

SCHEDULE 4

Article 12(3)

ISSUE AND RECEIPT OF POSTAL BALLOT PAPERS

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Interpretation

1. For the purposes of this Schedule, unless the context otherwise requires—
 - “agent” includes an election agent and a person appointed to attend in the election agent’s place;
 - “ballot paper envelope” and “covering envelope” mean the envelopes referred to in paragraph 9 below;
 - “issue” includes the original and any subsequent issue;
 - “list of postal proxies” means the list kept under article 11(9);
 - “postal ballot paper” means a ballot paper issued to a postal voter;
 - “postal voter” means a voter who is entitled to vote by post (and includes a postal proxy);
 - “postal voters' ballot box” means the ballot box referred to in paragraph 11 below;
 - “receptacle for ballot paper envelopes” and “receptacle for declarations of identity” mean the receptacles referred to in paragraph 16(4) below;

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“receptacle for postal ballot papers” means the receptacle referred to in paragraph 15(4) below;
“receptacle for rejected votes” means the receptacle referred to in paragraph 16(2) below; and
“spoilt postal ballot paper” means a ballot paper referred to in paragraph 13(1) below.

Issue of postal ballot papers

Combination of polls

2. Where the polls at elections are taken together under article 13(1) or (2) the proceedings on the issue and receipt of postal ballot papers in respect of each election may, if the returning officers concerned agree, be taken together.

Form of declaration of identity

3. The declaration of identity sent with the postal ballot paper to a postal voter shall be—
- (a) at Scottish parliamentary election other than one to which sub-paragraph (b) or (c) below applies, in the form P set out in the Appendix;
 - (b) at a Scottish parliamentary election where the proceedings on the issue and receipt of ballot papers are taken together with those proceedings at another election under paragraph 2 above, in the form AA set out in the Appendix; and
 - (c) at a Scottish parliamentary election the poll at which is taken together with a poll at another election under article 13 (1) or (2) in any part of the constituency but where the proceedings on the issue and receipt of postal ballot papers are not taken together under paragraph 2 above, for use in that part of the constituency in which polls at more than one election are taken together, in the form AB set out in the Appendix.

Persons entitled to be present at issue and receipt of postal ballot papers

4.—(1) No person may be present at the proceedings on the issue or receipt of postal ballot papers other than—

- (a) the constituency returning officer and his clerks;
- (b) a candidate for return as a constituency member or an election agent of such a candidate or any person appointed by a candidate to attend in his election agent’s place or;
- (c) except in the case of an election to fill a vacancy in the seat of a constituency member—
 - (i) the regional returning officer;
 - (ii) an individual candidate for return as a regional member or his election agent or any person authorised by the candidate to attend in his election agent’s place or;
 - (iii) the election agent of a registered party standing nominated or the nominating officer of that party or any person authorised by that officer to attend in his place; and
- (d) any agents appointed under sub-paragraph (2) below.

(2) Where postal ballot papers are to be issued, or the envelopes contained in the postal voters' ballot boxes are to be opened simultaneously in 2 or more batches, each—

- (a) candidate for return as a constituency member; and
- (b) except in the case of an election to fill a vacancy in the seat of a constituency member, individual candidate for return as a regional member and election agent for a registered party standing nominated,

may appoint one or more agents up to the number he may be authorised by the constituency returning officer to appoint not exceeding the number of such batches so, however, that the number authorised should be the same in the case of each candidate or, as the case may be, election agent for a registered party standing nominated.

(3) Notice of the appointment stating the names and addresses of the persons appointed shall be given by the candidate or election agent to the constituency returning officer before the time fixed for the issue of the postal ballot papers or the opening of the postal voters' ballot boxes, as the case may be.

(4) Where postal ballot papers for more than one election are issued together under paragraph 2 above, the constituency returning officer to whom notice shall be given under sub-paragraph (3) above and sub-paragraphs (5) and (6) below is the returning officer who issues the postal ballot papers.

(5) If an agent dies or becomes incapable of acting, the candidate or election agent 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) Agents may be appointed and notice of appointment given to the constituency returning officer by a candidate's election agent instead of by the candidate.

(7) In this Schedule references to agents shall be taken as references to agents whose appointments have been duly made and notified and, in the case of agents appointed under sub-paragraph (2) above, who are within the number authorised by the constituency returning officer.

(8) Any of the following persons, namely—

- (a) a candidate for return as a constituency member;
- (b) an individual candidate for return as a regional member;
- (c) the election agent of a registered party standing nominated,

may himself do any act or thing which any agent of his, if appointed, would have been authorised to do, or may assist his agent in doing any such act or thing.

(9) Where in this Schedule any act or thing is required or authorised to be done in the presence of the candidates or their agents, the non-attendance of any such person 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

5. The constituency returning officer shall make arrangements to ensure that every person attending the proceedings in connection with the issue or receipt of postal ballot papers has been given a copy in writing of the provisions of article 29(4) and (6).

Notice of issue of postal ballot papers

6.—(1) The constituency returning officer shall give each—

- (a) candidate for return as a constituency member;
- (b) except in the case of an election to fill a vacancy in the seat of a constituency member, individual candidate for return as a regional member and election agent for a registered party standing nominated,

not less than 48 hours notice in writing of the time and place at which he will issue postal ballot papers and of the number of agents such person may appoint under paragraph 4(2) above to attend that issue.

(2) Where any subsequent issue of postal ballot papers is made, the constituency returning officer shall notify each person required to be notified under sub-paragraph (1) above as soon as practicable

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of the time and place at which he will make such subsequent issue and of the number of agents such person may appoint under paragraph 4 (2) above to attend such issue.

Marking of postal ballot papers etc.

7.—(1) Each postal ballot paper issued shall be stamped with the official mark and the name and number of the elector as stated in the register shall be called out, and such number shall be marked on the counterfoil, and a mark shall be placed in the absent voters list or the list of postal proxies against the number of the elector to denote that a ballot paper has been issued to the elector or his proxy but without showing the particular ballot paper issued.

(2) The number of a postal ballot paper shall be marked on the declaration of identity sent with that paper.

(3) Where postal ballot papers for more than one election are issued together under paragraph 2 above—

(a) one mark shall be placed in the absent voters list or the list of postal proxies under sub-paragraph (1) above to denote that ballot papers have been issued in respect of all of those elections, except that where ballot papers are not so issued a different mark shall be placed in the absent voters list or list of postal proxies to identify the election in respect of which the ballot paper was issued; and

(b) the number of each ballot paper shall be marked on the declaration of identity under sub-paragraph (2) above.

(4) Where the poll at a Scottish parliamentary election is taken with the poll at another election under article 13(1) or (2) but the proceedings on the issue and receipt of postal ballot papers are not taken together under paragraph 2 above, the colours of the postal ballot papers (or, as the case may be, the colour of the postal ballot paper) shall also be marked on the declaration of identity sent with those papers (or as the case may be, that paper).

Refusal to issue postal ballot paper

8. Where a constituency returning officer is satisfied that two or more entries in either the absent voters list, or the list of postal proxies, or in each of those lists relate to the same elector he shall not issue more than one constituency ballot paper or, as the case may be, more than one regional ballot paper in respect of the same elector in respect of the same election.

Envelopes

9.—(1) The envelope which the constituency returning officer is required by rule 33 of the Scottish Parliamentary Election Rules to send to a postal voter for the return of postal ballot papers (or, as the case may be, ballot paper) and the declaration of identity (referred to as a “covering envelope”) shall be marked with the letter “B”.

(2) In addition to the documents referred to in sub-paragraph (1) above, the constituency returning officer shall send to a postal voter a smaller envelope (referred to as a “ballot paper envelope”) which shall be marked with—

(a) the letter “A”;

(b) the words “Ballot paper envelope”; and

(c) the number of each ballot paper.

(3) Where the poll at one election is taken together with the poll at another election under article 13(1) or (2) but the proceedings on the issue and receipt of postal ballot papers are not be taken together under paragraph 2 above—

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- (a) the envelope referred to in sub-paragraph (1) above shall also be marked “Covering envelope for the [insert colour of ballot paper(s)] coloured ballot paper(s)”; and
- (b) on the envelope referred to in sub-paragraph (2) above, after the words “Ballot paper envelope” there shall be added the words “for the [insert colour of ballot paper(s)] coloured ballot paper (s)”.

Delivery of postal ballot papers to post office

10.—(1) Envelopes addressed to postal voters shall be counted and forthwith delivered by the constituency returning officer to the nearest head post office, or such other office as may be arranged with the head postmaster, and the postmaster shall stamp with the post office date stamp a form of receipt to be presented by the constituency returning officer stating the number of envelopes so delivered, and shall immediately forward such envelopes for delivery to the persons to whom they are addressed.

(2) First class postage of all such envelopes and all covering envelopes shall be prepaid by the constituency returning officer.

Provision of postal voters' ballot box

11.—(1) The constituency returning officer shall, at the proceedings on the original issue of postal ballot papers, provide a ballot box or ballot boxes for the reception of the covering envelopes when returned by the postal voters.

(2) Every such ballot box shall be shown open and empty to the agents present and shall then be locked by the constituency returning officer and sealed with the seal of the constituency returning officer and the seals of such of the agents as desire to affix their seals in such manner as to prevent its being opened without breaking the seal.

(3) Every such ballot box shall be marked “postal voters' ballot box” and with the name of the constituency in which the election is held.

(4) The constituency returning officer shall make provision for the safe custody of every such ballot box.

Sealing up of special lists and counterfoils

12.—(1) The constituency returning officer, as soon as practicable after the completion of the issue of the postal ballot papers, and in the presence of the agents, shall make up in separate packets—

- (a) the marked copies of the absent voters list and of the list of postal proxies; and
- (b) the counterfoils of those ballot papers which were issued,

and shall seal such packets.

(2) The sealed packet containing the marked copies of the absent voters list and of the list of postal proxies may be opened by the constituency returning officer for the purposes of a subsequent issue, and on completion of that issue the copies shall be again made up and sealed in accordance with sub-paragraph (1) above.

Spoilt postal ballot paper

13.—(1) If a postal voter has inadvertently dealt with a postal ballot paper of his in such manner that it cannot be conveniently used as a ballot paper (referred to as “a spoilt postal ballot paper”) he may return (either by hand or by post) to the constituency returning officer the spoilt postal ballot paper, the declaration of identity, the ballot paper envelope and the covering envelope.

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(2) Where two or more postal ballot papers have been issued together to him (whether at a Scottish parliamentary general election or under paragraph 2 above), the postal voter shall, if he exercises the entitlement conferred by sub-paragraph (1) above, return all of the ballot papers so issued, whether spoiled or not.

(3) On receipt of the documents referred to in sub-paragraph (1) or (2) above the constituency returning officer shall issue a replacement ballot paper or, as the case may be, papers except where those documents are received too late for a replacement ballot paper or, as the case may be, papers to be returned before the close of the poll.

(4) Paragraphs 4(1)(a), 5 and 7 to 12 above, except any reference to the presence of the agents, shall apply to the issue of postal ballot papers under sub-paragraph (3) above.

(5) The spoiled postal ballot paper, and any other postal ballot paper issued with it, the declaration of identity and the ballot paper envelope, shall be immediately cancelled.

(6) The constituency returning officer, as soon as practicable after cancelling those documents, shall make up those documents in a separate packet and shall seal the packet; and if on any subsequent occasion documents are cancelled as mentioned above, the sealed packet shall be opened and the additional cancelled documents included in it and the packet shall then be again made up and sealed.

Receipt of postal ballot papers

Receipt of covering envelope

14. The constituency returning officer shall, immediately on receipt (whether by hand or by post) of a covering envelope before the close of the poll, place it unopened in a postal voters' ballot box sealed in accordance with paragraph 11 above.

Opening of postal voters' ballot box

15.—(1) Each postal voters' ballot box shall be opened by the constituency returning officer in the presence of the agents.

(2) So long as the constituency returning officer ensures that there is at least one postal voters' ballot box for the reception of covering envelopes up to the time of the close of the poll, the other postal voters' ballot boxes may previously be opened by him.

(3) The constituency returning officer shall give each—

- (a) candidate for return as a constituency member; and
- (b) except in the case of an election to fill a vacancy in the seat of a constituency member, individual candidate for return as a regional member and the election agent for each registered party standing nominated,

not less than 48 hours notice in writing of the time and place of the opening of each postal voters' ballot box and the envelopes contained in it and of the number of agents such person may appoint under paragraph 4(2) above to be present at each opening.

(4) The constituency returning officer shall provide a ballot box as a receptacle for postal ballot papers (referred to as “the receptacle for postal ballot papers”) and every such ballot box shall be shown open and empty to the agents present and shall then be locked by the constituency returning officer and sealed with the seal of the constituency returning officer and the seals of such of the agents as desire to affix their seals in such manner as to prevent its being opened without breaking the seal.

(5) Every ballot box referred to in sub-paragraph (4) above shall be marked “postal voters' ballot papers” and with the name of the constituency in which the election is held.

(6) The constituency returning officer shall make provision for the safe custody of every such ballot box.

(7) The ballot box shall be opened at the counting of the votes under rule 53 of the Scottish Parliamentary Election Rules.

Opening of covering envelopes

16.—(1) When a postal voters' ballot box has been opened, the constituency returning officer shall count and note the number of covering envelopes, and shall then open each covering envelope separately.

(2) Where a covering envelope does not contain both a declaration of identity and a ballot paper envelope or, if there is no ballot paper envelope, a ballot paper (or ballot papers) he shall mark the covering envelope “rejected”, attach to it the contents (if any) of the covering envelope and place it in a separate receptacle (referred to as “the receptacle for rejected votes”); and if the covering envelope does not contain the declaration separately, the constituency returning officer shall open the ballot paper envelope to ascertain if the declaration is inside that envelope.

(3) On opening a covering envelope, other than one to which sub-paragraph (2) above applies, the constituency returning officer shall first satisfy himself that the declaration of identity has been duly signed by the voter and authenticated by a witness who has signed the declaration and given his name and address and, if he is not so satisfied, he shall mark the declaration “rejected”, attach to it the ballot paper envelope or, if there is no such envelope, the ballot paper (or ballot papers), and place it in the receptacle for rejected votes (but before so doing he shall show the declaration to the agents and, if any objection is made by any agent to his decision, he shall add the words “rejection objected to”).

(4) Where the number (or numbers) on the declaration of identity duly signed and authenticated agrees with the number (or numbers) on the ballot paper envelope, he shall place the declaration in a separate receptacle (referred to as “the receptacle for declarations of identity”) and the ballot paper envelope in another separate receptacle (referred to as “the receptacle for ballot paper envelopes”).

(5) Where there is no ballot paper envelope or the ballot paper envelope has been opened under sub-paragraph (2) above, he shall place—

- (a) in the receptacle for postal ballot papers, any ballot paper the number on which is the same as the number (or one of the numbers) on the declaration of identity, duly signed and authenticated;
- (b) in the receptacle for rejected votes, any other ballot paper, to which shall be attached the declaration of identity marked “rejected”; and
- (c) in the receptacle for declarations of identity, any such declaration not disposed of under sub-sub-paragraph (b) above.

(6) Where the number (or numbers) on the declaration of identity, duly signed and authenticated, is not the same as the number (or numbers) on the ballot paper envelope or that envelope has no number on it (or only one number where the declaration of identity has more than one) he shall open the envelope and shall place—

- (a) in the receptacle for postal ballot papers, any ballot paper the number on which is the same as the number (or one of the numbers) on the declaration of identity, duly signed and authenticated;
- (b) in the receptacle for rejected votes, any other ballot paper, to which shall be attached the declaration of identity marked “rejected”;
- (c) in the receptacle for rejected votes, any declaration of identity, marked “rejected”, in respect of a ballot paper envelope which either does not contain a ballot paper or, where more than one number appears on the declaration, a sufficient number of ballot papers (and indicating, in such a case, the missing ballot paper); and

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(d) in the receptacle for declarations of identity, any such declaration not disposed of under sub-sub-paragraph (b) or (c) above.

(7) Except for the purposes of ascertaining under sub-paragraph (2) above whether a ballot paper envelope contains a declaration of identity or under sub-paragraph (6) above whether the number (or numbers) on the declaration agrees with the number on the ballot paper (or ballot papers), the constituency returning officer shall not open the ballot paper envelopes before they are opened under paragraph 18 below.

Sealing up of rejected votes and declarations of identity

17. On the conclusion of the proceedings under paragraph 16 above the constituency returning officer shall put the contents of the receptacle for rejected votes and the contents of the receptacle for declarations of identity into two separate packets and shall seal up such packets.

Opening of ballot paper envelopes

18.—(1) After sealing up the packets referred to in paragraph 17 above the constituency returning officer shall open separately each ballot paper envelope placed in the receptacle for ballot paper envelopes.

(2) He shall place—

- (a) in the receptacle for postal ballot papers, any ballot paper the number on which is the same as the number (or one of the numbers) on the ballot paper envelope;
- (b) in a separate receptacle, any other ballot paper which shall be marked “rejected” and to which shall be attached the ballot paper envelope; and
- (c) in the receptacle referred to in sub-sub-paragraph (b) above, any ballot paper envelope which shall be marked “rejected” because it does not contain either a ballot paper or, where more than one number appears on the ballot paper envelope, a sufficient number of ballot papers (and indicating, in such a case, the missing ballot paper),

and he shall make the contents of the receptacle referred to in sub-sub-paragraph (b) above up into a packet and shall seal such packet.

Abandoned poll

19.—(1) Subject to sub-paragraph (2) below, where a poll is abandoned or countermanded after postal ballot papers have been issued, by reason of the death of a candidate, the constituency returning officer—

- (a) shall not take any step or further step to open covering envelopes or deal with the contents in accordance with the provisions of this Schedule; and
- (b) shall, notwithstanding paragraph 17 or 18 above, treat all unopened covering envelopes and the contents of those which have been opened as if they were counted ballot papers.

(2) Sub-paragraph (1) above shall not apply where postal ballot papers for more than one election have been issued together under paragraph 2 above.

Forwarding of documents

20.—(1) The constituency returning officer shall forward to the sheriff clerk at the same time as he forwards the documents mentioned in rule 67 of the Scottish Parliamentary Election Rules—

- (a) any packets referred to in paragraphs 12, 13, 17 or 18 above, subject to the provisions of paragraph 19 above, endorsing on each packet a description of its contents, the date of the election to which it relates and the name of the constituency in which the election is held; or

- (b) a completed statement in the form AC set out in the Appendix of the number of postal ballot papers issued.
- (2) Where any covering envelopes are received by the constituency returning officer after the close of the poll or any envelopes addressed to postal voters are returned as undelivered too late to be re-addressed, or any spoilt postal ballot papers are returned too late to enable other postal ballot papers to be issued, he shall put them unopened into a separate packet, seal up such packet and endorse and forward it at a subsequent date in the manner described in sub-paragraph (1) above.
- (3) Any packet or statement forwarded under this regulation shall be deemed to have been forwarded in pursuance of the Scottish Parliamentary Election Rules.
- (4) A copy of the statement referred to in sub-paragraph (1)(b) above shall be provided by the constituency returning officer to the Secretary of State.