

SCHEDULE 2

SCOTTISH PARLIAMENTARY ELECTION RULES

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,

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(1).

(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—

(1) 1980 c. 44.

- (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⁽²⁾ 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–

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

- (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.

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⁽³⁾; 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.

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

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>)?”

<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(4), 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—

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

- (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 (5), 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”.

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

(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.

(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;

- (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.

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.