



# Scotland Act 1998

## 1998 CHAPTER 46

### PART I

#### THE SCOTTISH PARLIAMENT

##### *Vacancies*

#### **9 Constituency vacancies.**

- (1) Where the seat of a constituency member is vacant, an election shall be held to fill the vacancy (subject to subsection (4)).
- (2) The date of the poll shall be fixed by the Presiding Officer.
- (3) The date shall fall within the period of three months—
  - (a) beginning with the occurrence of the vacancy, or
  - (b) if the vacancy does not come to the notice of the Presiding Officer within the period of one month beginning with its occurrence, beginning when it does come to his notice.
- (4) The election shall not be held if the latest date for holding the poll would fall within the period of three months ending with the day on which the poll at the next ordinary general election would be held (disregarding section 2(5)).
- (5) For the purposes of this section, the date on which a vacancy is to be treated as occurring shall be determined under standing orders.
- (6) A person may not be a candidate at such an election if he is a member of the Parliament or a candidate in another election to fill a vacancy.

#### **Modifications etc. (not altering text)**

**C1** S. 9 applied (11.3.1999) by [S.I. 1999/787](#), [arts. 1, 86](#)

**C2** S. 9(6) extended (11.3.1999) by [S.I. 1999/787](#), [arts. 1, 6](#), [Sch. 2 Pt. II para. 9\(4\)\(b\)\(iii\)](#)

---

*Changes to legislation: There are currently no known outstanding effects for the Scotland Act 1998, Cross Heading: Vacancies. (See end of Document for details)*

---

## 10 Regional vacancies.

- (1) This section applies where the seat of a regional member is vacant.
- (2) If the regional member was returned as an individual candidate, or the vacancy is not filled in accordance with the following provisions, the seat shall remain vacant until the next general election.
- (3) If the regional member was returned (under section 8 or this section) from a registered political party's regional list, the regional returning officer shall notify the Presiding Officer of the name of the person who is to fill the vacancy.
- [<sup>F1</sup>(4) The regional returning officer shall ascertain from that party's regional list the name and address of the person whose name appears highest on that list (“ the first choice ”) and shall take such steps as appear to him to be reasonable to contact the first choice to ask whether he will—
  - (a) state in writing that he is willing and able to serve as a regional member for that region; and
  - (b) deliver a certificate signed by or on behalf of the nominating officer of the registered party which submitted that regional list stating that the first choice may be returned as a regional member from that list.
- (4A) Where—
  - (a) within such period as the regional returning officer considers reasonable—
    - (i) he decides that the steps he has taken to contact the first choice have been unsuccessful; or
    - (ii) he has not received from that person the statement and certificate referred to in subsection (4); or
  - (b) the first choice has—
    - (i) stated in writing that he is not willing to serve as a regional member for that region; or
    - (ii) failed to deliver the certificate referred to in subsection (4)(b),

the regional returning officer shall repeat the procedure required by subsection (4) in respect of the person (if any) whose name appears next in that list (“ the second choice ”) or, where paragraph (a) or (b) of this subsection applies in respect of that person, in respect of the person (if any) whose name appears next highest after the second choice in that list; and the regional returning officer shall continue to repeat the procedure until the regional returning officer has notified the Presiding Officer of the name of the person who is to fill the vacancy or the names in the list are exhausted.
- (5) Where a person whose name appears on that list provides the statement and certificate referred to in subsection (4), the regional returning officer shall notify to the Presiding Officer the name of that person.
- (5A) Where—
  - (a) under subsection (4A), the regional returning officer has asked the second choice or a subsequent choice the questions referred to in subsection (4); and
  - (b) the person who was asked those questions on an earlier occasion then provides the statement and certificate referred to in that subsection,

that statement and certificate shall have no effect unless and until the circumstances described in paragraph (a) or (b) of subsection (4A) apply in respect of the second choice or, as the case may be, of the subsequent choice.]

---

**Changes to legislation:** There are currently no known outstanding effects for the Scotland Act 1998, Cross Heading: Vacancies. (See end of Document for details)

---

- (6) Where a person's name has been notified under subsection (3), this Act shall apply as if he had been declared to be returned as a regional member for the region on the day on which notification of his name was received by the Presiding Officer.
- (7) For the purposes of this section, the date on which a vacancy is to be treated as occurring shall be determined under standing orders.

.....

**Textual Amendments**

- F1** S. 10(4)-(5A) substituted (30.12.2010 except for specified purposes) for s. 10(4)(5) as originally enacted by virtue of [The Scottish Parliament \(Elections etc.\) Order 2010 \(S.I. 2010/2999\)](#), arts. 1, **87**

**Changes to legislation:**

There are currently no known outstanding effects for the Scotland Act 1998, Cross Heading: Vacancies.