

SCHEDULE 6

Article 85

LEGAL PROCEEDINGS

PART I

ELECTION OR RETURN OF CONSTITUENCY MEMBER

<i>Provision applied</i>	<i>Modification</i>
Section 120 (method of questioning parliamentary election)	
Section 121 (presentation and service of parliamentary election petition)	
Section 122 (time for presentation or amendment of parliamentary election petition)	Omit subsection (8).
Section 123 (constitution of election court and place of trial)	
Section 125 (judges' expenses and reception: Scotland)	
Section 126 (attendance of House of Commons shorthand writer)	In subsection (1) for the words from the beginning to “deputy” substitute “A shorthand writer”.  In subsection (2) for “Speaker” substitute “Clerk of the Scottish Parliament”.
Section 136 (security for costs)	
Section 137 (petition at issue)	
Section 138 (list of petitions)	
Section 139 (trial of petition)	In subsection (3) the words from “the acceptance” to “notwithstanding”, in the third place where it occurs, shall be omitted.  In subsection (6), the reference to the Parliamentary Election Rules shall be construed as a reference to the Scottish Parliamentary Election Rules in Schedule 2 to this Order.
Section 140 (witnesses)	Omit subsection (6) .
Section 141 (duty to answer relevant questions)	
Section 143 (expenses of witnesses)	
Section 144 (conclusion of trial of parliamentary election petition)	In subsections (2), (4) and (6), for “Speaker” substitute “Clerk of the Scottish Parliament”.  Omit subsections (5) and (7).

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<i>Provision applied</i>	<i>Modification</i>
Section 146 (special case for determination of High Court)	In subsection (2) for “Speaker” substitute “Clerk of the Scottish Parliament”.
Section 147 (withdrawal of petition)	
Section 148 (evidence required for withdrawal of petition)	Omit subsection (6).
Section 149 (penalty for corrupt withdrawal and breach of section 148)	For “6 months” substitute “3 months” and for “statutory maximum” substitute “amount specified as level 5 on the standard scale”.
Section 150 (substitution of new petitioner)	
Section 151 (report on withdrawal)	In subsection (1)(a) for “Speaker” substitute “Clerk of the Scottish Parliament”.
Section 152 (abatement of petition)	
Section 153 (withdrawal and substitution of respondents before trial)	For subsection (1)(b) and (c) substitute: “(b) resigns or otherwise ceases to be a member of the Scottish Parliament,”.
	In subsection (4) for “Speaker” substitute “Clerk of the Scottish Parliament”.
Section 154 (costs of petition)	
Section 155 (neglect or refusal to pay costs)	
Section 156 (further provision as to costs)	
Section 157 (appeals and jurisdiction)	Omit subsections (1), (4) to (6) and (8).
For subsection (2) substitute: “(2) Subject to the provisions of this Act and the rules made under it, the principles, practice and rules on which election courts act in dealing with parliamentary election petitions shall be observed, so far as is appropriate having regard to the different system of election, by the Court of Session and election court in the case of Scottish Parliamentary election petitions”.	
Section 158 (report as to candidate guilty of corrupt or illegal practice)	
Section 159 (candidate reported guilty of corrupt or illegal practice)	In subsection (2) for “House of Commons” substitute “Scottish Parliament”.
Section 160 (persons reported personally guilty of corrupt or illegal practices)	In subsection (4)— (a) after “Kingdom” insert “or local government election”; and (b) after “Commons”, in each place where it occurs, insert “or the Scottish Parliament”.

<i>Provision applied</i>	<i>Modification</i>
	In subsection (5) after the words “parliamentary election”, in the first place where they occur, insert “or local government election”.
	Subsection (6) shall be omitted.
Section 161 (justice of the peace)	
Section 162 (member of legal and certain other professions)	
Section 163 (holder of licence or certificate under Licensing Acts).	
Section 164 (avoidance of election for general corruption etc.)	
Section 165 (avoidance of election for employing corrupt agent)	
Section 166 (votes to be struck off for corrupt or illegal practices)	
Section 167 (application for relief)	Omit subsections (4) and (5).
Section 168 (prosecutions for corrupt practices)	In subsection (1)(b) for “6 months” substitute “3 months” and for “statutory maximum” substitute “amount specified as level 5 on the standard scale”.
Section 169 (prosecutions for illegal practices)	After “exceeding” insert “the amount specified as”.
Section 170 (conviction of illegal practice on charge of corrupt practice, etc.)	
Section 173 (incapacities on conviction of corrupt or illegal practice)	
Section 174 (mitigation and remission etc.)	Omit subsection (6).
Section 175 (illegal payments etc.)	
Section 176 (time limit for prosecutions)	
Section 178 (prosecution of offences committed outside United Kingdom)	
Section 179 (offences by associations)	
Section 180 (evidence by certificate of holding of elections)	
Section 181 (Director of Public Prosecutions)	Omit subsections (2) to (6).
Section 183 (costs)	
Section 184 (service of notices)	
Section 185 (interpretation of Part III)	
Section 186 (computation of time for purposes of Part III)	The reference to “section 119 above” shall be construed as a reference to article 84 and

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<i>Provision applied</i>	<i>Modification</i>
	the reference to “Part II of this Act” shall be construed as a reference to Part III of this Order.

## PART II

### ELECTION OR RETURN OF REGIONAL MEMBER

<i>Provision applied</i>	<i>Modification</i>
Section 120 (method of questioning parliamentary election)	At the end insert – “(3) No election petition may be brought on the grounds of the commission of corrupt or illegal practices or of illegal payments, employments or hirings. (4) No election petition may be brought in any case in which an application may be made under section 18 of the Scotland Act 1998”.
Section 121 (presentation and service of parliamentary election petition)	For subsection (2) substitute – “(2) If the petition complains of the conduct of– (a) the regional returning officer, (b) any constituency returning officer, the officer (or officers) in question shall be deemed to be the respondent (or respondents), together with any regional member returned at the election.”.
Section 122 (time for presentation or amendment of parliamentary election petition)	“For the section substitute– <b>122.</b> An election petition shall be presented within 21 days after the day on which the result of the election was declared under rule 64 of the Scottish Parliamentary Election Rules in Schedule 2 to the Order.”
Section 123 (constitution of election court and place of trial)	Omit subsections (3) and (4).
Section 125 (judges' expenses and reception: Scotland)	
Section 126 (attendance of House of Commons shorthand writer)	In subsection (1) for the words from the beginning to “deputy” substitute “A shorthand writer”.  In subsection (2) for “Speaker” substitute “Secretary of State”.
Section 136 (security for costs)	

<i>Provision applied</i>	<i>Modification</i>
Section 137 (petition at issue)	
Section 139 (trial of election petition)	<p>In subsection (3) for the words from “the acceptance” to the end substitute “that one (or more) of the respondents is no longer a member of the Scottish Parliament.”.</p> <p>Omit subsection (4).</p> <p>In subsection (6), the reference to the Parliamentary Election Rules shall be construed as a reference to the Scottish Parliamentary Election Rules in Schedule 2 to this Order.</p>
Section 140 (witnesses)	<p>Omit subsection (6).</p>
Section 141 (duty to answer relevant questions)	
Section 143 (expenses of witnesses)	
Section 144 (conclusion of trial of parliamentary election petition)	<p>In subsection (1) for the words from “the member” to “void” substitute—</p> <ul style="list-style-type: none"><li>“(a) the member or members whose election is complained of were duly elected,</li><li>(b) some other person or persons should have been declared to be elected, or</li><li>(c) the election of all members for that region was void”.</li></ul> <p>In subsection (2) for “Speaker” substitute “Clerk of the Scottish Parliament”.</p> <p>For subsection (3) substitute—</p> <p>“(3) If the judges constituting the election court differ as to any matter which they are required to determine, they shall certify that difference and, to the extent that there is such a difference, the result of the election shall stand.”.</p> <p>Omit subsections (4) to (7).</p>
Section 146 (special case for determination of High Court)	<p>In subsection (2) for “Speaker” substitute “Clerk of the Scottish Parliament”.</p>
Section 147 (withdrawal of petition)	
Section 152 (abatement of petition)	
Section 154 (costs of petition)	
Section 155 (neglect or refusal to pay costs)	
Section 157 (appeals and jurisdiction), subsections (3) and (7)	

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<i>Provision applied</i>	<i>Modification</i>
Section 160 (persons reported personally guilty of corrupt or illegal practices)	<p>Omit subsections (1) to (3).</p> <p>In subsection (4)–</p> <ul style="list-style-type: none"> <li>(a) for the words “reported by an election court personally guilty” substitute “convicted”;</li> <li>(b) after “corrupt practice” insert “or a candidate convicted of an illegal practice”;</li> <li>(c) for “report” substitute “conviction”;</li> <li>(d) after “Kingdom” insert “or election to the Scottish Parliament”; and</li> <li>(e) after “Commons”, in each place where it occurs, insert “or Scottish Parliament”.</li> </ul> <p>In subsection (5)–</p> <ul style="list-style-type: none"> <li>(a) for the words “reported by an election court personally guilty” substitute “convicted”;</li> <li>(b) for “report” substitute “conviction”;</li> <li>(c) after the words “parliamentary election”, in the first place where they occur, insert “or local government election”; and</li> <li>(d) for paragraphs (a) and (b) substitute “for or within the region for which the election to the Scottish Parliament was held”.</li> </ul> <p>Omit subsection (6).</p>
Section 167 (application for relief)	Omit subsections (4) and (5).
Section 168 (prosecutions for corrupt practices)	In subsection (1)(b) for “6 months” substitute “3 months” and for “statutory maximum” substitute “amount specified as level 5 on the standard scale”.
Section 169 (prosecutions for illegal practices)	<p>For the words from the beginning to “prosecution” substitute–</p> <p>“A person who is guilty of an illegal practice shall be liable–</p> <ul style="list-style-type: none"> <li>(a) in the case of an illegal practice under articles 41 or 42 of the Order (as applied by article 85 of the Order), on conviction on indictment to a fine;</li> <li>(b) in the case of any illegal practice (including the ones mentioned in paragraph (a) above), on summary conviction, to a fine not exceeding the amount specified as level 5 on the standard scale;</li> </ul> <p>and on a prosecution”.</p>

<i>Provision applied</i>	<i>Modification</i>
Section 170 (conviction of illegal practice on charge of corrupt practice etc.)	
Section 174 (mitigation and remission etc.)	Omit subsections (1) to (4) and (6).  In subsection (5) omit— (a) “or the report of an election court”; and (b) omit “or report”, in both places where the words occur.
Section 175 (illegal payments etc.)	In subsection (2) omit the words from “and if” to the end.
Section 176 (time limit for prosecutions)	
Section 178 (prosecution of offences committed outside United Kingdom)	
Section 179 (offences by associations)	
Section 180 (evidence by certificate of holding of elections)	Omit paragraph (b).  After paragraph (ii) insert –  “and  (iii) that a registered party named in the certificate submitted a regional list at the election.”.
Section 181 (Director of Public Prosecutions)	
Section 183 (costs)	
Section 184 (service of notices)	
Section 185 (interpretation of Part III)	At the end, insert – ““the Order” means the Scottish Parliament (Elections etc.) Order 1999”.
Section 186 (computation of time for purposes of Part III)	