

SCHEDULE 2

SCOTTISH PARLIAMENTARY ELECTION RULES

PART III

CONTESTED ELECTIONS

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—

- (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⁽¹⁾ 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—
 - (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.

⁽¹⁾ Section 13B(3B) and (3D) were inserted by the 2006 Act, section 11.

(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.