1A) Where paragraph (1) applies, the returning officer at the local government election shall give to the counting agents notice in writing of the time after which that returning officer will begin to count the votes, if by then that returning officer has received the ballot papers, and of the place at which that count will take place.

(1B) 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 2015, the returning officer shall make arrangements for discharging the functions under rule 43(1) (as substituted by paragraph 35 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, but in making such arrangements the returning officer shall not knowingly appoint or employ any person who has been employed by or on behalf of a candidate or a registered party in or about the election.

(1C) Where paragraph (1B) applies, the returning officer shall give to those counting agents notice in writing of the time and place at which the returning officer will begin to discharge the functions under rule 43(1) (as so substituted).".

(2) In paragraph (2) of rule 41 before "at the counting of the votes" there shall be inserted "at the proceedings under rule 43(1) (as so substituted) or".

(3) In paragraph (3) of rule 41 before "counting of the votes" in the first place where those words occur, there shall be inserted "proceedings under rule 43(1) (as so substituted) or at the," and before "the efficient" there shall be inserted "the efficient separating of the ballot papers or, as the case may be,".

Rule 43 of the local elections rules (the count)

35.—(1) For paragraph (1) of rule 43 of the local elections rules there shall be substituted—

"(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 2015, the returning officer shall—

(a) in the presence of the counting agents appointed for the purposes of the local government election, open each ballot box;

(b) separate the ballot papers relating to the local government election from the ballot papers relating to the Scottish parliamentary election;

(c) 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;

(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 spoilt 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 2015, the returning officer 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 parliamentary election count (but not before the time specified in the notice given under rule 41(1A) (as substituted by paragraph 34 of Schedule 5 to the Scottish Parliament (Elections etc.) Order 2015)), 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.".

(2) In paragraph (5) of rule 43 of the local elections rules, for "paragraph (1)(b)" there shall be substituted "paragraph (1)(d) or (1A)(b)".

Rule 58 of the local elections rules (delivery of documents)

36. Rule 58 of the local elections rules shall be renumbered as paragraph (1) of that rule and after paragraph (1) as so renumbered there shall be added—

"(2) 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 2015, this rule shall have effect as if sub-paragraphs (c), (d) and (f) were omitted.".

Rule 59 of the local election rules (orders for production of documents)

37.—(1) In rule 59 of the local elections rules, after paragraph (1)(b) (immediately before the word "or" following it), there shall be inserted—

"(ba) for the opening of a sealed packet of the completed corresponding number lists used at a local government election and at a Scottish parliamentary election in the custody of the returning officer for a Scottish Parliament constituency ("CRO");".

(2) For paragraph (2) of rule 59 of the local election rules there is substituted—

"(2) An order for the opening of—

(a) a sealed packet of the completed corresponding number lists or of the certificates or for the inspection of any counted ballot papers or information held on an electronic copy of information made pursuant to rule 57(1) in the custody of the proper officer of the council; or

(b) a sealed packet of the completed corresponding number lists used at a local government election and at a Scottish parliamentary election in the custody of the CRO,

may be made by an election court.".

(3) In paragraph (6) of rule 59 of the local election rules, after "council" there is inserted "or by the CRO".

(4) After paragraph (8) of rule 59 of the local election rules there is added—

"(9) Paragraph (8) does not apply to a sealed packet of the completed corresponding number lists used at a local government election and at a Scottish parliamentary election in respect of which an order has been made under rule 69 of the Scottish Parliamentary Election Rules contained in Schedule 2 to the Scottish Parliament (Elections etc.) Order 2015.".

Rule 65 of local elections rules (countermand or abandonment of poll on death of party candidate)

38. After rule 65(2) of the local elections rules there shall be added—

"(2A) Neither the countermand of the poll at the local government election nor a direction that that poll be abandoned shall affect the poll at the Scottish parliamentary election.".

Rule 66 of local elections rules (abandonment of poll)

39. For rule 66(2) to (6) 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 for that poll shall be delivered in any polling station and, at the close of the poll for the Scottish parliamentary election, the presiding officer must take the like steps for the delivery to the returning officer of the ballot boxes and of ballot papers and other documents as the presiding officer would be required to do if the poll at the local government election had not been abandoned.

(3) The returning officer shall dispose of ballot papers used at the local government election (at which a candidate has died) as the returning officer is required to do on the completion in due course of the counting of the votes.

(4) It is not necessary for any ballot paper account at that election to be prepared or verified.

(5) 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.

(6) The returning officer must seal up all of those ballot papers, whether the votes on them have been counted or not.".

Local elections rules: postal voting statement

40. In Part 7 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 T or, as the case may be, form X 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

41. In Part 7 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 insert "and the election now being held in this Scottish parliamentary constituency".