

SCHEDULE 2

SCOTTISH PARLIAMENTARY ELECTION RULES

PART V

DISPOSAL OF DOCUMENTS

Sealing up of ballot papers

66.—(1) On the completion of the counting at a contested election the constituency returning officer shall seal up in separate packets the counted and rejected ballot papers.

(2) The constituency returning officer shall not open the sealed packets of tendered ballot papers or of counterfoils and certificates as to employment on duty on the day of the poll, or of marked copies of the register of electors and lists of proxies.

Delivery of documents to the sheriff clerk

67.—(1) The constituency returning officer shall then forward to—

- (a) the sheriff clerk of the sheriff court district comprising the constituency; or
- (b) if the constituency comprises the whole or part of more sheriff court districts than one, the sheriff clerk of any one of those sheriff court districts,

the following documents—

- (a) the packets of constituency ballot papers in his possession;
- (b) the packets of regional ballot papers in his possession;
- (c) the ballot paper accounts and the statements of rejected ballot papers and of the result of the verification of the ballot paper accounts;
- (d) the tendered votes lists, the lists of blind voters assisted by companions, the lists of votes marked by the presiding officer and the related statements, and the declarations made by the companions of blind voters;
- (e) the packets of counterfoils and certificates as to employment on duty on the day of the poll; and
- (f) the packets containing marked copies of registers and of lists of proxies,

endorsing on each packet—

- (i) a description of its contents;
- (ii) the date of the election to which they relate; and
- (iii) the name of the constituency in which the votes were given.

(2) The constituency returning officer may forward the documents either by delivering them by himself or his agent to the sheriff clerk or by sending them by post.

(3) If he sends them by post—

- (a) he shall deliver the documents to the postmaster (or his deputy) of the principal post office of the constituency;
- (b) the postmaster or his deputy shall—
 - (i) give a receipt in respect of those documents to the constituency returning officer; and
 - (ii) send the documents to the sheriff clerk by the first post free of charge,

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- (c) he shall send a letter to the sheriff clerk by the same post, specifying the number and description of the documents so sent; and
 - (d) a copy of the receipt given him by the postmaster or deputy postmaster shall be signed by him and retained by the postmaster or deputy postmaster.
- (4) On receipt of the documents by the sheriff clerk a receipt shall be given to the person delivering them, and the receipt of those documents shall be registered in books kept for the purpose by the Sheriff Clerk specifying the date and time of receipt.
- (5) Any receipt to be given for the documents shall show the date and time of their receipt.

Orders for production of documents

68.—(1) An order—

- (a) for the inspection or production of any rejected ballot papers in the custody of the sheriff clerk; or
 - (b) for the opening of a sealed packet of counterfoils and certificates as to employment on duty on the day of the poll or the inspection of any counted ballot papers in his custody,
- may be made, if satisfied by evidence on oath that the order is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of an election petition, by the Court of Session or a sheriff court.

(2) An order for the opening of a sealed packet of counterfoils and certificates or for the inspection of any counted ballot papers in the sheriff clerk's custody may be made by an election court.

(3) An order under this paragraph may be made subject to such conditions as to—

- (a) persons;
- (b) time;
- (c) place and mode of inspection;
- (d) production or opening,

as the court making the order may think expedient; but in making and carrying into effect an order for the opening of a packet of counterfoils and certificates or for the inspection of counted ballot papers, care shall be taken that the way in which the vote of any particular elector has been given shall not be disclosed until it has been proved—

- (i) that his vote was given; and
- (ii) that the vote has been declared by a competent court to be invalid.

(4) An appeal lies to the Court of Session from any order of a sheriff court under this rule.

(5) Any power given under this rule to the Court of Session or to a sheriff court, may be exercised by any judge of the court otherwise than in open court.

(6) Where an order is made for the production by the sheriff clerk of any document in his possession relating to any specified election—

- (a) the production by him or his agent of the document ordered in such manner as may be directed by that order shall be conclusive evidence that the document relates to the specified election; and
- (b) any endorsement on any packet of ballot papers so produced shall be prima facie evidence that the ballot papers are what they are stated to be by the endorsement.

(7) The production from proper custody of a ballot paper purporting to have been used at any election, and of a counterfoil marked with the same printed number and having a number marked on it in writing, shall be prima facie evidence that the elector whose vote was given by that ballot paper

was the person who at the time of the election had affixed to his name in the register of electors the same number as the number written on the counterfoil.

(8) Save as by this paragraph provided, no person shall be allowed to inspect any rejected or counted ballot papers in the possession of the sheriff clerk or to open any sealed packets of counterfoils and certificates.

Retention and public inspection of documents

69.—(2) The sheriff clerk shall retain for a year all documents relating to an election forwarded to him in pursuance of these Rules by a constituency returning officer, and then, unless otherwise directed by order of the Court of Session, shall cause them to be destroyed.

(2) Those documents, except ballot papers, counterfoils and certificates as to employment on duty on the day of the poll, shall be open to public inspection at such time and subject to such conditions as may be determined by the sheriff clerk with the consent of the Presiding Officer of the Scottish Parliament.

(3) The sheriff clerk may, on request, supply copies of or extracts from the documents open to public inspection on payment of such fees and subject to such conditions as may be sanctioned by the Treasury.