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**Changes to legislation:** There are currently no known outstanding effects for the Scottish Independence Referendum Act 2013, Cross Heading: Orders for production of documents. (See end of Document for details)

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### SCHEDULE 3 CONDUCT RULES

#### *Orders for production of documents*

- 40 (1) The Court of Session or a sheriff principal may make an order mentioned in paragraph (2) if the Court or the sheriff principal is satisfied by evidence on oath that the order is required for the purpose of—
- (a) instituting or maintaining a prosecution for an offence in relation to ballot papers, or
  - (b) proceedings brought as mentioned in section 34.
- (2) An order referred to in paragraph (1) is an order for—
- (a) the inspection or production of any rejected ballot papers in the custody of a proper officer,
  - (b) the opening of a sealed packet of the completed corresponding number lists or of the certificates mentioned in rule 15(6), or
  - (c) the inspection of any counted ballot papers in the proper officer's custody.
- (3) An order under this rule may be made subject to such conditions as to—
- (a) persons,
  - (b) time,
  - (c) place and mode of inspection, and
  - (d) production or opening,
- as the Court or the sheriff principal considers expedient.
- (4) In making and carrying out an order mentioned in paragraph (2)(b) or (c), care must be taken to ensure that the way in which the vote of any particular voter has been given will not be disclosed until it is proved—
- (a) that such vote was given, and
  - (b) that such vote has been declared by a competent court to be invalid.
- (5) Any power given to the Court of Session or a sheriff principal under this rule may be exercised by any judge of the Court, or by the sheriff principal, otherwise than in open court.
- (6) An appeal lies to the Court of Session from any order of a sheriff principal under this rule.
- (7) Where an order is made for the production by a proper officer of any document in that officer's custody relating to the referendum—
- (a) the production by such officer or the officer's agent of the document ordered in such manner as may be directed by that order is conclusive evidence that the document relates to the referendum, and
  - (b) any endorsement on any packet of ballot papers so produced is *prima facie* evidence that the ballot papers are what they are stated to be by the endorsement.
- (8) The production from the proper officer's custody of—
- (a) a ballot paper purporting to have been used at the referendum, and
  - (b) a completed corresponding number list with a number marked in writing beside the number of the ballot paper,

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is *prima facie* evidence that the voter whose vote was given by that ballot paper was the person whose entry in the Polling List (or on a notice issued under section 13B(3B) or (3D) or 13BB(4) of the 1983 Act) at the time of the referendum contained the same number as the number marked as mentioned in sub-paragraph (b).

- (9) Except as provided by this rule, no person is to be allowed to—
- (a) inspect any rejected or counted ballot papers in the custody of the proper officer, or
  - (b) open any sealed packet of the completed corresponding number list or of the certificates mentioned in rule 15(6).

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