

# **ELECTORAL ADMINISTRATION ACT 2006**

---

## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 6: Conduct of elections etc.**

#### **Death of Candidate**

##### ***Section 24 Death of candidate***

130. This section replaces rule 60 of Schedule 1 to the Representation of the People Act 1983 (Death of candidate at a Parliamentary Election) with new rules 60 to 65. Following the delay caused by the death of a candidate in the constituency of South Staffordshire at the 5 May 2005 General Election, concerns were raised about the efficacy of the procedure for dealing with the death of a candidate in these circumstances. New rules 60 to 65 address this problem by reducing the delay in rescheduling the date of poll as a result of the death of a candidate, by allowing registered political parties to field an alternative candidate if their candidate dies and by allowing the original election timetable to continue uninterrupted should the deceased candidate be an independent.

#### **New rule 60: Independent candidate**

131. Rule 60(1) applies if at a contested UK Parliamentary election, proof is given to the returning officer's satisfaction before the result of the election is declared that one of the persons named or to be named in the ballot papers as an independent candidate has died.
132. Rule 60(2) provides that where an independent candidate dies, the election will continue as if that candidate has not died, subject to this rule and rules 61 and 62.
133. Rule 60(3) states the exceptions where the rules of Schedule 1 to the Representation of the People Act 1983 do not apply to a deceased independent candidate. These are:
- (a) rule 32(1)(c) and (d) (admission to polling station) – the polling agents of a deceased candidate are not permitted to enter a polling station;
  - (b) rule 44(2)(b) to (d) (attendance at count) – the election agent, counting agents or spouse of a deceased candidate are not automatically entitled to be present at the count; and
  - (c) rule 53(4) (forfeiture of deposit) – the deposit of a deceased independent candidate will not be forfeit under any circumstances.
134. Rule 60(4) provides that where there are only two candidates shown in the statement of persons nominated, and one of those candidates dies, the election will be treated as an uncontested election. Either the notice of poll will be countermanded, or if polling has begun, the returning officer will direct that the poll is abandoned, and any prescribed election documents disposed of in the manner set out in Rule 65 of schedule 1 to the Representation of the People Act 1983.

135. Rule 60(5) For the purposes of this rule a person is named or to be named on the ballot papers as an independent candidate if the description (if any) on his nomination paper is not authorised as mentioned in rule 6A(1) or (1B).

**New rule 61: Deceased independent candidate wins**

136. Rule 61(1) applies where a deceased independent candidate, named on the statement of persons nominated, receives the majority of votes at the election.
137. Rule 61(2) provides that where the deceased candidate receives the majority of votes, Rule 50(1) (declaration of result) does not apply and that the returning officer shall declare that no member is returned and announce the number of votes given to each candidates together with the number of rejected ballot papers.
138. Rule 61(3) disapplies Rule 53, with the result that the remaining candidates' deposits will not be forfeited.
139. Rule 61(4) specifies that where the deceased candidate receives the majority of votes, the returning officer must retain the writ, and proceed with a fresh election, subject to the following provisions of this rule.
140. Rule 61(5) specifies that the writ for the election must be taken to have been received on the first working day after the end of the period of seven days starting on the day of the declaration of result of the election.
141. Rule 61(6) provides that in the case of a person shown in the statement of persons nominated as standing nominated, no fresh nomination is necessary. Additionally, no new nominations may be made by any person.
142. Rule 61(7) provides that if a candidate wishes to withdraw from the rescheduled contest, the last day on which he can give notice of withdrawal of candidature is the seventh working day after the day on which the writ is taken to be received.
143. Rule 61(8) provides that no new deposit is necessary in the case of a rescheduled election caused by the a deceased independent candidate receiving the majority of votes at the original poll.
144. Rule 61(9) specifies that the rescheduled poll must be held on a day in the period which starts 15 working days after the day on which the writ is taken to have been received and ends 19 working days after that day.
145. Rule 61(10) provides that for the purposes of this rule a working day is a day which is not a day specified in rule 2(1)(a) to (c) of Schedule 1 to the Representation of the People Act 1983. The specified days are a Saturday or Sunday, Christmas Eve, Christmas Day, Good Friday, a bank holiday, or a day appointed for public thanksgiving or mourning.

**New rule 62: Deceased independent candidate with equality of votes**

146. Rule 62 provides that where a deceased candidate polls the same number of votes as another candidate, the deceased candidate will be ignored, and the remaining candidate will be returned.

**New rule 63: Party candidate**

147. Rule 63(1) applies where proof is given to the officer that the candidate of a registered political party, who is named or to be named on the ballot paper, has died before the declaration of result.
148. Rule 63(2) provides that the returning officer must either countermand notice of the poll, or if polling has begun, direct that the poll be abandoned.

149. Rule 63(3) provides that the proceedings with reference to the election must be commenced afresh, subject to paragraphs (4) to (9) of this rule:
- the writ will be taken to have arrived on the first working day after the end of a period of seven days following the day that a returning officer receives proof of a party candidate's death;
  - a candidate already shown on the statement of persons nominated does not need to submit a fresh nomination;
  - only a new candidate for the registered political party in whose name the deceased candidate was standing will be permitted to submit a new nomination. No other nominations may be made;
  - the last day for a nomination by a new candidate for the registered political party to be made, is the seventh working day after the writ is taken to be received;
  - a candidate already shown as nominated may withdraw from the rescheduled poll. The notice of withdrawal must be made by the seventh working day after the day on which the writ is taken to be received; and
  - the minimum number of days that may pass between the day on which the writ is taken to have been received and the poll is 15 working days. The maximum number of days is 19 working days.
150. For the purposes of rule 63:
- (a) a person stands in the name of a registered political party if his nomination paper contains a description which is authorised as mentioned in rule 6A(1) or (1B);
  - (b) a registered political party is a party which is registered under Part 2 of the Political Parties, Elections and Referendums Act 2000; and;
  - (c) a working day excludes days specified in rule 2 of Schedule 1 to the Representation of the People Act 1983. The specified days are a Saturday or Sunday, Christmas Eve, Christmas Day, Good Friday, a bank holiday, or a day appointed for public thanksgiving or mourning.

#### **New rule 64: Speaker of the House of Commons seeking re-election**

151. Rule 64 applies where proof is given to the returning officer that the Speaker of the House of Commons has died while seeking re-election as a candidate, shown on the statement of nominated persons for a UK Parliamentary election.
152. Rule 64 (2) provides that where the circumstances in subsection (1) occur, the returning officer must, either countermand notice of the poll, or if polling has begun, direct that the poll be abandoned.
153. Rule 64 (3) provides that the proceedings with reference to the election must be commenced afresh, subject to paragraphs (4) to (6) of this rule, which provide that:
- the writ will be taken to have arrived on the first working day after the end of a period of seven days following the day that a returning officer receives proof of a party candidate's death;
  - the last date for new nominations to be delivered, or for a candidate already shown on the statement of persons nominated to withdraw his candidature, is the seventh working day after the day on which the writ is taken to be received; and
  - the minimum number of days that may pass between the day on which the writ is taken to have been received and the poll is 15 working days. The maximum number of days is 19 working days.

154. Paragraph (7) states that for the purposes of this rule a working day is a day which is not a day specified in rule 2(1)(a) to (c) of Schedule 1 to the Representation of the People Act 1983. The specified days are a Saturday or Sunday, Christmas Eve, Christmas Day, Good Friday, a bank holiday, or a day appointed for public thanksgiving or mourning.

**New rule 65: Abandoned poll**

155. Rule 65 applies to an election where the death of either an independent candidate, a candidate from a registered political party, or the Speaker of the House of Commons occurs, as set out in Rules 60, 63 and 64 of Schedule 1 to the Representation of the People Act 1983 respectively.
156. Rule 65(2) provides that, where the death of a candidate occurs as described in paragraph (1), the presiding officer at a polling station must forward to the returning officer, the ballot boxes, ballot papers and other documents as he would be required to do on the close of the poll.
157. Rule 65(3) requires the returning officer to dispose of election documents, as he is required to do on the completion of the counting of the votes.
158. Rule 65(4) to (8) provide that:
- the returning officer does not need to prepare or verify a ballot paper account;
  - no count should take place where proof is given of a candidate's death, or the count should cease should proof of death be made to the returning officer during the count; and
  - the returning officer must seal up all the ballot papers (whether the votes on them have been counted or not) and it is not necessary to seal up counted and rejected ballot papers in separate packets.
159. Rule 65(7) provides that ballot papers and other election documents relating to the poll should be retained and open to inspection in the same manner as if the election had not been postponed due to a candidate's death, subject to paragraphs (8) and (9).
160. Rule 65(8) states that ballot papers on which the votes were neither counted nor rejected must be treated as counted ballot papers.
161. Rule 65(9) states that no order is to be made for the inspection or production of either ballot papers, corresponding number lists, or certificates of employment on the day of poll. An exception is made where the order is made by a court in relation to a prosecution.