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STATUTORY INSTRUMENTS

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**2010 No. 2999 (S. 9)**

**CONSTITUTIONAL LAW  
DEVOLUTION, SCOTLAND**

**The Scottish Parliament (Elections etc.) Order 2010**

*Made - - - - 16th December 2010*

*Coming into force in accordance with article 1(1)*

This Order is made in exercise of the powers conferred by sections 12(1) and 113(2), (4) and (5) of the Scotland Act 1998<sup>(1)</sup>.

The Secretary of State for Scotland has consulted the Electoral Commission as required by section 7 of the Political Parties, Elections and Referendums Act 2000.

A draft of this Order has been laid before Parliament in accordance with section 115 of, and Schedule 7 to, the 1998 Act and approved by a resolution of each House of Parliament.

Accordingly the Secretary of State for Scotland makes the following Order:

**PART 1**

**GENERAL**

**Citation, commencement, transitional and saving provisions**

1.—(1) This Order may be cited as the Scottish Parliament (Elections etc.) Order 2010 and shall come into force on the fourteenth day after the day on which it is made.

(2) This Order has no effect for the purposes of any election for which the date of poll is on or before 4th April 2011.

(3) Article 36 (control of donations to candidates) has no effect in relation to any money or other property provided as mentioned in paragraph (1)(a) and (b) of that article before 5th January 2011.

**Interpretation**

2.—(1) In this Order, except where the context otherwise requires—

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(1) 1998 c.46; section 12 was amended by the Political Parties, Elections and Referendums Act 2000 (c.41) (“the 2000 Political Parties Act”), Schedule 21, paragraph 13 and by the European Parliamentary Elections Act 2002 (c.24), Schedule 3, paragraph 7.

“the 1983 Act” means the Representation of the People Act 1983(2);

“the 1998 Act” means the Scotland Act 1998(3);

“the 2000 Act” means the Representation of the People Act 2000(4);

“the 2000 Political Parties Act” means the Political Parties, Elections and Referendums Act 2000(5);

“the 2001 Regulations” means the Representation of the People (Scotland) Regulations 2001(6);

“the 2006 Act” means the Electoral Administration Act 2006(7);

“absent voter” means an elector who is entitled to vote by proxy or an elector or proxy who is entitled to vote by post;

“anonymous entry”, in relation to the register of electors, shall be construed in accordance with section 9B of the 1983 Act(8) (anonymous registration);

“appropriate returning officer” means—

- (a) in relation to a candidate for return as a constituency member (or to an election agent or sub-agent for such a candidate), the CRO for that constituency; and
- (b) in relation to an individual candidate for return as a regional member or to a registered party submitting a regional list for a particular region (or to an election agent or sub-agent for such a candidate or such a registered party), the RRO for that region;

“ballot paper”, in relation to a general election for membership of the Scottish Parliament, shall be construed as a reference to both the constituency ballot paper and the regional ballot paper;

“Citizen of the Union” shall be construed in accordance with article 9 of the Treaty on European Union(9), and “relevant citizen of the Union” means such a citizen who is not a commonwealth citizen or a citizen of the Republic of Ireland;

“CRO” means the officer who, in accordance with article 14, is the constituency returning officer for a Scottish parliamentary election in a constituency;

“disability”, in relation to doing a thing, includes a short term inability to do it;

“entitlement as an elector to an absent vote” shall be construed in accordance with article 7(8);

“ERO” means an electoral registration officer within the meaning of the 1983 Act(10);

“European Parliamentary Election” has the same meaning as in section 27(1) of the Representation of the People Act 1985(11);

“list of proxies” means the list of persons kept in pursuance of article 9(5)(b);

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(12);

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- (2) 1983 c.2.
  - (3) 1998 c.46.
  - (4) 2000 c.2.
  - (5) 2000 c.41.
  - (6) S.I. 2001/497; relevant amending enactments are the Counter-Terrorism Act 2008 (c.28) and S.I. 2002/1872, 2006/594, 2007/925, 2008/305, 1901, and 2010/980.
  - (7) 2006 c.22.
  - (8) Section 9B was added by the Electoral Administration Act 2006 (c.22) (“the 2006 Act”).
  - (9) Article 9 was substituted as Article 8 by Article 1.12, and renumbered as Article 9 by Article 5.1, of the Treaty of Lisbon amending the Treaty on European Union and the Treaty Establishing the European Community (2007/C 306/1).
  - (10) Electoral registration officers are appointed under section 8 of the 1983 Act. In terms of section 8(1) they are referred to as “registration officers” in the 1983 Act.
  - (11) 1985 c.50; section 27(1) was amended by the European Communities (Amendment) Act 1986 (c.58), sections 3(1) and (3).
  - (12) 1994 c.39.

“nominating officer” means the person registered under Part 2 of the 2000 Political Parties Act as the officer with responsibility for the matters referred to in section 24(3) of that Act in respect of a registered party;

“of voting age” means 18 years of age or over;

“ordinary local government election” means an ordinary election of councillors for local government areas in Scotland;

“polling register” means—

(a) the document provided by an ERO under paragraph 1(3) of Schedule 1 including any notices issued under sections 13B(3B) or (3D) or 13BB(4) or (5) of the 1983 Act(13) (alteration of registers) after that document was produced; or,

(b) where no such document has been provided, the register of electors, including copies of any notices issued under sections 13A(2) 13B(3), (3B) or (3D) or 13BB(4) or (5) of the 1983 Act(14) (alteration of registers) in respect of alterations to the register; and, where a notice has been so issued, any reference to an entry, name or number stated in the polling register is to be taken to be a reference to the entry, name or number stated in that notice.

“postal ballot box” means the ballot box referred to in paragraph 16(1)(b) of Schedule 4;

“the postal voters list” means the list of persons kept in pursuance of article 9(5)(a), showing persons whose applications to vote by post have been granted;

“the proxy postal voters list” means the list of persons kept in pursuance of article 11(7);

“record of anonymous entries” means the record prepared in pursuance of regulations made by virtue of paragraph 8A of Schedule 2 to the 1983 Act(15);

“RRO” means a regional returning officer for the purposes of the 1998 Act(16);

“register of electors” means the register of local government electors;

“registered emblem” means an emblem registered by a political party under Part 2 of the 2000 Political Parties Act;

“registered party” means a party registered under Part 2 of the 2000 Political Parties Act;

“service voter” means a person who has made a service declaration in accordance with section 15 of the 1983 Act(17) and is registered or entitled to be registered in pursuance of it;

“Scottish parliamentary election” means an election for membership of the Scottish Parliament and “Scottish parliamentary general election” shall be construed accordingly;

“Scottish Parliamentary Election Rules” means the rules set out in Schedule 2; and

“universal postal service provider” means a universal service provider within the meaning of section 4(3) of the Postal Services Act 2000(18) (provision of universal postal service: meaning).

(2) For the purposes of this Order, a person shall be deemed not to have attained a given age until commencement of the relevant anniversary of the day of his or her birth.

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(13) Section 13B was substituted by the Representation of the People Act 2000 (c.2) (“the 2000 Act”), Schedule 1, paragraph 6 and section 13BB was added by the Political Parties and Elections Act 2009 (c.12), section 23(1).

(14) Section 13A was substituted by the 2000 Act, Schedule 1, paragraph 6.

(15) Paragraph 8A was inserted by the 2006 Act, Schedule 1, paragraph 15(6).

(16) See section 12(6) of the 1998 Act.

(17) Section 15 was amended by the 2000 Act, Schedule 1, paragraph 8(2) and (4) and Schedule 7, paragraph 1; the 2006 Act, sections 12(7) and 13(1) and S.I. 1995/1948, Schedule 2, paragraph 4(b).

(18) 2000 c.26.

## PART 2

### THE FRANCHISE AND ITS EXERCISE

#### Registers of electors etc

3.—(1) Subject to article 4(5) and section 13B of the 1983 Act(19) (alteration of registers: pending elections), an alteration in a published version of the register of electors under section 13A or 56 of the 1983 Act(20) (alteration of registers and registration appeals) which is to take effect after the fifth day before the date of the poll for an election shall not have effect for the purposes of that election.

(2) Schedule 1 (which makes provision in connection with electors' registers) has effect.

#### Registration appeals

4.—(1) An appeal lies to the sheriff from any decision under this Order of the ERO disallowing a person's application to vote—

- (a) by proxy or by post as elector; or
- (b) by post as proxy,

in any case where the application is not made for a particular Scottish parliamentary election only.

(2) An appeal lies on any point of law from any decision of the sheriff under this article to the court of three judges constituted under section 57(2) of the 1983 Act (Registration Appeal Court) ("the registration appeal court").

(3) An appeal made by virtue of this article or section 56 of the 1983 Act (registration appeals) which is pending when notice of an election is given shall not prejudice the operation as respects that election of the decision appealed against, and anything done in pursuance of the decision shall be as good as if no such appeal had been brought and shall not be affected by the decision of the appeal.

(4) The sheriff clerk (or clerk to the registration appeal court) shall send to the ERO, by recorded delivery, notice of the decision of the sheriff (or of the registration appeal court) on any appeal by virtue of this article, and the ERO must make such alterations in the—

- (a) record kept under article 8(4) (absent voters); or
- (b) record kept under article 11(5) (proxy voters),

as may be required to give effect to the decision.

(5) Where, as a result of the decision on an appeal under this article or section 56 of the 1983 Act, an alteration in the register of electors is made which takes effect under this article or under section 13(5), 13A(2), 13B(3) or (3B) or 13BB(4) or (5) of the 1983 Act(21) (effective dates of register published following conclusion of canvass and notices of alteration of register) on or before the date of the poll for an election, paragraph (3) does not apply to that appeal as respects that election.

(6) On an appeal brought under this article, the ERO is deemed to be a party to the proceedings, and the registration expenses payable to an ERO under section 54 of the 1983 Act(22) shall include any expenses properly incurred by the ERO by virtue of this paragraph.

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(19) Section 13B was substituted by the 2000 Act, Schedule 1, paragraph 6 and amended by the 2006 Act, section 11(2).

(20) Section 13A was substituted by the 2000 Act, Schedule 1, paragraph 6. Section 56 is applied to Scotland, with modifications, by the 1983 Act, section 57. It was amended by the 2006 Act, sections 11 and 12.

(21) Sections 13, 13A and 13B were substituted by the 2000 Act, Schedule 1, paragraph 6. Section 13(5) was amended by the Political Parties and Elections Act 2009 (c.12) ("the 2009 Act"), Schedule 6, paragraph 2. Section 13B(3B) was inserted by the 2006 Act, section 11(4). Section 13BB was inserted by the 2009 Act, section 23(1).

(22) Section 54 was amended by the Representation of the People Act 1985 (c.50), section 24 and Schedule 4, paragraph 14.

### **Polling districts and places at elections**

5.—(1) Every constituency shall be divided into polling districts and, subject to the provisions of this article, there shall be a polling place designated for each polling district.

(2) The polling districts and polling places designated under this article shall be the same as those used or designated for parliamentary elections under sections 18A and 18B of the 1983 Act<sup>(23)</sup> (polling districts and polling places), except where it appears to the local authority (or local authorities) for the area of that polling district or location of that polling place that special circumstances make it desirable for some other polling district or polling place to be designated for the purpose of a Scottish parliamentary election.

(3) An election shall not be questioned by reason of—

- (a) any non compliance with the provisions of this article; or
- (b) any informality relating to polling districts or polling places.

### **Rules for Scottish parliamentary elections**

6.—(1) The proceedings at Scottish parliamentary elections (including the return of members) shall be conducted in accordance with the Scottish Parliamentary Election Rules.

(2) It is the general duty of every CRO and RRO at a Scottish parliamentary election to do all such acts and things as may be necessary for effectually conducting the election in the manner provided by those Rules.

(3) No Scottish parliamentary election shall be declared invalid by reason of any act or omission by a CRO, RRO or any other person in breach of that person's official duty in connection with the election or otherwise of those Rules if it appears to the tribunal having cognisance of the question that—

- (a) the election was so conducted as to be substantially in accordance with the law as to Scottish parliamentary elections; and
- (b) the act or omission did not affect the result.

(4) Schedule 2 (Scottish Parliamentary Election Rules) has effect.

(5) Schedule 8 (access to marked registers and other documents open to public inspection after an election) has effect.

### **Manner of voting at Scottish parliamentary elections**

7.—(1) This article applies to determine the manner of voting of a person ("P") entitled to vote as an elector at a Scottish parliamentary election.

(2) P may vote in person at the polling station allotted to P under this Order, unless P is entitled as an elector to an absent vote at the election.

(3) P may vote by post if P is entitled as an elector to vote by post at the election.

(4) If P is entitled to vote by proxy at the election, P may so vote unless, before a ballot paper has been issued for P to vote by proxy, P applies at the polling station allotted to P under this Order for a ballot paper for the purposes of voting in person, in which case P may vote in person there.

(5) If—

- (a) P is not entitled as an elector to an absent vote at the election, but
- (b) P cannot reasonably be expected to go in person to the polling station allotted to P under this Order by reason of the particular circumstances of P's employment, either as

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(23) Sections 18A and 18B were substituted by the 2006 Act, section 16.

a constable or by a CRO or RRO, on the date of the poll for a purpose connected with the election,

P may vote in person at any polling station in the constituency.

(6) Nothing in the preceding provisions of this article applies to—

(a) a person (“Q”) to whom section 7 of the 1983 Act<sup>(24)</sup> (mental patients who are not detained offenders) applies and who is liable, by virtue of any enactment, to be detained in the mental hospital in question, whether Q is registered by virtue of that provision or not, and Q may vote—

(i) in person (where Q is granted permission to be absent from the hospital and voting in person does not breach any condition attached to that permission), or

(ii) by post or by proxy (where Q is entitled as an elector to vote by post or, as the case may be, by proxy at the election); or

(b) a person (“R”) to whom section 7A of that Act<sup>(25)</sup> (persons remanded in custody etc) applies, whether R is registered by virtue of that provision or not, and R may only vote by post or by proxy (where R is entitled as an elector to vote by post or, as the case may be, by proxy at the election).

(7) Paragraph (2) does not prevent a person, at the polling station allotted to that person, marking a tendered ballot paper in pursuance of rule 49(5) of the Scottish Parliamentary Election Rules (entitlement to mark a tendered ballot paper).

(8) For the purposes of this Order, a person entitled to vote as an elector at a Scottish parliamentary election is entitled as an elector to vote by post or entitled to vote by proxy at the election if that person is shown in the postal voters list or the list of proxies for the election as so entitled; and references in this Order to entitlement as an elector to an absent vote at an election are references to an entitlement as an elector to vote by post or entitlement to vote by proxy at the election.

### **Absent vote at Scottish parliamentary elections for an indefinite or a particular period**

8.—(1) Where a person applies to the ERO to vote by post at Scottish parliamentary elections or at local government and Scottish parliamentary elections (in either case, whether for an indefinite period or for a particular period specified in the application) the ERO shall grant the application if—

(a) the ERO is satisfied that the applicant is or will be registered in the register of electors, and

(b) the application contains the applicant’s signature and date of birth and meets the requirements set out in Schedule 3 (which makes provision in connection with absent voting at Scottish parliamentary elections).

(2) Where a person applies to the ERO to vote by proxy at Scottish Parliamentary elections or at local government and Scottish parliamentary elections (in either case, whether for an indefinite period or for a particular period specified in the person’s application), the ERO shall grant the application if—

(a) the ERO is satisfied that the applicant is eligible to vote by proxy at elections to which the application relates,

(b) the ERO is satisfied that the applicant is or will be registered in the register of electors, and

(c) the application contains the applicant’s signature and date of birth and meets the requirements set out in Schedule 3.

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<sup>(24)</sup> Section 7 was substituted by the 2000 Act, section 4. It was amended by the 2006 Act, section 12, and [S.I. 2005/2078](#), Schedule 1, paragraph 1(3)

<sup>(25)</sup> Section 7A was inserted by the 2000 Act, section 5. It was amended by the 2006 Act, section 12(2), [S.I. 2005/2078](#), Schedule 1, paragraph 1(4) and [S.S.I. 2005/465](#), Schedule 1, paragraph 12(4).

(3) For the purposes of this article, a person (“P”) is eligible to vote by proxy at Scottish parliamentary elections if P—

- (a) is or will be registered as a service voter;
- (b) has an anonymous entry in the register of electors;
- (c) cannot reasonably be expected—
  - (i) to go in person to the polling station allotted or likely to be allotted to P under this Order; or
  - (ii) to vote unaided there, by reason of blindness or other disability;
- (d) cannot reasonably be expected to go in person to that polling station by reason of the general nature of P’s occupation, service or employment or that of P’s spouse or civil partner or by reason of P’s attendance on a course provided by an educational institution or that of P’s spouse or civil partner; or
- (e) cannot go in person from P’s qualifying address to that polling station without making a journey by air or sea.

(4) The ERO shall keep a record of those whose applications under this article have been granted showing—

- (a) whether their applications were to vote by post or proxy for an indefinite or a particular period (specifying that period);
- (b) in the case of those who may vote by post, the addresses provided by them in their application as the addresses to which their ballot papers are to be sent; and
- (c) in the case of those who may vote by proxy, the names and addresses of those appointed as their proxies.

(5) The ERO shall remove a person (“Q”) from the record kept under paragraph (4)—

- (a) if Q applies to the ERO to be removed;
- (b) in the case of a person who is eligible to vote by proxy by virtue of having an anonymous entry, if Q ceases to have an anonymous entry;
- (c) in the case of any registered person, if Q ceases to be registered or registered at the same qualifying address or ceases to be, or becomes, registered in pursuance of—
  - (i) a service declaration, or
  - (ii) a declaration of local connection;
- (d) in the case of any person shown in the record as voting by proxy, if the ERO gives notice that the ERO has reason to believe there has been a material change of circumstances; or
- (e) in the case of a person who applied to vote by post or proxy for a particular period, once that period has expired.

(6) Where a person (whether an elector or a proxy) is, under paragraph (5), removed from the record kept under paragraph (4), the ERO must notify that person in accordance with paragraph 10(6) of Schedule 3 (notification where person removed from absent voting record).

(7) A person shown in the record kept under paragraph (4) as voting by post or voting by proxy (in either case, whether for an indefinite period or for a particular period) may make a further application under paragraph (1) or (2) to change the method of voting or period of time stated in that record.

(8) The ERO may dispense with the requirement under paragraph (1)(b) or (2)(c) for the applicant to provide a signature if the ERO is satisfied that the applicant is unable—

- (a) to provide a signature because of any disability the applicant has,

- (b) to provide a signature because the applicant is unable to read or write, or
- (c) to sign in a consistent and distinctive way because of any such disability or inability.

(9) The ERO must also keep a record in relation to those whose applications under this article have been granted showing—

- (a) their dates of birth, and
- (b) except in cases where the ERO in pursuance of paragraph (8) has dispensed with the requirement to provide a signature, their signatures.

(10) The record kept under paragraph (9) must be retained by the ERO for the period prescribed in paragraph 22 of Schedule 3 (the personal identifies record).

(11) In this article “qualifying address” means, in relation to a person registered in a register of electors, the address in respect of which that person is entitled to be so registered.

### **Absent vote at a particular Scottish parliamentary election and special lists**

**9.—**(1) Where a person applies to the ERO to vote by post at a particular Scottish parliamentary election, the ERO shall grant the application (subject to paragraph (4)) if—

- (a) the ERO is satisfied that the applicant is or will be registered in the register of electors; and
- (b) the application contains the applicant’s signature and date of birth and meets the requirements set out in Schedule 3 (which makes provision in connection with absent voting).

(2) Where a person applies to the ERO to vote by proxy at a particular Scottish parliamentary election, the ERO shall grant the application (subject to paragraph (4)) if—

- (a) the ERO is satisfied that the applicant’s circumstances on the date of the poll will be or are likely to be such that the applicant cannot reasonably be expected to vote in person at the polling station allotted or likely to be allotted to the applicant under this Order;
- (b) the ERO is satisfied that the applicant is or will be registered in the register of electors; and
- (c) the application contains the applicant’s signature and date of birth and meets the requirements set out in Schedule 3.

(3) Where a person who has an anonymous entry in the register of electors applies to the ERO to vote by proxy at a particular Scottish parliamentary election, the ERO shall grant the application if it meets the requirements set out in Schedule 3.

(4) Paragraphs (1) and (2) do not apply to a person who is included in the record kept under article 8; but such a person may, in respect of a particular Scottish parliamentary election, apply to the ERO—

- (a) for that person’s ballot papers to be sent to a different address; or
- (b) to vote by proxy,

if that person is shown in the record so kept as voting by post and the ERO shall grant the application if it meets the requirements set out in Schedule 3.

(5) The ERO shall, in respect of each Scottish parliamentary election, keep two special lists—

- (a) a list (“the postal voters list”) of—
  - (i) those who are for the time being shown in the record kept under article 8 as voting by post (excluding those so shown whose applications under paragraph (4) to vote by proxy at the election have been granted), together with the addresses provided by them in their applications under article 8 or, as the case may be, paragraph (4) as the addresses to which their ballot papers are to be sent; and



- (ii) those whose applications under paragraph (1) to vote by post at the election have been granted, together with the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent; and
  - (b) a list (“the list of proxies”) of those who are for the time being shown in the record kept under article 8 as voting by proxy or whose applications under this article to vote by proxy at the election have been granted, together with the names and addresses of those appointed as their proxies.
- (6) In the case of a person who has an anonymous entry in the register of electors any entry in the special lists referred to in paragraph (5) must show in relation to the person only the person’s electoral number.
- (7) The ERO may dispense with the requirement under paragraph (1)(b) or (2)(c) for the applicant to provide a signature if the ERO is satisfied that the applicant is unable—
- (a) to provide a signature because of any disability the applicant has,
  - (b) to provide a signature because the applicant is unable to read or write, or
  - (c) to sign in a consistent and distinctive way because of any such disability or inability.
- (8) The ERO must also keep a record in relation to those whose applications under this article have been granted showing—
- (a) their dates of birth, and
  - (b) except in cases where the ERO in pursuance of paragraph (7) has dispensed with the requirement to provide a signature, their signatures.
- (9) The record kept under paragraph (8) must be retained by the ERO for the period prescribed in paragraph 22 of Schedule 3 (the personal identifiers record).
- (10) As soon as reasonably practicable after completion of the compilation of each of the postal voters list and the list of proxies, the ERO shall supply a copy of that list to the CRO.

### **Proxies at Scottish parliamentary elections**

- 10.**—(1) Subject to the provisions of this article, any person is capable of being appointed proxy to vote for another (in this article and article 11 referred to as “the elector”) at any Scottish parliamentary election and may vote in pursuance of the appointment.
- (2) The elector cannot have more than one person at a time appointed as proxy to vote for the elector at a Scottish parliamentary election.
- (3) A person is not capable of being appointed to vote, or of voting, as proxy at a Scottish parliamentary election if that person—
- (a) is subject to any legal incapacity (age apart) to vote at that election as an elector; or
  - (b) is neither a Commonwealth citizen nor a citizen of the Republic of Ireland nor a relevant Citizen of the Union.
- (4) A person is not capable of voting as proxy at a Scottish parliamentary election unless on the date of the poll that person has attained the age of eighteen.
- (5) A person is not entitled to vote as proxy in any constituency at the same Scottish parliamentary election on behalf of more than two electors of whom that person is not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild.
- (6) Where the elector applies to the ERO for the appointment of a proxy to vote for the elector at Scottish parliamentary elections (whether for an indefinite period or for a particular period specified in the elector’s application), the ERO shall make the appointment if the application is signed by the applicant and meets the requirements set out in Schedule 3 (which makes provision in connection with absent voting) and the ERO is satisfied that the elector is or will be—

- (a) registered in the register of electors;
- (b) shown in the record kept under article 8 (absent vote at Scottish parliamentary elections for an indefinite or a particular period) as voting by proxy at such elections,

and that the proxy is capable of being, and willing to be, appointed to vote as proxy at such elections.

(7) Where the elector applies to the ERO for the appointment of a proxy to vote for the elector at a particular Scottish parliamentary election, the ERO shall make the appointment if the application is signed by the applicant and meets the requirements set out in Schedule 3 and the ERO is satisfied that the elector is or will be—

- (a) registered in the register of electors for that election; and
- (b) entitled to vote by proxy at that election by virtue of an application under article 9 (absent vote at a particular Scottish parliamentary election),

and that the proxy is capable of being, and willing to be, appointed.

(8) The appointment of a proxy under this article is to be made by means of a proxy paper issued by the ERO.

(9) The appointment may be cancelled by the elector by giving notice to the ERO and shall also cease to be in force, where the appointment related to a Scottish parliamentary election or Scottish parliamentary elections, on the issue of a proxy paper appointing a different person to vote for the elector at a Scottish parliamentary election or Scottish parliamentary elections (whether in the same Scottish parliamentary constituency or elsewhere); and where the appointment was for a particular period, the appointment shall cease to be in force once that period expires.

(10) Subject to paragraph (9), the appointment shall remain in force—

- (a) in the case of an appointment for a particular election, for that election; and
- (b) in any other case, while the elector is shown as voting by proxy in the record kept under article 8 in pursuance of the same application under that article.

(11) Paragraph 12 of Schedule 3 (cancellation of proxy appointment) provides for the steps to be taken where a proxy's appointment is cancelled or ceases to be in force under paragraph (9) or is no longer in force under paragraph (10)(b).

(12) The ERO may dispense with the requirement under paragraph (6) or (7) for the applicant to provide a signature if the ERO is satisfied that the applicant is unable—

- (a) to provide a signature because of any disability the applicant has,
- (b) to provide a signature because the applicant is unable to read or write, or
- (c) to sign in a consistent and distinctive way because of any such disability or inability.

### **Voting as proxy**

**11.—**(1) A person entitled to vote as proxy at a Scottish parliamentary election may do so in person at the polling station allotted to the elector under this Order unless that person is entitled to vote by post as proxy for the elector at the election, in which case that person may vote by post.

(2) Where a person is entitled to vote by post as proxy for the elector at any election, the elector may not apply for a ballot paper for the purpose of voting in person at the election.

(3) For the purposes of this Order, a person entitled to vote as proxy for another at a Scottish parliamentary election is entitled so to vote by post if that person is included in the proxy postal voters list kept under paragraph (7) in respect of the election.

(4) Where a person applies to the ERO to vote by post as proxy at Scottish parliamentary elections (whether for an indefinite period, for a particular period specified in the person's application or at a particular election), the ERO shall grant the application if—

- (a) the ERO is satisfied that the elector is or will be registered in the register of electors;
  - (b) there is in force an appointment of the applicant as the elector's proxy to vote for the elector; and
  - (c) the application contains the applicant's signature and date of birth and meets the requirements set out in Schedule 3 (which makes provision in connection with absent voting).
- (5) The ERO shall keep a record of those whose applications under paragraph (4) have been granted showing—
- (a) whether their applications were to vote by post as proxy for an indefinite or a particular period (specifying that period); and
  - (b) the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent.
- (6) Where, in the case of a particular election, a person included in the record kept under paragraph (5) applies to the ERO for the person's ballot papers to be sent to a different address, the ERO shall grant the application if it meets the requirements set out in Schedule 3 (which makes provision in connection with absent voting at Scottish parliamentary elections).
- (7) The ERO shall, in respect of each Scottish parliamentary election, keep a special list ("the proxy postal voters list") of—
- (a) those who are for the time being included in the record kept under paragraph (5), together with the addresses provided by them in their applications under paragraph (4) or, as the case may be, paragraph (6) as the addresses to which their ballot papers are to be sent; and
  - (b) those whose applications under paragraph (4) have been granted in respect of the election concerned, together with the addresses provided by them in their applications as the addresses to which their ballot papers are to be sent,
- and shall supply to the CRO a copy of that list as soon as reasonably practicable on completion of the compilation of it.
- (8) In the case of a person who has an anonymous entry in a register of electors the special list mentioned in paragraph (7) must contain only the person's electoral number.
- (9) The ERO shall remove a person from the record kept under paragraph (5)—
- (a) if that person applies to the ERO to be removed;
  - (b) in the case of a person who applied to vote by post as proxy for a particular period, once that period expires;
  - (c) if the elector ceases to be registered in the register of electors; or
  - (d) if the appointment of the person concerned as the elector's proxy ceases to be in force (whether or not that person is re-appointed).
- (10) Paragraph (2) does not prevent a person, at the polling station allotted to that person, marking a tendered ballot paper in pursuance of rule 49(5) of the Scottish Parliamentary Election Rules.
- (11) The ERO may dispense with the requirement under paragraph (4)(c) for the applicant to provide a signature if the ERO is satisfied that the applicant is unable—
- (a) to provide a signature because of any disability the applicant has,
  - (b) to provide a signature because the applicant is unable to read or write, or
  - (c) to sign in a consistent and distinctive way because of any such disability or inability.
- (12) The ERO must also keep a record in relation to those whose applications under paragraph (4) have been granted showing—
- (a) their dates of birth, and

(b) except in cases where the ERO in pursuance of paragraph (11) has dispensed with the requirement to provide a signature, their signatures.

(13) The record kept under paragraph (12) must be retained by the ERO for the period prescribed in paragraph 22 of Schedule 3 (the personal identifiers record).

#### **Absent voting at elections: miscellaneous**

**12.**—(1) Section 59 of the 1983 Act<sup>(26)</sup> (supplemental provisions as to members of forces and service voters) shall apply for the purposes of a Scottish parliamentary election subject to the following modifications:—

- (a) in subsection (3) (right to register and vote in person, by post or by proxy), “this Act” shall be construed as including a reference to this Order in connection with the rights conferred by this Order on a person having a service qualification by virtue of section 14(1)(a) or (b) of that Act (service qualification as a member of the forces or being employed in the service of the Crown in a post outside the UK of a prescribed class or description) in relation to the making and cancellation of appointments of a proxy and in relation to voting by post; and
- (b) in subsection (3A) (right of members of forces and service voters to information about their right to vote), “this Act and any regulations made under it” shall be similarly construed.

(2) Schedule 3 (which makes provision in connection with absent voting at Scottish parliamentary elections) has effect.

(3) Schedule 4 (which makes provision in connection with the issue and receipt of postal ballot papers) has effect.

#### **Combination of polls**

**13.**—(1) Where the polls at a Scottish parliamentary general election and an ordinary local government election are to be taken on the same date, they shall be taken together.

(2) Where the polls at a Scottish parliamentary election and a local government election for related areas are to be taken on the same date but are not required by paragraph (1) to be taken together, they may nevertheless be so taken if the returning officer for each election thinks fit.

(3) For the purposes of paragraph (2) two areas are related if one is coterminous with, or situated wholly or partly within, the other.

(4) Where the polls at a Scottish parliamentary election and a local government election are combined under this article the cost of taking the combined polls (excluding any cost solely attributable to one election) and any cost attributable to their combination shall be apportioned in such proportions as the Secretary of State may determine.

(5) Schedule 5 (which makes provision about the combination of polls) has effect.

#### **Constituency returning officers**

**14.** The constituency returning officer for a Scottish parliamentary election shall be—

- (a) in the case of a constituency wholly situated in one local government area, the person who under section 41 of the 1983 Act (returning officers: local elections in Scotland) is the returning officer at elections of councillors for the local authority for that area;
- (b) in the case of a constituency situated in more than one local government area, such person mentioned above as the Secretary of State may by order direct.

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<sup>(26)</sup> Section 59 was amended by the Representation of the People Act 1993 (c.29), section 1; the 2000 Act, Schedule 1, paragraph 16 and the 2006 Act, section 13.

### **Officers of councils to be placed at disposal of returning officers**

15.—(1) Every local authority in Scotland shall place at the disposal of the CRO for a constituency wholly or partly situated in their area, for the purpose of assisting the CRO in the discharge of any functions conferred on the CRO in relation to a Scottish parliamentary election, the services of officers employed by the authority.

(2) Every local authority in Scotland shall place at the disposal of the RRO for a region wholly or partly situated in their area, for the purpose of assisting the RRO in the discharge of any function conferred on the RRO in relation to a Scottish parliamentary election, the services of officers employed by the authority.

### **Returning officers: discharge of functions**

16.—(1) A CRO or RRO at a Scottish parliamentary election may, in writing, appoint one or more persons to discharge all or any of the functions of that CRO or RRO.

(2) Except in the case of an election to fill a vacancy in the seat of a constituency member, it shall be the duty of each RRO and each CRO for a Scottish parliamentary constituency within each RRO's region to co-operate with each other in the discharge of their functions.

(3) The duty imposed by paragraph (2) applies as between CROs in any region as well as between such officers and the RRO for that region.

### **Returning officers: general**

17.—(1) A Scottish parliamentary election is not liable to be questioned by reason of a defect in the title, or want of title, of the person presiding at or conducting the election, if that person was then in actual possession of, or acting in, the office giving the right to preside at or conduct the election.

(2) A person is not subject to any incapacity to vote at a Scottish parliamentary election by reason of being or acting as a CRO or a RRO at that election.

### **Payment by and to returning officers**

18. Section 29 of the 1983 Act<sup>(27)</sup> (payments by and to returning officers) shall apply for the purposes of a Scottish parliamentary election subject to the following modifications—

- (a) any reference to a parliamentary election shall be construed as a reference to a Scottish parliamentary election;
- (b) any reference to a returning officer shall be construed as a reference to a CRO and a RRO;
- (c) subsections (1) and (2) (expenses in connection with the writ for a parliamentary election) shall be disregarded;
- (d) the reference in subsection (5) to “section 30 below” (taxation of returning officer's account) shall be construed as a reference to article 19;
- (e) in subsection (8) (form and submission of returning officer's accounts), for “Regulations may” substitute “The Secretary of State may by regulations”;
- (f) after subsection (8) insert—

“(8A) Any order made under subsection (3) and any regulations made under subsection (8) may make different provision in relation to different cases or in relation to different classes of case.”.

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<sup>(27)</sup> Section 29 was amended by the Representation of the People Act 1991 (c.11), section 1; the 2006 Act, section 68 and S.I. 1991/1728, article 3. It will be amended by the 2000 Political Parties Act, Schedule 21, paragraph 6(3) and the 2006 Act, Schedule 1, paragraph 107(2), but these amendments are not yet in force.

### **Taxation of returning officer's account**

**19.**—(1) An application for the account of a CRO or a RRO (“the claimant”) to be taxed shall be made to the Auditor of the Court of Session.

(2) On any such application the Auditor has jurisdiction to tax the account in such manner and at such time and place as the Auditor thinks fit, and finally to determine the amount payable to the claimant.

(3) On any such application the claimant may apply to the Auditor to examine any claim made by any person against the claimant in respect of matters charged in the account; and the Auditor, after notice given to the claimant and after giving the claimant an opportunity to be heard and to tender any evidence, may allow or disallow or reduce the claim objected to with or without costs; and the determination of the Auditor shall be final for all purposes and against all persons.

### **Loan of equipment for Scottish parliamentary elections**

**20.**—(1) Any ballot boxes, fittings and compartments provided for parliamentary elections out of money provided by Parliament, may, on request, be lent to a CRO at a Scottish parliamentary election on such terms and conditions as the Secretary of State may determine.

(2) Any ballot boxes, fittings and compartments provided by or belonging to a local authority shall, on request, and if not required for immediate use by that authority, be lent to a CRO at a Scottish parliamentary election on such terms and conditions as may be agreed.

### **Effect of registers**

**21.**—(1) Any entry in the register of electors, if it gives a date as that on which the person named will attain voting age, shall for any purpose of this Part relating to that person as elector be conclusive that until the date given in the entry that person is not of voting age nor entitled to be treated as an elector except for the purposes of a Scottish parliamentary election at which the date fixed for the poll is that or a later date.

(2) A person registered as a local government elector, or entered in the list of proxies, shall not be excluded from voting at a Scottish parliamentary election on any of the grounds set out in paragraph (3); but this shall not prevent the rejection of the vote on a scrutiny, or affect that person's liability to any penalty for voting.

(3) The grounds referred to in paragraph (2) are that the person—

- (a) is not of voting age;
- (b) is not, or, on the relevant date or the date of the person's appointment (as the case may be), was not—
  - (i) a Commonwealth citizen;
  - (ii) a citizen of the Republic of Ireland;
  - (iii) a relevant Citizen of the Union;
- (c) is, or, on the relevant date or the date of the person's appointment (as the case may be), was, otherwise subject to any other legal incapacity to vote.

(4) In paragraph (3), the “relevant date” means—

- (a) in relation to a person registered in the register of electors as published in accordance with section 13(1) of the 1983 Act<sup>(28)</sup> (requirement to publish the revised register following annual canvas by 1 December), the 15th October immediately preceding the date of publication of the register;

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(28) Section 13 was substituted by the 2000 Act, Schedule 1, paragraph 6.

- (b) in relation to any other person registered in the register, the relevant date for the purposes of section 4 of the 1983 Act<sup>(29)</sup> (entitlement to be registered as parliamentary or local government elector).

### **Effect of misdescription**

**22.** No misnomer or inaccurate description of any person or place named—

- (a) in the register of electors; or
- (b) in any list, record, proxy paper, nomination paper, ballot paper, notice or other document required for the purposes of this Order,

affects the full operation of the document with respect to that person or place in any case where the description of the person or place is such as to be commonly understood.

### **Discharge of registration duties**

**23.—**(1) An ERO shall comply with any general or specific directions which may be given by the Secretary of State, in accordance with, and on the recommendation of, the Electoral Commission under section 8(1) of the 2000 Political Parties Act (directions as to discharge of registration duties), with respect to the arrangements to be made by the ERO in carrying out the ERO’s functions under this Order.

(2) Any of the duties and powers of an ERO under this Order may be performed and exercised by any depute for the time being approved by the local authority which appointed the ERO, and the provisions of this Order apply to any such depute so far as respects any duties or powers to be performed or exercised by that depute as they apply to the ERO.

(3) It shall be the duty of each local authority to assign such officers to assist the ERO appointed by that authority as may be required for carrying out the ERO’s functions under this Order.

### **Payment of expenses of registration**

**24.—**(1) Any expenses properly incurred by an ERO in the performance of the ERO’s functions under this Order (in this Order referred to as “registration expenses”) shall be paid by the local authority by whom the ERO was appointed.

(2) Any fees paid to the ERO under this Order shall be accounted for by the ERO and paid to the local authority by whom the ERO was appointed.

(3) On the request of an ERO for an advance on account of registration expenses, the local authority by whom the ERO was appointed may, if they think fit, make such an advance to the ERO of such an amount and subject to such conditions as they may approve.

### **Personation**

**25.—**(1) A person shall be guilty of a corrupt practice if that person commits, or aids, abets, counsels or procures the commission of, the offence of personation.

(2) A person (“P”) shall be deemed to be guilty of personation at a Scottish parliamentary election if P—

- (a) votes in person or by post as some other person, whether as an elector or as proxy, and whether that other person is living or dead or is a fictitious person; or
- (b) votes in person or by post as proxy—

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<sup>(29)</sup> Section 4 was substituted by the 2000 Act, section 1(2) and amended by the 2006 Act, Schedule 1, paragraph 3.

- (i) for a person whom P knows or has reasonable grounds for supposing to be dead or to be a fictitious person; or
- (ii) when P knows or has reasonable grounds for supposing that P's appointment as proxy is no longer in force.

(3) For the purposes of this article, a person who has applied for a ballot paper for the purpose of voting in person or who has marked, whether validly or not, and returned a ballot paper issued for the purpose of voting by post, shall be deemed to have voted.

### **Other voting offences**

26.—(1) A person (“P”) shall be guilty of an offence if—

- (a) P votes in person or by post, whether as an elector or as proxy, or applies to vote by proxy or by post as elector at a Scottish parliamentary election, or at Scottish parliamentary elections, knowing that P is subject to a legal incapacity to vote at the election or, as the case may be, at elections of that kind;
- (b) P applies for the appointment of a proxy to vote for P at any Scottish parliamentary election or at Scottish parliamentary elections knowing that P or the person to be appointed is subject to a legal incapacity to vote at the election or, as the case may be, at elections of that kind; or
- (c) P votes, whether in person or by post, as proxy for some other person at a Scottish parliamentary election, knowing that that person is subject to a legal incapacity to vote.

(2) For the purposes of paragraph (1), references to a person being subject to a legal incapacity to vote do not, in relation to things done before polling day at the election or first election at or for which they are done, include the person being below voting age if the person will be of voting age on that day.

(3) A person (“Q”) shall be guilty of an offence if—

- (a) Q votes as elector—
  - (i) more than once in any constituency at a poll for the return of a constituency member;
  - (ii) more than once in any constituency at a poll for the return of regional members; or
  - (iii) in more than one constituency at a Scottish parliamentary general election;
- (b) Q votes as elector in person at a Scottish parliamentary election at which Q is entitled to vote by post;
- (c) Q votes as elector in person at a Scottish parliamentary election, knowing that a person appointed to vote as Q's proxy at the election either has already voted in person at the election or is entitled to vote by post at the election; or
- (d) Q applies for a person to be appointed as Q's proxy to vote for Q at Scottish parliamentary elections in any constituency without applying for the cancellation of a previous appointment of a third person then in force in respect of that or another constituency or without withdrawing a pending application for such an appointment in respect of that or another constituency.

(4) A person (“R”) shall be guilty of an offence if—

- (a) R votes as proxy for the same elector either—
  - (i) more than once in the same constituency at any Scottish parliamentary election; or
  - (ii) in more than one constituency at a Scottish parliamentary general election;
- (b) R votes in person as proxy for an elector at a Scottish parliamentary election at which R is entitled to vote by post as proxy for that elector; or



- (c) R votes in person as proxy for an elector at a Scottish parliamentary election knowing that the elector has already voted in person at the election.
- (5) A person (“S”) shall be guilty of an offence if S votes at a Scottish parliamentary election in any constituency as proxy for more than two persons of whom S is not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild.
- (6) A person shall be guilty of an offence if that person knowingly induces or procures some other person to do an act which is, or but for that other person’s want of knowledge would be, an offence by that other person under the foregoing paragraphs of this article.
- (7) For the purposes of this article, a person who has applied for a ballot paper for the purpose of voting in person, or who has marked, whether validly or not, and returned a ballot paper issued for the purpose of voting by post, shall be deemed to have voted; but for the purpose of determining whether an application for a ballot paper constitutes an offence under paragraph (4), a previous application made in circumstances which entitle the applicant only to mark a tendered ballot paper shall, if that right is not exercised, be disregarded.
- (8) A person is not guilty of an offence under paragraph (3)(b) or (4)(b) only by reason of that person having marked a tendered ballot paper in pursuance of rule 49(5) (entitlement to mark a tendered ballot paper) of the Scottish Parliamentary Election Rules.
- (9) An offence under this article shall be an illegal practice, but—
- (a) the court before whom a person is convicted of any such offence may, if they think it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of section 173 of the 1983 Act (as applied by this Order)(30) (incapacities on conviction of corrupt or illegal practices); and
- (b) a candidate shall not be liable, nor shall a candidate’s election be avoided, for an illegal practice under this article of any agent of that candidate other than an offence under paragraph (6).
- (10) Where a person is entitled to give two votes in an election (whether in person as elector or proxy, or by post as elector or proxy) and so exercises that right that person shall, for the purposes of this article, be treated as voting once in relation to each poll for which the person’s votes are given.

### **Offences relating to applications for postal and proxy votes**

- 27.—(1) A person (“P”) commits an offence if P—
- (a) engages in an act specified in paragraph (2), and
- (b) intends, by doing so, to deprive another of an opportunity to vote or to make for P or another a gain of a vote to which P or the other is not otherwise entitled or a gain of money or property.
- (2) These are the acts—
- (a) applying for a postal or proxy vote as some other person (whether that other person is living or dead or is a fictitious person);
- (b) otherwise making a false statement in, or in connection with, an application for a postal or proxy vote or providing false information in connection with such an application;
- (c) inducing the ERO or CRO to send a postal ballot paper or any communication relating to a postal or proxy vote to an address which has not been agreed to by the person entitled to the vote;

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(30) Section 173 is applied by article 84 of and Schedule 6 to this Order. Section 173 was substituted by the 2000 Political Parties Act, section 136 and was amended by S.I. 2007/931, article 2(4).

- (d) causing a communication relating to a postal or proxy vote or containing a postal ballot paper not to be delivered to the intended recipient.
- (3) In paragraph (1)(b), property includes any description of property.
- (4) In paragraph (2), a reference to a postal vote or a postal ballot paper includes a reference to a proxy postal vote or proxy postal ballot paper (as the case may be).
- (5) A person who commits an offence under paragraph (1) or who aids, abets, counsels or procures the commission of such an offence is guilty of a corrupt practice.

### **Breach of official duty**

**28.**—(1) If a person to whom this article applies is, without reasonable cause, guilty of any act or omission in breach of that person’s official duty, that person shall be liable on summary conviction to a fine not exceeding the amount specified as level 5 on the standard scale.

(2) No person to whom this article applies shall be liable for breach of that person’s official duty to any penalty at common law, and no action for damages shall lie in respect of the breach by such a person of that person’s official duty.

- (3) The persons to whom this article applies are—
  - (a) any ERO, CRO, RRO or presiding officer;
  - (b) a CORE keeper (within the meaning of Part 1 of the 2006 Act); and
  - (c) any depute of a person mentioned in sub-paragraph (a) or (b) or any person appointed to assist or in the course of that person’s employment assisting a person so mentioned in connection with the official duties of the person so mentioned,

and “official duty” shall for the purpose of this article be construed accordingly, but shall not include duties imposed otherwise than by the law relating to Scottish parliamentary elections or the registration of local government electors.

### **Tampering with nomination papers, ballot papers etc.**

**29.**—(1) A person shall be guilty of an offence if, at a Scottish parliamentary election, that person—

- (a) fraudulently defaces or fraudulently destroys any nomination paper;
  - (b) fraudulently defaces or fraudulently destroys any ballot paper, or the official mark on any ballot paper, or any postal voting statement or official envelope used in connection with voting by post;
  - (c) without due authority supplies any ballot paper to any person;
  - (d) fraudulently puts into any ballot box any paper other than the ballot paper which that person is authorised by law to put in;
  - (e) fraudulently takes out of the polling station any ballot paper;
  - (f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election; or
  - (g) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts.
- (2) A person shall be guilty of an offence if that person—
- (a) at a Scottish parliamentary election, forges any nomination paper, delivers to a CRO or RRO any nomination paper knowing it to be forged, or forges or counterfeits any ballot paper or the official mark on any ballot paper;

- (b) signs any nomination paper as candidate or as nominating officer for any registered party (or as a person authorised by such officer), or in any other capacity certifies the truth of any statement contained in it, knowing such statement to be false; or
  - (c) fraudulently or without due authority, as the case may be, attempts to do any of the foregoing acts.
- (3) If a CRO, RRO, presiding officer or clerk appointed to assist in taking the poll, counting the votes or assisting at the proceedings in connection with the issue or receipt of postal ballot papers, is guilty of an offence under this article, that person shall be liable—
- (a) on conviction on indictment to a fine, or to imprisonment for a term not exceeding two years, or to both;
  - (b) on summary conviction, to a fine not exceeding level 5 on the standard scale, or to imprisonment for a term not exceeding three months, or to both.
- (4) If any other person is guilty of an offence under this article that person shall be liable on summary conviction to a fine not exceeding the amount specified as level 5 on the standard scale, or to imprisonment for a term not exceeding three months, or to both.
- (5) In this article “nomination paper” includes a regional list of a registered party.

#### **False statements in nomination papers etc.**

**30.**—(1) A person (“P”) is guilty of a corrupt practice if, at a Scottish parliamentary election, P causes or permits to be included in a document delivered or otherwise furnished to a CRO or a RRO for use in connection with the election—

- (a) a statement of the name or home address of a candidate at the election which P knows to be false in any particular;
  - (b) anything which purports to be the signature of a person who subscribes a nomination paper but which P knows—
    - (i) was not written by the person by whom it purports to have been written; or
    - (ii) if written by that person, was not written by that person for the purpose of subscribing that nomination paper;
  - (c) a certificate under rule 6(2) of the Scottish Parliamentary Election Rules authorising the use by a registered party of a name or description if P knows that a candidate on that party’s list of candidates is also, in relation to a poll which is to be held on the same day as the election to which the certificate relates—
    - (i) included in any other such list for the region or another region;
    - (ii) an individual candidate to be a regional member for the region or another region;
    - (iii) a candidate to be a constituency member for a constituency not included in the region; or
    - (iv) a candidate to be a constituency member for a constituency included in the region but is not a candidate of that party; or
  - (d) a certificate under rule 7(1) of the Scottish Parliamentary Election Rules authorising the use by a constituency candidate of a description if P knows that the candidate is a candidate in another Scottish parliamentary constituency election in which the poll is to be held on the same day as the election to which the certificate relates.
- (2) A person (“Q”) is guilty of a corrupt practice if, in the case of a constituency election, Q makes in any document in which Q consents to nomination as a candidate—
- (a) a statement of Q’s date of birth;
  - (b) a statement as to Q’s qualification for membership of the Scottish parliament; or

(c) a statement that Q is not a candidate at an election for any other constituency the poll for which is to be held on the same day as the poll at the election to which the consent relates, which Q knows to be false in any particular.

(3) A person (“R”) is guilty of a corrupt practice if, in the case of an individual candidate at a regional election, R makes in any document in which R consents to nomination as a candidate—

- (a) a statement of R’s date of birth;
- (b) a statement as to R’s qualification for membership of the Scottish parliament; or
- (c) a statement that R is not a party list candidate at that regional election nor a candidate in another Scottish parliamentary election the poll for which is to be held on the same day as the poll at the election to which the consent relates,

which R knows to be false in any particular.

(4) A person (“S”) is guilty of a corrupt practice if, in the case of a party list candidate at a regional election, S makes in any document in which S consents to nomination as a candidate—

- (a) a statement of S’s date of birth;
- (b) a statement as to S’s qualification for membership of the Scottish parliament; or
- (c) a statement that S is not an individual candidate or a candidate on the list submitted by another registered party at that regional election or a candidate at another Scottish parliamentary election in which the poll is to be held on the same day as the poll at the election to which the consent relates,

which S knows to be false in any particular.

(5) For the purposes of paragraphs (2), (3) and (4) a statement as to a candidate’s qualification is a statement—

- (a) that the candidate is qualified for being elected;
- (b) that the candidate will be qualified for being elected; or
- (c) that to the best of the candidate’s knowledge and belief the candidate is not disqualified for being elected.

### **Requirement of secrecy**

**31.**—(1) The following persons attending at a polling station, namely—

- (a) a CRO, RRO or a member of staff of a CRO or RRO;
- (b) a presiding officer or clerk;
- (c) a candidate (including a candidate on a party’s regional list);
- (d) a nominating officer of a registered party which has submitted a regional list;
- (e) an election agent;
- (f) a polling agent;
- (g) a person attending by virtue of sections 6A to 6D of the 2000 Political Parties Act<sup>(31)</sup>(representatives of the Electoral Commission and accredited observers),

shall maintain and aid in maintaining the secrecy of voting and shall not, except for some purpose authorised by law, communicate to any person before the poll is closed the information described in paragraph (2).

(2) The information referred to in paragraph (1) is any information as to—

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<sup>(31)</sup> Sections 6A to 6D were inserted by the 2006 Act, section 29.

- (a) the name of any elector or proxy for an elector who has or has not applied for a ballot paper or voted at a polling station;
  - (b) the number on the register of electors of any elector who, or whose proxy, has or has not applied for a ballot paper or voted at a polling station; or
  - (c) the official mark being used in accordance with rule 30 of the Scottish Parliamentary Election Rules (the official mark).
- (3) Every person attending at the counting of the votes shall maintain and aid in maintaining the secrecy of voting and shall not—
- (a) ascertain or attempt to ascertain at the counting of the votes the number or other unique identifying mark on the back of any ballot paper;
  - (b) communicate any information obtained at the counting of the votes as to the candidate for whom or, as the case may be, registered party for which, any vote is given on any particular ballot paper.
- (4) No person shall—
- (a) interfere with or attempt to interfere with a voter when the voter is recording the voter's vote;
  - (b) otherwise obtain or attempt to obtain in a polling station information as to the candidate for whom or the registered party for which a voter in that station is about to vote or has voted;
  - (c) communicate at any time to any person any information obtained in a polling station as to the candidate for whom or the registered party for which a voter in that station is about to vote or has voted, or as to the number or other unique identifying mark on the back of a ballot paper given to a voter at that station; or
  - (d) directly or indirectly induce a voter to display a ballot paper after the voter has marked it so as to make known to any person the name of the candidate for whom or the registered party for which the voter has or has not voted.
- (5) Every person attending the proceedings in connection with the issue or the receipt of ballot papers for persons voting by post shall maintain and aid in maintaining the secrecy of voting and shall not—
- (a) except for some purpose authorised by law, communicate, before the poll is closed, to any person any information obtained at those proceedings as to the official mark;
  - (b) except for some purpose authorised by law, communicate to any person at any time any information obtained at those proceedings as to the number or other unique identifying mark on the back of any ballot paper sent to any person;
  - (c) except for some purpose authorised by law, attempt to ascertain at the proceedings in connection with the receipt of ballot papers the number or other unique identifying mark on the back of any ballot paper; or
  - (d) attempt to ascertain at the proceedings in connection with the receipt of ballot papers the name of the candidate for whom or the registered party for which, any vote is given in any particular ballot paper or communicate any information with respect thereto obtained at those proceedings.
- (6) No person having undertaken to assist a voter with disabilities to vote shall communicate at any time to any person any information as to the name of the candidate for whom or, as the case may be, the registered party for which, that voter intends to vote or has voted, or as to the number or other unique identifying mark on the back of a ballot paper given for the use of that voter.
- (7) If a person acts in contravention of this article that person shall be liable on summary conviction to a fine not exceeding the amount specified as level 5 on the standard scale or to imprisonment for a term not exceeding three months.

(8) In this article a voter with disabilities is a voter who has made a declaration under rule 48 of the Scottish Parliamentary Election Rules that the voter is so incapacitated by blindness or other disability or by inability to read, as to be unable to vote without assistance.

## PART 3

### THE ELECTION CAMPAIGN

#### Appointment of election agent

**32.**—(1) Not later than the latest time for delivery of nomination papers for candidature for a Scottish parliamentary election, a person shall be named by, or on behalf of—

- (a) each candidate for return as a constituency member;
- (b) each individual candidate for return as a regional member; and
- (c) each registered party submitting a regional list,

as the election agent for that candidate or, as the case may be, registered party in relation to that list and that person's name and address shall be declared in writing by or on behalf of such a candidate or, in the case of a registered party, by the candidate who is highest in that party's regional list, to the appropriate returning officer.

(2) Candidates for return as a constituency members and individual candidates for return as regional members may name themselves as their own election agents.

(3) A candidate included on a registered party's regional list may be named as election agent for that party in relation to that regional list.

(4) Where a candidate has been named (whether by the candidate or by another person) as an election agent the candidate shall, so far as circumstances admit, be subject to the provisions of this Order both as a candidate and as an election agent, and, except where the context otherwise requires, any reference in this Order to an election agent shall be construed to refer to the candidate acting in the capacity as election agent.

(5) One election agent only shall be appointed for—

- (a) each candidate for return as a constituency member;
- (b) each individual candidate for return as a regional member;
- (c) each registered party in relation to each regional list submitted by that party,

but the appointment, whether the election agent appointed be a candidate or not, may be revoked.

(6) If, whether before, during or after the election the appointment (or deemed appointment) of an election agent is revoked or an election agent dies, another election agent shall be appointed forthwith and the new election agent's name and address declared in writing to the appropriate returning officer.

(7) The declaration as an election agent of—

- (a) a candidate of a person other than that candidate; or
- (b) a registered party submitting a regional list, of a person other than a candidate on that list,

shall be of no effect under this article unless it is made and signed by that person or is accompanied by a written declaration of acceptance signed by that person.

(8) Upon the name and address of an election agent being declared to the appropriate returning officer the appropriate returning officer shall forthwith give public notice of that name and address.

### **Appointment of sub-agent**

**33.**—(1) An election agent of a candidate for return as a constituency member may appoint to act in any part of the constituency one, but not more than one, deputy election agent.

(2) An election agent of an individual candidate for return as a regional member or registered party which has submitted a regional list may appoint to act in any part of the region one, but not more than one, deputy election agent.

(3) In this Order, any deputy election agent appointed under paragraph (1) or (2) is referred to as a sub-agent.

(4) As regards matters in a part of the constituency or, as the case may be, region, for which there is a sub-agent the election agent may act by the sub-agent and—

- (a) anything done for the purposes of this Order by or to the sub-agent in the sub-agent's part of the constituency or, as the case may be, region shall be deemed to be done by or to the election agent;
- (b) any act or default of a sub-agent which, if the sub-agent were the election agent, would be an illegal practice or other offence against this Order shall be an illegal practice and offence against this Order committed by the sub-agent, and the sub-agent shall be liable to punishment accordingly; and
- (c) the candidate or, as the case may be, each candidate on the registered party's regional list shall suffer the like incapacity as if that act or default had been the election agent's act or default.

(5) Not later than the second day before the day of the poll the election agent shall declare in writing the name and address of every sub-agent to the appropriate returning officer, and the appropriate returning officer shall forthwith give public notice of the name and address of every sub-agent so declared.

(6) The appointment of a sub-agent—

- (a) shall not be vacated by the election agent who appointed the sub-agent ceasing to be election agent; but
- (b) may be revoked by whoever is for the time being the election agent,

and in the event of the revocation of the appointment or of the death of a sub-agent another sub-agent may be appointed, and the new sub-agent's name and address shall be forthwith declared in writing by the election agent to the appropriate returning officer, who shall forthwith give public notice of the name and address so declared.

(7) The declaration to be made to the appropriate returning officer, and the notice to be given, under paragraph (5) or (6) shall specify the part of the constituency or, as the case may be, region within which any sub-agent is appointed to act.

### **Office of election agent**

**34.**—(1) Every election agent and every sub-agent shall have an office to which all claims, notices, writs, summonses and documents may be sent, and the address of the office shall be—

- (a) declared to the appropriate returning officer at the same time as the appointment of the agent is declared under article 32 or, as the case may be, appointment of the sub-agent is declared under article 33; and
- (b) stated in the public notice of the name of the agent or, as the case may be, sub-agent.

(2) Any claim, notice, writ, summons or document delivered at the office of the election agent or sub-agent and addressed to that agent or sub-agent, shall be deemed to have been served on that agent or sub-agent and every election agent or sub-agent may, in respect of any matter connected

with the election in which that agent or sub-agent is acting, be sued in any court having jurisdiction at the place where that agent's or that sub-agent's office is situated.

### **Effect of default in election agent's appointment**

**35.**—(1) If no person's name and address is declared as required by article 32 (appointment of election agent) as the election agent of a candidate for return as a constituency member or a individual candidate for return as a regional member who remains validly nominated, at the latest time for delivery of notices of withdrawal of candidature the candidate shall be deemed at that time to have been appointed as election agent to have revoked any appointment of another person as the candidate's election agent.

(2) If no person's name and address is declared as required by article 32 as the election agent of a registered party submitting a regional list, at the latest time for delivery of notices of withdrawal of candidature the candidate who is highest in that party's regional list shall be deemed at that time to have been appointed as election agent and to have revoked any appointment of another person as that party's election agent.

(3) This paragraph applies if—

- (a) the person whose name and address have been so given as those of an election agent for a candidate (not being the candidate) or of a registered party dies; and
- (b) a new appointment is not made on the day of the death or on the following day.

(4) Where paragraph (3) applies—

- (a) in the case of a candidate for return as a constituency member or an individual candidate for return as a regional member, the candidate shall be deemed to have been appointed as from the time of death; and
- (b) in the case of the death of an election agent for a registered party—
  - (i) the candidate who is highest in that party's regional list shall be deemed to have been appointed from the time of the death; or
  - (ii) where paragraph (3) applies through the death of such a candidate, the candidate whose name is next highest in that registered party's regional list shall be deemed to have been appointed from the time of the death.

(5) If the appointment of an election agent is revoked without a new appointment being made—

- (a) in the case of a candidate for return as a constituency member or an individual candidate for return as a regional member, the candidate shall be deemed to have been appointed (or re-appointed) election agent; and
- (b) in the case of a registered party, the candidate who is highest in that party's regional list shall be deemed to have been appointed (or re-appointed) election agent.

(6) The deemed appointment of an election agent may be revoked as if it were an actual appointment.

(7) Where a candidate is by virtue of this article to be treated as an election agent, for the purposes of article 34 (office of election agent) the election agent's office shall be deemed to be at the address given for the candidate-

- (a) in the case of a candidate for return as a constituency member, in the constituency nomination paper under rule 4 of the Scottish Parliamentary Election Rules;
- (b) in the case of an individual candidate for return as a regional member, in the individual nomination paper under rule 5 of those rules;
- (c) in the case of a candidate on a party's regional list, in the regional list under rule 6 of those rules.



(8) The appropriate returning officer, on being satisfied that a person is by virtue of this article to be treated as an election agent, shall forthwith proceed to give such like notice as if the name and address of the person and the address of that person's office had been duly given to the returning officer under articles 32 and 34.

### **Control of donations to candidates**

**36.**—(1) In the case of a candidate for return as a constituency member or an individual candidate for return as a regional member at a Scottish parliamentary election, any money or other property provided (whether as gift or loan)—

(a) by any person other than the candidate or the candidate's election agent, and

(b) for the purpose of meeting election expenses incurred by or on behalf of the candidate, must be provided to the candidate or the candidate's election agent.

(2) Paragraph (1) does not apply to any money or other property so provided for the purpose of meeting any such expenses which may be lawfully paid by a person other than the candidate, the candidate's election agent or any sub-agent.

(3) A person who provides any money or other property in contravention of paragraph (1) shall be guilty of an illegal practice.

(4) The provisions of Schedule 2A to the 1983 Act(32) (control of donations to candidates), and regulations made under paragraph 10(2) of that Schedule(33) (statement of relevant donations) apply for the purposes of Scottish parliamentary elections as they do for the purposes of parliamentary elections, subject to the following modifications.

(5) References to a candidate are to be construed as references to a candidate for return as a constituency member or an individual candidate for return as a regional member.

(6) References to election expenses are to be construed as references to election expenses within the meaning of article 58 (meaning of election expenses).

(7) In paragraph 6(8)(a) for "the statutory maximum" substitute "level 5 on the standard scale" and for "12 months"(34) substitute "3 months".

(8) In the provisions specified in paragraph (9), for "statutory maximum" substitute "Level 5" and for "12 months" substitute "3 months".

(9) Those provisions are the entries in Schedule 20 to the 2000 Political Parties Act relating to—

(a) section 56(3) or (4) (failure to retain documents) as applied by paragraph 7 of Schedule 2A to the 1983 Act; and

(b) section 61(1) (facilitating the making of donations by impermissible donors), section 61(2) (a) (knowingly giving treasurer false information about donations) and section 61(2)(b) (withholding information about donations from treasurer with intent to deceive) as applied by paragraph 9 of Schedule 2A to the 1983 Act.

(10) In paragraph 8(10)(a), for "section 67(1) or (1A) of this Act" substitute "article 32 of the Scottish Parliament (Elections etc.) Order 2010 (appointment of election agent)"

(11) In paragraph 10(1)(35) for "section 81 of this Act" substitute "article 47 of the Scottish Parliament (Elections etc.) Order 2010 (return as to election expenses: constituency and individual regional candidates)".

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(32) Schedule 2A was inserted by the 2000 Political Parties Act, section 130 and Schedule 16.

(33) Paragraph 10(2) was inserted by the 2006 Act, Schedule 1, paragraph 16. See regulation 45G of the 2001 Regulations (added by S.I. 2007/925).

(34) See the Criminal Proceedings Reform (Scotland) Act 2007 (asp 6), section 45.

(35) Paragraph 10(1) was numbered as such by the 2006 Act, Schedule 1, paragraph 16.

(12) In this article and Schedule 2A to the 1983 Act (as applied by this article) “property” includes any description of property, and references to the provision of property accordingly include the supply of goods.

### **Expenses of constituency candidate**

**37.** For the purposes of this Part, sums paid and expenses incurred by a candidate for return as a constituency member in respect of whom the CRO has received a certificate issued by a nominating officer of a registered party under rule 7 of the Scottish Parliamentary Election Rules (authorisation to use a registered party’s name and description) are not to be regarded as having been paid or incurred by that party.

### **Payment of expenses through election agent: constituency and individual regional candidates**

**38.—**(1) No payment (of whatever nature) shall be made by—

- (a) a candidate for return as a constituency member or an individual candidate for return as a regional member; or
- (b) any other person,

in respect of election expenses incurred by or on behalf of the candidate for return as a constituency member or an individual candidate for return as a regional member unless it is made by or through the candidate’s election agent.

(2) Every payment made by an election agent in respect of any election expenses shall, except where less than £20, be vouched for by a bill stating the particulars or by a receipt.

(3) The references in the foregoing provisions of this article to an election agent include the election agent acting by a sub-agent.

(4) This article does not apply to—

- (a) any expenses which are, in accordance with article 39(1) or (2), 44(6) or 45(2), paid by the candidate;
- (b) any expenses which are paid in accordance with article 39(4) by a person authorised as mentioned in that provision; or
- (c) any expenses which are to be regarded as incurred by or on behalf of the candidate by virtue of article 58(5) (expenses incurred before the date the person becomes a candidate at the election).

(5) A person who makes any payment (of whatever nature) in contravention of paragraph (1) shall be guilty of an illegal practice.

### **Expenses which may be paid otherwise than by election agent**

**39.—**(1) A candidate (including a candidate on a registered party’s regional list) may pay any personal expenses incurred by that candidate on account of or in connection with or incidental to the election, but the amount which a candidate may pay shall not exceed—

- (a) £600 in the case of a candidate for return as a constituency member who is not also a candidate for return as a regional member; and
- (b) £900 in the case of a candidate for return as a regional member (whether or not the candidate is also a candidate for return as a constituency member),

and any further personal expenses incurred by the candidate shall be paid by the election agent.

(2) A candidate at an election may also pay any election expenses (other than expenses falling within paragraph (1)) which were incurred by the candidate or on the candidate’s behalf and in

respect of which payment falls to be made before the date on which the candidate appoints (or is deemed to have appointed) an election agent.

(3) A candidate shall send to the election agent within the time permitted by article 44 for sending in claims, a written statement of the amount of personal expenses paid as mentioned in paragraph (1) or (2) by the candidate; and, when that candidate is standing for return as a constituency member and for return as a regional member the candidate shall send the statement to the election agent acting on the candidate's behalf in relation to the candidacy for return as a constituency member.

(4) Any person may, if so authorised in writing by an election agent, pay any necessary expenses of stationery, postage, facsimile communication (or any other similar means of communication) and other petty expenses, to a total amount not exceeding that named in the authority, but any excess above the total amount so named shall be paid by the election agent.

(5) A statement of the particulars of payments made by any person so authorised shall be sent to the election agent who authorised them within the time limited by article 44 for sending in claims, and shall be vouched for by a bill containing that person's receipt.

(6) Articles 44 and 45 do not apply to expenses which, in accordance with any provision of this article, are paid otherwise than by the candidate's election agent.

#### **Expenses incurred otherwise than for election purposes**

**40.**—(1) Neither article 38 nor articles 44 and 45 shall apply to election expenses—

- (a) which are incurred by or on behalf of a candidate otherwise than for the purposes of the candidate's election, but
- (b) which by virtue of article 58(1) (meaning of election expenses) fall to be regarded as election expenses by reason of the property, goods, services or facilities in respect of which they were incurred being used for the purposes of the candidate's election.

(2) The candidate's election agent shall make a declaration of the amount (determined in accordance with articles 58 and 59) of any election expenses falling within paragraph (1).

(3) In this article "for the purposes of the candidate's election" has the same meaning as in article 58 (meaning of election expenses).

#### **Prohibition of expenses not authorised by election agent: constituency and individual regional candidates**

**41.**—(1) No expenses, with a view to promoting or procuring the election of a candidate for return as a constituency member or an individual candidate for return as a regional member at a Scottish parliamentary election, shall be incurred after the candidate becomes a candidate at such an election by any person other than the candidate or the candidate's election agent and persons authorised in writing by the election agent on account—

- (a) of holding public meetings or organising any public display;
- (b) of issuing advertisements, circulars or publications;
- (c) in the case of a constituency election, of otherwise presenting to the electors the candidate, or the views of the candidate or the extent or nature of that candidate's backing or disparaging of another candidate; or
- (d) in the case of a regional election, of otherwise presenting to the electors the candidate, or the views of the candidate or the extent or nature of that candidate's backing or disparaging of another individual candidate or of a registered party or of any or all of its party list candidates,

(2) Neither sub-paragraph (c) nor sub-paragraph (d) of paragraph (1) restricts the publication of any matter relating to the election in—

- (a) a newspaper or other periodical;
  - (b) a broadcast made by the British Broadcasting Corporation or by Sianel Pedwar Cymru; or
  - (c) a programme included in any service licensed under Part 1 or 3 of the Broadcasting Act 1990<sup>(36)</sup> (independent television and radio services) or Part 1 or 2 of the Broadcasting Act 1996<sup>(37)</sup> (digital terrestrial television and sound broadcasting).
- (3) Paragraph (1) does not apply to any expenses incurred by any person—
- (a) which do not exceed in the aggregate £500 (and are not incurred by that person as part of a concerted plan of action), or
  - (b) in travelling or in living away from home or similar personal expenses.
- (4) For the purposes of paragraph (3)(a), expenses shall be regarded as incurred by a person “as part of a concerted plan of action” if they are incurred by that person in pursuance of any plan or other arrangement whereby that person and one or more other persons are to incur, with a view to promoting or procuring the election of the same candidate, expenses which (disregarding paragraph (3)(a)) fall within paragraph (1).
- (5) Where a person incurs any expense required by this article to be authorised by the election agent—
- (a) that person shall within 21 days after the day on which the result of the election is declared deliver to the appropriate returning officer a return of the amount of those expenses stating the election at which and the candidate in whose support they were incurred; and
  - (b) the return shall be accompanied by a declaration made by that person (or in the case of an association or body of persons by a director, general manager, secretary or other similar officer of the association or body) verifying the return and giving particulars of the matters for which the expenses were incurred;

but this paragraph does not apply to any person engaged or employed for payment or promise of payment by a candidate or a candidate’s election agent.

(6) The return and declaration under the foregoing provisions of this article shall be respectively in the forms A and B set out in the Appendix and the authority received from the election agent shall be annexed to and deemed to be part of the return.

- (7) If a person—
- (a) incurs, or aids, abets, counsels or procures any other person to incur, any expenses in contravention of this article; or
  - (b) knowingly makes the declaration required by paragraph (5) falsely,

that person shall be guilty of a corrupt practice.

(8) If a person fails to deliver or send any declaration or return or a copy of it as required by this article that person shall be guilty of an illegal practice.

(9) The court before whom a person is convicted under this article may, if they think it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of section 173 of the 1983 Act (as applied by this Order)<sup>(38)</sup> (incapacities on conviction of corrupt or illegal practice).

(10) A candidate shall not be liable, nor shall the candidate’s election be avoided, for a corrupt or illegal practice under this article committed by an agent without the candidate’s consent or connivance.

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<sup>(36)</sup> 1990 c.42.

<sup>(37)</sup> 1996 c.55.

<sup>(38)</sup> Section 173 is applied by article 84 of, and Schedule 6 to, this Order. Section 173 was substituted by the 2000 Political Parties Act, section 136 and was amended by S.I. 2007/931, article 2(4).

(11) Where any act or omission of an association or body of persons, corporate or unincorporate, is an offence declared to be a corrupt or illegal practice by this article, any person (“P”) who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless P proves—

- (a) that the act or omission took place without P’s consent or connivance; and
- (b) that P exercised all such diligence to prevent the commission of the offence as P ought to have exercised having regard to the nature of P’s functions in that capacity and to all the other circumstances.

(12) For the purposes of paragraph (1), expenditure incurred before the date when a person becomes a candidate at the election is to be treated as having been incurred after that date if it is incurred in connection with any thing which is used or takes place after that date.

(13) The appropriate returning officer shall retain every document delivered in pursuance of paragraph (5).

(14) Rules 69 and 71(1) of the Scottish Parliamentary Election Rules apply to any document retained under this paragraph by a RRO as if the reference to a CRO is a reference to that RRO.

#### **Limitation of election expenses: constituency and individual regional candidates**

**42.**—(1) The election expenses incurred by or on behalf of—

- (a) a candidate for return as a constituency member; or
- (b) an individual candidate for return as a regional member,

at an election must not in the aggregate exceed the maximum amount specified in this article.

(2) The maximum amount is (in a case other than that to which paragraph (3) applies)—

- (a) for a candidate for return as a constituency member for a county constituency<sup>(39)</sup>, £7,150 together with an additional 7p for every entry in the register of electors;
- (b) for a candidate for return as a constituency member for a burgh constituency, £7,150 together with an additional 5p for every entry in the register of electors; and
- (c) for an individual candidate for return as a regional member, a sum calculated by adding together the maximum amounts (calculated in accordance with sub-paragraphs (a) and (b)) for a single candidate for return as a constituency member in each constituency included in the region.

(3) The maximum amount for a candidate at an election under section 9 of the 1998 Act (constituency vacancies) is £100,000.

(4) Where any election expenses are incurred in excess of the maximum amount specified in paragraph (2) or, as the case may be, paragraph (3), any candidate or election agent who—

- (a) incurred, or authorised the incurring of, the election expenses, and
- (b) knew or ought reasonably to have known that the expenses would be incurred in excess of that maximum amount,

shall be guilty of an illegal practice.

(5) In paragraph (2) “the register of electors” means the register of local government electors, for the area in question as it has effect on the last day for publication of notice of the election.

(6) The candidate’s personal expenses do not count towards the maximum amount.

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<sup>(39)</sup> Constituencies (other than those of the Orkney Islands and the Shetland Islands) may be specified as being “county” or “burgh” constituencies in an Order in Council made under paragraph 6 of Schedule 1 to the 1998 Act as substituted by section 1(1) of the Scottish Parliament (Constituencies) Act 2004 (c.13).

(7) Where a poll for the return of a constituency member is countermanded or abandoned by reason of a candidate's death, the maximum amount of election expenses shall, for any of the other candidates who then remain validly nominated, be twice, or if there has been a previous increase under this paragraph, three times what it would have been but for any increase under this paragraph.

(8) The maximum amount specified in paragraph (2) or (3) for a candidate shall not be affected by a change in the timing of a Scottish parliamentary election or of any step in the proceedings at such an election.

(9) In this article "county constituency" includes the constituency of the Orkney Islands and the constituency of the Shetland Islands.

(10) Paragraph (11) has effect until an Order in Council under paragraph 6 of Schedule 1 to the 1998 Act<sup>(40)</sup> (orders in council giving effect to recommendations contained in reports from the Boundary Commission for Scotland) comes into force.

(11) In this article—

"county constituency" means, subject to paragraph (9), a constituency which is coterminous with a parliamentary constituency specified as being a county constituency in the Parliamentary Constituencies (Scotland) Order 1995<sup>(41)</sup> as at 11 April 1995 (the day it was made); and

"burgh constituency" means a constituency which is coterminous with a parliamentary constituency specified as being a burgh constituency in that Order as at that date.

### **Limitation of pre-candidacy election expenses: constituency and individual regional candidates at Scottish Parliament general elections**

**43.**—(1) This article applies where election expenses are incurred by or on behalf of a candidate for return as a constituency member or an individual candidate for return as a regional member at an election under—

- (a) section 2 of the 1998 Act (ordinary general elections); or
- (b) section 3 of that Act (extraordinary general elections),

and the expenses are incurred in respect of a matter which is used during the period beginning with the appropriate date and ending with the date on which the person becomes a candidate at that election.

(2) For the purposes of this article, article 58(1) (meaning of election expenses) has effect with the omission of the words "after the date when the candidate becomes a candidate at the election".

(3) In paragraph (1) "the appropriate date" for an election under section 2 of the 1998 Act means the date which falls four months before the date of the poll where—

- (a) the date of the poll is that determined by section 2(2) of the 1998 Act;
- (b) no less than five months before the day on which the poll would have taken place under section 2(2) of that Act, the date of the poll is brought forward under section 2(5) of that Act; or
- (c) no less than four months before the day on which the poll would have taken place under section 2(2) of that Act, the date of the poll is postponed under section 2(5) of that Act;

but where the date of the poll is brought forward or postponed otherwise than as mentioned in subparagraph (b) or (c) "the appropriate date" means the date which falls four months before the date when the poll would have taken place under section 2(2) of the Act.

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<sup>(40)</sup> Schedule 1 was substituted by the Scottish Parliament (Constituencies) Act 2004 (c.13), section 1(1).

<sup>(41)</sup> S.I. 1995/1037.

(4) In paragraph (1) “the appropriate date” for an election under section 3 of the 1998 Act means the date on which the Presiding Officer proposes a day for the poll for the election under section 3(1) of that Act.

(5) Election expenses incurred as mentioned in paragraph (1) must not in the aggregate exceed the permitted amount, which is—

- (a) for a candidate for return as a constituency member for a county constituency, £17,500 plus 4.9p for every entry in the register of electors;
- (b) for a candidate for return as a constituency member for a burgh constituency, £17,500 plus 3.5p for every entry in the register of electors; and
- (c) for an individual candidate for return as a regional member, a sum calculated by adding together the maximum amounts (calculated in accordance with sub-paragraphs (a) and (b)) for a single candidate for return as a constituency member in each constituency included in the region.

(6) In paragraph (5) “the register of electors” means the register of local government electors for the area in question as it has effect on the last day for publication of the notice of the election.

(7) Where election expenses are incurred as mentioned in paragraph (1) in excess of the permitted amount, any candidate or election agent who—

- (a) incurred, or authorised the incurring of, the election expenses, and
- (b) knew or ought reasonably to have known that the election expenses would be incurred in excess of that amount,

shall be guilty of an illegal practice.

(8) The candidate’s personal expenses do not count towards the permitted amount.

(9) Paragraphs (9) to (11) of article 42 apply to this article as they do to that article.

### **Time for sending in and paying claims**

**44.**—(1) Every claim against—

- (a) a candidate for return as a constituency member or the candidate’s election agent; or
- (b) an individual candidate for return as a regional member or the candidate’s election agent,

in respect of election expenses which is not sent in to the election agent not later than 21 days after the day on which the result of the election is declared shall be barred and not paid.

(2) All election expenses shall be paid not later than 28 days after that day.

(3) Subject to paragraph (4) and (5), a person who pays a claim in contravention of paragraph (1) or makes a payment in contravention of paragraph (2) shall be guilty of an illegal practice.

(4) Where the election court reports that it has been proved to the court that any payment made was by an election agent without the sanction or connivance of a candidate—

- (a) the candidate’s election shall not be void; nor
- (b) shall the candidate be subject to any incapacity under this Order by reason only of that payment having been made in contravention of this article.

(5) The following person or persons, namely—

- (a) a claimant;
- (b) a candidate for return as a constituency member or such a candidate’s election agent; or
- (c) an individual candidate for return as a regional member or such a candidate’s election agent,

may apply to the Court of Session or to the sheriff for leave to pay a claim for any election expenses although sent in after the period of 21 days or although sent in to a candidate and not the election agent, and the court on cause shown to their satisfaction may by order grant leave.

(6) Any sum specified in the order of leave may be paid, in the case of a candidate for return as a constituency member or an individual candidate for return as a regional member, by such candidate or the candidate's election agent, and the amount paid in pursuance of the order shall not be deemed to be in contravention of paragraph (2).

(7) The jurisdiction vested by paragraph (5) in the sheriff may be exercised otherwise than in open court.

(8) An appeal lies to the Court of Session from any order of the sheriff made by virtue of paragraph (5).

### **Disputed claims**

**45.**—(1) If an election agent disputes any claim sent to the election agent within the period of 21 days mentioned in article 44 or refuses or fails to pay the claim within the period of 28 days so mentioned, the claim shall be deemed to be a disputed claim.

(2) The claimant may, if the claimant thinks fit, bring an action for a disputed claim in any competent court and any sum paid by a candidate or the candidate's election agent in pursuance of the judgement or order of the court shall not be deemed to be in contravention of article 44(2).

(3) If the defender in the action admits liability but disputes the amount of the claim, that amount shall, unless the court on the pursuer's application otherwise directs, be forthwith referred for taxation to the auditor of the Court of Session or, as the case may be, the sheriff court and the amount found due on the taxation shall be the amount to be recovered in the action in respect of the claim.

(4) Paragraphs (5) to (8) of article 44 apply in relation to a disputed claim as they apply in relation to a claim for election expenses sent in after the period of 21 days.

### **Election agent's claim**

**46.** So far as circumstances admit, this Order applies to an election agent's claim for remuneration and to its payment in like manner as if the election agent were any other creditor, and if any difference arises about the amount of the claim, the claim shall be a disputed claim within the meaning of this Part and shall be dealt with accordingly.

### **Return as to election expenses: constituency and individual regional candidates**

**47.**—(1) Within 35 days after the day on which the result of a Scottish parliamentary election is declared the election agent of each candidate for return as a constituency member, and of each individual candidate for return as a regional member, at the election shall deliver to the appropriate returning officer a true return containing as respects that candidate—

- (a) a statement of all election expenses incurred by or on behalf of the candidate;
- (b) a statement of all expenses to which article 43 (pre-candidacy election expenses) applies;
- (c) a statement of all payments made by the election agent together with all bills or receipts relating to the payments.

(2) A return under this article must—

- (a) specify the poll by virtue of which the return is required;
- (b) specify the name of the candidate to whom the return relates and of the candidate's election agent; and



- (c) deal under a separate heading with any expenses in respect of which a return is required by virtue of article 41(5).
- (3) The return shall also contain as respects that candidate—
  - (a) a statement relating to such other expenses in connection with which provision is made by this Part as the Electoral Commission provide in regulations;
  - (b) a statement relating to such claims (whether paid, unpaid or disputed) in connection with such election expenses or such other expenses mentioned in sub-paragraph (a) as the Electoral Commission so provide;
  - (c) a statement of relevant donations as required by paragraph 10 of Schedule 2A to the 1983 Act(42) as applied by article 36.
- (4) Where after the date at which the return as to election expenses is delivered leave is given by the court under article 44(5) for any claims to be paid, the candidate or the candidate's election agent shall, within seven days after its payment, deliver to the appropriate returning officer a return of the sums paid in pursuance of the leave, accompanied by a copy of the order of the court giving the leave, and in default the election agent shall be deemed to have failed to comply with the requirements of this article without such authorised excuse as is mentioned in article 53.
- (5) If any payments made by the election agent were in respect of two or more candidates, the return shall deal under a separate heading or subsection with all such payments, and the expenses to which they relate, in respect of those candidates.
- (6) The statements which the return is required to contain by virtue of paragraph (3) in respect of the matters there mentioned shall be a separate statement as respects each of the candidates in question.
- (7) If and to the extent that any such matter is referable to two or more candidates together, the return shall contain a separate statement of that matter as respects those candidates.
- (8) The Electoral Commission may, by regulations, prescribe a form of return which may be used for the purposes of making any (or any description of) return required by this article.

#### **Declarations as to election expenses: constituency and individual regional candidates**

- 48.**—(1) Each return delivered under article 47 shall be accompanied by a declaration made by the election agent in the form D set out in the Appendix.
- (2) At the same time as the election agent delivers that return, or within seven days thereafter—
    - (a) each candidate for return as a constituency member; and
    - (b) each individual candidate for return as a regional member,shall deliver to the appropriate returning officer a declaration made by that candidate in the form D set out in the Appendix.
  - (3) Where a candidate is out of the United Kingdom when the return is so delivered—
    - (a) the declaration required by paragraph (2) may be made by the candidate within 14 days after the candidate's return to the United Kingdom; and
    - (b) in that case, the declaration shall be forthwith delivered to the appropriate returning officer,but the delay authorised by this provision in making the declaration shall not exonerate the election agent from complying with the provisions of this Order relating to the return and declaration as to election expenses.
  - (4) Where—

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(42) Schedule 2A was inserted by the 2000 Political Parties Act, section 130 and Schedule 16. Paragraph 10 was amended by the 2006 Act, Schedule 1, paragraph 16.

- (a) a candidate for return as a constituency member is that candidate's own election agent; or
- (b) an individual candidate for return as a regional member is that candidate's own election agent,

the declaration by the election agent as to the election expenses need not be made and the declaration by the candidate as to election expenses shall be modified as specified in the form D set out in the Appendix.

(5) A candidate or election agent who knowingly makes the declaration required by this article falsely shall be guilty of a corrupt practice.

#### **Declarations as to election expenses: candidates on a registered party's regional list**

**49.**—(1) Within 35 days after the day on which the result of a Scottish parliamentary election is declared, each candidate on a registered party's regional list shall deliver to the appropriate returning officer a declaration in the form E set out in the Appendix.

(2) Where a candidate is out of the United Kingdom when the declaration is due to be so delivered—

- (a) the declaration required by paragraph (1) may be made by that candidate within 14 days after the candidate's return to the United Kingdom; and
- (b) in that case, the declaration shall forthwith be delivered to the appropriate returning officer.

(3) A person who knowingly makes the declaration required by this article falsely shall be guilty of a corrupt practice.

#### **Where no return and declaration is needed**

**50.** Notwithstanding anything in articles 47 and 48, no return or declaration as to election expenses shall be required in the case of a person—

- (a) who is a candidate, but is so only because that person has been declared by others to be a candidate; and
- (b) who has not consented to the declaration or taken any part as a candidate at the election.

#### **Penalty for failure as respects return of declarations**

**51.** Subject to the provisions of article 53, any candidate or election agent who fails to comply with the requirements of articles 47, 48 or 49 shall be guilty of an illegal practice.

#### **Penalty for sitting or voting where no return and declaration is transmitted**

**52.**—(1) If, in the case of a candidate for return as a constituency member or an individual candidate for return as a regional member, the return and declarations as to election expenses are not delivered before the expiry of the time limited for the purpose, that candidate shall not, after the expiry of the time, sit or vote in the Parliament as a member for the constituency or region until—

- (a) that return and those declarations have been delivered; or
- (b) the date of the allowance of an authorised excuse for the failure to deliver the return and declaration.

(2) If, in the case of a candidate included on a registered party's regional list, the candidate's declaration as to elections expenses is not delivered before the expiry of the time limited for the purpose, that candidate shall not, after the expiry of the time, sit or vote in the Parliament as a member for region until—

- (a) that declaration has been delivered; or

(b) the date of the allowance of an authorised excuse for the failure to deliver the declaration.

(3) If the candidate sits or votes in contravention of this article the candidate shall forfeit £100 for every day on which the candidate so sits or votes.

#### **Authorised excuses for failure as to return and declarations**

**53.**—(1) A candidate or an election agent may apply for relief under this article to—

- (a) the Court of Session;
- (b) an election court; or
- (c) the sheriff.

(2) Where an application is made under this article the person making the application shall notify the Lord Advocate of the application; and the Lord Advocate may attend or be represented at the hearing of the application and make representations at the hearing in respect of it.

(3) Relief under this article may be granted—

- (a) to a candidate for return as a constituency member, and to an individual candidate for return as a regional member, in respect of any failure to deliver the return and declaration as to election expenses, or any part of them, or in respect of any error or false statement in them;
- (b) to a candidate on a registered party's regional list, in respect of any failure to deliver the declaration as to election expenses, or any part of it, or in respect of any error or false statement in it; or
- (c) to an election agent, in respect of any failure to deliver the return and declaration as to election expenses, or any part of them, or in respect of any error or false statement in them.

(4) The application for relief may be made on the ground that the failure, error or false statement arose—

- (a) by reason of the applicant's illness;
- (b) where the applicant is a candidate, by reason of the absence, death, illness or misconduct—
  - (i) in the case of a candidate for return as a constituency member or an individual candidate for return as a regional member, of the candidate's election agent or sub-agent (or any clerk or officer of such agent); or
  - (ii) in the case of a candidate included in a registered party's regional list, of any person;
- (c) where the applicant is an election agent, by reason of the death or illness—
  - (i) of any prior election agent;
  - (ii) where the applicant is an election agent for a candidate, of the candidate; or
  - (iii) where the applicant is an election agent for a registered party submitting a regional list, of any candidate included in that list;
- (d) where the applicant is an election agent, by reason of the absence, death, illness or misconduct of any sub-agent, clerk or officer of any election agent; or
- (e) by reason of inadvertence or any reasonable cause of a like nature,

and not by reason of any want of good faith on the applicant's part.

(5) The court may—

- (a) after such notice of the application in the constituency or region in relation to which the election was held, as it considers fit; and
- (b) on production of such evidence of the grounds stated in the application and of the good faith of the application, and otherwise, as it considers fit,

make such order for allowing an authorised excuse for the failure, error or false statement as it considers just.

(6) Where it is proved to the court by a candidate—

- (a) that any act or omission of the election agent of that candidate in relation to the return or declarations was without the sanction or connivance of the candidate; and
- (b) that the candidate took all reasonable means for preventing the act or omission,

the court shall relieve the candidate from the consequences of the act or omission of the election agent.

(7) An order under paragraph (5) may make the allowance conditional on the making of the return and declaration in a modified form or within an extended time, and upon the compliance with such other terms as to the court seem best calculated for carrying into effect the objects of this Part.

(8) An order under paragraph (5) shall relieve the applicant for the order from any liability or consequences under this Order in respect of the matter excused by the order.

(9) The date of the order, or if conditions are to be complied with, the date at which the applicant fully complies with them, is referred to in this Order as the date of the allowance of the excuse.

(10) The jurisdiction vested by this article in the sheriff may be exercised other than in open court.

(11) An appeal lies to the Court of Session from any order of the sheriff made by virtue of this article.

#### **Court's power to require information from election agent or sub-agent**

**54.**—(1) Where on an application under article 53 it appears to the court that any person who is or has been an election agent or sub-agent has refused or failed to make such return, or to supply such particulars, as will enable a person to comply with the provisions of this Order as to the return or declaration as to election expenses, the court, before making an order under that article, shall order that person to attend before the court.

(2) The court shall on the attendance of that person, unless that person shows cause to the contrary, order the person—

- (a) to make the return and declaration; or
- (b) to deliver a statement of the particulars required to be contained in the return,

as the court considers just, within such time, to such person and in such manner as it may direct, or may order the person to be examined with respect to the particulars.

(3) If a person fails to comply with any order of the court under this article, the court may order that person to pay a fine not exceeding the amount specified as level 5 on the standard scale.

#### **Duty of appropriate returning officer to forward returns and declarations to Electoral Commission**

**55.** Where the appropriate returning officer receives any return or declaration under article 47, 48 or 49 in respect of a Scottish parliamentary election, that returning officer shall as soon as reasonably practicable after receiving the return or declaration deliver a copy of it to the Electoral Commission and, if so requested by the Commission, shall also deliver to them a copy of any accompanying documents.

#### **Publication of time and place of inspection of returns and declarations**

**56.**—(1) At a Scottish parliamentary election, the CRO shall, within 10 days after the end of the time allowed for delivery to CRO returns as to election expenses, publish in not less than two

newspapers circulating in the constituency for which the election was held, and shall send to each of the election agents, a notice of the time and place at which the returns and declarations (including the accompanying documents) can be inspected.

(2) At a Scottish parliamentary election, the RRO shall, within 10 days after the end of the time allowed for delivering to the RRO returns as to election expenses, publish in not less than three newspapers circulating in the region, and shall send to the election agents for each individual candidate for return as a regional member and for each registered party submitting a regional list in relation to that region, a notice of the time and place at which the returns and declarations (including the accompanying documents) can be inspected.

(3) But if any return or declaration has not been received by the appropriate returning officer before the notice is dispatched for publication, the notice shall so state and the like notice about that return and declaration, if afterwards received, shall within 10 days after the receipt be published in like manner and sent to each of the election agents (other than an agent who is in fault or is agent for the candidate in fault).

### **Inspection of returns and declarations: candidates**

**57.**—(1) Where the appropriate returning officer receives any return or declaration under article 41, 47, 48 or 49 that returning officer shall—

- (a) as soon as reasonably practicable after receiving the return or declaration make a copy of it, and any accompanying documents, available for inspection at the returning officer's office, or some other convenient place chosen by the returning officer, for a period of two years beginning with the date when the return is received by the returning officer;
- (b) if requested to do so by any person, and on payment of the fee set out in paragraph (3) supply that person with a copy of the return or declaration and any accompanying documents.

(2) If any such return contains a statement of donations in accordance with article 47(3)(c) the appropriate returning officer shall secure that the copy of the statement made available for public inspection under paragraph (1)(a) or (as the case may be) supplied under paragraph (1)(b) does not include, in the case of any donation by an individual, the donor's address.

(3) The fee payable for a copy of any such return or declaration or any accompanying document, shall be at the rate of 20p for each side of each page.

(4) After the expiry of the period of two years mentioned in paragraph (1) the appropriate returning officer—

- (a) may cause those returns and declarations (including any accompanying documents) to be destroyed; or
- (b) if the candidate or the candidate's election agent so requires, shall return them to the candidate.

(5) Any returns or declarations delivered under article 41 shall be returned not to a candidate (if the candidate or the candidate's election agents require) but to the person delivering them, if that person so requires.

### **Meaning of “election expenses”**

**58.**—(1) In this Part “election expenses” in relation to a candidate at an election means (subject to paragraph (2) and article 60) any expenses incurred at any time in respect of any matter specified in paragraph (1) of article 59 which is used for the purposes of the candidate's election after the date when the candidate becomes a candidate at the election.

(2) No election expenses are to be regarded as incurred by virtue of paragraph (1) or article 59 in respect of any matter specified in paragraph (2) of article 59 .

(3) In this article “for the purposes of the candidate’s election” means with a view to, or otherwise in connection with, promoting or procuring the candidate’s election at the election.

(4) For the purposes of this Order, election expenses are incurred by or on behalf of a candidate at an election if they are incurred—

- (a) by the candidate or the candidate’s election agent, or
- (b) by any person authorised by the candidate or the candidate’s election agent to incur expenses.

(5) A reference in this part to a candidate at an election, in relation to election expenses, includes (where the context allows) a reference to a person who becomes a candidate at the election after the expenses are incurred.

(6) In this Order any reference (in whatever terms) to promoting or procuring a candidate’s election at an election includes doing so by prejudicing the electoral prospects of another candidate at the election.

### **Election expenses — list of matters and general exclusions**

**59.**—(1) Matters specified as election expenses are—

- (a) advertising of any nature (whatever the medium used), including agency fees, design costs and other costs in connection with preparing, producing, distributing or otherwise disseminating such advertising or anything incorporating such advertising and intended to be distributed for the purpose of disseminating it;
- (b) unsolicited material addressed to electors (whether addressed to them by name or intended for delivery to households within any particular area), including design costs and other costs in connection with preparing, producing or distributing such material (including the cost of postage);
- (c) transport (by any means) of persons to any place, including the costs of hiring a means of transport for a particular period;
- (d) public meetings (of any kind), including costs incurred in connection with the attendance of persons at such meetings, the hire of premises for the purposes of such meetings or the provision of goods, services or facilities at them;
- (e) the services of an election agent or any other person whose services are engaged in connection with the candidate’s election; and
- (f) accommodation and administrative costs.

(2) Matters excluded from the definition of election expenses are—

- (a) the payment of any deposit required by rule 10 of the Scottish Parliamentary Election Rules;
- (b) the publication of any matter, other than an advertisement, relating to the election in—
  - (i) a newspaper or periodical;
  - (ii) a broadcast made by the British Broadcasting Corporation or by Sianel Pedwar Cymru; or
  - (iii) a programme included in any service licensed under Part 1 or 3 of the Broadcasting Act 1990<sup>(43)</sup> (independent television and radio services) or Part 1 or 2 of the Broadcasting Act 1996<sup>(44)</sup> (digital terrestrial television and sound broadcasting);

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(43) 1990 c.42.

- (c) the provision of any facilities provided in pursuance of any right conferred on candidates at an election by this Order other than facilities in respect of which expenses fall to be defrayed by virtue of articles 66(4) and 67(4) (use of school rooms or meeting rooms in premises funded from public funds);
- (d) the provision by an individual of that individual's own services which the individual provides voluntarily in the individual's own time and free of charge;
- (e) accommodation which is the candidate's sole or main residence;
- (f) the provision by any other individual of accommodation which is that individual's sole or main residence if the provision is made free of charge;
- (g) transport by a means of transport which was acquired by the candidate principally for the candidate's own personal use;
- (h) transport provided free of charge by any other individual if the means of transport was acquired by that individual principally for the individual's own personal use;
- (i) computing or printing equipment which was acquired by the candidate principally for the candidate's own personal use; and
- (j) the provision by any other individual of computing or printing equipment which was acquired by the individual principally for the individual's own personal use if the provision is made free of charge.

#### **Property, goods, services etc provided free of charge or at a discount**

**60.**—(1) This article applies where, in the case of a candidate at an election—

- (a) either—
    - (i) property or goods is or are transferred to the candidate or the candidate's election agent free of charge or at a discount of more than 10 per cent of the market value of the property or goods; or
    - (ii) property, goods, services or facilities is or are provided for the use or benefit of the candidate free of charge or at a discount of more than 10 per cent of the commercial rate for the use of the property or for the provision of the goods, services or facilities; and
  - (b) the property, goods, services or facilities is or are made use of by or on behalf of the candidate in circumstances such that, if any expenses were to be (or are) actually incurred by or on behalf of the candidate in respect of that use, they would be (or are) election expenses incurred by or on behalf of the candidate.
- (2) Where this article applies, and subject to article 58(2)—
- (a) an amount of election expenses determined in accordance with this article (“the appropriate amount”) shall be treated, for the purposes of this article, as incurred by the candidate, and
  - (b) the candidate's election agent shall make a declaration of that amount,

unless that amount is not more than £50.

(3) Where paragraph (1)(a)(i) applies, the appropriate amount is such proportion of either—

- (a) the market value of the property or goods (where the property or goods is or are transferred free of charge); or

- (b) the difference between the market value of the property or goods and the amount of expenses actually incurred by or on behalf of the candidate in respect of the property or goods (where the property or goods is or are transferred at a discount),

as is reasonably attributable to the use made of the property or goods as mentioned in paragraph (1)(b).

- (4) Where paragraph (1)(a)(ii) applies, the appropriate amount is such proportion of either—
  - (a) the commercial rate for the use of the property or the provision of the goods, services or facilities (where the property, goods, services or facilities is or are provided free of charge); or
  - (b) the difference between that commercial rate and the amount of expenses actually incurred by or on behalf of the candidate in respect of the use of the property or the provision of the goods, services or facilities (where the property, goods, services or facilities is or are provided at a discount),

as is reasonably attributable to the use made of the property, goods, services or facilities as mentioned in paragraph (1)(b).

(5) Where the services of an employee are made available by the employee’s employer for the use or benefit of a candidate, then for the purposes of this article the commercial rate for the provision of those services shall be the amount of the remuneration and allowances payable to the employee by the employer in respect of the period for which the employee’s services are so made available (but shall not include any amount in respect of any contributions or other payments for which the employer is liable in respect of the employee).

(6) In this article, “market value”, in relation to any property or goods, means the price which might reasonably be expected to be paid for the property or goods on a sale in the open market.

(7) In this article, any reference to anything being transferred or provided to a candidate or the candidate’s election agent includes a reference to its being given or transferred either directly or indirectly through any third person.

### **Right to send election address post free**

**61.**—(1) At a Scottish parliamentary election—

- (a) each candidate for return as a constituency member;
- (b) each individual candidate for return as a regional member; and
- (c) the nominating officer of each registered party which has submitted a regional list,

is entitled to send, free of any charge for postage which would otherwise be made by a universal postal service provider, a postal communication containing only matter relating to the election and not exceeding 60 grams in weight.

- (2) One postal communication as described in paragraph (1) may be addressed to each elector—
  - (a) in the constituency; or
  - (b) where the sender is a person described in paragraph (1)(b) or (c), in the region,

or alternatively one unaddressed such communication may be sent to each place which, in accordance with such reasonable terms and conditions as the universal postal service provider may specify, constitutes a delivery point for the purposes of this article.

(3) Any such candidate or, as the case may be, party’s nominating officer is also, subject as mentioned in paragraph (2), entitled to send free of any such charge for postage as mentioned above to each person entered in the list of proxies for the election one such communication as mentioned in paragraph (1) for each appointment in respect of which that person is so entered.



(4) Any such candidate or, as the case may be, party's nominating officer, may also require the appropriate returning officer to make arrangements with the universal postal service provider for addressed communications under paragraph (2) to be sent to persons who have anonymous entries in the register of electors, which arrangements shall be such as to ensure that it is not disclosed to any other person that the addressee of such a communication has an anonymous entry.

(5) In relation to a candidate for return as a constituency member or to an individual candidate for return as a regional member, such a person shall not be deemed for the purposes of this article to be a candidate unless that person is shown as standing nominated in the statement of persons nominated; but, until publication of that statement, any person who declares himself or herself to be such a candidate shall be entitled to exercise the right of free postage conferred by this article if the person gives such security as may be required by the universal postal service provider concerned for the payment of postage should the person not be shown as standing nominated as mentioned above.

(6) A registered party shall not be deemed to have submitted a regional list for the purposes of this article unless that party is shown as standing nominated in the statement published under rule 19 of the Scottish Parliamentary Election Rules (publication of statement of persons and parties nominated for return as regional members) but until the publication of that statement the nominating officer of a party which has submitted a regional list shall be entitled to exercise the right of free postage conferred by this article if the nominating officer gives such security as may be required by the universal postal service provider should the party not be shown as standing nominated as mentioned above.

(7) For the purposes of this article, "elector"—

- (a) means a person who is registered in the register of electors for the constituency or region on the last day for publication of notice of the election; and
- (b) includes a person then shown in that register (or, in the case of a person who has an anonymous entry in the register, in the record of anonymous entries) as below voting age if (but only if) it appears from the register that that person will be of voting age on the day fixed for the poll.

### **Remuneration for free postal services provided**

**62.**—(1) This article applies where any postal services are provided without charge by a universal postal service provider in pursuance of this Order.

(2) The universal postal service provider shall be entitled to be remunerated for having provided the services at the rate fixed in relation to them by virtue of a scheme under section 89 of the Postal Services Act 2000<sup>(45)</sup> (schemes as to terms and conditions for provision of a universal postal service).

(3) A sum which a universal postal service provider is entitled to receive by virtue of this article shall be charged on, and issued out of, the Consolidated Fund.

(4) In this article "postal services" has the meaning given in section 125 of the Postal Services Act 2000 (interpretation).

### **Broadcasting from outside United Kingdom**

**63.**—(1) No person shall, with intent to influence persons to give or refrain from giving their votes at a Scottish parliamentary election, include, or aid, abet, counsel or procure the inclusion of, any matter relating to the election in any programme service (within the meaning given in section 201 of the Broadcasting Act 1990<sup>(46)</sup> (programme services)) provided from a place outside the United Kingdom otherwise than in pursuance of arrangements made with—

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<sup>(45)</sup> 2000 c.26.

<sup>(46)</sup> 1990 c.42. Section 201 was amended by the Communications Act 2003 (c.21), section 360 and Schedule 19, paragraph 1.

- (a) the British Broadcasting Corporation;
- (b) Sianel Pedwar Cymru; or
- (c) the holder of any licence granted by the Office of Communications,

for the reception and re-transmission of that matter by that body or the holder of that licence.

(2) An offence under this article shall be an illegal practice, but the court before whom a person is convicted of an offence under this article may, if they think it just in the special circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of section 173 of the 1983 Act (as applied by this Order)<sup>(47)</sup> (incapacities on conviction of corrupt or illegal practice).

(3) Where any act or omission of an association or body of persons, corporate or unincorporate, is an illegal practice under this article, any person (“P”) who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or was purporting to act in any such capacity, shall be deemed to be guilty of the illegal practice, unless P proves—

- (a) that the act or omission took place without P’s consent or connivance; and
- (b) that P exercised all such diligence to prevent the commission of the illegal practice as P ought to have exercised having regard to the nature of P’s functions in that capacity and to all the circumstances.

### **Broadcasting of local items during election period**

**64.**—(1) Each broadcasting authority shall adopt a code of practice with respect to the participation of candidates at a Scottish parliamentary election in items about the constituency or electoral areas in question which are included in relevant services during the election period.

(2) The code for the time being adopted by a broadcasting authority under this article shall be either—

- (a) a code drawn up by that authority, whether on their own or jointly with one or more other broadcasting authorities; or
- (b) a code drawn up by one or more other such authorities,

and a broadcasting authority shall from time to time consider whether the code for the time being so adopted by them should be replaced by a further code falling within sub-paragraph (a) or (b).

(3) Before drawing up a code under this article a broadcasting authority shall have regard to any views expressed by the Electoral Commission and any such code may make different provision for different cases.

(4) The Office of Communications shall do all that it can to secure that the code for the time being adopted by them under this article is observed in the provision of relevant services; and the British Broadcasting Corporation and Sianel Pedwar Cymru shall each observe in the provision of relevant services the code so adopted by them.

(5) For the purposes of paragraph (1) “the election period”, in relation to an election, means the period beginning—

- (a) (if an ordinary general election) with the date of the dissolution of the Scottish Parliament;
- (b) (if an extraordinary general election) with the date of Her Majesty’s proclamation dissolving the Scottish Parliament; or
- (c) (if an election to fill a constituency vacancy) with the date of the occurrence of the vacancy in the constituency,

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<sup>(47)</sup> Section 173 is applied by article 84 of and Schedule 6 to this Order. Section 173 was substituted by the 2000 Political Parties Act, section 136 and was amended by S.I. 2007/931, article 2(4).

and ending with the close of the poll.

(6) In this article—

“broadcasting authority” means the British Broadcasting Corporation, the Office of Communications or Sianel Pedwar Cymru;

“candidate”, in relation to an election, means a candidate standing nominated at the election or included in a list of candidates submitted in connection with it;

“relevant services”—

- (a) in relation to the British Broadcasting Corporation or Sianel Pedwar Cymru, means services broadcast by that body; and
- (b) in relation to the Office of Communications, means services licensed under Part 1 or 3 of the Broadcasting Act 1990 (independent television and radio services) or Part 1 or 2 of the Broadcasting Act 1996 (digital terrestrial television and sound broadcasting).

### **Imitation poll cards and notifications**

**65.** No person shall for the purpose of promoting or procuring a particular result at a Scottish parliamentary election issue any poll card or notification or other document so closely resembling an official poll card or notification as to be calculated to deceive, and paragraphs (2) and (3) of article 63 apply as if an offence under this article were an offence under that article.

### **Schools and rooms for Scottish parliamentary election meetings: candidates for return as constituency members**

**66.—**(1) Subject to the provisions of this article, a candidate for return as a constituency member at a Scottish parliamentary election is entitled for the purpose of holding public meetings in furtherance of the candidate’s candidature to the use free of charge at reasonable times between the last day on which notice of the election may be published in accordance with the Scottish Parliamentary Election Rules and the day preceding the date of the poll of—

- (a) a suitable room in the premises of a school to which this article applies;
- (b) any meeting room to which this article applies.

(2) This article applies to any school of which the premises are situated in the constituency or an adjoining constituency, not being an independent school within the meaning given in section 135 of the Education (Scotland) Act 1980<sup>(48)</sup> (interpretation), but a candidate is not entitled under this article to the use of a room in school premises outside the constituency if there is a suitable room in other premises in the constituency which are reasonably accessible from the same parts of the constituency as those outside and are premises of a school to which this article applies.

(3) This article applies to meeting rooms situated in the constituency, the expense of maintaining which is payable wholly or mainly out of public funds or by a body whose expenses are so payable.

(4) Where a room is used for a meeting in pursuance of the rights conferred by this article, the person by whom or on whose behalf the meeting is convened—

- (a) shall defray any expenses incurred in preparing, warming, lighting and cleaning the room and providing attendance for the meeting and restoring the room to its usual condition after the meeting; and
- (b) shall defray any damage done to the room or the premises in which it is situated, or to the furniture, fittings or apparatus in the room or premises.

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<sup>(48)</sup> 1980 c.44. The definition of “independent school” in section 135 was amended by the School Education (Ministerial Powers and Independent Schools) (Scotland) Act 2004 (asp 12), section 3 and the Standards in Scotland’s Schools etc. Act 2000 (asp 6), schedule 2, paragraph 3(9).

(5) A candidate is not entitled to exercise the rights conferred by this article except on reasonable notice; and this article does not authorise any interference with the hours during which a room in school premises is used for educational purposes, or any interference with the use of a meeting room either for the purposes of the person maintaining it or under a prior agreement for its letting for any purpose.

(6) For the purposes of this article (except those of paragraph (4)(b)) the premises of a school shall not be taken to include any private dwellinghouse, and in this article—

- (a) the expression “meeting room” means any room which it is the practice to let for public meetings; and
- (b) the expression “room” includes a hall, gallery or gymnasium.

### **Schools and rooms for Scottish parliamentary election meetings: candidates for return as regional members**

67.—(1) Subject to the provisions of this article—

- (a) an individual candidate for return as a regional member at a Scottish parliamentary election is entitled for the purpose of holding public meetings in furtherance of the candidate’s candidature; and
- (b) a registered party submitting a regional list is entitled for the purpose of holding public meetings for the purpose of promoting or procuring the giving of votes for that registered party,

to the use of the rooms described in paragraphs (2) and (3), free of charge, at reasonable times between the last day on which notice of the election may be published in accordance with the Scottish Parliamentary Election Rules and the day preceding the date of the poll.

(2) This article applies to a suitable room in any school of which the premises are situated in the region, not being an independent school within the meaning given in section 135 of the Education (Scotland) Act 1980.

(3) This article applies to any meeting room situated in the region, the expense of maintaining which is payable wholly or mainly out of public funds or by a body whose expenses are so payable.

(4) Where a room is used for a meeting in pursuance of the rights conferred by this article, the candidate or, as the case may be, registered party by whom or on whose behalf the meeting is convened—

- (a) shall defray any expenses incurred in preparing, warming, lighting and cleaning the room and providing attendance for the meeting and restoring the room to its usual condition after the meeting; and
- (b) shall defray any damage done to the room or to the premises in which it is situated, or to the furniture, fittings or apparatus in the room or premises.

(5) A person is not entitled to exercise the rights conferred by this article except on reasonable notice; and this article does not authorise any interference with the hours during which a room in school premises is used for educational purposes, or any interference with the use of a meeting room either for the purposes of the person maintaining it or under a prior agreement for its letting for any purpose.

(6) The provisions of Schedule 7 (use of school rooms and meeting rooms for election meetings) have effect with respect to the rights conferred by this article and article 66 and the arrangements to be made for their exercise.

(7) For the purposes of this article (except those of paragraph (4)(b)), the premises of a school shall not be taken to include any private dwellinghouse, and in this article—

- (a) the expression “meeting room” means any room which it is the practice to let for public meetings; and
- (b) the expression “room” includes a hall, gallery or gymnasium.

### **Disturbances at Scottish parliamentary election meetings**

**68.**—(1) A person who at a lawful public meeting to which this article applies acts, or incites others to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together shall be guilty of an illegal practice.

(2) This article applies to a political meeting held—

- (a) in relation to an election for return of a constituency member, in that constituency; and
- (b) in relation to an election for return of regional members, in that region,

during the period beginning with the last day on which notice of election may be published in accordance with the Scottish Parliamentary Election Rules and ending with the day of election.

(3) If a constable reasonably suspects any person (“P”) of committing an offence under paragraph (1), the constable may if requested so to do by the person chairing the meeting require that P immediately declares to the constable P’s name and address and, if P refuses or fails to do so, or gives a false name and address, P shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

### **Officials not to act for candidates**

**69.**—(1) This article applies to any person who is—

- (a) a CRO or RRO;
- (b) an officer, clerk or member of staff of a CRO or RRO appointed under the Scottish Parliamentary Election Rules; or
- (c) any partner or clerk of any such person,

unless that person is a candidate.

(2) Any person to whom this article applies who acts as an agent for a candidate or a registered party in the conduct or management of the election, shall be guilty of an offence.

(3) A person guilty of an offence under this article shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

### **Illegal canvassing by police officers**

**70.**—(1) No member of a police force shall, at a Scottish parliamentary election, by word, message, writing or in any other manner, endeavour to persuade any person to give, or dissuade any person from giving, that person’s vote, whether as an elector or as proxy, for the return of any constituency or regional member where the constituency or region falls wholly or partly within the police area for which that police force is maintained.

(2) A person acting in contravention of paragraph (1) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale; but nothing in that paragraph shall subject a member of a police force to any penalty for anything done in the discharge of that person’s duty as a member of the force.

### **False statements as to candidates**

**71.**—(1) A person who, or any director of any body or association corporate which—

- (a) before or during a Scottish parliamentary election;
- (b) for the purpose of affecting the candidate for whom, or registered party for which, a vote is given at the election,

makes or publishes any false statement of fact in relation to the personal character or conduct of any candidate (including any candidate included in a registered party's regional list) shall be guilty of an illegal practice, unless that person or director can show that that person or, as the case may be, director had reasonable grounds for believing, and did believe, the statement to be true.

(2) Except in a case to which paragraph (3) applies, a candidate shall not be liable, nor shall the candidate's election be avoided, for any illegal practice under paragraph (1) committed—

- (a) in the case of a candidate for return as a constituency member or an individual candidate for return as a regional member, by the candidate's agent other than the candidate's election agent;
- (b) in the case of a candidate included in a registered party's regional list, by the agent of that party other than its election agent.

(3) This paragraph applies where—

- (a) it can be shown that the candidate or the candidate's election agent or in the case of a candidate on a registered party's regional list, that registered party's election agent in relation to that list, has authorised or consented to the committing of the illegal practice by the other agent or has paid for the circulation of the false statement constituting the illegal practice; or
- (b) an election court find and report that the election of the candidate was procured or materially assisted in consequence of the making or publishing of such false statements.

(4) A person making or publishing any false statement of fact as mentioned above may be restrained by interdict or interim interdict of the Court of Session or the sheriff from any repetition of that false statement or of a false statement of a similar character in relation to the candidate.

(5) Any person who, before or during a Scottish parliamentary election, knowingly publishes a false statement of a withdrawal of candidature at the election for the purpose of promoting or procuring a particular result at that election shall be guilty of an illegal practice.

(6) A candidate shall not be liable, nor shall the candidate's election be avoided, for any illegal practice under paragraph (5) committed by the candidate's agent (or in the case of a candidate included in a party's regional list, the agent of that party) other than the election agent for that candidate, or as the case may be, party.

### **Corrupt withdrawal from candidature**

**72.** Any person who corruptly induces or procures any other person to withdraw from being a candidate at a Scottish parliamentary election, in consideration of any payment or promise of payment, and any person withdrawing in pursuance of the inducement or procurement, shall be guilty of an illegal payment.

### **Payments for exhibition of election notices**

**73.—(1)** No payment or contract for payment for the purpose of promoting or procuring a particular result at a Scottish parliamentary election shall be made to an elector or an elector's proxy on account of the exhibition of, or the use of any house, land, building or premises for the exhibition of, any address, bill or notice, unless—

- (a) it is the ordinary business of the elector or proxy as an advertising agent to exhibit for payment bills and advertisements; and
- (b) the payment or contract is made in the ordinary course of that business.

(2) If any payment or contract for payment is knowingly made in contravention of this article either before, during or after an election—

- (a) the person making the payment or contract; and
- (b) if the person knew it to be in contravention of this Order, any person receiving the payment or being a party to the contract,

shall be guilty of an illegal practice.

### **Details to appear on election publications**

**74.**—(1) This article applies to any material which can reasonably be regarded as intended to promote or procure the election of a candidate at an election (whether or not it can be so regarded as intended to achieve any other purpose as well) other than material to which section 143 of the 2000 Political Parties Act<sup>(49)</sup> (details to appear on election material) applies.

(2) No material to which this article applies shall be published unless—

- (a) in the case of material which is, or is contained in, such a document as is mentioned in paragraph (4), (5) or (6), the requirements of that paragraph are complied with; or
- (b) in the case of any other material, any requirements falling to be complied with in relation to the material by virtue of regulations under paragraph (7) are complied with.

(3) For the purposes of paragraphs (4) to (6), the following details are “the relevant details” in the case of any material falling within paragraph (2)(a), namely—

- (a) the name and address of the printer of the document;
- (b) the name and address of the promoter of the material; and
- (c) the name and address of any person on behalf of whom the material is being published (and who is not the promoter).

(4) Where the material is a document consisting (or consisting principally) of a single side of printed matter, the relevant details must appear on the face of the document.

(5) Where the material is a printed document other than one to which paragraph (4) applies, the relevant details must appear either on the first or the last page of the document.

(6) Where the material is an advertisement contained in a newspaper or periodical—

- (a) the name and address of the printer of the newspaper or periodical must appear either on its first or last page; and
- (b) the relevant details specified in paragraph (3)(b) and (c) must be included in the advertisement.

(7) The Secretary of State may, after consulting the Electoral Commission, by regulations made by statutory instrument make provision for and in connection with the imposition of requirements as to the inclusion in material falling within paragraph (2)(b) of the following details, namely—

- (a) the name and address of the promoter of the material; and
- (b) the name and address of any person on behalf of whom the material is being published (and who is not the promoter).

(8) Regulations under paragraph (7) may in particular specify—

- (a) the manner and form in which such details must be included in any such material for the purpose of complying with any such requirement;
- (b) circumstances in which—

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<sup>(49)</sup> Section 143 was amended by the 2000 Act, section 66(2).

- (i) any such requirement does not have to be complied with by a person of any description specified in the regulations, or
  - (ii) a breach of any such requirement by a person of any description so specified is not to result in the commission of an offence under this article by that person or by a person of any other such description;
  - (c) circumstances in which material is, or is not, to be taken for the purposes of the regulations to be published or (as the case may be) published by a person of any description so specified.
- (9) Where any material falling within paragraph (2)(a) is published in contravention of paragraph (2), then (subject to paragraphs (11) and (12))—
- (a) the promoter of the material,
  - (b) any other person by whom the material is so published, and
  - (c) the printer of the document,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

- (10) Where any material falling within paragraph (2)(b) is published in contravention of paragraph (2), then (subject to regulations made by virtue of paragraph (8)(b) and to paragraph (11) and (12))—
- (a) the promoter of the material, and
  - (b) any other person by whom the material is so published,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

- (11) It shall be a defence for a person charged with an offence under this article to prove—
- (a) that the contravention of paragraph (2) arose from circumstances beyond that person’s control; and
  - (b) that that person took all reasonable steps, and exercised all due diligence, to ensure that that contravention would not arise.

(12) Any candidate or election agent who would (apart from this paragraph) be guilty of an offence under paragraph (9) or (10), shall instead be guilty of an illegal practice.

(13) In this article—

- “print” means print by whatever means, and “printer” shall be construed accordingly;
- “the promoter”, in relation to any material to which this article applies, means the person causing the material to be published;
- “publish” means make available to the public at large, or any section of the public, in whatever form and by whatever means.

(14) For the purpose of determining whether any material is material such as is mentioned in paragraph (1), it is immaterial that it does not expressly mention the name of any candidate.

(15) A statutory instrument containing regulations under paragraph (7) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### **Prohibition of paid canvassers**

**75.** If a person (“P”) is, either before, during or after a Scottish parliamentary election, engaged or employed for payment or promise of payment as a canvasser for the purpose of promoting or



procuring a particular result at the election both P and the person so engaging or employing P shall be guilty of illegal employment.

### **Providing money for illegal purposes**

**76.** Where a person knowingly provides money—

- (a) for any payment which is contrary to the provisions of this Order;
- (b) for any expenses incurred in excess of the maximum amount allowed by this Order; or
- (c) for replacing any money expended in any such payment or expenses,

except where the payment or the incurring of the expenses may have been previously allowed in pursuance of section 167 of the 1983 Act (as applied by this Order)(**50**) (application for relief) to be an exception, that person shall be guilty of an illegal payment.

### **Bribery**

**77.**—(1) A person shall be guilty of a corrupt practice if that person is guilty of bribery.

(2) A person (“P”) shall be guilty of bribery if P, directly or indirectly—

- (a) gives any money or procures any office to or for any voter, or to or for any other person on behalf of any voter, or to or for any other person in order to induce any voter to vote or refrain from voting;
- (b) corruptly does any such act as mentioned above on account of any voter having voted or refrained from voting; or
- (c) makes any such gift or procurement as mentioned above to or for any person in order to induce that person to procure, or endeavour to procure, a particular result at a Scottish parliamentary election or the vote of any voter,

or if upon or in consequence of any such gift or procurement as mentioned above P procures or engages, promises or endeavours to procure a particular result at a Scottish parliamentary election or the vote of any voter.

(3) For the purposes of paragraph (2)—

- (a) references to giving money include references to giving, lending, agreeing to give or lend, offering, promising, or promising to procure or endeavour to procure, any money or valuable consideration; and
- (b) references to procuring any office include references to giving, procuring, agreeing to give or procure, offering, promising, or promising to procure or to endeavour to procure, any office, place or employment.

(4) A person shall be guilty of bribery if that person advances or pays or causes to be paid any money to or for the use of any other person with the intent that that money or any part of it shall be expended in bribery at a Scottish parliamentary election or knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any such election.

(5) The foregoing provisions of this article shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses incurred in good faith at or concerning a Scottish parliamentary election.

(6) A voter shall be guilty of bribery if before or during a Scottish parliamentary election the voter directly or indirectly receives, agrees, or contracts for any money, gift, loan or valuable consideration,

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(50) Section 167 is applied by article 84 of and Schedule 6 to this Order. Section 167(1A) was inserted by the Representation of the People Act 1985 (c.50), section 24 and amended by the 2000 Political Parties Act, Schedule 18, paragraph 18(5).

office, place or employment for that voter or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting.

(7) A person shall be guilty of bribery if after a Scottish parliamentary election that person directly or indirectly receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting.

(8) In paragraphs (2), (6) and (7) a reference to a thing being done by a person includes a reference to a thing being done on behalf of that person.

(9) In this article the expression “voter” includes any person who has or claims to have a right to vote.

### **Treating**

**78.**—(1) A person shall be guilty of a corrupt practice if that person is guilty of treating.

(2) A person shall be guilty of treating if that person corruptly either before, during or after a Scottish parliamentary election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing, any meat, drink, entertainment or provision to or for any person—

- (a) for the purpose of corruptly influencing that person or any other person to vote or refrain from voting; or
- (b) on account of that person or any other person having voted or refrained from voting, or being about to vote or refrain from voting.

(3) Every elector or proxy who corruptly accepts or takes any such meat, drink, entertainment or provision shall also be guilty of treating.

(4) In this article a reference to a thing being done by a person includes a reference to a thing being done on behalf of that person.

### **Undue influence**

**79.**—(1) A person shall be guilty of a corrupt practice if that person is guilty of undue influence.

(2) A person shall be guilty of undue influence—

- (a) if that person directly or indirectly makes use of or threatens to make use of any force, violence or restraint, or inflicts or threatens to inflict any physical or mental injury, damage, harm or loss upon or against any person in order to induce or compel that person to vote or refrain from voting, or on account of that person having voted or refrained from voting; or
- (b) if, by abduction, duress or any fraudulent device or contrivance, that person impedes or prevents, or intends to impede or prevent, the free exercise of the franchise of an elector or proxy for an elector, or so compels, induces or prevails upon, or intends so to compel, induce or prevail upon, an elector or proxy for an elector either to vote or to refrain from voting.

(3) In this article a reference to a thing being done by a person includes a reference to a thing being done on behalf of that person.

### **Rights of creditors**

**80.** The provisions of this Part prohibiting—

- (a) payments and contracts for payments;
- (b) the payment or incurring of election expenses in excess of the maximum amount allowed by this Order; or
- (c) the incurring of expenses not authorised by an election agent,

do not affect the right of any creditor, who, when the contract was made or the expense was incurred, was ignorant of that contract or expense being in contravention of this Order.

### **Savings as to Scottish parliamentary elections**

**81.**—(1) Where a person has been declared by others to be a candidate at a Scottish parliamentary election without that person’s consent, nothing in this Part shall be construed to impose any liability on that person, unless that person has afterwards given assent to the declaration or has been nominated.

(2) Nothing in this Part makes it illegal for an employer to permit any elector or proxy to take a leave of absence from employment for a reasonable time for the purpose of voting at the poll at a Scottish parliamentary election without having any deduction from their salaries or wage on account of their absence, if the permission—

- (a) is (so far as practicable without injury to the employer’s business) given equally to all persons alike who are at the time in the employer’s employment;
- (b) is not given with a view to inducing any person to record that person’s vote for any particular candidate or, as the case may be, registered party at the election; and
- (c) is not refused to any person for the purpose of preventing that person from recording that person’s vote for any particular candidate or, as the case may be, registered party,

but this paragraph shall not be construed as making illegal any act which would not be illegal apart from this paragraph.

### **Interpretation of Part 3**

**82.** In this Part, unless the context otherwise requires—

a person becomes a “candidate” in relation to a Scottish parliamentary election—

- (a) on the date of—
  - (i) the dissolution of the Scottish Parliament; or
  - (ii) in the case of an election under section 9 of the 1998 Act (constituency vacancies), the occurrence of the vacancy,  
in consequence of which the notice of election is issued if on or before that date the person has been declared to be a candidate at the election; and
- (b) otherwise, on the day on which the person is so declared or on which the person is nominated as a candidate at the election (whichever is the earlier);

“date of allowance of an authorised excuse” has the meaning given by article 53(9);

“declaration as to election expenses” means a declaration made under article 48 or 49;

“disputed claim” has the meaning given by article 45(1) as extended by article 46;

“money” and “pecuniary reward” shall (except in article 77) be deemed to include—

- (a) any office, place or employment;
- (b) any valuable security or other equivalent of money; and
- (c) any valuable consideration,

and expressions referring to money shall be construed accordingly;

“payment” includes any pecuniary or other reward;

“personal expenses” as used with respect to the expenditure of any candidate in relation to any Scottish parliamentary election includes the reasonable travelling expenses of the candidate,

and the reasonable expenses of the candidate's living at hotels or elsewhere for the purposes of and in relation to the election; and

“return as to election expenses” means a return (including the bills and receipts to be delivered with it) to be made under article 47.

### **Computation of time for purposes of Part 3**

**83.**—(1) Where the day or last day on which anything is required or permitted to be done by or in pursuance of this Part is any of the days mentioned in paragraph (2)—

- (a) the requirement or permission shall be deemed to relate to the first day thereafter which is not one of those days; and
- (b) in computing any period of not more than seven days for the purposes of this Part any of the days so mentioned shall be disregarded.

(2) The days referred to in paragraph (1) are a Saturday, Sunday, Christmas Eve, Christmas Day, Good Friday, Easter Monday, a day which is a bank holiday in Scotland under section 1 of the Banking and Financial Dealings Act 1971(51), or a day appointed for public thanksgiving or mourning.

## **PART 4**

### **LEGAL PROCEEDINGS**

#### **Application of certain provisions for Scottish parliamentary elections**

**84.**—(1) The provisions of the 1983 Act which are specified in the left hand column of Part 1 of Schedule 6 shall apply—

- (a) as if amended in accordance with the modifications and exceptions specified in relation to those provisions in the right hand column of that Schedule;
- (b) subject to paragraph (3); and
- (c) as if amended in accordance with such modifications as are necessary in consequence of those provisions,

for the purposes of a Scottish parliamentary election but only in relation to the election or return of a constituency member of the Scottish Parliament.

(2) The provisions of the 1983 Act which are specified in the left hand column of Part 2 of Schedule 6 shall apply—

- (a) as if amended in accordance with the modifications and exceptions specified in relation to those provisions in the right hand column of that Schedule;
- (b) subject to paragraph (3); and
- (c) as if amended in accordance with such modifications as are necessary in consequence of those provisions,

for the purposes of a Scottish parliamentary election but only in relation to the election or return of a regional member of the Scottish Parliament.

- (3) Unless the context otherwise requires, in the provisions applied by Schedule 6—

- (a) any provision relating to a local government election or local government electors and associated references (including a reference to a petition questioning an election under the Local Governance (Scotland) Act 2004<sup>(52)</sup>) shall be disregarded;
- (b) any reference to a parliamentary election shall be construed as a reference to a Scottish parliamentary election (except the reference in section 160(4) of the 1983 Act<sup>(53)</sup>) and any reference to a general election shall accordingly be construed as a reference to a Scottish parliamentary general election;
- (c) any reference to a constituency (or parliamentary constituency) shall be construed—
  - (i) in relation to any election or return of a constituency member, as a reference to a Scottish parliamentary constituency;
  - (ii) in relation to any election or return of a regional member, as a reference to a region;
- (d) any reference to promoting or procuring the election of a candidate shall be construed as a reference to promoting or procuring the giving of a vote for a particular candidate or registered party at the election;
- (e) any reference to a candidate, other than the one referred to in sub-paragraph (d), shall be construed as a reference to either—
  - (i) a candidate on a registered party's regional list; or
  - (ii) an individual candidate,as the case may be;
- (f) any reference to a parliamentary elector shall be construed as a reference to an elector at a Scottish parliamentary election;
- (g) any reference to a member in the context of a Member of Parliament shall be construed as a reference to a member of the Scottish Parliament;
- (h) any reference to a parliamentary election petition (except in the context of the rota for the trial of parliamentary election petitions) shall be construed as a reference to a Scottish parliamentary election petition;
- (i) any reference to the High Court shall be construed as a reference to the Court of Session and any reference to the County Court or a judge of that Court shall be construed as a reference to the sheriff;
- (j) any reference to the Director of Public Prosecutions or the Attorney General shall be construed as a reference to the Lord Advocate;
- (k) any reference to a return in the context of a return to the writ of election (and the return to Parliament) shall be construed as a reference to the declaration of the result by the returning officer under rule 62 or, as the case may be, rule 66 of the Scottish Parliamentary Election Rules;
- (l) any reference to an enactment or instrument made under an enactment shall be construed as a reference to that enactment or instrument as applied by this Part of this Order; and
- (m) any reference to an offence under the 1983 Act or to a practice, payment, employment or hiring made corrupt or illegal by any provision of that Act shall be construed, subject to any necessary modifications, as a reference to the offence under, or practice, payment, employment or hiring made illegal by, the corresponding provision of this Order.

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<sup>(52)</sup> 2004 asp 9.

<sup>(53)</sup> Section 160(4) was substituted by the 2000 Political Parties Act, Schedule 17, paragraph 8.

## PART 5

### MISCELLANEOUS AND SUPPLEMENTAL

#### **Vacancies: constituency seats**

**85.** Where the seat of a constituency member is vacant and the date of the poll at an election to fill that vacancy is fixed by the Presiding Officer of the Scottish Parliament under section 9 of the 1998 Act (constituency vacancies), the Presiding Officer shall forthwith send a notice to the CRO for that constituency stating—

- (a) that the vacancy exists; and
- (b) the date fixed for the poll at the election to fill that vacancy.

#### **Vacancies: regional member seats**

**86.—**(1) Where it comes to the notice of the Presiding Officer of the Scottish Parliament that the seat of a regional member who was returned from a registered party’s regional list is vacant, the Presiding Officer shall forthwith send a notice in accordance with paragraph (2) to the RRO for that region.

(2) A notice under paragraph (1) shall—

- (a) state that a vacancy exists; and
- (b) set out the name of the person who had been returned in the seat which is vacant, together with the name of the registered party on whose regional list that person’s name is included.

(3) On receipt of a notice under paragraph (1), the RRO shall ascertain the name of the person, if any, who is to fill the vacancy in accordance with section 10 of the 1998 Act (regional vacancies) as modified by article 87.

#### **Modification of section 10 of the 1998 Act**

**87.** Section 10 of the 1998 Act(54) is modified by substituting, for subsections (4) and (5), the following:—

“(4) The regional returning officer shall ascertain from that party’s regional list the name and address of the person whose name appears highest on that list (“the first choice”) and shall take such steps as appear to him to be reasonable to contact the first choice to ask whether he will—

- (a) state in writing that he is willing and able to serve as a regional member for that region; and
- (b) deliver a certificate signed by or on behalf of the nominating officer of the registered party which submitted that regional list stating that the first choice may be returned as a regional member from that list.

(4A) Where—

- (a) within such period as the regional returning officer considers reasonable—
  - (i) he decides that the steps he has taken to contact the first choice have been unsuccessful; or
  - (ii) he has not received from that person the statement and certificate referred to in subsection (4); or
- (b) the first choice has—

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(54) Section 10 was previously modified by S.I. 2007/937, but that instrument is revoked by this Order.

- (i) stated in writing that he is not willing to serve as a regional member for that region; or
- (ii) failed to deliver the certificate referred to in subsection (4)(b),

the regional returning officer shall repeat the procedure required by subsection (4) in respect of the person (if any) whose name appears next in that list (“the second choice”) or, where paragraph (a) or (b) of this subsection applies in respect of that person, in respect of the person (if any) whose name appears next highest after the second choice in that list; and the regional returning officer shall continue to repeat the procedure until the regional returning officer has notified the Presiding Officer of the name of the person who is to fill the vacancy or the names in the list are exhausted.

(5) Where a person whose name appears on that list provides the statement and certificate referred to in subsection (4), the regional returning officer shall notify to the Presiding Officer the name of that person.

(5A) Where—

- (a) under subsection (4A), the regional returning officer has asked the second choice or a subsequent choice the questions referred to in subsection (4); and
- (b) the person who was asked those questions on an earlier occasion then provides the statement and certificate referred to in that subsection,

that statement and certificate shall have no effect unless and until the circumstances described in paragraph (a) or (b) of subsection (4A) apply in respect of the second choice or, as the case may be, of the subsequent choice.”.

### **Dissolution of Parliament: minimum period**

**88.** The “minimum period” for the purpose of section 2(3) of the 1998 Act (ordinary general elections) is a period of 28 days, computed in accordance with rule 2 of the Scottish Parliamentary Election Rules (computation of time).

### **Advertisements**

**89.** The Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984(55) shall have effect in relation to the display on any site in Scotland of an advertisement relating specifically to a Scottish parliamentary election as they have effect in relation to the display of an advertisement relating specifically to a parliamentary election.

### **Forms and documents: variations and translations**

**90.**—(1) The forms set out in the Appendix may be used with such variations as the circumstances may require.

(2) Paragraphs (3) and (4) apply to any document which under or by virtue of this Order is required or authorised to be given to voters or displayed in any place.

(3) The person who is required or authorised to give or display the document must, as that person thinks appropriate, give or display or otherwise make available in such form as that person thinks appropriate—

- (a) the document in Braille;
- (b) the document in languages other than English;
- (c) graphical representations of the information contained in the document;

- (d) other means of making the information contained in the document accessible to persons who might not otherwise have reasonable access to the information.
- (4) The person required or authorised to give or display the document must also, as that person thinks appropriate, make available the information contained in the document in such audible form as that person thinks appropriate.
- (5) Paragraphs (3) and (4) do not apply to—
  - (a) the nomination paper;
  - (b) a ballot paper.
- (6) The CRO must cause to be displayed at every polling station an enlarged sample copy of a ballot paper.
- (7) The sample copy mentioned in paragraph (6) may include a translation of any instructions to voters into such other languages as the CRO thinks appropriate.
- (8) The CRO must provide at every polling station an enlarged hand held sample copy of a ballot paper for the assistance of voters who are partially sighted, which must be clearly marked as a specimen provided only for the guidance of voters.

#### **Sending of applications, notices etc.**

- 91.**—(1) Any application, notice, claim or objection which is required by this Order to be made to an ERO, CRO or RRO shall be made in writing and sent by post or delivered to that officer's office or to the address specified by that officer for the purpose.
- (2) Where an ERO, CRO or RRO is required by this Order to notify any person, such notification shall be in writing and may be sent by post—
- (a) in the case of a person other than a service voter, to the address provided by that person for the purpose of such notification or of any record or, if there is no such address, to the last known place of abode of that person;
  - (b) in the case of a service voter, to any address provided by that service voter for the purpose of such notification or of any record or to the address provided for the purpose by the appropriate government department (as defined by section 59(3B) of the 1983 Act<sup>(56)</sup> (meaning of “the appropriate government department”) or, as the case may be, the British Council.

#### **Interference with notices etc.**

**92.** If any person without lawful authority destroys, mutilates, defaces or removes any notice published by an ERO, CRO or RRO in connection with that officer's duties or any copies of a document which have been made available for inspection in pursuance of those duties, that person shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### **Premises used for election purposes**

**93.** Section 98 of the 1983 Act<sup>(57)</sup> (premises not affected for rates) shall have effect as if the reference to public meetings in furtherance of a person's candidature at an election included a reference to public meetings promoting a particular result at a Scottish parliamentary election.

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<sup>(56)</sup> Section 59(3B) was inserted by the 2006 Act, section 13.

<sup>(57)</sup> Section 98 was repealed for England and Wales by the Local Government Finance Act 1988 (c.41), section 149 and Schedule 13, Part 1, but that repeal does not extend to Scotland.



### Correction of procedural errors

**94.**—(1) A CRO or RRO may take such steps as that officer thinks appropriate to remedy any act or omission on that officer’s part, or on the part of a relevant person, which—

- (a) arises in connection with any function that officer or relevant person has in relation to the Scottish parliamentary election, and
- (b) is not in accordance with the rules or any other requirements applicable to the election.

(2) But a CRO or RRO may not under paragraph (1) re-count the votes given at a Scottish parliamentary election—

- (a) for return of a constituency member after the result of the poll for the return of a constituency member has been declared, or
- (b) for the return of regional members, after the publication of the statement required by rule 61 of the Scottish Parliamentary Election Rules.

(3) These are the relevant persons—

- (a) an ERO;
- (b) a presiding officer;
- (c) a person providing goods or services to a CRO or RRO;
- (d) a depute of any person mentioned in sub-paragraphs (a) to (c) or a person appointed to assist, or in the course of that person’s employment assisting, such a person in connection with any function that person has in relation to the Scottish parliamentary election.

(4) Where a CRO or RRO is guilty of an act or omission in breach of that officer’s official duty, but remedies that act or omission in full by taking steps under paragraph (1), that officer shall not be guilty of any offence under article 28(1), but this paragraph shall not affect any conviction which takes place, or any penalty which is imposed, before the date on which the act or omission is remedied in full.

### Effect of demise of the Crown

**95.** A proclamation dissolving the Parliament as mentioned in section 2(5) of the 1998 Act shall not be affected by the demise of the Crown.

### Consequential amendment

**96.** In the definition of “election petition” in rule 69.1 of the Rules of the Court of Session 1994<sup>(58)</sup> (interpretation of Chapter 69: election petitions), for “article 83 of and Schedule 6 to the Scottish Parliament (Elections etc.) Order 2007” substitute “article 84 of and Schedule 6 to the Scottish Parliament (Elections etc.) Order 2010”.

### Revocations

**97.** The Orders specified in Schedule 9 (revocations) are revoked.

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<sup>(58)</sup> The Rules of the Court of Session 1994 are set out in Schedule 2 to [S.I. 1994/1443](#). The definition of “election petition” was amended by [S.I. 1999/787](#), [2002/2779](#) and [2007/937](#). The definition of “Scottish parliamentary election” was added by [S.I. 1999/787](#).

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Dover House, London  
16th December 2010

*David Mundell*  
Parliamentary Under Secretary of State for  
Scotland  
Scotland Office

## SCHEDULE 1

Article (2)

### ELECTORS REGISTERS: MISCELLANEOUS AND RELATED PROVISIONS

#### Supply of free copy of full register for electoral purposes

1.—(1) As soon as practicable after the relevant date, an ERO shall supply free of charge to the returning officer for the local authority or, as the case may be, each local authority for the ERO's registration area as many printed copies of—

- (a) the latest revised version of the register of electors published under section 13(1) or (3) of the 1983 Act<sup>(59)</sup>, as the case may be;
- (b) any notice setting out an alteration to the version of the register of electors published under section 13A(2), 13B(3), (3B) or (3D) or 13BB(4) or (5) of that Act<sup>(60)</sup>; and
- (c) any record of anonymous entries,

as the returning officer may reasonably require for the purposes of a Scottish Parliamentary election.

(2) In sub-paragraph (1)—

- (a) “relevant date” means—
  - (i) in the case of a general election of members of the Scottish Parliament, the date of the dissolution of the Scottish Parliament as provided for at section 2(3)(a) of the 1998 Act;
  - (ii) where the Presiding Officer has proposed a day for the holding of the poll under section 2(5) or 3(2) of the 1998 Act, the announcement of Her Majesty's intention to dissolve the Parliament; or
  - (iii) the occurrence of a vacancy of a constituency seat in the relevant constituency;
- (b) the duty to supply as many printed copies of the register and notices as the returning officer may reasonably require includes a duty to supply one copy of each in data form.

(3) The duty under sub-paragraph (1) may be discharged by supplying copies of a consolidated document showing the entries in the version of the register referred to in sub-paragraph (1)(a) as altered by any notice referred to in sub-paragraph (1)(b) and the entries in the record referred to in sub-paragraph (1)(c) together with a copy of that document in data form.

(4) No person to whom a copy of the register of electors, notices or records has been supplied under this paragraph may—

- (a) supply a copy of that register, those notices or records to any person;
- (b) disclose any information contained in them (that is not contained in the edited register); or
- (c) make use of any such information,

except for the purposes of an election<sup>(61)</sup>.

#### Supply of full register etc under paragraphs 3 and 4: general provisions

2.—(1) The persons or organisations falling within paragraph 3 or 4 may request the ERO to supply free of charge the relevant part (within the meaning of those paragraphs) of any of the following—

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<sup>(59)</sup> Section 13 was substituted by the 2000 Act, Schedule 1, paragraph 6.

<sup>(60)</sup> Sections 13A and 13B were substituted by the 2000 Act, Schedule 1, paragraph 6. Section 13B was amended by the 2006 Act, section 11(2) to (4). Section 13BB was inserted by the Political Parties and Elections Act 2009 (c.12), section 23(1).

<sup>(61)</sup> This is the “permitted purpose” for the purposes of regulation 95(2) of the Representation of the People (Scotland) Regulations 2001 (“the 2001 Regulations”). Regulation 115 of the 2001 Regulations makes provision for offences in respect of contraventions of provisions including regulation 95(2).

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- (a) a revised version of the register of electors published under section 13(1) or (3) of the 1983 Act;
  - (b) any notice setting out an alteration to the register of electors published under section 13A(2), 13B(3), (3B) or (3D) or 13BB(4) or (5) of that Act.
- (2) Such a request shall be made in writing and shall—
- (a) specify the documents requested;
  - (b) subject to sub-paragraph (6), state whether the request is made only in respect of the current documents or whether it includes a request for the supply of any subsequent document on publication for as long as the person making the request falls within the category of person entitled to receive such copies; and
  - (c) state whether a printed copy of any of the documents is requested instead of the version in data form.
- (3) Unless a request has been made in advance of supply under sub-paragraph (2)(c), the copy of a document supplied under this paragraph shall be in data form.
- (4) The ERO shall supply the relevant part of the documents referred to in sub-paragraph (1) in accordance with a request that has been duly made.
- (5) The duty under sub-paragraph (4) may be discharged by supplying a copy (or a copy in data form as appropriate) of a consolidated document showing the entries in the relevant part of the version of the register referred to in sub-paragraph (1)(a) as altered by any notice referred to in sub-paragraph (1)(b).
- (6) A person falling within paragraph 4 may not make the request set out in sub-paragraph (2)(b).
- (7) A person who obtains a copy of any document under sub-paragraph (4) may use it for any purpose for which that person would be entitled to obtain that document under this Schedule and any restrictions which apply under whichever of paragraph 3 or 4 entitles that person to obtain that document for that purpose shall apply to such use.

### **Supply of full register etc to elected representatives for electoral purposes and restrictions on use**

- 3.—(1) This paragraph applies to—
- (a) a constituency member of the Scottish Parliament for a constituency which is situated wholly or partly within the registration area;
  - (b) each regional member of the Scottish Parliament for an electoral region in which the registration area is situated.
- (2) For the purposes of paragraph 2(1), the relevant part of the documents listed in that provision—
- (a) in the case of a constituency member of the Scottish Parliament, is so much of them as relates to the whole or any part of the constituency which the member represents as falls within the registration area;
  - (b) in the case of a regional member of the Scottish Parliament, is so much of them as relates to the whole or any part of the region which the member represents as falls within the registration area.
- (3) No person to whom this paragraph applies and who has been supplied with a copy of the register of electors or notices under paragraph 2 may—
- (a) supply a copy of that register or those notices to any person;
  - (b) disclose any information contained in them (that is not contained in the edited register); or
  - (c) make use of any such information,

except for purposes in connection with the office by virtue of which the person is entitled to the register of electors or for electoral purposes<sup>(62)</sup>.

#### **Supply of full register etc to certain candidates and restrictions on use**

4.—(1) This paragraph applies to a candidate at a Scottish parliamentary election where any part of the area in respect of which the candidate stands for election includes the whole or part of the registration area.

(2) In this paragraph “candidate” includes an individual regional candidate at a Scottish parliamentary election.

(3) In the case of a registered party which submits a list of candidates as regional members at a Scottish Parliamentary election, the entitlement otherwise conferred by this paragraph on a candidate is conferred on the election agent of that party.

(4) For the purposes of paragraph 2(1), the relevant part of the documents listed in that provision is so much of them as relates to the area for which the candidate is standing.

(5) No candidate or election agent to whom a copy of the register of electors or notices has been supplied under paragraph 2 by virtue of this paragraph may—

- (a) supply a copy of that register or those notices to any person;
- (b) disclose any information contained in them (that is not contained in the edited register); or
- (c) make use of any such information,

except for electoral purposes<sup>(63)</sup>.

#### **Meaning of “edited register”**

5. In this Schedule a reference to the edited register is a reference to the version of the register of electors published under regulation 93 of the 2001 Regulations<sup>(64)</sup>.

## SCHEDULE 2

Article (4)

### SCOTTISH PARLIAMENTARY ELECTION RULES

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<sup>(62)</sup> This is the “permitted purpose” for the purposes of regulation 95(2) of the 2001 Regulations. Regulation 115 of the 2001 Regulations makes provision for offences in respect of contraventions of provisions including regulation 95(2).

<sup>(63)</sup> This is the “permitted purpose” for the purposes of regulation 95(2) of the 2001 Regulations. Regulation 115 of the 2001 Regulations makes provision for offences in respect of contraventions of provisions including regulation 95(2).

<sup>(64)</sup> Regulation 93 was inserted by [S.I. 2002/1872](#), regulation 14.

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PART 1

PROVISIONS AS TO TIME

**Timetable**

1.—(1) The proceedings at a Scottish parliamentary election shall be conducted in accordance with the following Table—

<i>Proceeding</i>	<i>Time</i>
Publication of notice of election.	Not earlier than the thirty-fifth day before the date of the poll and not later than the twenty-eighth day before the date of the poll.
Delivery of nomination papers.	Not later than 4 pm on any day after the date of the publication of the notice of election but not later than the twenty-third day before the date of the poll.
The making of objections to nomination papers.	During the hours allowed for delivery of nomination papers on the last day for their delivery and the hour following, but—



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	(a) no objection may be made in the afternoon of that last day except to a nomination paper delivered within 24 hours of the last time for its delivery, and in the case of a nomination paper so delivered no objection may be so made to the sufficiency or nature of the particulars of a candidate unless made at or immediately after the time of the delivery of the nomination paper; and
	(b) the foregoing provisions do not apply to objections made in pursuance of rule 22 or 23.
Delivery of notice of withdrawal of candidature.	Within the time for the delivery of nomination papers at the election.
Publication of statement of persons nominated.	(a) If no objections to nomination papers are made, at the close of the time for doing so, or
	(b) if any such objections are made, not before they are disposed of but not later than 24 hours after the last time for delivery of nomination papers.
Polling	Between the hours of 7 am and 10 pm on the date of the poll.

(2) In the Table in paragraph (1) the reference to “nomination papers” includes constituency nomination papers, individual nomination papers and regional lists.

### Computation of time

2. In computing any period of time for the purposes of the Table in rule 1(1)—

- (a) a Saturday or Sunday;
- (b) Christmas Eve, Christmas Day, Good Friday or Easter Monday;
- (c) a day which is a bank holiday in Scotland under section 1 of the Banking and Financial Dealings Act 1971<sup>(65)</sup>; or
- (d) a day appointed for public thanksgiving or mourning,

shall be disregarded, and any such day shall not be treated as a day for the purpose of any proceedings up to the completion of the poll nor shall a CRO be obliged to proceed with the counting of votes on such a day.

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<sup>(65)</sup> 1971 c.80.

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## PART 2

### STAGES COMMON TO CONTESTED AND UNCONTESTED ELECTIONS

#### Notice of election

##### **Notice of election**

- 3.—(1) The CRO shall publish notice of the election stating—
- (a) the place and times at which constituency nomination papers are to be delivered;
  - (b) that forms of such nomination papers may be obtained at that place and at those times; and
  - (c) the date of the poll in the event of a contest.
- (2) The RRO shall publish a notice of election stating—
- (a) the place or places and times at which individual nomination papers and regional lists are to be delivered;
  - (b) that forms of such papers and lists may be obtained at that place or those places and at those times; and
  - (c) the date of the poll in the event of a contest.
- (3) A notice of election under paragraph (1) or (2) shall state the dates by which—
- (a) applications to vote by post or by proxy; and
  - (b) other applications and notices about postal or proxy voting,

must reach the ERO in order that they may be effective for the election.

(4) A notice of election under paragraph (1) or (2) must also state the arrangements which apply for the payment of the deposit required by rule 10 to be made by means of the electronic transfer of funds.

#### Nomination

##### **Nomination of candidate for return as a constituency member**

4.—(1) Each candidate for return as a constituency member shall be nominated by a separate nomination paper (referred to in these Rules as a “constituency nomination paper”), in the form F set out in the Appendix, delivered to the CRO at the place fixed under rule 11 for this purpose.

(2) The constituency nomination paper shall be signed by the candidate and by a witness to the candidate’s signature.

- (3) The constituency nomination paper shall state the candidate’s—
- (a) name in full;
  - (b) home address in full; and
  - (c) if desired, description,

and the surname shall be placed first in the list of the candidate’s names.

- (4) If a candidate commonly uses—
- (a) a surname which is different from any other surname the candidate has, or
  - (b) a forename which is different from any other forename the candidate has,

the nomination paper may state the commonly used surname or forename in addition to the other name.

- (5) The description, if any, must consist of—

- (a) the name of one registered party;
- (b) the names of two registered parties; or
- (c) the word “Independent”.

(6) In paragraph (5) “name” means, subject to paragraph (7), the name as it has been registered under section 28 of the 2000 Political Parties Act<sup>(66)</sup> (registration of parties).

(7) Where the word “Scottish” is not used in a name so registered, the name given on the nomination paper may be preceded by that word (disregarding for this purpose the word “the” where it is the first word of the registered name).

(8) A description falling within paragraph (5)(b) may, in addition to the names of the parties, contain the word “and” between the names of the parties.

(9) If any constituency nomination paper includes the name of a registered party that has been preceded by the word “Scottish” by virtue of paragraph (7), then these Rules shall apply as if the name of the registered party of the relevant candidate included that word.

(10) The constituency nomination paper shall also state the name and address of the witness to the candidate’s signature.

#### **Nomination of individual candidate for return as a regional member**

**5.—**(1) Each individual candidate for return as a regional member shall be nominated by a separate nomination paper (referred to in these Rules as an “individual nomination paper”), in the form G set out in the Appendix, delivered to the RRO at the place or a place fixed under rule 12 for this purpose.

(2) The individual nomination paper shall be signed by the candidate and by a witness to the candidate’s signature.

(3) The individual nomination paper shall state the candidate’s—

- (a) name in full;
- (b) home address in full; and
- (c) if desired, description, consisting of the word “Independent”,

and the surname shall be placed first in the list of the candidate’s names.

(4) If a candidate commonly uses—

- (a) a surname which is different from any other surname the candidate has; or
- (b) a forename which is different from any other forename the candidate has,

the nomination paper may state the commonly used surname or forename in addition to the other name.

(5) The individual nomination paper shall also state the name and address of the witness to the candidate’s signature.

#### **Nomination of candidates on a regional list**

**6.—**(1) A registered party’s regional list of candidates to be regional members for a particular region shall be in the form H set out in the Appendix and that party shall be nominated by the submission of that list by the party’s nominating officer or a person authorised in writing by that officer to the RRO at the place or a place fixed under rule 12 for this purpose.

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<sup>(66)</sup> Section 28 was amended by the 2006 Act, section 48 and [S.I. 2004/366](#), Schedule 1, paragraph 4.

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(2) Each regional list shall include the name of the registered party, and, if desired, a description of that party which has been registered under section 28A of the 2000 Political Parties Act<sup>(67)</sup>, and the use of that name and, where applicable, description shall be authorised by a certificate issued by or on behalf of the registered nominating officer of the party in the form I1 set out in the Appendix.

(3) The name of the registered party authorised by the nominating officer in accordance with paragraph (2) may be preceded (disregarding, for this purpose, the word “the” where it is the first word of the name) by the word “Scottish” if that word is not used in the name of the party registered under section 28 of the 2000 Political Parties Act.

(4) If the name of any registered party authorised by the nominating officer has been preceded by the word “Scottish” in accordance with paragraph (3), then these Rules shall apply as if the name of the registered party included that word.

(5) Each regional list shall set out the names and home addresses, in full, of each candidate included in that list and shall be accompanied by a statement of the names by which each such candidate is to be known for the purposes of the election, which may include a different forename or surname if the candidate commonly uses that name.

(6) Each regional list shall include a statement that it is issued by the nominating officer of the registered party in question or by a person authorised in writing by that officer.

(7) Each regional list may be accompanied by a request made by or on behalf of the nominating officer of the party in question that the regional ballot paper shall contain against the party’s name the party’s registered emblem (or, as the case may be, one of the party’s registered emblems).

(8) In the application of this rule and rule 7, in relation to an election—

- (a) “registered party” means a party which was registered under Part 2 of the 2000 Political Parties Act on the day (“the relevant day”) which is two days before the last day for the delivery of nomination papers at the election; and
- (b) a registered party is a qualifying party in relation to a constituency if the constituency is in Scotland and the party was, on the relevant day, registered in respect of Scotland in the Great Britain register maintained under that Part of that Act.

(9) For the purposes of paragraph (8)(a), any day falling within rule 2 shall be disregarded.

### **Constituency nomination papers: name of registered party**

7.—(1) A constituency nomination paper may not include a description of a candidate which is likely to lead electors to associate the candidate with a registered party or parties unless the party (or each party) is a qualifying party in relation to the constituency and the description is authorised by a certificate in the form I2 set out in the Appendix—

- (a) issued by or on behalf of the nominating officer of that party (or each party); and
- (b) received by the CRO at some time during the period for the delivery of nomination papers set out in the Table in rule 1(1).

(2) A person shall be guilty of a corrupt practice if the person fraudulently purports to be authorised to issue a certificate under paragraph (1) on behalf of a registered party’s nominating officer.

### **Nomination papers and regional lists: miscellaneous**

8.—(1) The CRO—

- (a) shall supply any person with a form of constituency nomination paper at the place or a place, and during the time, for delivery of nomination papers; and

<sup>(67)</sup> Section 28A was inserted by the 2006 Act, section 49.

(b) shall at any person's request prepare such a nomination paper for signature, but it is not necessary for a nomination to be on a form supplied by the CRO.

(2) The RRO—

(a) shall supply any person with a form of individual nomination paper at the place and during the time for delivery of nomination papers; and

(b) shall at any person's request, prepare such a nomination paper for signature, but it is not necessary for a nomination to be on a form supplied by the RRO.

(3) The RRO shall, on request, supply any person with a form of regional list; but it is not necessary for a regional list to be submitted in the form supplied by the RRO.

### **Consent to nomination**

9.—(1) Subject to paragraph (3) a person shall not be validly nominated as a candidate for return as a constituency member unless that person's consent to nomination—

(a) is given and dated in writing on, or within one month before, the day fixed as the last day for the delivery of constituency nomination papers;

(b) is attested by one witness; and

(c) is delivered at the place, and within the time, for the delivery of constituency nomination papers.

(2) Subject to paragraph (3), a person shall not be validly nominated as an individual candidate for return as a regional member or as a candidate on a registered party's regional list unless that person's consent to nomination—

(a) is given and dated in writing on, or within one month before, the day fixed as the last day for the delivery of individual nomination papers and regional lists;

(b) is attested by one witness; and

(c) is delivered at the place or a place, and within the time, for the delivery of individual nomination papers and regional lists.

(3) If the appropriate returning officer is satisfied that, owing to the absence of a person ("P") from the United Kingdom it has not been reasonably practicable for P's consent in writing to be given as mentioned above, a facsimile communication (or any similar means of communication) consenting to P's nomination and purporting to have been sent by P shall be deemed for the purposes of this rule to be consent in writing given by P on the day on which it purports to have been sent, and attestation of P's consent shall not be required.

(4) The consent of a candidate ("Q") given under this rule—

(a) shall state the day, month and year of Q's birth; and

(b) shall state—

(i) that Q is aware of the provisions of sections 15 to 18 of the 1998 Act<sup>(68)</sup> and of any Order in Council made under section 15 of that Act;

(ii) that to the best of Q's knowledge and belief Q is not disqualified from being a member of the Scottish Parliament;

(iii) in the case of a candidate for return as a constituency member, that Q is aware of the provisions of sections 5(2) and 9(6) of the 1998 Act and that, to the best of

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<sup>(68)</sup> Section 15 was amended by the Constitutional Reform Act 2005 (c.4), Schedule 18, Part 5. Section 16 was amended by the House of Commons (Removal of Clergy Disqualification) Act 2001 (c.13), Schedule 1, paragraph 4 and by the 2006 Act, Schedule 1, paragraph 45.

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Q's knowledge and belief, Q may stand as a candidate to be a member for that constituency;

- (iv) in the case of a candidate on a registered party's regional list, that Q is aware of the provisions of section 5(7) of the 1998 Act and that, to the best of Q's knowledge and belief, Q may be included in that list;
- (v) in the case of an individual candidate for return as a regional member, that Q is aware of the terms of section 5(8) of the 1998 Act and, to the best of Q's knowledge and belief, Q may stand as an individual candidate to be a regional member for that region.

### **Deposit**

**10.—(1)** A person shall not be validly nominated as a candidate for return as a constituency member unless the sum of £500 is deposited by, or on behalf of, that person with the CRO at the place and during the time for delivery of nomination papers.

(2) An individual candidate for return as a regional member shall not be validly nominated unless the sum of £500 is deposited by, or on behalf of, that candidate with the RRO at the place or a place, and during the time, for delivery of individual nomination papers.

(3) A registered party shall not be validly nominated in relation to a regional list of that party for a particular region unless the sum of £500 is deposited by or on behalf of the party's nominating officer with the RRO at the place or a place, and during the time, for delivery of regional lists.

(4) The deposit may be made—

- (a) by the deposit of any legal tender; or
- (b) by means of a banker's draft; or
- (c) with the appropriate returning officer's consent, in any other manner (including by means of a debit or credit card or the electronic transfer of funds),

but the appropriate returning officer may refuse to accept a deposit sought to be made by means of a banker's draft if that officer does not know that the drawer carries on business as a banker in the United Kingdom.

(5) Where the deposit is made on behalf of a candidate for return as a constituency member or an individual candidate for return as a regional member, the person making the deposit shall at the time of making it give that person's name and address to the appropriate returning officer unless that information has previously been given to that officer under article 32 (appointment of election agent) or rule 4 or 5.

(6) Where the deposit is made on behalf of a party's nominating officer the person making the deposit shall at the time of making it give that person's name and address to the RRO unless that information has previously been given to that officer under article 32 or rule 6.

### **Place for delivery of constituency nomination papers**

**11.—(1)** The CRO shall fix the place at which constituency nomination papers (together with home address forms) are to be delivered to the CRO, and shall attend there during the time for their delivery and for making of objections to them.

(2) The place shall be in—

- (a) the constituency; or
- (b) the local government area or (if more than one) any of the local government areas in which the constituency is situated; or

- (c) any local government area adjoining the local government area or areas (as the case may be) in which the constituency is situated.

### **Place for delivery of individual nomination papers and regional lists**

**12.—**(1) The RRO shall fix the place or places at which individual nomination papers and regional lists are to be delivered to the RRO, and the RRO shall attend there during the time for their delivery and for making objections to them.

- (2) The place or places shall be in the region.

### **Right to attend nomination**

**13.—**(1) Except for the purpose of delivering a constituency nomination paper or of assisting the CRO no person is entitled to attend the proceedings during the time for delivery of constituency nomination papers or for making objections to them unless that person is—

- (a) a person standing nominated as a candidate for return as a constituency member;
- (b) the election agent of such a person;
- (c) a person who has issued a certificate under rule 7(1)(a) in relation to such a candidate; or
- (d) a person who is entitled to attend by virtue of section 6A or 6B of the 2000 Political Parties Act(69) (representatives of the Electoral Commission),

but where a candidate acts as the candidate's own election agent the candidate may name one other person who shall be entitled to attend in place of the candidate's election agent.

(2) The right to attend conferred by paragraph (1) includes the right to inspect and to object to the validity of any constituency nomination paper.

- (3) Paragraph (2) does not apply to a person mentioned in paragraph (1)(d).

(4) Except for the purpose of delivering an individual nomination paper or regional list or of assisting the RRO no person is entitled to attend the proceedings during the time for delivery of individual nomination papers or regional lists or for making objections to them unless that person is—

- (a) a person standing nominated as an individual candidate for return as a regional member;
- (b) the election agent of such a person;
- (c) a candidate included on a party's regional list;
- (d) the election agent or nominating officer of a party which has submitted a regional list; or
- (e) a person who is entitled to attend by virtue of section 6A or 6B of the 2000 Political Parties Act,

but where an individual candidate acts as the candidate's own election agent, or a candidate on a party's regional list acts as election agent of that party in relation to that list, the candidate may name one other person who shall be entitled to attend in place of the election agent for that individual candidate or, as the case may be, party.

(5) The right conferred by paragraph (4) includes the right to inspect and to object to the validity of any individual nomination paper or any regional list (including the nomination of any candidate on such a list).

- (6) Paragraph (5) does not apply to a person mentioned in paragraph (4)(e).

(7) One other person chosen by the candidate is entitled to be present at the delivery of the candidate's nomination under paragraph (1) or (4), and may afterwards, so long as the candidate

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(69) Sections 6A and 6B were inserted by the 2006 Act, section 29.

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stands nominated, attend the proceedings referred to in paragraph (1) or (4) as the case may be, but without any such right as is conferred by paragraph (2) or (5).

#### **Decisions as to validity of constituency nomination papers**

**14.**—(1) Where a constituency nomination paper and the candidate's consent to it are delivered and a deposit is made in accordance with these Rules, the candidate shall be deemed to stand nominated unless and until—

- (a) the CRO decides that the constituency nomination paper is invalid;
- (b) proof is given to the CRO's satisfaction of the candidate's death; or
- (c) the candidate withdraws.

(2) The CRO is entitled to hold a constituency nomination paper invalid only on one of the following grounds—

- (a) that the particulars of the candidate or the witness signing the paper are not as required by law;
- (b) that the paper is not witnessed as so required;
- (c) that the candidate is disqualified by virtue of the Representation of the People Act 1981<sup>(70)</sup> (disqualification of certain offenders for membership of the House of Commons).

(3) Subject to paragraph (4) the CRO shall give a decision on any objection to a constituency nomination paper—

- (a) as soon as practicable after the objection is made, and
- (b) in any event, before the end of the period of 24 hours starting with the close of the period for delivery of nomination papers set out in the Table in rule 1.

(4) If in the CRO's opinion a constituency nomination paper breaches rule 7, the CRO shall give a decision to that effect—

- (a) as soon as practicable after delivery of the nomination paper; and
- (b) in any event, before the end of the period of 24 hours starting with the close of the period for delivery of nomination papers set out in the Table in rule 1.

(5) Where the CRO decides that a constituency nomination paper is invalid, the CRO shall endorse and sign on the paper the fact and the reasons for the decision.

(6) The CRO's decision that a constituency nomination paper is valid shall be final and shall not be questioned in any proceeding whatsoever.

(7) Subject to paragraph (6), nothing in this rule prevents the validity of a nomination being questioned on an election petition.

#### **Decisions as to validity of individual nomination papers**

**15.**—(1) Where an individual nomination paper and the candidate's consent to it are delivered and a deposit is made in accordance with these Rules, the candidate shall be deemed to stand nominated unless and until—

- (a) the RRO decides that the individual nomination paper is invalid;
- (b) proof is given to the RRO's satisfaction of the candidate's death; or
- (c) the candidate withdraws.

(2) The RRO is entitled to hold an individual nomination paper invalid only on one of the following grounds—

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<sup>(70)</sup> 1981 c.34.



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- (a) that the particulars of the candidate or the witness signing the paper are not as required by law;
  - (b) that the paper is not witnessed as so required;
  - (c) that the candidate is disqualified by virtue of the Representation of the People Act 1981.
- (3) The RRO shall give a decision on any objection to an individual nomination paper—
- (a) as soon as practicable after the objection is made, and
  - (b) in any event, before the end of the period of 24 hours starting with the close of the period for delivery of nomination papers set out in the Table in rule 1.
- (4) Where a RRO decides that an individual nomination paper is invalid, the RRO shall endorse and sign on the paper the fact and the reasons for the decision.
- (5) The RRO's decision that an individual nomination paper is valid shall be final and shall not be questioned in any proceeding whatsoever.
- (6) Subject to paragraph (5), nothing in this rule prevents the validity of a nomination being questioned on an election petition.

#### **Decisions as to validity of regional lists and as to the validity of nominations included on such a list**

**16.**—(1) Where a registered party's regional list and the consent of each candidate included in that list are delivered and a deposit is made in accordance with these Rules, the party and (subject to paragraphs (3) and (4)) each candidate on its list shall be deemed to stand nominated unless and until the RRO decides that the regional list is invalid.

- (2) The RRO is entitled to hold a regional list invalid only on one of the following grounds—
- (a) that the name of the registered party stated under paragraph (2) of rule 6 breaches that rule;
  - (b) that the number of candidates on the list is greater than 12;
  - (c) that the list does not contain the statement that it is issued by the nominating officer or by the person authorised by the nominating officer as required by rule 6(6).
- (3) Where, in respect of a candidate included in a registered party's regional list—
- (a) proof is given to the RRO's satisfaction of the candidate's death; or
  - (b) the candidate withdraws or the candidate's candidature is withdrawn in accordance with rule 17,

the RRO shall delete the name and address of that candidate from the list.

- (4) Where, in respect of a candidate included on a registered party's regional list—
- (a) the candidate's particulars in that list are not as required by law;
  - (b) the candidate is disqualified by virtue of the Representation of the People Act 1981 (disqualification of certain offenders for membership of the House of Commons); or
  - (c) the consent to nomination of that candidate is not delivered in accordance with these Rules,

the RRO shall delete the name and address of that candidate from the list.

- (5) The RRO shall give a decision on any objection in respect of a regional list—
- (a) as soon as practicable after the objection is made; and
  - (b) in any event, before the end of the period of 24 hours starting with the close of the period for delivery of nomination papers set out in the Table in rule 1.
- (6) Where the RRO decides that—
- (a) a regional list is invalid; or

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(b) the name and address of a candidate shall be deleted from a regional list, the RRO shall endorse and sign on the list that fact and the reasons for the decision.

(7) The RRO's decision that—

(a) a regional list is valid; or

(b) the name and address of a candidate should not be removed from a party list, shall not be questioned in any proceeding whatsoever.

(8) Subject to paragraph (7), nothing in this rule prevents the validity of a nomination being questioned on an election petition.

### **Withdrawal of candidates**

17.—(1) A candidate for return as a constituency member may withdraw that candidate's candidature by notice of withdrawal—

(a) signed by the candidate and attested by one witness; and

(b) delivered to the CRO at the place for delivery of constituency nomination papers.

(2) A candidate for return as a regional member may withdraw that candidate's candidature by notice of withdrawal—

(a) signed by the candidate and attested by one witness; and

(b) delivered to the RRO at the place or a place for delivery of individual nomination papers and regional lists.

(3) A registered party may withdraw the candidature of any or all of the candidates included in a regional list of that party by notice of withdrawal—

(a) signed by the party's nominating officer and attested by one witness; and

(b) delivered to the RRO at the place or places for the delivery of regional lists.

(4) Where a candidate in a regional list has been withdrawn in accordance with this rule the RRO shall delete the name and address of that candidate from the list.

### **Publication of statement of persons nominated as candidates for return as a constituency member**

18.—(1) The CRO shall prepare and publish a statement showing—

(a) the persons who have been and stand nominated as candidates for return as a constituency member; and

(b) any other persons who have been nominated as such candidates, but who no longer stand nominated, with the reason why they no longer stand nominated.

(2) The statement shall show the names and descriptions of the persons nominated as given in their constituency nomination papers.

(3) The statement shall show the persons standing nominated arranged alphabetically in the order of their surnames, and, if there are two or more of them with the same surname, of their other names.

(4) Unless paragraph (5) applies, if a person's nomination paper gives a commonly used surname or forename in addition to another name the statement shall show the person's commonly used surname or forename (as the case may be) instead of any other name.

(5) This paragraph applies where the CRO thinks—

(a) that the use of the person's commonly used name may be likely to mislead or confuse electors; or

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(b) that the commonly used name is obscene or offensive.

(6) Where paragraph (5) applies, the CRO must give notice in writing to the candidate of the CRO's reasons for refusing to allow the use of a commonly used name.

(7) In the case of a person nominated by more than one constituency nomination paper, the CRO shall take the particulars required by the foregoing provisions of this rule from such one of the papers as the candidate (or the CRO in default of the candidate) may select.

(8) The CRO shall send to the Electoral Commission—

(a) a copy of the statement; and

(b) in the case of each candidate standing nominated in respect of whom a certificate has been received by the returning officer in accordance with rule 7, a copy of that certificate.

### **Publication of statement of persons and parties nominated for return as regional members**

**19.**—(1) The RRO shall prepare and publish a statement showing—

(a) each registered party which has been and stands nominated together with that party's regional list;

(b) the persons who have been and stand nominated as individual candidates for return as a regional member;

(c) any other persons or parties who have been nominated, but who no longer stand nominated, together with the reason why they no longer stand nominated.

(2) The statement shall show the registered parties which have been and stand nominated in alphabetical order with the name and description of the party as given in that list and the names of the candidates who appear on the regional list of each party as given in that list and arranged in the order in which their names appear on that list.

(3) The statement shall also show the names of the persons nominated as individual candidates as given in their individual nomination papers, with the description as "Independent" if that is requested in those papers.

(4) Unless paragraph (5) applies, if a regional list or an individual candidate's nomination paper gives a person's commonly used surname or forename in addition to another name the statement shall show the person's commonly used surname or forename (as the case may be) instead of any other name.

(5) This paragraph applies where the RRO thinks—

(a) that the use of the person's commonly used name may be likely to mislead or confuse electors; or

(b) that the commonly used name is obscene or offensive.

(6) Where paragraph (5) applies, the RRO must give notice in writing to the candidate of the RRO's reasons for refusing to allow the use of a commonly used name.

(7) The statement shall show the names and descriptions of the persons standing nominated as individual candidates after the names and descriptions of the registered parties standing nominated and the names of those individual candidates shall be arranged alphabetically in the order of their surnames and, if there are two or more of them with the same surname, of their other names.

(8) In the case of a person nominated by more than one individual nomination paper, the RRO shall take the particulars required by the foregoing provisions of this rule from such one of the papers as the candidate (or the RRO in default of the candidate) may select.

(9) In the case of a registered party which has delivered more than one regional list for a particular region (and which stands nominated by more than one of those lists), the RRO shall take the particulars required by the foregoing provisions of this rule from such one of the lists as the

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nominating officer of that party (or the RRO in default of that officer) may select; and if any candidate is shown standing nominated by a list not so selected but is not so shown in the selected list, that candidate shall no longer stand nominated.

(10) The RRO shall send a copy of the statement to the Electoral Commission.

#### **Correction of minor errors**

**20.**—(1) A CRO may, if the CRO thinks fit, at any time before the publication under rule 18 of the statement of persons nominated as candidates for return as a constituency member, correct minor errors in the nomination paper.

(2) A RRO may, if the RRO thinks fit, at any time before the publication under rule 19 of the statement of persons and parties nominated for return as regional members, correct minor errors in the nomination paper.

(3) Errors which may be corrected include—

(a) errors as to a person’s electoral number;

(b) obvious errors of spelling in relation to the details of a candidate or a party.

(4) Anything done by a CRO or RRO in pursuance of this rule must not be questioned in any proceedings other than proceedings on an election petition.

(5) A CRO or RRO shall have regard to any guidance issued by the Electoral Commission for the purposes of this rule.

#### **Disqualification by Representation of the People Act 1981: candidates for return as constituency members**

**21.**—(1) If it appears to the CRO that any of the persons nominated as candidates for return as a constituency member might be disqualified by virtue of the Representation of the People Act 1981 (disqualification of certain offenders for membership of the House of Commons), the CRO shall, as soon as practicable after the expiry of the time allowed for the delivery of constituency nomination papers, prepare and publish a draft of the statement required by rule 18.

(2) The draft shall be headed “Draft statement of persons nominated for return as a constituency member” and shall contain a notice stating that any person who wishes to object to the nomination of any candidate on the ground that the candidate is disqualified for nomination under the Representation of the People Act 1981 may do so between the hours of 10 am and 4 pm on the day and at the place specified in the notice; and the day so specified shall be the day after the last day for the delivery of constituency nomination papers.

#### **Disqualification by Representation of the People Act 1981: candidates for return as regional members**

**22.**—(1) If it appears to the RRO that any of the persons nominated as candidates for return as a regional member might be disqualified by the Representation of the People Act 1981 the RRO shall, as soon as practicable after the expiry of the time allowed for the delivery of individual nomination papers and regional lists, prepare and publish a draft of the statement required by rule 19.

(2) The draft shall be headed “Draft statement of persons nominated for return as regional members” and shall contain a notice stating that any person who wishes to object to the nomination of any candidate on the ground that the candidate is disqualified for nomination under the Representation of the People Act 1981 may do so between the hours of 10 am and 4 pm on the day and at the place specified in the notice; and the day so specified shall be the day after the last day for the delivery of individual nomination papers and regional lists.

### **Adjournment of nomination proceedings in the case of riot**

**23.**—(1) Where the proceedings for, or in connection with, nomination are on any day interrupted or obstructed by riot or open violence—

- (a) the proceedings shall be abandoned for that day; and
- (b) if that day is the last day for the delivery of—
  - (i) constituency nomination papers; or
  - (ii) individual nomination papers and regional lists,

the proceedings shall be continued on the next day as if that were the last day for such delivery, and that day shall be treated for the purposes of these Rules as being the last day for such delivery (subject to any further application of this paragraph in the event of interruption or obstruction on that day).

(2) Where proceedings are abandoned by virtue of this rule nothing—

- (a) may be done after they are continued if the time for doing it had passed at the time of the abandonment;
- (b) done before the abandonment shall be invalidated by reason of the abandonment.

### **Method of election: candidates for return as constituency members**

**24.**—(1) If the statement required by rule 18 shows more than one person standing nominated, a poll shall be taken in accordance with Part 3 of these Rules (contested elections).

(2) If that statement shows only one person standing nominated, that person shall be declared to be elected in accordance with Part 4 of these Rules (final proceedings in contested and uncontested elections).

### **Method of election: candidates for return as regional members**

**25.**—(1) Subject to paragraph (2)(b), if the statement of persons required by rule 19 shows more candidates (whether on a registered party's regional list or individual candidates) than the number of seats for that region a poll shall be taken in accordance with Part 3 of these Rules.

(2) If that statement shows—

- (a) a number of candidates (whether on a registered party's regional list or individual candidates) which is the same as, or less than, the number of seats for that region; or
- (b) all of the candidates shown on that statement are on the regional list of the same registered party,

the RRO shall, following receipt of the notification under rule 62(3) (declaration of result for constituency members), allocate the seats in accordance with sections 7 and 8 of the 1998 Act<sup>(71)</sup> (return of regional members at a general election).

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(71) Section 8 is modified by rule 65.

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## PART 3

### CONTESTED ELECTIONS

#### General Provisions

##### **Poll to be taken by ballot**

**26.**—(1) The votes at the poll for the return of a constituency member shall be given by ballot and the result shall be ascertained by counting the votes given to each candidate, and the candidate to whom the majority of votes has been given shall be declared to have been elected.

(2) The regional votes at a poll for the return of regional members shall be given by ballot, and the regional figure for each individual candidate and each registered party shall be ascertained by counting the regional votes given to each individual candidate and each registered party.

##### **The ballot paper: constituency candidates**

**27.**—(1) The ballot of every voter at a poll for the return of a constituency member shall consist of a ballot paper (referred to in these Rules as a “constituency ballot paper”).

(2) The persons shown in the statement required by rule 18 (statement of persons nominated as candidates for return as a constituency member) and no others, shall be entitled to have their names inserted in the constituency ballot paper.

(3) Every constituency ballot paper shall be in the form J set out in the Appendix, and shall be printed in accordance with the directions in that form, and—

- (a) shall contain the names and descriptions of the candidates as shown in the statement required by rule 18; and
- (b) shall have a number and unique identifying mark printed on the back.

(4) The order of the names in the constituency ballot paper shall be alphabetical, as set out in the statement required by rule 18.

(5) If a candidate’s description falls within rule 4(5)(a) or (b), and if the candidate so requests, the ballot paper shall also contain, to the right of that candidate’s particulars—

- (a) where the description falls within rule 4(5)(a) (name of one registered party), the registered emblem (or one of the registered emblems) of the party named in that description; or
- (b) where the description falls within rule 4(5)(b) (names of two registered parties), the registered emblem (or one of the registered emblems) of one of the parties named in that description.

(6) The request must—

- (a) be made in writing to the CRO; and
- (b) be received by the CRO during the period for delivery of nomination papers set out in the Table in rule 1(1).

##### **The ballot paper: regional candidates**

**28.**—(1) The ballot of every voter at a poll for the return of regional members shall consist of a ballot paper (referred to in these Rules as a “regional ballot paper”).

(2) The following, namely—

- (a) the registered parties shown in the statement required by rule 19 (statement of persons nominated as candidates for return as regional members); and
- (b) the individual candidates shown in that statement,

and no others, shall be entitled to have their names and descriptions inserted in the regional ballot paper.

(3) Every regional ballot paper shall be in the form K set out in the Appendix, and shall be printed in accordance with the directions in that form, and shall—

- (a) contain the names and, where applicable, descriptions of the registered parties referred to in sub-paragraph (2)(a) as shown in the statement required by rule 19;
- (b) contain the names and, where applicable, descriptions of the individual candidates as shown in the statement required by rule 19; and
- (c) have a number and unique identifying mark printed on the back.

(4) The order of the names of the registered parties and of the individual candidates in the regional ballot paper shall be alphabetical, as set out in the statement required by rule 19.

(5) If a request has been made to the RRO under rule 6(7) that a registered party's registered emblem (or, as the case may be, one of the party's registered emblems) be shown on the ballot paper against that party's name, the ballot paper shall also contain, to the right of the party's name, that emblem.

(6) The regional ballot paper shall be a different colour from the constituency ballot paper.

#### **Corresponding number list**

**29.**—(1) The CRO must prepare a list containing the numbers and other unique identifying marks of all of the ballot papers to be issued by the CRO in pursuance of rule 34(1) or provided by the CRO in pursuance of rule 38(1).

(2) The list shall be in the form Z set out in the Appendix.

#### **The official mark**

**30.**—(1) Every ballot paper shall bear an appropriate security marking (the official mark).

(2) The official mark shall be kept secret, and an interval of not less than seven years shall intervene before the same official mark may be used again at a poll for a Scottish parliamentary election held in that constituency.

(3) The CRO shall determine the official mark or marks to be used for ballot papers at an election and may use a different official mark for different purposes at the same election.

#### **Prohibition of disclosure of vote**

**31.** No person who has voted at a Scottish parliamentary election shall, in any legal proceeding to question the election or return, be required to state the candidate for whom, or the registered party for which, that person voted.

#### **Use of schools and public rooms**

**32.**—(1) At a Scottish parliamentary election the CRO may use, free of charge, for the purpose of taking the poll or counting the votes—

- (a) a room in a school to which this rule applies;
- (b) a room the expense of maintaining which is payable out of local authority funds.

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(2) This rule applies to a school other than an independent school within the meaning given in section 135 of the Education (Scotland) Act 1980(72) (interpretation).

(3) The CRO shall make good any damage done to, and defray any expense incurred by the persons having control over, any such room as mentioned above by reason of its being used for the purpose of taking the poll or, as the case may be, counting the votes.

(4) The use of a room in an unoccupied building for that purpose does not render a person liable to pay any council tax or non-domestic rates.

#### Action to be taken before the poll

#### Notice of poll

**33.**—(1) The statement of persons nominated as candidates for return as a constituency member required by rule 18 and the statement of persons and parties nominated for return as regional members required by rule 19 shall each include a notice of the poll, stating the day on which and the hours during which the poll will be taken and, in the case of a Scottish parliamentary general election, each such notice may contain such further information about that election as the returning officer who publishes that notice thinks fit.

(2) The CRO shall also give public notice (which may be combined with the statement required by rule 18) of—

- (a) the situation of each polling station;
- (b) the description of voters entitled to vote there,

and the CRO shall as soon as practicable after giving such notice give a copy of it to each of the election agents.

#### Postal ballot papers

**34.**—(1) Subject to paragraph (2) and to paragraph 7 of Schedule 4 (time when postal ballot papers are to be issued), the CRO shall as soon as practicable send to those entitled to vote by post a ballot paper and a postal voting statement in the appropriate form as specified in paragraph 3 of Schedule 4 together with an envelope for their return.

(2) In the case of a person who is entitled to a postal constituency vote and a postal regional vote, the reference in paragraph (1) to “a ballot paper” shall be construed as a reference to a constituency ballot paper and a regional ballot paper.

(3) The CRO shall send along with any regional ballot paper a list showing the names of the candidates who appear on the regional list of each party, followed by the names of the individual candidates, as given in the statement prepared under rule 19 (statement of persons nominated as candidates for return as regional members) and arranged in the order in which their names appear on that list.

(4) The CRO must also issue to those entitled to vote by post such information as the CRO thinks appropriate about how to obtain—

- (a) translations into languages other than English of any directions to or guidance for voters sent with a ballot paper;
- (b) a translation into Braille of such directions or guidance;
- (c) graphical representations of such directions or guidance;
- (d) the directions or guidance in any other form (including any audible form).

(72) 1980 c.44. The definition of “independent school” in section 135 was amended by the School Education (Ministerial Powers and Independent Schools) (Scotland) Act 2004 (asp 12), section 3 and the Standards in Scotland’s Schools etc Act 2000 (asp 6), schedule 2, paragraph 3(9).



(5) In the case of a ballot paper issued to a person resident in the United Kingdom, the CRO must ensure that the return of the ballot paper and postal voting statement is free of charge to the voter.

### **Provision of polling stations**

**35.**—(1) The CRO shall provide a sufficient number of polling stations and, subject to the following provisions of this rule, shall allot the electors to the polling stations in such manner as the CRO thinks most convenient.

(2) One or more polling stations may be provided in the same room.

(3) The polling station allotted to electors from any polling district shall be in the polling place for that district.

(4) The CRO shall provide each polling station with such number of compartments as may be necessary in which the voters can mark their votes screened from observation.

### **Appointment of presiding officers and clerks**

**36.**—(1) The CRO shall appoint and pay a presiding officer to attend at each polling station and such clerks as may be necessary, but the CRO shall not appoint any person who has been employed by or on behalf of a candidate or a registered party in or about the election.

(2) The CRO may preside at a polling station and the provisions of these Rules relating to a presiding officer shall apply to a CRO so presiding with the necessary modifications as to things to be done by the CRO to the presiding officer or by the presiding officer to the CRO.

(3) A presiding officer may do, by the clerks appointed to assist that presiding officer, any act (including the asking of questions) which the presiding officer is required or authorised by these Rules to do at a polling station except order the arrest, exclusion or removal of any person from the polling station.

### **Issue of official poll cards**

**37.**—(1) The CRO shall as soon as practicable after the publication of notice of the election send to each elector and proxy an official poll card.

(2) An elector's official poll card shall be sent or be delivered to the elector's qualifying address (within the meaning of article 8(11)), and a proxy's to the proxy's address as shown in the list of proxies.

(3) The official poll card shall be in the form set out in the Appendix, and—

- (a) except where sub-paragraph (e) applies, the official poll card issued to an elector shall be in form M;
- (b) the official postal poll card issued to an elector shall be in form M1;
- (c) the official poll card issued to the proxy of an elector shall be in form N;
- (d) the official postal poll card issued to the proxy of an elector shall be in form N1;
- (e) the official poll card issued to an elector who has appointed a proxy shall be in form N2.

(4) The official poll card may, in addition to the matters in the form, set out such other information, not relating to any candidate or registered party, as the CRO considers appropriate, and different additional information may be provided to different electors or descriptions of elector.

(5) In this rule, "elector"—

- (a) means a person who is registered in the register of electors for the constituency and the region on the last day for publication of notice of the election; and

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- (b) includes a person then shown in that register or in the record of anonymous entries as below voting age if (but only if) it appears from the register or record that the person will be of voting age on the day fixed for the poll.

### **Equipment of polling stations**

**38.**—(1) The CRO shall provide each presiding officer with such number of ballot boxes and ballot papers as in the CRO’s opinion may be necessary and at a Scottish parliamentary general election separate ballot boxes shall be provided for the constituency ballot papers and for the regional ballot papers.

(2) Every ballot box shall be so constructed that the ballot papers can be put in it, but cannot be withdrawn from it, without the box being opened.

(3) The CRO shall provide each polling station with—

- (a) materials to enable voters to mark the ballot papers;
- (b) copies of the polling register or such part of it as contains the entries relating to electors allotted to the station;
- (c) the parts of any list of proxies prepared for the election corresponding to the polling register or the part of it provided under sub-paragraph (b);
- (d) a list containing that part of the list prepared under rule 29 which contains the numbers (but not the other unique identifying marks) corresponding to those on the ballot papers provided to the presiding officer of the polling station (“corresponding number list”);
- (e) copies of forms and declarations and other documents required for the purpose of the poll; and
- (f) at least one list showing the names of the candidates who appear on the regional list of each party shown on any regional ballot paper, followed by the names of the individual candidates, as given in the statement prepared under rule 19 and arranged in the order in which their names appear on that list.

(4) The CRO shall also provide each polling station with—

- (a) at least one enlarged sample copy of a constituency ballot paper and any regional ballot paper for display at the station and at least one enlarged hand-held sample copy of that or those ballot papers for the assistance of voters who are partially sighted (in each case marked as required by article 90); and
- (b) a device of the description set out in paragraphs (5) to (10), for enabling voters who are blind or partially-sighted to vote without any need for assistance from the presiding officer or any companion (within the meaning of rule 48(1)).

(5) The device referred to in paragraph (4)(b) shall be such that—

- (a) it satisfies the conditions in paragraphs (6) to (10);
- (b) a ballot paper can—
  - (i) be inserted into, and removed from, it; or
  - (ii) be attached to, and detached from, it; and
- (c) the ballot paper will remain firmly in place once inserted into, or attached to, the device.

(6) There shall be sufficient space to allow the particulars of each candidate and, where appropriate, registered party named on the ballot paper to be clearly shown.

(7) There shall be a separate hole in the device for each candidate and, where appropriate, registered party, named on the ballot paper.

(8) Each hole in the device shall be of equal size.

(9) Each hole shall be positioned to frame the space to the right of the particulars of the candidate or registered party (as the case may be) on which the vote may be marked (“the relevant space”).

(10) Each hole shall be sufficiently large to allow a voter to mark a cross in the relevant space on the ballot paper.

(11) A notice in the form O set out in the Appendix, giving directions for the guidance of the voters in voting, shall be printed in conspicuous characters and exhibited inside and outside every polling station.

(12) In every compartment of every polling station there shall be exhibited a notice in the form P set out in the Appendix.

(13) The statements required by rule 18 (statement of persons nominated as candidates for return as a constituency member) and (except in the case of a poll to fill a vacancy in the seat of a constituency member) rule 19 (statement of persons and parties nominated for return as regional members) shall be printed in conspicuous characters and exhibited inside or outside every polling station and may be exhibited both inside and outside any polling station.

### **Appointment of polling and counting agents**

**39.**—(1) Each candidate for return as a constituency member, each individual candidate for return as a regional member, and the election agent of each registered party standing nominated, may, before the commencement of the poll, appoint—

- (a) polling agents to attend at polling stations for the purpose of detecting personation; and
- (b) counting agents to attend at the counting of the votes.

(2) The CRO may limit the number of counting agents for candidates for return as a constituency member, but the limit set shall be the same for each candidate.

(3) The CRO may limit the number of counting agents for individual candidates for return as regional members and for registered parties standing nominated, but the limit set shall be the same for each individual candidate and registered party.

(4) Notice in writing of an appointment, stating the names and addresses of the persons appointed, shall be given by the person making the appointment to the CRO and shall be so given not later than the fifth day (computed like any period of time in the Table in rule 1(1)) before the day of the poll.

(5) If an agent dies, or becomes incapable of acting, the person who appointed that agent may appoint another agent in the first agent’s place, and shall forthwith give to the CRO notice in writing of the name and address of the agent appointed.

(6) Any appointment authorised by this rule may be made, and the notice of appointment given, to the CRO by the election agent instead of by the candidate.

(7) In the following provisions of these Rules references to polling and counting agents shall be taken as references to agents—

- (a) whose appointments have been duly made and notified; and
- (b) where the number of agents is restricted, who are within the permitted number.

(8) Any notice required to be given to a counting agent by the CRO may be delivered at or sent by post to the address stated in the notice of appointment.

(9) Any candidate (or, in the case of a registered party standing nominated, the election agent of that party) may do any act or thing which any polling or counting agent, if appointed by, or on behalf of, the candidate would have been authorised to do, or may assist such agent in doing any such act or thing.

(10) An election agent for a candidate or registered party standing nominated may do or assist in doing anything which a polling or counting agent of that candidate or party is authorised to do; and

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anything required or authorised by these Rules to be done in the presence of the polling or counting agents may be done in the presence of such an election agent instead of such polling or counting agents.

(11) Where by these Rules any act or thing is required or authorised to be done in the presence of the polling or counting agents, the non-attendance of any agents or agent 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**

**40.**—(1) The CRO shall make such arrangements as the CRO thinks fit to ensure that every person attending at a polling station and every person attending at the counting of the votes has been given a copy in writing of the provisions of article 31 (requirement of secrecy).

(2) But these arrangements shall not apply to—

- (a) a person attending a polling station for the purpose of voting;
- (b) a person under 18 years of age accompanying a voter;
- (c) a person assisting a voter with disabilities to vote; or
- (d) a constable on duty at a polling station or at the count.

#### The Poll

#### **Admission to polling station**

**41.**—(1) The presiding officer shall regulate the total number of voters and persons under the age of 18 years who accompany them to be admitted to the polling station at the same time, and shall exclude all other persons except—

- (a) the candidates;
- (b) the election agent of any candidate for return as a constituency member, or of any individual candidate for return as a regional member, or of any registered party standing nominated;
- (c) the polling agents appointed to attend at the polling station;
- (d) the clerks appointed to attend at the polling station;
- (e) the constables on duty;
- (f) the companions of voters with disabilities;
- (g) persons who are entitled to attend by virtue of any of sections 6A to 6D of the 2000 Political Parties Act(73) (representatives of the Electoral Commission and accredited observers); and
- (h) the CROs and RROs and members of their staff.

(2) Not more than one polling agent shall be admitted at the same time to a polling station on behalf of the same candidate or of the same registered party.

(3) Not more than one candidate on a registered party's regional list shall be admitted at the same time to a polling station.

(4) A constable or person employed by a CRO or RRO shall not be admitted to vote in person elsewhere than at the person's own polling station under the relevant provision of this Order, except on production and surrender of a certificate as to the person's employment, which shall be in the

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(73) Sections 6A to 6D were inserted by the 2006 Act, section 29.

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form Q set out in the Appendix and signed by an officer of police of the rank of Inspector or above or by the returning officer in question, as the case may be.

(5) Any certificate surrendered under this rule shall forthwith be cancelled.

### **Keeping of order in station**

**42.**—(1) It is the presiding officer’s duty to keep order at the presiding officer’s polling station.

(2) If a person misconducts himself or herself in a polling station, or fails to obey the presiding officer’s lawful orders, the person may immediately, by the presiding officer’s order, be removed from the polling station—

- (a) by a constable in or near that station; or
- (b) by any other person authorised in writing by the CRO to remove the person,

and the person so removed shall not, without the presiding officer’s permission, again enter the polling station during the day.

(3) Any person so removed may, if charged with the commission in the polling station of an offence, be dealt with as a person taken into custody by a constable for an offence without a warrant.

(4) The powers conferred by this rule shall not be exercised so as to prevent a voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

### **Sealing of ballot boxes**

**43.** Immediately before the commencement of the poll, the presiding officer shall—

- (a) show each ballot box proposed to be used for the purposes of the poll empty to such persons, if any, as are present in the polling station, so that they may see that each box is empty;
- (b) place the presiding officer’s seal on it in such a manner as to prevent it being opened without breaking the seal;
- (c) place each box in the presiding officer’s view for the receipt of ballot papers; and
- (d) keep it so sealed.

### **Questions to be put to voters**

**44.**—(1) At the time of the application for a ballot paper (but not afterwards), the questions specified in the second column of the following table—

- (a) may be put by the presiding officer to a person who is mentioned in the first column; and
- (b) in the case of the questions at entries 1 to 4, shall be put if the candidate or the election or polling agent of a candidate or of a registered party standing nominated requires the question to be put:

<i>Person applying for ballot paper</i>	<i>Questions</i>
1. A person applying as an elector.	(a) “Are you the person registered in the register of local government electors for this election as follows ( <i>read out the whole entry from the polling register</i> )?”

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<i>Person applying for ballot paper</i>	<i>Questions</i>
	(b) “Have you already voted, here or elsewhere, at this election, otherwise than as proxy for some other person?”
2 A person applying as proxy.	(a) “Are you the person whose name appears as A.B. in the list of proxies for this election as entitled to vote as proxy on behalf of C.D.?”
	(b) “Have you already voted here or elsewhere at this election, as proxy on behalf of C.D.?”
	(c) “Are you the spouse, civil partner, parent, grandparent, brother/sister, child or grandchild of C.D.?”
3. A person applying as proxy for an elector with an anonymous entry (instead of the questions at entry 2 above).	(a) “Are you the person entitled to vote as proxy on behalf of the elector whose number on the register of local government electors is <i>(read out the number from the polling register)?</i> ”
	(b) “Have you already voted here or elsewhere as proxy on behalf of the elector whose number on the register of local government electors is <i>(read out the number from the polling register)?</i> ”
	(c) “Are you the spouse, civil partner, parent, grandparent, brother/sister, child or grandchild of the person whose number on the register of local government electors is <i>(read out the number from the polling register)?</i> ”
4. A person applying as proxy if the question at entry 2(c) or 3(c) is not answered in the affirmative.	“Have you at this election already voted in this constituency on behalf of two persons of whom you are not the spouse, civil partner, parent, grandparent, brother/sister, child or grandchild?”

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	<i>Person applying for ballot paper</i>	<i>Questions</i>
5	A person applying as an elector in relation to whom there is an entry in the postal voters list.	(a) “Did you apply to vote by post?”  (b) “Why have you not voted by post?”
6	A person applying as proxy who is named in the proxy postal voters list.	(a) “Did you apply to vote by post as proxy?”  (b) “Why have you not voted by post as proxy?”

(2) A ballot paper shall not be delivered to any person required to answer any of the above questions unless the person has answered each question satisfactorily.

(3) Except as authorised by this rule, no inquiry shall be permitted as to the right of any person to vote.

### **Challenge of voter**

**45.** A person shall not be prevented from voting by reason only that—

- (a) a candidate or the election or polling agent of a candidate or of a registered party standing nominated declares that that candidate or agent has reasonable cause to believe that the person has committed an offence of personation; or
- (b) the person is arrested on the grounds that the person is suspected of committing or about to commit such an offence.

### **Voting procedure**

**46.—**(1) At a Scottish parliamentary general election a voter may apply for a constituency ballot paper or a regional ballot paper or both, but at any such election, the presiding officer shall assume, in the absence of a clear indication to the contrary, that the voter’s application is for a constituency ballot paper and a regional ballot paper.

(2) A ballot paper shall be delivered to a voter who applies for one, and immediately before delivery—

- (a) the number and (unless paragraph (3) applies) name of the elector as stated in the polling register shall be called out;
- (b) the number of the elector shall be marked on the corresponding number list mentioned in rule 38(3)(d) beside the number of the ballot paper to be issued to the elector;
- (c) a mark shall be placed in the polling register against the number of the elector to note that a ballot paper has been received but without showing the particular ballot paper which has been received;
- (d) in the case of a person applying for a ballot paper as proxy, a mark shall also be placed against the proxy’s name in the list of proxies.

(3) In the case of an elector who has an anonymous entry, the elector must show the presiding officer the elector’s official poll card and only the elector’s number shall be called out in pursuance of sub-paragraph (2)(a).

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(4) The voter, on receiving the ballot paper, shall forthwith proceed into one of the compartments in the polling station and there secretly mark the voter's paper, shall show to the presiding officer the back of the paper, so as to disclose the number and other unique identifying mark, and shall then put the ballot paper into the ballot box in the presiding officer's presence.

(5) The voter shall vote without undue delay, and shall leave the polling station as soon as the voter has put the voter's ballot paper into the ballot box.

(6) At a Scottish parliamentary general election the same copy of the polling register may be used under paragraph (2) for a constituency ballot paper and a regional ballot paper and one mark may be placed in that register under paragraph (2)(c) or in the list of proxies under paragraph (2)(d) to denote that each of the ballot papers has been received; and, where one mark is so placed in that register or, as the case may be, list, the mark shall, unless the contrary intention appears, be taken to denote that a constituency ballot paper and regional ballot paper have been received.

### **Votes marked by presiding officer**

**47.—**(1) The presiding officer on the application of a voter—

- (a) who is incapacitated by blindness or other disability from voting in a manner directed by these Rules; or
- (b) who declares orally that the voter is unable to read,

shall, in the presence of the polling agents, cause the voter's vote to be marked on a ballot paper in a manner directed by the voter, and the ballot paper to be placed in the ballot box.

(2) The name and number in the polling register of every voter whose vote is marked in pursuance of this rule, and the reason why it is so marked, shall be entered on a list (in these Rules referred to as "the list of votes marked by the presiding officer").

(3) In the case of a person voting as proxy for an elector, the number to be entered together with the voter's name shall be the elector's number.

(4) At a Scottish parliamentary general election the same list of votes marked by the presiding officer, required under paragraph (2), may be used for votes marked on constituency ballot papers and votes marked on regional ballot papers and where it is so used, an entry in that list shall, unless the contrary intention appears, be taken to mean that each such ballot paper was so marked.

### **Voting by persons with disabilities**

**48.—**(1) If a voter makes an application to the presiding officer to be allowed, on the ground of—

- (a) blindness or other disability; or
- (b) inability to read,

to vote with the assistance of another person by whom the voter is accompanied (in these Rules referred to as "the companion"), the presiding officer shall require the voter to declare, orally or in writing, whether the voter is so incapacitated by the voter's blindness or other disability, or by the voter's inability to read, as to be unable to vote without assistance.

(2) If the presiding officer—

- (a) is satisfied that the voter is so incapacitated; and
- (b) is also satisfied by a written declaration made in accordance with the requirements of paragraph (6) by the companion (in these Rules referred to as "the declaration made by the companion of a voter with disabilities") that the companion—
  - (i) is a qualified person within the meaning of this rule; and
  - (ii) has not previously assisted more than one voter with disabilities to vote at the election,



the presiding officer shall grant the application, and then anything which is by these Rules required to be done to or by that voter in connection with the giving of the voter's vote may be done to, or with the assistance of, the companion.

(3) For the purposes of this rule, a person shall be qualified to assist a voter with disabilities to vote, if that person is either—

- (a) a person who is entitled to vote as an elector at the election; or
- (b) the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild of the voter with disabilities and has attained the age of 18 years.

(4) The name and number in the polling register of every voter whose vote is given in accordance with this rule and the name and address of the companion shall be entered on a list (in these Rules referred to as “the list of voters with disabilities assisted by companions”).

(5) For the purposes of paragraph (4), in the case of a person voting as proxy for an elector, the number to be entered together with the voter's name shall be the elector's number.

(6) The declaration made by the companion—

- (a) shall be in the form R set out in the Appendix;
- (b) shall be made before the presiding officer at the time when the voter applies to vote with the assistance of a companion and shall forthwith be given to the presiding officer who shall attest and retain it.

(7) No fee or other payment shall be charged in respect of the declaration.

(8) At a Scottish parliamentary general election the same list of voters with disabilities assisted by companions, required under paragraph (4), may be used for votes marked on constituency ballot papers and votes marked on regional ballot papers and, where it is so used, an entry in that list shall, unless the contrary intention appears, be taken to mean that the votes of the elector in question were so given in relation to each such ballot paper.

### **Tendered ballot papers**

**49.**—(1) Paragraph (5) applies if a person represents to be—

- (a) a particular elector named in the polling register and not named in the postal voters list or list of proxies; or
- (b) a particular person named in the list of proxies as proxy for an elector and not entitled to vote by post as proxy,

and that person applies for a ballot paper after another person has voted in person either as the elector or the elector's proxy.

(2) Paragraph (5) also applies if—

- (a) a person applies for a ballot paper by representing to be a particular elector named in the polling register,
- (b) the person is also named in the postal voters list, and
- (c) the person claims not to have made an application to vote by post at the election.

(3) Paragraph (5) also applies if—

- (a) a person applies for a ballot paper by representing to be a particular person named as a proxy in the list of proxies,
- (b) the person is also named in the proxy postal voters list, and
- (c) the person claims not to have made an application to vote by post as proxy.

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(4) Paragraph (5) also applies if, before the close of the poll but after the last time at which a person may apply for a replacement postal ballot paper, a person represents to be—

- (a) a particular elector named in the polling register and who is also named in the postal voters list, or
- (b) a particular person named as a proxy in the list of proxies and who is also named in the proxy postal voters list,

and claims to have lost or not to have received that person's postal ballot paper.

(5) The person shall, on satisfactorily answering the questions permitted under rule 44 to be asked at the poll, be entitled, subject to the following provisions of this rule, to mark a ballot paper (in these rules referred to as a “tendered ballot paper”) in the same manner as any other voter.

(6) A tendered ballot paper shall—

- (a) be a different colour or colours from the other ballot papers;
- (b) instead of being put into the ballot box, be given to the presiding officer and endorsed by the presiding officer with the name of the voter and the voter's number in the register of electors, and set aside in a separate packet.

(7) The name of the voter and the voter's number in the polling register shall be entered on a list (in these Rules referred to as the “tendered votes list”) and the voter shall sign the list opposite the entry relating to the voter.

(8) In the case of a person voting as proxy for an elector, the number to be endorsed or entered together with the voter's name shall be the number of that elector.

(9) This rule applies to an elector who has an anonymous entry subject to the following modifications—

- (a) in paragraphs (6)(b) and (7) the references to the name of the voter must be ignored;
- (b) in paragraph (7) the reference to the voter being required to sign the tendered votes list must be ignored;
- (c) otherwise, a reference to a person named in the polling register or a list must be construed as a reference to a person whose number appears on the polling register or list (as the case may be).

(10) At a Scottish parliamentary general election, the same tendered votes list, required under paragraph (7), may be used in relation to all tendered votes in respect of that election and, where it is so used, an entry in that list in relation to a voter shall, unless the contrary intention appears, be taken to mean that tendered ballot papers were marked by that voter in relation to both of the voter's votes at that election.

### **Spoilt ballot papers**

**50.** A voter who has inadvertently dealt with a ballot paper in such manner that it cannot be conveniently used as a ballot paper may, on delivering it to the presiding officer and proving to the presiding officer's satisfaction the fact of the inadvertence, obtain another ballot paper in the place of the ballot paper so delivered (in these Rules referred to as “a spoilt ballot paper”), and the spoilt ballot paper shall be immediately cancelled.

### **Correction of errors on day of poll**

**51.** The presiding officer shall keep a list of persons to whom ballot papers are delivered in consequence of an alteration to the register of electors made by virtue of section 13B(3B) or (3D) of the 1983 Act<sup>(74)</sup> (notice of alteration in the register) which takes effect on the day of the poll.

### **Adjournment of poll in case of riot**

**52.**—(1) Where the proceedings at any polling station are interrupted or obstructed by riot or open violence, the presiding officer shall adjourn the proceedings till the following day and shall forthwith give notice to the CRO and, except in the case of an election to fill a vacancy in the seat of a constituency member, the RRO.

(2) Where the poll is adjourned at any polling station—

- (a) the hours of polling on the day to which it is adjourned shall be the same as for the original day; and
- (b) references in this Order to the close of the poll shall be construed accordingly.

### **Procedure on close of poll**

**53.**—(1) As soon as practicable after the close of the poll, the presiding officer shall, in the presence of the polling agents, using the presiding officer's own seal and the seals of such polling agents as desire to affix their seals, seal each ballot box in use at the station so as to prevent the introduction of additional ballot papers.

(2) The presiding officer shall then make up into separate packets, sealed with the presiding officer's own seal and the seals of such polling agents as desire to affix their seals—

- (a) the unused and spoilt ballot papers placed together;
- (b) the tendered ballot papers;
- (c) the corresponding number lists prepared under rule 29, including the parts which were completed in accordance with rule 46(2)(b) (together referred to in these Rules as “the completed corresponding number lists”);
- (d) the certificates as to employment on duty on the day of the poll surrendered under rule 41(4);
- (e) the marked copies of the polling register and of the list of proxies;
- (f) the tendered votes list maintained under rule 49(7), the list of voters with disabilities assisted by companions maintained under rule 48(4), the list of votes marked by the presiding officer maintained under rule 47(2), a statement of the number of voters whose votes are so marked by the presiding officer under the heads ‘disability’ and ‘unable to read’, the list maintained under rule 51, the written declarations made by voters with disabilities under rule 48(1), and the declarations made by the companions of voters with disabilities under rule 48(2)(b);
- (g) the postal ballot papers and postal voting statements which have been returned by hand to the polling station (unless previously collected in accordance with paragraph 17(3) of Schedule 4),

and shall deliver the sealed ballot boxes and the packets, or cause them to be delivered, to the CRO to be taken charge of by the CRO; but if the boxes and packets are not delivered by the presiding officer personally to the CRO, the arrangements for their delivery shall require the CRO's approval.

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<sup>(74)</sup> Section 13B was substituted by the 2000 Act, Schedule 1, paragraph 6. Section 13B(3B) and (3D) were inserted by the 2006 Act, section 11(4).

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(3) The marked copies of the polling register and of the list of proxies shall be in one packet but shall not be in the same packet as the completed corresponding number lists or the certificates as to employment on duty on the day of the poll.

(4) The packets shall be accompanied by a statement (in these Rules referred to as “the ballot paper account”) made by the presiding officer showing the number of ballot papers entrusted to the presiding officer, and accounting for them under the heads of ballot papers issued and not otherwise accounted for, unused, spoilt and tendered ballot papers; and, except in the case of a poll to fill a vacancy in the seat of a constituency member, a separate ballot paper account shall be made for the constituency ballot papers and the regional ballot papers.

### Counting of votes

#### Attendance at counting of votes

**54.**—(1) The CRO shall make arrangements for counting the votes in the presence of the counting agents as soon as practicable after the close of the poll and shall give to the counting agents and the RRO notice in writing of the time and place at which the CRO will begin to count the votes.

(2) No person other than—

- (a) the CRO and members of the CRO’s staff;
- (b) the candidates and one other person chosen by each of them;
- (c) the election agents;
- (d) the counting agents;
- (e) a person who is entitled to attend by virtue of any of sections 6A to 6D of the 2000 Political Parties Act<sup>(75)</sup> (representatives of the Electoral Commission and accredited observers);
- (f) (except in the case of an election to fill a vacancy in the seat of a constituency member), the RRO,

may be present at the counting of the votes, unless permitted by the CRO to attend.

(3) A person not entitled to attend at the counting of the votes shall not be permitted to do so by the CRO unless the CRO—

- (a) is satisfied that the efficient counting of the votes will not be impeded; and
- (b) has either consulted the election agents or thought it impracticable to do so.

(4) The CRO shall give the counting agents all such reasonable facilities for overseeing the proceedings, and all such information with respect to them, as the CRO can give them consistently with the orderly conduct of the proceedings and the discharge of the CRO’s duties in connection with them.

(5) In particular, where the votes are counted by sorting the ballot papers according to—

- (a) a candidate for whom a vote is given in the case of a constituency ballot paper; or
- (b) an individual candidate or a registered party for whom or which a vote is given in the case of a regional ballot paper,

and then counting the number of ballot papers for each such candidate or party, the counting agents shall be entitled to satisfy themselves that the ballot papers are correctly sorted.

#### The count

**55.**—(1) The CRO shall—

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<sup>(75)</sup> Sections 6A to 6D were inserted by the 2006 Act, section 29.

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- (a) in the presence of the counting agents appointed for the purposes of the election, open each ballot box and count and record separately the number of constituency ballot papers and the number of regional ballot papers there are in each box;
  - (b) in the presence of the election agents appointed for the purposes of the election, verify each ballot paper account; and
  - (c) count such of the postal ballot papers as have been duly returned and record separately the number of constituency postal ballot papers counted and the number of regional postal ballot papers counted.
- (2) A postal ballot paper shall not be deemed to be duly returned unless it is returned—
- (a) by hand to a polling station in the same constituency;
  - (b) by hand or by post to the CRO,

before the close of the poll and is accompanied by the postal voting statement duly signed and which also states the date of birth of the elector or proxy (as the case may be).

(3) In a case where steps for verifying the date of birth and signature of an elector or proxy have been taken in accordance with paragraph 21 or 22 of Schedule 4, the postal ballot paper shall not be deemed to be duly returned unless the CRO verifies the date of birth and signature of the elector or proxy (as the case may be).

(4) The CRO shall not count any tendered ballot paper.

(5) The CRO shall not count the votes given on any ballot papers until—

- (a) in the case of constituency postal ballot papers, they have been mixed with constituency ballot papers from at least one ballot box;
- (b) in the case of constituency ballot papers from a ballot box, they have been mixed with constituency ballot papers from at least one other ballot box;
- (c) in the case of regional postal ballot papers, they have been mixed with regional ballot papers from at least one ballot box; and
- (d) in the case of regional ballot papers from a ballot box, they have been mixed with regional ballot papers from at least one other ballot box.

(6) The CRO, while counting and recording the number of ballot papers and counting the votes, shall take all proper precautions for preventing any person from identifying the voter who cast the vote.

(7) The CRO shall verify each ballot paper account by comparing it with the number of ballot papers recorded by the CRO, and the unused and spoilt ballot papers in the CRO's possession and the tendered votes list (opening and resealing the packets containing the unused and spoilt ballot papers and the tendered votes list) and shall draw up a statement as to the result of the verification and shall, on request, supply a copy of that statement to any election agent appointed for the purpose of that election.

(8) The CRO shall so far as practicable proceed continuously with counting the votes, allowing only time for refreshment, except that the CRO may, in so far as the CRO and the counting agents appointed for the purpose of that election agree, exclude any or all of the hours between 7 pm and 9 am the following day.

(9) For the purposes of the exception in paragraph (8) the agreement of—

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

shall be as effective as the agreement of the counting agent of that candidate or, as the case may be, registered party.

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(10) During the time so excluded the CRO shall—

- (a) place the ballot papers and other documents relating to the election under the CRO's own seal and the seals of such of the counting agents as desire to affix their seals; and
- (b) otherwise take proper precautions for the security of the papers, equipment and documents.

#### **Re-count: constituency election**

**56.**—(1) A candidate for return as a constituency member or the election agent of such a candidate may, if present when the counting or any re-count of the votes given in the constituency ballot papers is completed, require the CRO to have the votes re-counted or again re-counted but the CRO may refuse to do so if in the CRO's opinion the request is unreasonable.

(2) No step shall be taken on the completion of the counting or any re-count of votes given in the constituency ballot papers until the candidates and election agents present at its completion have been given a reasonable opportunity to exercise the right conferred by this rule.

#### **Re-count: regional votes in a constituency**

**57.**—(1) If a person specified in paragraph (3) is present when the counting or any re-count of the votes given in the regional ballot papers is completed in a constituency, that person may, prior to the publication of the statement required by rule 61, require the CRO to have the votes re-counted or again re-counted.

(2) The CRO may refuse to do so if in the CRO's opinion the request is unreasonable.

(3) The persons are—

- (a) an individual candidate for return as a regional member;
- (b) an election agent for such a candidate or for a registered party standing nominated;
- (c) any person authorised in writing by such an agent.
- (d) No step shall be taken on the completion of the counting or any re-count of votes until the individual candidates and election agents present at its completion have been given a reasonable opportunity to exercise the right conferred by this rule.

(4) No step shall be taken on the completion of the counting or any re-count of votes until the individual candidates and election agents present at its completion have been given a reasonable opportunity to exercise the right conferred by this rule.

#### **Rejected ballot papers**

**58.**—(1) Any ballot paper—

- (a) which does not bear the official mark and the unique identifying mark;
- (b) in the case of a constituency ballot paper, on which votes are given for more than one candidate;
- (c) in the case of a regional ballot paper, on which votes are given for more than one registered party or individual candidate, or for a registered party and an individual candidate;
- (d) on which anything is written or marked by which the voter can be identified except the printed number and other unique identifying mark on the back; or
- (e) which is unmarked or void for uncertainty,

shall, subject to the provisions of paragraphs (2) and (3), be void and not counted.

(2) A ballot paper on which the vote is marked—

- (a) elsewhere than in the proper place;

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- (b) otherwise than by means of a cross; or
- (c) by more than one mark,

shall not for such reason be deemed to be void if an intention that the vote shall be for one of the candidates (or in the case of a regional ballot paper, for one of the individual candidates or registered parties) clearly appears, and the way the paper is marked does not of itself identify the voter and it is not shown that the voter can be identified by it.

(3) Where different numbers have been written by a voter on a ballot paper apparently as a vote in a sequential order of preference, and the ballot would otherwise be rejected under this rule, the ballot shall be treated as a vote for the candidate (or in the case of a regional ballot paper, for the individual candidate or registered party) against whom the number 1 appears.

(4) The CRO shall record, by marking the ballot paper, the rejection of any ballot paper which under this rule is not to be counted, and shall also record any objection that is made by a counting agent to the decision to reject the ballot paper.

(5) The CRO shall draw up a statement showing the number of constituency ballot papers and the number of regional ballot papers, respectively, rejected under each of sub-paragraphs (a) to (e) of paragraph (1).

#### **Decisions on ballot papers**

**59.** The decision of the CRO on any question arising in respect of a ballot paper shall be final, but shall be subject to review on an election petition.

#### **Equality of votes: election for return of constituency members**

**60.** Where, after the counting of the votes (including any re-count) given in a poll for the return of a constituency member is completed, an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the CRO shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

#### **Conveying results of count etc. to RRO**

**61.—**(1) As soon as practicable after the conclusion of the counting of the votes (including any re-count) given in a constituency in a poll for return of regional members, the CRO shall, in accordance with any directions given by the RRO, draw up a statement showing the number of votes given for each registered party and each individual candidate (excluding any votes given on any rejected ballot papers).

(2) The CRO shall forthwith inform the RRO of the contents of that statement.

(3) The CRO shall give public notice of the statement prepared under paragraph (1) as soon as practicable after the CRO has informed the RRO.

## **PART 4**

### **FINAL PROCEEDINGS IN CONTESTED AND UNCONTESTED ELECTIONS**

#### **Declaration of result: constituency members**

**62.—**(1) In a contested election for return of a constituency member, when the result of the poll for the return of a constituency member has been ascertained, the CRO shall forthwith—

- (a) declare to be elected the candidate to whom the majority of votes has been given;

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- (b) return to the Clerk of the Scottish Parliament (“the Clerk of the Parliament”) in accordance with paragraph (4) that candidate’s name, address and,
  - (i) if a certificate has been received by the CRO issued by or on behalf of the nominating officer of a registered party under rule 7(1) in respect of that candidate, the name of that party,
  - (ii) if the candidate’s description on the statement prepared under rule 18 consisted of the word “Independent”, that word; or
  - (iii) if the candidate had no description on that statement, the words “no description”; and
- (c) give public notice of—
  - (i) that candidate’s name and, if applicable, the name of the registered party referred to in sub-paragraph (b)(i); and
  - (ii) the total number of votes given for each candidate together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers.

(2) In an uncontested election, the statement of persons nominated for return as a constituency member, in addition to showing the person standing nominated, shall also declare that person elected and paragraph (1)(b) applies to a person so returned as it applies to a person returned under that paragraph.

(3) In any case to which paragraph (1) or (2) applies (except in an election to fill a vacancy in the seat of a constituency member) the CRO shall forthwith also notify the RRO of the candidate who has been returned and, if applicable, the name of the registered party referred to in paragraph (1) (b) or, as the case may be, (2).

(4) For the purposes of paragraph (1)(b) and (2) the CRO shall return those names required to be returned by—

- (a) completing a certificate in the form S set out in the Appendix; and
- (b) delivering it, or causing it to be delivered, to the Clerk of the Parliament.

#### **Attendance at allocation of seats for regional members**

**63.**—(1) At a contested election, the RRO shall make arrangements for making the calculation and allocation referred to in rule 64 as soon as practicable after the RRO receives the statement prepared under rule 61 and the notification under rule 62(3) from each CRO in that region.

- (2) No person other than—
  - (a) the RRO and members of the RRO’s staff;
  - (b) the candidates on a registered party’s regional list and one other person chosen by each of them;
  - (c) the individual candidates and one other person chosen by each of them;
  - (d) the election agent of each individual candidate or registered party standing nominated, or a person acting on that agent’s behalf;
  - (e) the nominating officer of each registered party standing nominated,
  - (f) a person who is entitled to attend by virtue of any of sections 6A to 6D of the 2000 Political Parties Act (representatives of the Electoral Commission and accredited observers);

may be present at that calculation and allocation unless permitted by the RRO to attend.

(3) A person not entitled to attend the proceedings for the calculation and allocation referred to in rule 64 shall not be permitted to do so by the RRO unless the RRO—

- (a) is satisfied that the efficient conduct of those proceedings will not be impeded; and



- (b) has either consulted the election agents or thought it impracticable to do so.
- (4) The RRO shall give to—
  - (a) the nominating officer and election agent of each registered party standing nominated;
  - (b) each individual candidate and the election agent of each such candidate; and
  - (c) each CRO for a constituency included in that region,notice in writing of the place at which the RRO will begin the proceedings under rule 64.

### **Allocation of seats**

64.—(1) The RRO shall calculate the total number of regional votes given for each registered party and each individual candidate in all of the constituencies included in the region by adding together the votes given for that registered party or, as the case may be, individual candidate as shown in the statements received under rule 61.

(2) An individual candidate for return as a regional member or the election agent for such a candidate, or the election agent for a party standing nominated (or, in the absence of such agent, any candidate included in that party's list) may, prior to the allocation of the seats by the RRO under paragraph (3), if present when the calculation under paragraph (1) (or any recalculation under this paragraph) is completed, require the RRO to recalculate or again recalculate the total number of regional votes given for each registered party and each individual candidate in all of the constituencies included in the region, but the RRO may refuse to do so if in the RRO's opinion the request is unreasonable.

(3) The RRO shall then allocate the seats in accordance with sections 7 and 8 of the 1998 Act (76) (calculation of regional figures and allocation of seats).

### **Equality of votes at poll for return of regional members**

65. Section 8(7) of the 1998 Act(77) (allocation of seats to regional members) shall be modified by substituting, for the words after "candidates," the following words—

- “(a) the subsection in question shall apply to each of them; or
  - (b) if paragraph (a) would result in more than the correct number of seats for the region being allocated, the subsection in question shall apply as if the regional figure for each of those parties or candidates had been adjusted in accordance with subsection (8).
- (8) The regional figure for a party or candidate is adjusted in accordance with this subsection by—
- (a) adding one vote to the total number of regional votes given for the party or candidate in all the constituencies included in the region; and
  - (b) (in the case of a party) recalculating the regional figure accordingly.
- (9) If, on the application of the subsection in question in accordance with subsection (7) (b), seats would be allocated to two or more parties or individual candidates and that would result in more than the correct number of seats for the region being allocated, the regional returning officer shall decide between them by lot.”.

### **Declaration of results: regional members**

66.—(1) When the RRO has allocated the regional member seats the RRO shall forthwith—

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(76) Section 8 is modified by rule 65.

(77) Section 8 was previously modified by S.I. 2007/937, but that instrument is revoked by this Order.

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- (a) announce the individual candidates or the candidates on a registered party's regional list to whom seats have been allocated;
  - (b) declare those candidates to have been elected;
  - (c) return to the Clerk of the Parliament in accordance with paragraph (2) the name and address of each of those persons and,
    - (i) if the person was returned from the regional list of a registered party, the name of that party;
    - (ii) if the person was an individual candidate whose description on the statement prepared under rule 19 consisted of the word "Independent", that word; or
    - (iii) if the person was an individual candidate who had no description on that statement, the words "no description";
  - (d) give public notice—
    - (i) of the name of any individual candidate elected;
    - (ii) of the name of any candidate elected who was included on a registered party's regional list (and the name of the registered party on whose list the candidate was included);
    - (iii) (in a contested election) of the total number of votes given for each individual candidate or registered party together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers; and
    - (iv) whether, in the case of a registered party, there are candidates remaining on that party's regional list who have not been declared to be elected; and
  - (e) send a copy of that notice to each CRO for a constituency included in that region.
- (2) For the purposes of paragraph (1) the RRO shall return those names required to be returned by—
- (a) completing a certificate in the form T set out in the Appendix;
  - (b) delivering it, or causing it to be delivered, to the Clerk of the Parliament.

### **Return or forfeiture of deposit**

67.—(1) The deposit made under rule 10 shall either be returned to the person making it or to that person's personal representatives or be forfeited to Her Majesty.

(2) Except in the cases mentioned below in this rule, the deposit shall be returned not later than the next day after that on which the result or results of the election is or are declared.

(3) For the purposes of paragraph (2)—

- (a) a day shall be disregarded if it would be disregarded under rule 2 in computing any period of time for the purposes of the timetable for the election; and
- (b) the deposit shall be treated as being returned on a day if a cheque for the amount of the deposit is posted on that day.

(4) If a candidate for return as a constituency member is not shown as standing nominated in the statement required by rule 18, or if the poll is countermanded or abandoned by reason of the candidate's death, the deposit shall be returned as soon as practicable after the publication of the statement or after the candidate's death, as the case may be.

(5) Where—

- (a) a registered party or an individual candidate for return as a regional member is not shown as standing nominated in the statement prepared under rule 19; or
- (b) in the case of an individual candidate, that candidate dies,

the deposit shall be returned as soon as practicable after the publication of that statement or the time when the RRO is satisfied of the candidate's death, as the case may be.

(6) Subject to paragraph (4), the deposit made by or on behalf of a candidate for return as a constituency member shall be forfeited if a poll is taken and, after the counting of the votes by the CRO (including any re-count) is completed, the candidate is found not to have polled more than one twentieth of the total number of votes polled by all the candidates.

(7) Subject to paragraph (5), the deposit made by or on behalf of any individual candidate for return as a regional member or any registered party standing nominated shall be forfeited if after the total number of regional votes given for each registered party and each individual candidate in all of the constituencies included in the region has been calculated (or recalculated) under rule 64, the registered party or individual candidate is found not to have polled more than one twentieth of the total number of votes polled by all the registered parties and individual candidates in all of the constituencies included in the region and has not been allocated a seat under section 8 of the 1998 Act.

## PART 5

### DISPOSAL OF DOCUMENTS

#### Sealing up of ballot papers

**68.**—(1) On the completion of the counting at a contested election the CRO shall seal up in separate packets the counted and rejected ballot papers.

(2) The CRO shall not open the sealed packets of—

- (a) tendered ballot papers;
- (b) the completed corresponding number lists;
- (c) certificates as to employment on duty on the day of the poll; or
- (d) marked copies of the polling register and lists of proxies.

#### Retention of documents by CRO

**69.**—(1) This rule applies to the following documents<sup>(78)</sup>—

- (a) the packets of counted ballot papers and of rejected ballot papers sealed by the CRO under rule 68(1), the packets of unused and spoilt ballot papers sealed under rule 53(2)(a) and the packets of tendered ballot papers sealed under rule 53(2)(b);
- (b) the ballot paper accounts prepared under rule 53(4) and the statements of rejected ballot papers prepared under rule 58(5) and of the result of the verification of the ballot paper accounts prepared under rule 55(7);
- (c) the tendered votes lists prepared under rule 49(7), the lists of voters with disabilities assisted by companions prepared under rule 48(4), the lists of votes marked by the presiding officer prepared under rule 47(2) and the related statements prepared under rule 53(2)(f), the lists of persons to whom ballot papers are delivered in consequence of an alteration to the register of electors which takes effect on the day of poll maintained under rule 51, the written declarations made by voters with disabilities under rule 48(1), and the declarations made by the companions of voters with disabilities under rule 48(2)(b);
- (d) the packets of the completed corresponding number lists sealed under rule 53(2)(c);

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<sup>(78)</sup> By virtue of paragraph 30(3) of Schedule 4, rule 69 (together with rules 68, 70 and 71(1)) also applies to the documents specified in that paragraph.

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- (e) the packets of certificates as to employment on duty on the day of the poll sealed under rule 53(2)(d); and
  - (f) the packets containing marked copies of polling registers and of lists of proxies sealed under rule 53(2)(e).
- (2) The documents specified in paragraph (1) must remain in the CRO's custody.
- (3) The CRO must endorse on each packet—
- (a) a description of its contents;
  - (b) the date of the election to which they relate; and
  - (c) the name of the constituency in which the votes were given.

### **Orders for production of documents and records**

**70.**—(1) An order—

- (a) for the inspection or production of any rejected ballot papers in the custody of the CRO; or
- (b) for the opening of a sealed packet of the completed corresponding number lists or of certificates as to employment on duty on the day of the poll or the inspection of any counted ballot papers in the CRO's 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 the sheriff.

(2) An order—

- (a) for the opening of a sealed packet of the completed corresponding number lists or of certificates; or
- (b) for the inspection of any counted ballot papers in the CRO'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 such an order 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 the elector's 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 the sheriff under this rule.

(5) Any power given under this rule to the Court of Session or to the sheriff, 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 CRO of any document or record in the CRO's possession relating to any specified election—

- (a) the production by the CRO or the CRO's agent of the document or record ordered in such manner as may be directed by that order shall be conclusive evidence that the document or record relates to the specified election; and

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- (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) a ballot paper purporting to have been used at any election; and
  - (b) a completed corresponding number list with a number marked in writing beside the number of the ballot paper,

shall be prima facie evidence that the elector whose vote was given by that ballot paper was the person whose entry in the register of electors (or on a notice issued under section 13A(2), 13B(3), (3B) or (3D) or 13BB(4) or (5) of the 1983 Act<sup>(79)</sup> (notice of alteration in the register)) at the time of the election contained the same number as the number marked as mentioned in sub-paragraph (b).

(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 CRO, or to open any sealed packets of the completed corresponding number lists or of certificates.

### **Retention and public inspection of documents**

**71.**—(1) The CRO shall retain the documents specified in rule 69(1) for a year and then, unless otherwise directed by order of the Court of Session, shall cause them to be destroyed.

- (2) The documents mentioned in paragraph (1) except—
  - (a) ballot papers;
  - (b) the completed corresponding number lists; and
  - (c) certificates as to employment on duty on the day of the poll,

shall be open to public inspection.

(3) Each of the following shall, on request, be supplied with a copy of the marked copies of the polling register, the postal voters list, the list of proxies and the proxy postal voters list—

- (a) a registered party;
- (b) a person who was a candidate at the constituency election to which those documents relate;
- (c) a person who was a candidate (whether an individual candidate or a candidate on a registered party's list) at the regional election to which those documents relate.

(4) Schedule 8 makes further provision as to inspection of, and access to, documents retained by the CRO.

## **PART 6**

### **DEATH OF CANDIDATE**

#### **Constituency election: death of independent candidate**

**72.**—(1) This rule applies if at a contested constituency election proof is given to the CRO's satisfaction before the result of the election is declared that one of the persons named or to be named on the ballot papers as an independent candidate has died.

(2) Subject to this rule and rules 73 and 74, these Rules apply to the election as if the candidate had not died.

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<sup>(79)</sup> Sections 13A and 13B were substituted by the 2000 Act, Schedule 1, paragraph 6. Section 13B was amended by the 2006 Act, section 11(4). Section 13BB was inserted by the Political Parties and Elections Act 2009 (c.12), section 23(1).

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- (3) The following provisions of these Rules do not apply in relation to the deceased candidate—
- (a) rule 41(1)(a) to (c) (admission to polling station: candidates, election agents and polling agents);
  - (b) rule 54(2)(b) to (d) (attendance at counting of votes);
  - (c) rule 67(6) (forfeiture of deposit).
- (4) If only two persons are shown as standing nominated in the statement of persons nominated the returning officer must—
- (a) if polling has not begun, countermand the notice of poll;
  - (b) if polling has begun, direct that the poll be abandoned;
  - (c) subject to rule 78 (abandoned poll), treat the election as an uncontested election for the purposes of rule 62(2).
- (5) For the purposes of paragraph (1), a person is named or to be named on the ballot papers as an independent candidate if the description on the candidate’s nomination paper is the word “Independent” or the candidate has no description on that nomination paper.

#### **Constituency election: deceased independent candidate wins**

73.—(1) This rule applies if at an election mentioned in rule 72(1) the majority of votes is given to the deceased candidate.

(2) Rule 62(1) (declaration of result) does not apply and the CRO must not complete a certificate under rule 62(4) but must—

- (a) declare that the majority of votes has been given to the deceased candidate;
- (b) declare that no member is returned;
- (c) give public notice of the total number of votes given for each candidate together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers; and
- (d) at a Scottish parliamentary general election, forthwith notify the RRO for the region containing that constituency that the majority of votes has been given to the deceased candidate and that no member is returned for that constituency.

(3) Rule 67 (return or forfeiture of deposit) does not apply in relation to the remaining candidates.

(4) The proceedings with reference to the election must be commenced afresh subject to the following provisions of this rule.

(5) A new notice of election (“the new notice”) must be published on the first working day after the end of the period of seven days starting on the day of the poll of the election mentioned in rule 72(1).

(6) No fresh nomination is necessary in the case of a person shown in the previous statement of persons nominated, and no other nomination may be made.

(7) The time before which a notice of withdrawal of candidature by a person who stands nominated by virtue of paragraph (6) may be delivered is 4 pm on the seventh working day after the day on which the new notice is published.

(8) The time for publication of the statement of persons nominated is as soon as possible after the time specified in paragraph (7).

(9) Rule 10 (deposit) does not apply.

(10) Subject to paragraph (11), the poll is to be held on a day fixed by the CRO, which day must be in the period (“the first period”) which starts 21 working days after the day on which the new notice is published and ends 28 working days after that day.

(11) If any of the days within the first period is a day in the period which starts with 22nd December and ends with 3rd January following, the CRO may fix the day of the poll to be held in the period which starts 25 working days after the day on which the new notice is published and ends 32 working days after that day.

(12) For the purposes of this rule—

- (a) a working day is a day which is not a day specified in rule 2; and
- (b) “previous statement of persons nominated” means the statement of persons nominated and standing nominated published under rule 18 in operation at the time of the death of the deceased candidate.

#### **Constituency election: deceased independent candidate with equality of votes**

74. In an election mentioned in rule 72(1), if—

- (a) rule 60 (equality of votes) applies; and
- (b) any of the candidates to whom that rule applies is a deceased candidate,

the deceased candidate must be ignored.

#### **Constituency election: death of party candidate**

75.—(1) This rule applies if—

- (a) at a contested constituency election proof is given to the CRO’s satisfaction before the result of the election is declared that one of the persons named or to be named as a candidate on the ballot paper has died; and
- (b) that person is standing in the name of a registered party.

(2) The CRO must—

- (a) countermand the notice of poll; or
- (b) if polling has begun, direct that the poll be abandoned.

(3) At a Scottish parliamentary general election, the CRO must forthwith notify the RRO for the region containing that constituency that the notice of the poll at that constituency election has been countermanded or, as the case may be, that the poll has been abandoned and that no member is returned for that constituency.

(4) The proceedings with reference to the election must be commenced afresh subject to the following provisions of this rule.

(5) A new notice of the election (“the new notice”) must be published on the first working day after the end of the period of seven days starting on the day the proof is given to the CRO.

(6) No fresh nomination is necessary in the case of a person shown in the previous statement of persons nominated.

(7) No other nomination may be made except for a person standing in the name of the same registered party in whose name the deceased candidate was standing.

(8) The time before which a nomination mentioned in paragraph (7) may be delivered is 4 pm on the seventh working day after the day on which the new notice is published.

(9) The time before which a notice of withdrawal of candidature by a person who stands nominated by virtue of paragraph (6) or in pursuance of paragraph (7) may be delivered is 4 pm on the seventh working day after the day on which the new notice is published.

(10) Subject to paragraph (11), the poll is to be held on a day fixed by the CRO, which day must be in the period (“the first period”) which starts 21 working days after the day on which the new notice is published and ends 28 working days after that day.

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(11) If any of the days within the first period is a day in the period which starts with 22nd December and ends with 3rd January following, the CRO may fix the day of the poll to be held in the period which starts 25 working days after the day on which the new notice is published and ends 32 working days after that day.

(12) For the purposes of this rule—

- (a) a person stands in the name of a registered party if that person’s nomination paper contains a description which is the name of a registered party;
- (b) a working day is a day which is not a day specified in rule 2; and
- (c) “previous statement of persons nominated” means the statement of persons nominated and standing nominated published under rule 18 in operation at the time of the death of the deceased candidate.

### **Regional election: effect of countermand or abandonment of constituency poll**

**76.**—(1) This rule applies where at a Scottish parliamentary general election there is a contested election for return of regional members and the poll or declaration of result at a constituency election for a constituency in that region is postponed in accordance with rule 73 or 75.

(2) For the purposes of rule 63(1) (arrangements for allocation of seats for regional members), the RRO is to be treated as having received the statements prepared under rule 61 (conveying results of count etc. to RRO) and the notifications under rule 62(3) (notification of constituency member returned) from each CRO in that region when the RRO has received those statements and notifications in respect of the constituencies in the region for which the polls or declarations of result have not been so postponed.

(3) Section 7(1) of the 1998 Act (calculation of regional figures) shall apply with the modification that the reference in that subsection to “constituencies included in the region” must be read as excluding the constituencies for which the polls or declarations of result have been so postponed.

(4) The subsequent election of a candidate for the constituency shall have no effect upon the validity of the election and return of any regional member.

### **Regional election: death of candidate**

**77.**—(1) If at a contested election for the return of regional members proof is given to the RRO’s satisfaction before the results of the election are declared that one of the persons named or to be named as a candidate on the ballot paper (whether on a registered party’s regional list or as an individual candidate) has died and as a result of that death the election becomes uncontested, then the RRO must—

- (a) countermand the notice of poll; or
- (b) if the polling has begun, direct that the poll be abandoned; and
- (c) in either case, forthwith notify each CRO in the region of the action that has been taken.

(2) Where paragraph (1) applies, the RRO shall, following receipt of the notification under rule 62(3), allocate the seats in accordance with sections 7 and 8 of the 1998 Act<sup>(80)</sup>.

(3) If at a contested election for the return of regional members proof is given to the RRO’s satisfaction before the results of the election are declared that one of the persons named or to be named as a candidate on the ballot paper (whether on a registered party’s regional list or as an individual candidate) has died, but notwithstanding that death the election continues to be contested, the notice of poll shall not be countermanded nor shall the poll be abandoned and the death shall have no effect upon the validity of the election and return of any regional member.

<sup>(80)</sup> Section 8 is modified by rule 65.



(4) But where paragraph (3) applies, the RRO shall take such steps as the RRO considers reasonable to publicise in the region for which the election is held—

- (a) the name of that candidate and the fact of the candidate's death;
- (b) whether that candidate was an individual or party list candidate; and
- (c) if the candidate was a party list candidate, the name of the registered party for which the candidate was such a candidate,

and the RRO shall, in particular, consider whether the RRO should publicise as required by this rule by causing notices to be placed outside the polling stations.

(5) In respect of an election to which paragraph (1) or (3) applies, rules 41(1)(a) to (c) (admission to polling station: candidates, election agents and polling agents) and 54(2)(b) to (d) (attendance at counting of votes) do not apply in relation to the deceased candidate, and where the deceased candidate is an individual candidate rule 67(7) (forfeiture of deposit) also does not apply in relation to that deceased candidate.

### **Abandoned poll**

**78.**—(1) This rule applies to—

- (a) a poll which is abandoned in pursuance of rule 72(4)(b) or 77(1)(b) as if it were a poll at a contested election;
- (b) a poll which is abandoned in pursuance of rule 75(2)(b).

(2) Subject to paragraph (10) the presiding officer at a polling station must take the like steps (so far as not already taken) for the delivery to the CRO of ballot boxes and of ballot papers and other documents as the presiding officer is required to take on the close of the poll.

(3) The CRO must retain and dispose of ballot papers and other documents in the CRO's possession as the CRO is required to do on the completion of the counting of the votes.

(4) It is not necessary for a ballot paper account to be prepared or verified.

(5) No step or further step is to be taken for the counting of the ballot papers or of the votes.

(6) The CRO 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.

(7) The provisions of these Rules as to the inspection, production, retention and destruction of ballot papers and other documents relating to a poll at an election apply subject to paragraphs (8) and (9).

(8) Ballot papers on which the votes were neither counted nor rejected must be treated as counted ballot papers.

(9) No order is to be made for—

- (a) the production or inspection of any ballot papers; or
- (b) the opening of a sealed packet of the completed corresponding number lists or of certificates as to employment on the day of the poll,

unless the order is made by a court with reference to a prosecution.

(10) Where the polls at an election for the return of regional members and at an election for the return of a member for a constituency within that region are held on the same day but the poll at one election is abandoned in any of the circumstances mentioned in paragraph (1)—

- (a) the steps which the presiding officer is required to take at such a polling station by paragraph (2) shall take place at the close of the poll at the other election;
- (b) paragraph (3) shall have effect as if after “the CRO” there were inserted “having separated the ballot papers relating to the other election,” and

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(c) paragraphs (4) to (9) shall apply only to the election at which the poll has been abandoned.

## PART 7

### MISCELLANEOUS

#### **Return of members and record of returns etc.**

**79.**—(1) The Clerk of the Parliament shall on receipt of a certificate delivered under rule 62 or 66 (declaration of results) enter the details specified in paragraph (2) in a book kept for that purpose at the Parliament (in this rule referred to as “the returns book”).

(2) The details are the name of each member returned contained in the certificate and the member’s registered party, the word “Independent” or the words “no description” as appropriate.

(3) Where the Presiding Officer of the Scottish Parliament—

- (a) sends a notice under article 85 or 86 (vacancies in constituency and regional member seats); or
- (b) concludes that an election to fill a vacancy in the seat of a constituency member shall not be held because section 9(4) of the 1998 Act (constituency vacancy where latest date for holding the poll would fall in three months before next ordinary general election) applies,

the Presiding Officer shall record in the returns book the fact of the vacancy and, where subparagraph (b) applies, that no election shall be held to fill the vacancy because section 9(4) of the 1998 Act applies.

(4) Where it comes to the notice of the Presiding Officer of the Scottish Parliament that—

- (a) the seat of a regional member is vacant; and
- (b) the person was returned as an individual candidate,

the Presiding Officer shall record in the returns book the fact of the vacancy and that the seat (in accordance with section 10(2) of the 1998 Act (regional vacancies which are to remain vacant)) is to remain vacant until the next ordinary election.

(5) For the period referred to in paragraph (6) the returns book shall be open to public inspection at reasonable times and any person may, on payment of a reasonable fee, obtain copies from the book.

(6) That period is the period starting on the day on which the first entry is made in the returns book and ending on the day on which the Parliament is dissolved or such later date as the Presiding Officer of the Scottish Parliament may, in writing, direct.

(7) A direction given by the Presiding Officer of the Scottish Parliament under paragraph (6) may be varied or revoked by a subsequent direction.

### SCHEDULE 3

Article (2)

#### ABSENT VOTING

#### **General requirements for applications**

**1.**—(1) Applications under article 8, 9, 10 or 11 (absent votes) shall state—

- (a) the applicant’s name in full;

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- (b) except in the case of an application under article 11, the address in respect of which the applicant is registered or has applied to be (or is treated as having applied to be) registered in the register of electors;
  - (c) in the case of an application under article 11, the address of the applicant, together with the name of the elector for whom the applicant will act as proxy and the address of that elector in respect of which the elector is registered or has applied to be (or is treated as having applied to be) registered in the register of electors;
  - (d) in the case of an application under to vote by proxy, the grounds on which the elector claims to be entitled to an absent vote;
  - (e) in the case of an application to vote by post (including an application under article 11), the address to which the ballot paper should be sent;
  - (f) in the case of a person who is unable to provide a signature, the reasons for the person's request for waiver of any requirement under article 8, 9, 10 or 11 to provide a signature and the name and address of any person who has assisted the person to complete the application; and
  - (g) where the applicant has, or has applied for, an anonymous entry, that fact,
- and the application shall be dated and made and sent or delivered in accordance with article 91.

(2) Where an application is required to contain a signature and date of birth, the information must be set out in a manner that is sufficiently clear and unambiguous as to be capable of electronic scanning by configuring the information as follows—

- (a) the signature shall appear against a background of white unlined paper at least five centimetres long and two centimetres high; and
- (b) the applicant's date of birth shall be set out numerically configured in the sequence of date, month and year, namely [d][d][m][m][y][y][y][y].

(3) Where the application contains a request that the ERO waive the requirement for a signature, sub-paragraph (2)(a) shall not apply.

(4) For the purposes of sub-paragraph (1)(b), the address in respect of which the applicant is or has applied to be (or is treated as having applied to be) registered includes—

- (a) in the case of a service voter, the address given in the service declaration in accordance with section 16(d) of the 1983 Act<sup>(81)</sup> (contents of a service declaration);
- (b) in the case of a voluntary mental patient, the address of the mental hospital or the address shown on the declaration of local connection in accordance with section 7B(3)(d) of the 1983 Act<sup>(82)</sup> (notional residence: declaration of local connection);
- (c) in the case of a person remanded in custody, the address of the place at which the person is detained or the address shown on the declaration of local connection in accordance with section 7B(3)(d) of the 1983 Act; and
- (d) in the case of a homeless person, within the meaning of section 7B(2)(c) of the 1983 Act, the address shown on the declaration of local connection in accordance with section 7B(3)(d) of that Act.

(5) An application under article 9(1), (2) or (4), 10(7) or 11(4) or (6) shall specify the election in respect of which it is made.

(6) An application under article 9(1), (2) or (4) shall also specify whether it is for an indefinite period or for a particular period specified in the application.

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<sup>(81)</sup> Section 16(d) was amended by the 2000 Act, sections 8 and 15(2), Schedule 1, paragraphs 1 and 9(c) and Schedule 7, Part 1.

<sup>(82)</sup> Section 7B was inserted by the 2000 Act, section 6.

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(7) An application to vote by proxy under article 8(2) or (7) or 9(2) or (4) shall include an application for the appointment of a proxy which meets the requirements of paragraph 7.

(8) An application under article 8, 9, 10 or 11 shall comply with such further requirements of this Schedule as apply to such an application including the requirements as to time set out by paragraph 9.

### **Checking of signatures**

2. The ERO may be satisfied that an application under article 8, 9, 10 or 11 meets any requirements that it has been signed by the applicant and states the applicant's date of birth by referring to any signature and date of birth—

- (a) previously provided by the applicant to the ERO or a returning officer; or
- (b) previously provided by the applicant to the council by which the ERO was appointed, if held by that council in records which the ERO is authorised to inspect for the purposes of the ERO's registration duties; and

### **Provision of fresh signatures**

3.—(1) A person who remains on the record kept under article 8(4) or article 11(5) may, at any time, provide the ERO with a fresh signature.

(2) Anything required or authorised to be done for the purposes of this Order in relation to a signature required to be provided in pursuance of this Order must be done in relation to a signature provided as mentioned in sub-paragraph (1) instead of in relation to a signature provided on any earlier occasion.

### **Additional requirements for applications for ballot papers to be sent to different address from that shown in the record kept under article 8(4) or 11(5) (records of absent voters)**

4.—(1) Sub-paragraph (3) applies to an application under—

- (a) article 9(4)(a) by a person shown as voting by post in the record kept under article 8(4); or
- (b) article 11(6) by a person shown as voting by post in the record kept under article 11(5),

for the person's ballot paper to be sent to a different address from the address shown in that record.

(2) Sub-paragraph (3) also applies where—

- (a) in the case of an application to vote by post under article 8(1) or (7) or article 9(1), the address stated in accordance with paragraph 1(1)(b) and the address stated in accordance with paragraph 1(1)(e) are different;
- (b) in the case of an application by a proxy to vote by post under article 11(4) the proxy's address stated in accordance with paragraph 1(1)(c) and the address stated in accordance with paragraph 1(1)(e) are different.

(3) Subject to sub-paragraph (4), the application must set out why the applicant's circumstances will be or are likely to be such that the applicant requires the ballot paper to be sent to that address.

(4) The requirement in sub-paragraph (3) does not apply where an applicant has, or has applied for, an anonymous entry.

### **Additional requirements for applications on grounds of disability**

5.—(1) An application under paragraph (1), as read with paragraph (3)(c), of article 8 (application for proxy vote by reason of blindness or other disability) shall specify the disability by reason of which the application is made.

(2) Subject to sub-paragraphs (3) and (6), such an application shall be attested and signed by—

- (a) a registered medical practitioner;
  - (b) a nurse registered on the register maintained by the Nursing and Midwifery Council under article 5 of the Nursing and Midwifery Order 2001<sup>(83)</sup> by virtue of qualifications in nursing;
  - (c) a registered dentist as defined by section 53(1) of the Dentists Act 1984<sup>(84)</sup>;
  - (d) a registered dispensing optician or a registered optometrist within the meaning of the Opticians Act 1989<sup>(85)</sup>;
  - (e) a registered pharmacist as defined in article 3(1) of the Pharmacy Order 2010<sup>(86)</sup>;
  - (f) a registered osteopath as defined by section 41 of the Osteopaths Act 1993<sup>(87)</sup>;
  - (g) a registered chiropractor as defined by section 43 of the Chiropractors Act 1994<sup>(88)</sup>;
  - (h) a Christian Science practitioner;
  - (i) a person registered as a member of a profession to which the Health Professions Order 2001<sup>(89)</sup> for the time being extends;
  - (j) the person managing a care home service registered under Part 5 of the Public Services Reform (Scotland) Act 2010<sup>(90)</sup>;
  - (k) the warden of premises forming one of a group of premises provided for persons of pensionable age or disabled persons for which there is a resident warden, where the applicant states that the applicant resides in such premises;
  - (l) a manager (or a person on behalf of a manager) within the meaning of section 329 of the Mental Health (Care and Treatment) (Scotland) Act 2003<sup>(91)</sup> responsible for the administration of a hospital within the meaning of that section; or
  - (m) a person registered as a social worker in the register maintained in accordance with section 44 of the Regulation of Care (Scotland) Act 2001<sup>(92)</sup>.
- (3) A person (“P”) who qualifies—
- (a) by virtue of any of paragraphs (a) to (i) of sub-paragraph (2) may not attest an application for these purposes unless—
    - (i) P is treating the applicant for the disability specified in the application; or
    - (ii) the applicant is receiving care from P in respect of that disability; or
  - (b) by virtue of paragraph (m) of sub-paragraph (2) may not attest an application for these purposes unless—
    - (i) P is treating the applicant for the disability specified in the application;
    - (ii) the applicant is receiving care from P in respect of that disability; or
    - (iii) P has arranged care or assistance for the applicant in respect of that disability.
- (4) The person (“Q”) attesting an application under sub-paragraph (2), other than a person attesting by virtue of sub-paragraph (2)(l), shall state—
- (a) Q’s name and address and the qualification by virtue of which Q attests the application;

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<sup>(83)</sup> S.I. 2002/253, to which there are amendments not relevant to this Order.

<sup>(84)</sup> 1984 c. 24.

<sup>(85)</sup> 1989 c. 44. The definitions of “registered dispensing optician” and “registered optometrist” were inserted by S.I. 2007/3101, regulation 187(e).

<sup>(86)</sup> S.I. 2010/231.

<sup>(87)</sup> 1993 c.21. The definition of “registered osteopath” was amended by S.I. 2007/3101, regulation 214(c).

<sup>(88)</sup> 1994 c.17. The definition of “registered chiropractor” was amended by S.I. 2007/3101, regulation 226(c).

<sup>(89)</sup> S.I. 2002/254, amended by S.I. 2004/2033. There are other amending instruments but none is relevant.

<sup>(90)</sup> 2010 asp 8.

<sup>(91)</sup> 2003 asp 13.

<sup>(92)</sup> Section 44 was amended by S.I. 2007/3101, regulation 257.

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- (b) where Q is a person referred to in sub-paragraph (3)(a), that Q is treating the applicant for the disability specified in the application or that the applicant is receiving care from Q in respect of that disability;
  - (c) where Q is a person referred to in sub-paragraph (3)(b), that Q is treating the applicant for the disability specified in the application, that the applicant is receiving care from Q in respect of that disability, or that Q has arranged care or assistance for the applicant in respect of that disability;
  - (d) that, to the best of Q’s knowledge and belief, the applicant has the disability specified in the application and that the applicant cannot reasonably be expected to go in person to the applicant’s allotted polling station or to vote unaided there, by reason of that disability; and
  - (e) that, to the best of Q’s knowledge and belief, the disability specified in the application is likely to continue either indefinitely or for a period specified by the person attesting the application.
- (5) A manager (or a person on behalf of a manager) attesting an application under sub-paragraph (2)(l) shall state—
- (a) the name of the manager attesting the application;
  - (b) that the manager is authorised to attest the application;
  - (c) the position of the manager in the hospital at which the applicant is liable to be detained or at which the applicant is receiving treatment;
  - (d) the statutory provision under which the applicant is detained, or liable to be detained, at the hospital, where applicable;
  - (e) that, to the best of the manager’s knowledge and belief, the applicant has the disability specified in the application and that the applicant cannot reasonably be expected to go in person to the applicant’s allotted polling station or to vote unaided there, by reason of that disability; and
  - (f) that, to the best of the manager’s knowledge and belief, the disability specified in the application is likely to continue either indefinitely or for a period specified by the manager attesting the application.
- (6) Sub-paragraph (2) shall not apply where—
- (a) the application is based on the applicant’s blindness and the applicant is registered as a blind person by a local authority, which is specified in the application; or
  - (b) the application states that the applicant is (under section 73 of the Social Security Contributions and Benefits Act 1992<sup>(93)</sup>) in receipt of the higher rate of the mobility component of a disability living allowance (payable under section 71 of that Act) because of the disability specified in the application in pursuance of sub-paragraph (1).
- (7) The fact that an applicant is registered as a blind person with a local authority shall be deemed sufficient evidence that the applicant is eligible to vote by proxy on the grounds set out in article 8(3)(c).
- (8) In this paragraph and paragraphs 6 and 7, “the applicant’s allotted polling station”, in relation to an elector, means the polling station allotted or likely to be allotted to the elector under this Order.
- (9) Until section 59(1) of the Public Services Reform (Scotland) Act 2010 (registration of care services) comes fully into force, in sub-paragraph (2)(j) the reference to “Part 5 of the Public Services Reform (Scotland) Act 2010” shall be read as a reference to “Part 1 of the Regulation of Care (Scotland) Act 2001<sup>(94)</sup>”.

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<sup>(93)</sup> 1992 c.4.

<sup>(94)</sup> 2001 asp 8.

### **Additional requirements for applications for a proxy vote based on occupation, service or employment**

6.—(1) An application to vote by proxy for a particular or indefinite period under paragraph (2), as read with paragraph (3)(d), of article 8 shall state—

- (a) whether the occupation, service or employment, in respect of which it is made, is that of the applicant or the applicant's spouse or civil partner or, as the case may be, it is the applicant or the applicant's spouse or civil partner who is attending the course provided by an educational institution in respect of which the application is made;
- (b) the nature of the occupation, service, employment or course provided by an educational institution giving rise to the application;
- (c) where the person in respect of whose occupation, service or employment it is made (in this paragraph referred to as "the employed person") is self-employed, that fact and, in any other case, the name of that person's employer; and
- (d) the reason relevant to the general nature of the employment, service or occupation in question or the course provided by an educational institution, why the applicant cannot reasonably be expected to go in person to the applicant's allotted polling station.

(2) Such an application shall be attested and signed—

- (a) where the employed person is self-employed, by a person who—
  - (i) is aged 18 years or over;
  - (ii) knows the employed person; and
  - (iii) is not related to the employed person;
- (b) by the employer of the employed person or by another employee to whom this function is delegated by the employer; and
- (c) in the case of a course provided by an educational institution, by the director or tutor of that course or by the principal or head of that institution or an employee to whom this function is delegated by the principal or head.

(3) For the purposes of sub-paragraph (2)(a) and of sub-paragraph (5)(a), one person is related to another if the person is the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild of the other.

(4) The person ("P") attesting an application under sub-paragraph (2) shall—

- (a) where the applicant is the employed person or the person attending the course, certify that the statements included in the application in accordance with the requirements of sub-paragraph (1)(a) to (d) are true; or
- (b) where the applicant is the spouse or civil partner of the employed person or the person attending the course, certify that the statements included in the application in accordance with the requirements of sub-paragraphs (1)(a) to (c) are true.

(5) P shall also state—

- (a) in the case of a person who attests an application under sub-paragraph (2)(a), P's name and address, and that P is aged 18 years or over, knows the employed person, but is not related to the employed person;
- (b) in the case of a person who attests an application under sub-paragraph (2)(b), either that P is the employer of the employed person or the position P holds in the employment of that employer; or
- (c) in the case of a person who attests under sub-paragraph (2)(c), the post P holds at the institution.

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### **Additional requirements for applications for a proxy vote in respect of a particular election**

7.—(1) An application under article 9(2) to vote by proxy at a particular election shall set out why the applicant's circumstances on the date of the poll for that election in respect of which it is made will be or are likely to be such that the applicant cannot reasonably be expected to vote in person at the applicant's allotted polling station.

- (2) Where an application under article 9(2)—
- (a) is made on the grounds of the applicant's disability; and
  - (b) is made after 5 pm on the sixth day before the date of the poll at the election for which it is made,

the requirements of paragraph 5 as to the matters to be specified and the attestation shall apply.

(3) Where an application mentioned in sub-paragraph (2) is made, the person who attests the application shall state, in addition to those matters specified in paragraph 5(4), to the best of the person's knowledge and belief, the date upon which the applicant became disabled.

(4) Where an application under article 9(2) is made by a person to whom paragraph 2(5A) of Schedule 4 to the 2000 Act<sup>(95)</sup> (mental patients who are not detained offenders) applies after 5 pm on the sixth day before the date of the poll at the election for which it is made, the requirements of sub-paragraph (5) as to the matters to be specified and as to attestation shall apply.

- (5) Where an application mentioned in sub-paragraph (4) is made—
- (a) the application shall additionally state the name and address of the hospital at which the applicant is liable to be detained; and
  - (b) the application shall be attested by a manager (or a person on behalf of a manager) within the meaning of section 329 of the Mental Health (Care and Treatment) (Scotland) Act 2003 responsible for the administration of the hospital at which the applicant is liable to be detained, and the attestation shall state—
    - (i) the name of the manager attesting the application;
    - (ii) that the manager is authorised to attest the application;
    - (iii) the position of the manager in the hospital at which the applicant is liable to be detained; and
    - (iv) the statutory provision under which the applicant is liable to be detained at the hospital.
- (6) This paragraph does not apply where an applicant has an anonymous entry.

### **Additional requirements for applications for appointment of a proxy**

8. An application for the appointment of a proxy under article 10(6) or (7) shall state the full name and address of the person whom the applicant wishes to appoint as the applicant's proxy, together with the person's family relationship, if any, with the applicant, and—

- (a) if it is signed only by the applicant, shall contain a statement by the applicant that the applicant has consulted the person so named and that that person is capable of being and willing to be appointed to vote as the applicant's proxy; or
- (b) if it is also signed by the person to be appointed, shall contain a statement by that person that the person is capable of being and willing to be appointed to vote as the applicant's proxy.

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<sup>(95)</sup> Paragraph 2(5A) was inserted by the 2006 Act, section 35.



### **Closing dates for applications**

**9.—(1)** An application—

- (a) to vote by post under article 8(1);
- (b) to vote by proxy under article 8(7);
- (c) to vote by post under article 8(7); or
- (d) from a proxy to vote by post under article 11(4),

shall be disregarded for the purposes of any particular election, and an application by a postal voter for the voter's ballot papers to be sent to a different address or to vote instead by proxy at a particular election under article 9(4) shall be refused, if it is received by the ERO after 5 pm on the eleventh day before the date of the poll at that election.

(2) An application—

- (a) to vote by proxy under article 8(2);
- (b) for the appointment of a proxy under article 10(6),

shall be disregarded for the purposes of any particular election if it is received by the ERO after 5 pm on the sixth day before the date of the poll at that election.

(3) An application (other than an application to which sub-paragraph (4) applies)—

- (a) to vote by proxy under article 9(2);
- (b) for the appointment of a proxy under article 10(7),

shall be refused if it is received by the ERO after 5 pm on the sixth day before the date of the poll at the election for which it is made.

(4) Where—

- (a) an application to vote by proxy under article 9(2) is made on the grounds of the applicant's disability; and
- (b) the applicant became disabled after 5 pm on the sixth day before the date of the poll at the election for which it is made,

the application, or an application under article 10(7) made by virtue of that application, shall be refused if it is received after 5 pm on the day of the poll at that election.

(5) An application—

- (a) to vote by post under article 9(1);
- (b) from a proxy postal voter for the voter's ballot papers to be sent to a different address at a particular election under article 11(6),

shall be refused if it is received by the ERO after 5 pm on the eleventh day before the date of the poll at the election for which it is made.

(6) The following, namely—

- (a) an application under article 8(5)(a) by an elector to be removed from the record kept under article 8(4);
- (b) an application under article 11(9)(a) by a proxy to be removed from the record kept under article 11(5); and
- (c) a notice under article 10(9) of the cancellation of a proxy's appointment,

shall be disregarded for the purposes of a particular election if it is received by the ERO after 5 pm on the eleventh day before the date of the poll at that election.

(7) In computing a period of days for the purposes of this paragraph—

- (a) a Saturday or a Sunday;

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- (b) Christmas Eve, Christmas Day, Easter Monday or Good Friday; or
- (c) a day which is a bank holiday in Scotland under section 1 of the Banking and Financial Dealings Act 1971(96),

shall be disregarded.

### **Grant or refusal of applications for a postal or proxy vote**

**10.**—(1) Where the ERO grants an application under article 8, 9, 10 or 11 the ERO shall, where practicable, notify the applicant of the ERO’s decision.

(2) Where the ERO grants an application for the appointment of a proxy, the ERO shall, where practicable—

- (a) confirm in writing to the elector that the proxy has been appointed, the proxy’s name and address and the duration of the appointment; and
- (b) confirm in writing to the proxy that the proxy has been appointed, the elector’s name and address and the duration of the appointment.

(3) The proxy paper to be issued by the ERO on the appointment of a proxy may be combined with another form of proxy paper if the ERO is issuing a proxy paper appointing that person as proxy for the same elector in respect of another election or other elections.

(4) Where the ERO does not grant an application under article 8, 9, 10 or 11, the ERO shall notify the applicant of the ERO’s decision and, in the case of an application under article 8(1) or 11(4), of the reason for the ERO’s decision; and the ERO shall date such notification.

(5) Where under paragraph 9(1), (2) or (6) the ERO disregards an application or notice for the purposes of any particular election, the ERO shall, where practicable, notify the applicant of this.

(6) Where a person is removed from the record kept in pursuance of article 8(4), the ERO shall, where practicable, notify the person of this and the reason for it.

(7) At an election where the ERO is not the CRO for any constituency or part of a constituency for which the ERO is the ERO, the ERO shall send to that CRO details of any application to vote by post which the ERO has granted as soon as practicable after doing so.

### **Notice of appeal**

**11.**—(1) A person desiring to appeal under article 4(1) against the decision of an ERO must give notice of the appeal to the ERO within 14 days of the receipt of the notice given under paragraph 10(4), specifying the grounds of the appeal.

(2) The ERO shall forward any such notice to the sheriff with a statement of—

- (a) the material facts which in the ERO’s opinion have been established in the case;
- (b) the ERO’s decision upon the whole case;
- (c) the ERO’s decision on any point which may be specified as a ground of appeal,

and shall also give to the sheriff any other information which the sheriff may require and which the ERO is able to give.

(3) Where it appears to the ERO that any notices of appeal given to the ERO are based on similar grounds, the ERO shall inform the sheriff so that the sheriff may consolidate the appeals or select a case as a test case.

### **Cancellation of proxy appointment**

**12.**—(1) Where the appointment of a proxy is cancelled by notice given to the ERO under article 10(9) or ceases to be in force under that provision or is no longer in force under article 10(10) (b), the ERO shall—

- (a) notify the person whose appointment as proxy has been cancelled, has expired, ceases to be or is no longer in force, unless the ERO has previously been notified by that person that the person no longer wishes to act as proxy; and
- (b) remove the person's name from the record kept under article 8(4).

(2) The ERO shall, where practicable, also notify the elector that the appointment has been cancelled or, as the case may be, notify the elector that the appointment has ceased and the reason for it.

### **Inquiries by registration officer about postal and proxy voters**

**13.**—(1) The ERO may, at such times as the ERO thinks fit, make inquiries of a person who is shown in the record kept under article 8(4) by virtue of an application under that article on the grounds set out in article 8(3)(d) or (e).

(2) The ERO may treat the failure by a person of whom inquiries have been made under sub-paragraph (1) to respond to such inquiries within one month of the date on which they were made as sufficient evidence of a material change in circumstances.

### **Requirement to provide fresh signatures at five yearly intervals**

**14.**—(1) The ERO shall every year by 31st January send every person who remains an absent voter and whose signature held on the personal identifiers record is more than five years old a notice in writing—

- (a) requiring the absent voter to provide a fresh signature; and
- (b) informing the absent voter of the date (six weeks from the date of sending the notice) on which the absent voter would cease to be entitled to vote by post or by proxy in the event of a failure or refusal to provide a fresh signature.

(2) The notice must be sent by the ERO to the current or last known address of the absent voter.

(3) The ERO must, if the absent voter has not responded to the notice within three weeks from the date on which the notice was sent, as soon as practicable send a copy of the notice to the absent voter.

(4) Where a notice or copy of a notice is sent by post, the ERO may use—

- (a) a universal postal service provider; or
- (b) a commercial delivery firm,

and postage shall be prepaid.

(5) A notice or copy of a notice sent to an absent voter in accordance with sub-paragraph (1) or (3) must be accompanied by a pre-addressed reply envelope and, in the case of any notice or copy of a notice sent to an address in the United Kingdom, return postage must be prepaid.

(6) The ERO must, no later than the date specified in the notice sent to the absent voter in accordance with sub-paragraph (1), determine whether the absent voter has failed or refused to provide a fresh signature.

(7) Where the ERO determines that the absent voter has failed or refused to provide a fresh signature the ERO must from the date specified in the notice sent to the absent voter in accordance with sub-paragraph (1) remove that person's entry from the records kept under article 8(4) or 11(5) and from the postal voters list, list of proxies or proxy postal voters list (as the case may be).

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- (8) Where an ERO removes an absent voter's entry in the circumstances to which sub-paragraph (7) refers—
- (a) the ERO shall inform the absent voter of the location of the polling station to which the absent voter has been allotted or is likely to be allotted under rule 35 of the Scottish Parliamentary Election Rules, unless that voter is not likely to be allotted to a polling station;
  - (b) paragraph 10(4) and 9 shall apply as if the ERO were refusing an application under article 8, 9, 10 or 11; and
  - (c) in the case of an entry removed from the proxy postal voters list, the ERO must also notify the elector who appointed the proxy whose entry has been removed.
- (9) The ERO shall include in the notice to be sent to an absent voter regarding the absent voter's removal from the records kept under article 8(4) or 11(5) and (as the case may be) from the postal voters list, the list of proxies or the proxy postal voters list, information—
- (a) explaining the effect of such removal; and
  - (b) reminding the absent voter that the absent voter may make a fresh application under article 8, 9, 10 or 11 to vote by post or by proxy (as the case may be).

#### **Absent voting lists: form**

15.—(1) Subject to the provisions of this paragraph, the records kept under articles 8(4) and 11(5) and the postal voters list, list of proxies and proxy postal voters list<sup>(97)</sup> shall be in such form as the ERO thinks fit.

(2) In the postal voters list the address to which a ballot paper shall be sent to a person who is entitled to vote by post as an elector shall be placed on the right hand side of the person's name and electoral number (except in the case of a person to whom article 9(6) applies).

(3) In the list of proxies, the name and address of the proxy shall be placed on the right hand side of the elector's name and electoral number (except in the case of a person to whom article 9(6) applies).

(4) In the proxy postal voters list the name of the proxy, together with the address to which the proxy's ballot paper shall be sent, shall be placed on the right hand side of the elector's name and electoral number (except in the case of a person to whom article 11(8) applies).

(5) In this paragraph, "electoral number" means a person's number in the register to be used at the election.

#### **Absent voting lists: supply of copies, etc.**

16.—(1) Any person entitled to be supplied, in accordance with any of the provisions specified in sub-paragraph (2), with copies of the full register is also a person entitled, subject to this paragraph and paragraph 20, to request that the ERO supply, free of charge, the relevant part (within the meaning of those provisions) of a copy of any of the following information which the ERO keeps—

- (a) the current version of the information which would, in the event of a particular Scottish parliamentary election, be included in the postal voters list, the list of proxies or the proxy postal voters list;
- (b) the current or final version of the postal voters list, the list of proxies or the proxy postal voters list.

(2) The provisions referred to in sub-paragraph (1) are—

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<sup>(97)</sup> The postal voters list is the special list kept under article 9(5)(a), the list of proxies is kept under 9(5)(b) and the proxy postal voters list is kept under article 11(7). These terms are defined in article 2.

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- (a) paragraph 3 of Schedule 1 (supply of full register etc to elected representatives for electoral purposes and restrictions on use);
  - (b) paragraph 4 of Schedule 1 (supply of full register etc to certain candidates and restriction on use); and
  - (c) the following provisions of the 2001 Regulations—
    - (i) regulation 104(98) (supply of full register etc. to local constituency parties and restrictions on use); and
    - (ii) regulation 105(99) (supply of full register etc. to registered political parties etc. and restrictions on use).
- (3) A request under sub-paragraph (1) shall be made in writing and shall specify—
- (a) the information (or the relevant parts of the information) requested;
  - (b) whether the request is made only in respect of the current lists or whether it includes a request for the supply of any final list; and
  - (c) whether a printed copy of the records or lists is requested or a copy in data form.
- (4) A person who obtains any information under this paragraph may use it only for—
- (a) research purposes within the meaning of that term in section 33 of the Data Protection Act 1998(100); or
  - (b) electoral purposes,

and such use shall be subject to any restrictions specified in paragraph 20 or, where the request for entitlement is made by reference to entitlement under the provisions specified in sub-paragraph (2), subject to any restrictions which would apply to the use of the full register under whichever of those provisions entitled that person to obtain that information.

(5) The ERO shall supply the current copy of the information requested under sub-paragraph (1), as soon as practicable after receipt of a request that is duly made.

(6) The ERO shall supply a copy of the postal voters list or the proxy postal voters list as soon as practicable after 5 pm on the eleventh day before the day of the poll, in response to a request under sub-paragraph (1) that has been duly made.

- (7) As soon as practicable after 5 pm on the sixth day before the day of the poll the ERO shall –
- (a) make a copy of the postal voters list, the list of proxies and the proxy postal voters list available for inspection at the ERO’s office in accordance with paragraph 17;
  - (b) if the ERO is not the CRO for any constituency or part of a constituency in the area for which the ERO is the ERO, send to the CRO a copy of those lists; and
  - (c) supply a final copy of the postal voters list, the list of proxies or the proxy postal voters list in response to every request under sub-paragraph (1) that has been duly made.

(8) The ERO shall supply a final copy of the list of proxies, updated to include any additions to that list made in consequence of any applications granted in accordance with paragraph 9(4), as soon as practicable after 5 pm on the day of the poll, to every person who received that list in accordance with sub-paragraph (7)(c).

(9) Any person who has obtained or is entitled to obtain a copy of information covered by sub-paragraph (1) may—

- (a) supply a copy of the information to a processor for the purpose of processing the information; or

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(98) Regulation 104 was inserted by S.I. 2002/1872.

(99) Regulation 105 was inserted by S.I. 2002/1872.

(100) 1998 c.29.

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- (b) procure that a processor processes and supplies to that person any copy of the information which the processor has obtained under this paragraph,

for use in respect of the purposes for which that person is entitled to obtain such information.

(10) A processor may not disclose the information covered by sub-paragraph (1) except to the person who supplied it to the processor or any other person, or an employee of such a person, who is entitled to obtain a copy of that information under this paragraph.

### **Absent voting lists: inspection**

**17.—**(1) Any person is entitled to request that the ERO make available for inspection a copy of any of the information specified in paragraph 16(1).

(2) A request under sub-paragraph (1) shall be in writing and shall specify—

- (a) the information (or the parts of the information) requested;
- (b) whether the request is made only in respect of the current lists or whether it includes a request for inspection of any final list;
- (c) who will inspect the information;
- (d) the date on which the person wishes to inspect the information; and
- (e) whether the person would prefer to inspect the information in a printed or data form.

(3) The ERO shall make a copy of the information available for inspection under supervision on the date requested or as soon as practicable thereafter, if the request under sub-paragraph (1) has been duly made.

(4) Where inspection requested under sub-paragraph (1) takes place by providing a copy of the information on the computer screen or otherwise in data form, the ERO shall ensure that the manner in, and equipment on, which that copy is provided do not permit any person consulting that copy to—

- (a) search it by electronic means by reference to the name of any person; or
- (b) copy or transmit any part of that copy by electronic, or any other means.

(5) A person who inspects a copy of information provided under sub-paragraph (3), whether in printed or in data form, may not—

- (a) make copies of any part of it; or
- (b) record any particulars in it,

otherwise than by means of handwritten notes.

(6) Any duty on an ERO to supply a copy or make information available for inspection under this paragraph imposes only a duty to provide that information in the form in which the ERO holds it.

### **Supply and inspection of absent voting lists: general provisions**

**18.—**(1) For the purposes of paragraphs 16 and 17,—

- (a) a “current” copy of records or lists is a copy of the records or lists as kept by the ERO at the beginning of the day it is supplied;
- (b) “processor” means a person who provides a service which consists of putting information into a data form and any reference to a processor includes a reference to the processor’s employees; and
- (c) any period of days shall be calculated in accordance with paragraph 9(7).

(2) The ERO shall ensure that where the ERO supplies or discloses information covered by paragraph 16(1)(a) in accordance with paragraph 16 or 17, the ERO does not supply or disclose any record relating to—

- (a) a person who has an anonymous entry; or
- (b) the proxy of a person who has an anonymous entry.

### **Conditions on the use, supply and inspection of absent voter lists**

**19.**—(1) This paragraph applies to—

- (a) the ERO; and
- (b) any person appointed to assist any such officer or who in the course of that person’s employment is assigned to assist any such officer in that officer’s registration duties.

(2) Where the ERO is also the CRO at a Scottish parliamentary election (and thereby has access to the information covered by paragraph 16(1) without being supplied with a copy of it) this paragraph also applies to—

- (a) the ERO acting in that other capacity; and
- (b) any person appointed to assist the CRO or who in the course of that person’s employment is assigned to assist that officer in that officer’s duties in respect of the Scottish parliamentary election.

(3) No person to whom this paragraph applies may—

- (a) supply to any person a copy of the information covered by paragraph 16(1); or
- (b) disclose any of that information,

otherwise than in accordance with an enactment, including this Order.

(4) Nothing in sub-paragraph (3) applies to the supply or disclosure by a person to whom this paragraph applies to another such person in connection with that other person’s registration duties or for the purposes of an election or referendum.

**20.**—(1) This paragraph applies to any person who has obtained access to the information covered by paragraph 16(1) by any means.

(2) No person to whom this paragraph applies may—

- (a) supply a copy of the information or any part of that information;
- (b) disclose any of that information; or
- (c) make use of any such information,

other than for a permitted purpose construed in accordance with sub-paragraph (3).

(3) The “permitted purpose” shall mean either—

- (a) research purposes within the meaning of that term in section 33 of the Data Protection Act 1998; or
- (b) electoral purposes.

### **Supply and inspection of absent voting lists: offences**

**21.**—(1) A person (“P”) is guilty of an offence—

- (a) if P contravenes paragraph 16(4), 17(5), 19(3) or 20(2); or
- (b) if P is an appropriate supervisor of a person (“Q”) who contravenes any of those provisions and P failed to take appropriate steps.

(2) Q is not guilty of an offence under sub-paragraph (1) if—

- (a) Q had an appropriate supervisor, and
- (b) Q has complied with all the requirements imposed on Q by Q’s appropriate supervisor.

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(3) A person (“R”) who is not Q or an appropriate supervisor is not guilty of an offence under sub-paragraph (1) if R takes all reasonable steps to ensure that R complies with the provisions specified in sub-paragraph (1)(a).

(4) In sub-paragraphs (1)(b), (2) and (3)—

- (a) an appropriate supervisor is a person who is a director of a company or concerned in the management of an organisation in which Q is employed or under whose direction or control Q is;
- (b) appropriate steps are such steps as it was reasonable for the appropriate supervisor to take to secure the operation of procedures designed to prevent, so far as reasonably practicable, the occurrence of a failure to comply with the provisions specified in sub-paragraph (1)(a).

(5) A person guilty of an offence as mentioned in sub-paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **The personal identifiers record**

**22.**—(1) The ERO shall maintain a record (“the personal identifiers record”), apart from the other records and lists which the ERO is required to keep under articles 8, 9 and 11, of the signatures and dates of birth provided by persons whose applications under article 8(1) or (2), article 9(1) or (2) or article 11(4) were granted, until the expiry of twelve months from—

- (a) the date on which a person is removed from the record kept pursuant to article 8(4) or article 11(5); or
- (b) the date of the poll for the purposes of which the person’s application to vote by post or by proxy or to vote by post as proxy was granted under article 9(1) or (2) or article 11(4).

(2) The personal identifiers record shall contain the following information in respect of each absent voter on the postal voters list, the list of proxies or the proxy postal voters list—

- (a) the absent voter’s name;
- (b) the absent voter’s date of birth; and
- (c) the absent voter’s signature, or a record of the waiver by the ERO of the requirement for a signature.

(3) The CRO may disclose information held in the personal identifiers record to—

- (a) any candidate or agent attending proceedings on receipt of postal ballot papers, in accordance with, and for the purposes of, paragraphs 20(4), 21(4) and 22(3) of Schedule 4;
- (b) any person attending proceedings on receipt of postal ballot papers, who is entitled to do so by virtue of any of sections 6A to 6D of the 2000 Political Parties Act(101) (representatives of the Electoral Commission and accredited observers), but only to the extent required to permit them to observe the proceedings.

### **Use of personal identifier information**

**23.**—(1) The ERO must either—

- (a) provide the CRO for an election with a copy of the information contained in records kept by the ERO in pursuance of articles 8(9), 9(8) and 11(12) in relation to electors at the election; or
- (b) give the CRO access to such information.

(2) Information contained in records kept by an ERO in pursuance of articles 8(9), 9(8) and 11(12) may be disclosed by the ERO to—

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(101) Sections 6A to 6D were inserted by the 2006 Act, section 29.



- (a) any other ERO if the first ERO thinks that to do so will assist the other ERO in the performance of the other ERO's duties; or
- (b) any other person exercising functions in relation to the preparation or conduct of legal proceedings under this Order.

### **Marked register for polling stations**

24. To indicate that an elector or the elector's proxy is entitled to vote by post and is for that reason not entitled to vote in person, the letter "A" shall be placed against the entry of that elector in any copy of the register, or part of it, provided for a polling station.

## SCHEDULE 4

Article 12(3)

### ISSUE AND RECEIPT OF POSTAL BALLOT PAPERS

#### **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 10;
  - "issue" includes the original and any subsequent issue;
  - "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 proxy postal voter);
  - "postal voters' ballot box" means the ballot box referred to in paragraph 16(1)(a);
  - "receptacle for ballot paper envelopes", "receptacle for postal voting statements", "receptacle for rejected ballot paper envelopes" and "receptacle for rejected votes" mean, respectively, the receptacles referred to in paragraph 16(5);
  - "spoilt ballot paper" means a ballot paper referred to in paragraph 13(1); and
  - "valid postal voting statement" means a postal voting statement which, in accordance with paragraph 20 or 21 the CRO is satisfied has been duly completed.

#### **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 postal voting statement**

3. The postal voting statement sent with the postal ballot paper to a postal voter shall be—
  - (a) in the form L set out in the Appendix at a Scottish parliamentary election other than one to which sub-paragraph (b) or (c) applies;
  - (b) in the form U set out in the Appendix 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; and

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- (c) in the form V set out in the Appendix 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, for use in that part of the constituency in which polls at more than one election are taken together.

#### **Persons entitled to be present at proceedings on issue of postal ballot papers**

4.—(1) Without prejudice to the provisions of section 6A, 6B, 6C or 6D of the 2000 Political Parties Act(102) (representatives of the Electoral Commission and accredited observers), no person may be present at the proceedings on the issue of postal ballot papers other than the CRO and members of the CRO’s staff.

(2) The CRO shall be the relevant officer for the purposes of section 6E of that Act (powers of a relevant officer to limit attendance and the conduct of observers).

#### **Persons entitled to be present at receipt of postal ballot papers**

5.—(1) Without prejudice to the provisions of section 6A, 6B, 6C, or 6D of the 2000 Political Parties Act, no person may be present at the proceedings on the receipt of postal ballot papers other than—

- (a) the CRO and members of the CRO’s staff;
- (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 the election agent’s place;
- (c) except in the case of an election to fill a vacancy in the seat of a constituency member—
  - (i) the RRO;
  - (ii) an individual candidate for return as a regional member or the candidate’s election agent or any person appointed by the candidate to attend in the election agent’s place;
  - (iii) the election agent for a registered party standing nominated or the nominating officer of that party or any person authorised by that officer to attend in the nominating officer’s place; and
- (d) an agent appointed under sub-paragraph (3).

(2) The CRO shall be the relevant officer for the purposes of section 6E of the 2000 Political Parties Act.

(3) 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 each election agent for a registered party standing nominated,

may appoint one or more agents up to the number authorised by the CRO to appoint, 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.

(4) Notice of the appointment stating the names and addresses of the persons appointed shall be given by the candidate or election agent to the CRO before the time fixed for the opening of the postal voters’ ballot boxes.

(5) If a notice of appointment under sub-paragraph (4) states more names than are authorised by the CRO under sub-paragraph (3), the CRO must, after consulting the candidate or election agent

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(102) These sections and section 6E were inserted by the 2006 Act, section 29.

who submitted the notice, determine which of the persons named (being the number of agents so authorised) are to be taken as having been appointed.

(6) Where postal ballot papers for more than one election are issued together under paragraph 2, the CRO to whom notice must be given under sub-paragraph (4) and sub-paragraphs (7) and (8) is the returning officer who issues the postal ballot papers.

(7) If an agent dies or becomes incapable of acting, the candidate or election agent may appoint another agent in that agent's place and shall forthwith give to the CRO notice in writing of the name and address of the agent appointed.

(8) Agents may be appointed and notice of appointment given to the CRO by a candidate's election agent instead of by the candidate.

(9) 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 (3), who are within the number authorised by the CRO.

(10) 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 do any act or thing which any of that person's agents, if appointed, would have been authorised to do, or may assist such an agent in doing any such act or thing.

(11) 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**

6. The CRO 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 31(5) and (7).

#### **Time when postal ballot papers are to be issued**

7.—(1) In the case of a person shown in the record kept under—

- (a) article 8(4); or
- (b) article 11(5),

no postal ballot paper (and no postal voting statement) shall be issued until after 5 pm on the eleventh day before the date of the poll (computed in accordance with paragraph 9(7) of Schedule 3).

(2) In the case of any other person, the postal ballot paper (and postal voting statement) shall be issued by the CRO as soon as practicable after the ERO has granted the application to vote by post.

#### **Procedures on the issue of postal ballot papers**

8.—(1) Each postal ballot paper issued shall bear the official mark and the name and number of the elector as stated in the polling register shall be called out, and such number shall be marked on the corresponding number list, next to the number and unique identifying mark of the ballot paper issued to that elector, and a mark shall be placed in the postal voters list or the proxy postal voters list against the number of the elector to denote that a ballot paper has been issued to the elector or the elector's proxy but without showing the particular ballot paper issued.

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

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

(a) one mark shall be placed in the postal voters list or the proxy postal voters list under sub-paragraph (1) 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 postal voters list or proxy postal voters list 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 postal voting statement under sub-paragraph (2).

(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, 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 postal voting statement sent with those papers (or as the case may be, that paper).

(5) The address to which the postal ballot paper, postal voting statement and the envelopes referred to in paragraph 10 are to be sent is—

(a) in the case of an elector, the address shown in the postal voters list; and

(b) in the case of a proxy, the address shown in the proxy postal voters list.

(6) Where a person has an anonymous entry in the register of electors, the items specified in sub-paragraph (5) must be sent (as the case may be) to the address to which postal ballot papers should be sent—

(a) as shown in the record kept under article 8(4); or

(b) as given in pursuance of an application made under article 9(1) or (2).

### **Refusal to issue postal ballot paper**

9. Where a CRO is satisfied that two or more entries in either the postal voters list, the list of proxies or the proxy postal voters list, or in each of those lists relate to the same elector the CRO 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**

10.—(1) The envelope which the CRO is required by rule 34 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, a postal ballot paper) and the postal voting statement (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), the CRO 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 taken together under paragraph 2—

(a) the envelope referred to in sub-paragraph (1) 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), 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**

**11.**—(1) For the purpose of delivering postal ballot papers, the CRO may use—

- (a) a universal postal service provider;
- (b) a commercial delivery firm; or
- (c) members of the CRO’s own staff.

(2) Where the services of a universal postal service provider or commercial delivery firm are to be used, envelopes addressed to postal voters shall be counted and delivered by the CRO with such form of receipt to be endorsed by that provider or firm as may be arranged.

(3) Postage shall be prepaid on envelopes addressed to the postal voters (except where sub-paragraph (1)(c) applies).

(4) Return postage shall be prepaid on all covering envelopes where the address provided by the postal voter for the receipt of the postal ballot paper is within the United Kingdom.

### **Security of marked lists**

**12.**—(1) As soon as practicable after the issue of each batch of postal ballot papers, the CRO shall make up into a packet the corresponding number list of those ballot papers which have been issued and shall seal such a packet.

(2) Until the time referred to in paragraph 19(11) for the opening of covering envelopes, the CRO shall take proper precautions for the security of the marked copy of the postal voters list and the postal proxy voters list.

### **Spoilt ballot paper**

**13.**—(1) If a postal voter has inadvertently dealt with that voter’s postal ballot paper or postal voting statement in such a manner that it cannot be conveniently used as a ballot paper (referred to as “a spoilt ballot paper”) or, as the case may be, a postal voting statement (referred to as “a spoilt postal voting statement”) the postal voter may return (either by hand or by post) to the CRO the spoilt ballot paper or, as the case may be, the spoilt postal voting statement.

(2) Where a postal voter exercises the entitlement conferred by sub-paragraph (1), the postal voter shall also return—

- (a) the postal ballot paper or, as the case may be, the postal voting statement, whether spoilt or not;
- (b) where two or more postal ballot papers have been issued together to the postal voter (whether at a Scottish parliamentary general election or under paragraph 2), all other ballot papers so issued, whether spoilt or not; and
- (c) the envelopes supplied for the return of the documents mentioned in sub-paragraph (1) or paragraph (a) or (b).

(3) Subject to sub-paragraph (4), on receipt of the documents referred to in sub-paragraphs (1) and (2) the CRO shall issue a replacement ballot paper or, as the case may be, papers except where those documents are received after 5 pm on the day of the poll.

(4) Where the CRO receives the documents referred to in sub-paragraphs (1) and (2) after 5 pm on the day before the day of the poll, the CRO shall only issue another postal ballot paper or, as the case may be, ballot papers if the postal voter returns the documents by hand.

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(5) Paragraphs 4, 5, 6 and 8 to 12 shall apply to the issue of postal ballot papers under sub-paragraph (3).

(6) Any postal ballot paper and the postal voting statement, whether spoilt or not, returned in accordance with sub-paragraphs (1) and (2) shall be immediately cancelled.

(7) The CRO, 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 be again made up and sealed.

(8) Where a postal voter applies in person—

- (a) by 5 pm on the day before the day of the poll, the CRO may hand a replacement postal ballot paper to the postal voter;
- (b) after 5 pm on the day before the day of the poll, the CRO may only hand a replacement postal ballot paper to the postal voter;

instead of delivering it in accordance with paragraph 11.

(9) The CRO shall enter in a list kept for the purpose (“the list of spoilt postal ballot papers”)—

- (a) the name and number of the elector as stated in the polling register (or in the case of an elector who has an anonymous entry, the elector’s electoral number alone);
- (b) the number of the postal ballot paper (or papers) issued under this paragraph; and
- (c) where the postal voter whose ballot paper is spoilt is a proxy, the proxy’s name and address.

### **Lost postal ballot paper**

14.—(1) Where a postal voter claims either to have lost or not to have received—

- (a) the postal voter’s postal ballot paper;
- (b) the postal voting statement; or
- (c) one or more of the envelopes supplied for their return,

by the fourth day before the day of the poll, the postal voter may apply (whether or not in person) to the CRO for a replacement ballot paper.

(2) Such an application shall include evidence of the voter’s identity.

(3) Where a postal voter exercises the entitlement conferred by sub-paragraph (1), the postal voter shall return—

- (a) the documents referred to in sub-paragraph (1)(a) to (c); and
- (b) where two or more postal ballot papers have been issued together to the postal voter (whether at a Scottish parliamentary general election or under paragraph 2), all other ballot papers so issued,

which the postal voter has received and which have not been lost.

(4) Any postal ballot paper and the postal voting statement returned in accordance with sub-paragraph (3) shall be immediately cancelled.

(5) The CRO, 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 be again made up and sealed.

(6) Subject to sub-paragraph (7), where the application is received by the CRO before 5 pm on the day of the poll and the CRO—

- (a) is satisfied as to the voter’s identity; and

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- (b) has no reason to doubt that the postal voter has either lost or has not received the original postal ballot paper or the postal voting statement or one or more of the envelopes provided for their return,

the CRO shall issue another postal ballot paper or, as the case may be, postal ballot papers.

(7) Where the application is received by the CRO after 5 pm on the day before the day of the poll, the CRO shall only issue another postal ballot paper, or as the case may be, ballot papers if the postal voter applies in person.

(8) The CRO shall enter in a list kept for the purpose (“the list of lost postal ballot papers”)—

- (a) the name and number of the elector as stated in the polling register (or, in the case of an elector who has an anonymous entry, the elector’s electoral number alone);
- (b) the number of the lost postal ballot paper, the numbers of any ballot papers returned along with it, and the numbers of all replacement ballot papers issued under this paragraph; and
- (c) where the postal voter is a proxy, the proxy’s name and address.

(9) Paragraphs 4, 5, 6 and 8 to 12 shall apply to the issue of replacement postal ballot papers under sub-paragraph (6).

(10) Where a postal voter applies in person—

- (a) by 5 pm on the day before the day of the poll, the CRO may hand a replacement postal ballot paper to the postal voter; or
- (b) after 5 pm on the day before the day of the poll, the CRO may only hand a replacement postal ballot paper to the postal voter,

instead of delivering it in accordance with paragraph 11.

(11) Where the CRO issues another postal ballot paper or, as the case may be, postal ballot papers under sub-paragraph (6), the lost or unreceived ballot paper shall be void and of no effect.

### **Notice of opening of postal ballot paper envelopes**

**15.—**(1) The CRO shall give not less than 48 hours’ notice in writing of each occasion on which a postal voters’ ballot box and the envelopes contained in it are to be opened, to—

- (a) each 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, each individual candidate for return as a regional member and the election agent for each registered party standing nominated.

(2) Such a notice shall specify—

- (a) the time and place at which such an opening is to take place, and
- (b) the number of agents a candidate may appoint under paragraph 5(3) to attend the opening.

### **Postal ballot boxes and receptacles**

**16.—**(1) The CRO shall provide a separate ballot box for the reception of—

- (a) the covering envelopes when returned by the postal voters (“postal voters’ ballot box”); and
- (b) postal ballot papers (“postal ballot box”).

(2) Each such ballot box shall be marked “postal voters’ ballot box” or “postal ballot box”, as the case may be, and with the name of the constituency or electoral area for which the election is, or, as the case may be, the elections are, held.

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(3) The postal ballot box shall be shown to the agents present on the occasion of opening the first postal voters' ballot box as being empty.

(4) The CRO shall then apply the CRO's seal in such manner as to prevent its being opened without breaking the seal; any of the agents present who wish to add their seals may then do likewise.

(5) The CRO shall provide the following receptacles—

- (a) the receptacle for rejected votes;
- (b) the receptacle for postal voting statements;
- (c) the receptacle for ballot paper envelopes;
- (d) the receptacle for rejected ballot paper envelopes;
- (e) the receptacle for rejected votes (verification procedure); and
- (f) the receptacle for postal voting statements (verification procedure).

(6) The CRO shall take proper precautions for the safe custody of every ballot box and receptacle referred to in this paragraph.

### **Receipt of covering envelope and collection of postal votes**

17.—(1) The CRO shall, immediately on receipt (whether by hand or by post) of a covering envelope (or an envelope which is stated to include a postal vote) before the close of the poll, place it unopened in a postal voters' ballot box.

(2) Where an envelope, other than a covering envelope issued by the CRO—

- (a) has been opened; and
- (b) contains a ballot paper envelope, postal voting statement or ballot papers,

the first-mentioned envelope, together with its contents, shall be placed in a postal voters' ballot box.

(3) The CRO may collect, or cause to be collected, any postal ballot paper or postal voting statement which by virtue of rule 53(2)(g) (procedure on close of poll) of the Scottish Parliamentary Election Rules the presiding officer of a polling station would otherwise be required to deliver or cause to be delivered to the CRO.

(4) Where the CRO collects, or causes to be collected, any postal ballot paper or postal voting statement in accordance with sub-paragraph (3) the presiding officer shall first make it (or them) up into a packet (or packets) sealed with the presiding officer's own seal and the seals of such polling agents as are present and desire to affix their seals.

### **Opening of postal voters' ballot box**

18.—(1) So long as the CRO ensures that there is at least one sealed postal voters' ballot box for the reception of covering envelopes up to the time of the close of the poll, the CRO may open the other postal voters' ballot boxes prior to that time.

(2) Each postal voters' ballot box shall be opened by the CRO in the presence of any agents, if in attendance.

(3) The last postal voters' ballot box and the postal ballot box shall be opened at the counting of the votes under rule 55 of the Scottish Parliamentary Election Rules.

### **Opening of covering envelopes**

19.—(1) When a postal voters' ballot box is opened, the CRO shall count and record the number of covering envelopes (including any envelope which is stated to include a postal vote and any envelope described in paragraph 17(2)).



(2) The CRO shall set aside for personal identifier verification not less than 20 per cent of the envelopes recorded on that occasion.

(3) The CRO shall open separately each covering envelope (including an envelope described in paragraph 17(2)).

(4) The procedure in paragraph 20 or, as the case may be, paragraph 21 applies where a covering envelope (including any envelope to which paragraph 17(2) applies) contains both—

- (a) a postal voting statement; and
- (b) a ballot paper envelope, or if there is no ballot paper envelope, a ballot paper (or ballot papers).

(5) Where the covering envelope does not contain the postal voting statement separately, the CRO shall open the ballot paper envelope to ascertain whether the postal voting statement is inside.

(6) Where a covering envelope does not contain both—

- (a) a postal voting statement (whether separately or not); and
- (b) a ballot paper envelope or, if there is no ballot paper envelope, a ballot paper (or ballot papers),

the CRO shall mark the covering envelope “provisionally rejected”, attach its contents (if any) and place it in the receptacle for rejected votes.

(7) Where—

- (a) an envelope contains the postal voting statement of an elector with an anonymous entry, and
- (b) sub-paragraph (6) does not apply,

the CRO shall set aside that envelope and its contents for personal identifier verification in accordance with paragraph 21.

(8) In carrying out the procedures in this paragraph and paragraphs 20 to 26, the CRO—

- (a) shall keep the ballot papers face downwards and shall take all proper precautions for preventing any person from seeing the votes made on the ballot papers; and
- (b) shall not be permitted to view the corresponding number list used at the issue of postal ballot papers.

(9) Where an envelope opened in accordance with sub-paragraph (3) contains a postal voting statement, the CRO shall place a mark in the marked copy of the postal voters list or proxy postal voters list in a place corresponding to the number of the elector to denote that a postal vote has been returned.

(10) A mark made under sub-paragraph (9) shall be distinguishable from and shall not obscure the mark made under paragraph 8(1) or (3)(a).

(11) As soon as practicable after the last covering envelope has been opened, the CRO shall make up into a packet the copy of the postal voters list and proxy postal voters list that have been marked in accordance with sub-paragraph (9) and shall seal the packet.

### **Procedure in relation to postal voting statements**

**20.**—(1) This paragraph applies to any postal voting statement contained in an envelope that has not been set aside for personal identifier verification in accordance with paragraph 19(2) or (7).

(2) The CRO must establish whether the postal voting statement is duly completed.

(3) Where the CRO establishes that the postal voting statement is not duly completed, the CRO shall mark the statement “rejected”, attach to it the ballot paper envelope, or if there is no

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such envelope, the ballot paper (or ballot papers), and, subject to sub-paragraph (4), place it in the receptacle for rejected votes.

- (4) Before placing a postal voting statement in the receptacle for rejected votes, the CRO must—
- (a) show it to at least one agent for each candidate or registered party represented at the proceedings, or to a candidate instead of the candidate’s agent;
  - (b) permit them to view the entries in the personal identifiers record which relate to the person to whom the postal ballot paper was addressed; and
  - (c) if any of them objects to the CRO’s decision, add the words “rejection objected to”.

(5) The CRO shall then examine the number (or numbers) on the postal voting statement against the number (or numbers) on the ballot paper envelope and, where they are the same, the CRO shall place the statement and the ballot paper envelope respectively in the receptacle for postal voting statements and the receptacle for ballot paper envelopes.

- (6) Where—
- (a) the number on a valid postal voting statement is not the same as the number on the ballot paper envelope; or
  - (b) that envelope has no number on it (or only one number when the postal voting statement has more than one),

the CRO shall open the envelope.

- (7) Sub-paragraph (8) applies where—
- (a) there is a valid postal voting statement but no ballot paper envelope; or
  - (b) the ballot paper envelope has been opened under paragraph 19(5) or sub-paragraph (6).
- (8) In the circumstances described in sub-paragraph (7), the CRO shall place—
- (a) in the postal ballot box, any ballot paper the number on which is the same as the number (or one of the numbers) on the valid postal voting statement;
  - (b) in the receptacle for rejected votes, any other ballot paper, with the valid postal voting statement attached and marked “provisionally rejected”;
  - (c) in the receptacle for rejected votes, any valid postal voting statement marked “provisionally rejected” where—
    - (i) there is no ballot paper: or
    - (ii) in the case of a statement on which the number of more than one ballot paper appears, there is not a sufficient number of ballot papers and, in such a case, shall mark the statement to indicate which ballot paper is missing;
  - (d) in the receptacle for postal voting statements, any valid statement not disposed of under paragraph (b) or (c).

#### **Procedure in relation to postal voting statements: personal identifier verification**

**21.—**(1) This paragraph applies to any postal voting statement contained in an envelope that is set aside for personal identifier verification in accordance with paragraph 19(2) or (7).

(2) The CRO must establish whether the postal voting statement is duly completed and as part of that process must compare the date of birth and the signature on the postal voting statement against the date of birth and the signature contained in the personal identifiers record relating to the person to whom the postal ballot paper was addressed.

(3) Where the CRO establishes that the postal voting statement is not duly completed, the CRO shall mark the statement “rejected”, attach it to the ballot paper envelope, or if there is no such

envelope, the ballot paper, and, subject to sub-paragraph (4), place it in the receptacle for rejected votes (verification procedure).

(4) Before placing a postal voting statement in the receptacle for rejected votes (verification procedure), the CRO must—

- (a) show it to at least one agent for each candidate or registered party represented at the proceedings, or to a candidate instead of the candidate's agent;
- (b) permit them to view the entries in the personal identifiers record which relate to the person to whom the postal ballot paper was addressed; and
- (c) if any of them objects to the CRO's decision, add the words "rejection objected to".

(5) The CRO shall then examine the number (or numbers) on the postal voting statement against the number (or numbers) on the ballot paper envelope and, where they are the same, the CRO shall place the statement and the ballot paper envelope respectively in the receptacle for postal voting statements (verification procedure) and the receptacle for ballot paper envelopes.

(6) Where—

- (a) the number on a valid postal voting statement is not the same as the number on the ballot paper envelope; or
- (b) that envelope has no number on it (or only one number when the postal voting statement has more than one),

the CRO shall open the envelope.

(7) Sub-paragraph (8) applies where—

- (a) there is a valid postal voting statement but no ballot paper envelope; or
- (b) the ballot paper envelope has been opened under paragraph 19(5) or sub-paragraph (6).

(8) In the circumstances described in sub-paragraph (7), the CRO shall place—

- (a) in the postal ballot box, any ballot paper the number on which is the same as the number (or one of the numbers) on the valid postal voting statement;
- (b) in the receptacle for rejected votes (verification procedure), any other ballot paper, with the valid postal voting statement attached and marked "provisionally rejected";
- (c) in the receptacle for rejected votes (verification procedure), any valid postal voting statement marked "provisionally rejected" where—
  - (i) there is no ballot paper; or
  - (ii) in the case of a statement on which the number of more than one ballot paper appears, there is not a sufficient number of ballot papers and, in such a case, shall mark the statement to indicate which ballot paper is missing;
- (d) in the receptacle for postal voting statements (verification procedure), any valid statement not disposed of under paragraph (b) or (c).

#### **Postal voting statements: additional personal identifier verification**

**22.**—(1) A CRO may on any occasion at which a postal voters' ballot box is opened in accordance with paragraph 18 undertake additional verification of the personal identifiers on any postal voting statement that has on a prior occasion been placed in the receptacle for postal voting statements.

(2) Where a CRO undertakes additional verification of personal identifiers, the CRO must—

- (a) remove as many postal voting statements from the receptacle for postal voting statements as the CRO wishes to subject to additional verification; and

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- (b) compare the date of birth and the signature on each such postal voting statement against the date of birth and the signature contained in the personal identifiers record relating to the person to whom the postal ballot paper was addressed.
- (3) Where the CRO is no longer satisfied that the postal voting statement has been duly completed the CRO must mark the statement “rejected” and before placing the postal voting statement in the receptacle for rejected votes (verification procedure), the CRO must—
  - (a) show it to at least one agent for each candidate or registered party represented at the proceedings, or to a candidate instead of the candidate’s agent;
  - (b) permit them to view the entries in the personal identifiers record which relate to the person to whom the postal ballot paper was addressed;
  - (c) if any of them objects to the CRO’s decision, add the words “rejection objected to”;
  - (d) open any postal ballot box and retrieve the ballot paper corresponding to the ballot paper number on the postal voting statement;
  - (e) show the ballot paper number on the retrieved ballot paper to the agents and candidates shown the postal voting statement under paragraph (a); and
  - (f) attach the ballot paper to the postal voting statement.
- (4) Following the removal of a postal ballot paper from a postal ballot box the CRO must reseal the postal ballot box in the presence of the agents.
- (5) Whilst retrieving a ballot paper in accordance with sub-paragraph (3), the CRO and the CRO’s staff—
  - (a) shall keep the ballot papers face downwards and shall take proper precautions for preventing any person seeing the votes made on the ballot papers; and
  - (b) shall not be permitted to view the corresponding number list used at the issue of postal ballot papers.

### **Opening of ballot paper envelopes**

**23.**—(1) The CRO shall open separately each ballot paper envelope placed in the receptacle for ballot paper envelopes.

- (2) The CRO shall place—
  - (a) in the postal ballot box, 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 the receptacle for rejected votes, any other ballot paper which shall be marked “provisionally rejected” and to which shall be attached the ballot paper envelope; and
  - (c) in the receptacle for rejected ballot paper envelopes, any ballot paper envelope which shall be marked “provisionally 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 or papers).

### **Cancellation of postal ballot papers**

**24.**—(1) Where it appears to the returning officer that a cancelled postal ballot paper has been placed—

- (a) in a postal voters’ ballot box;
- (b) in the receptacle for ballot paper envelopes; or
- (c) a postal ballot box,

the CRO shall proceed as follows.

(2) The CRO shall, on at least one occasion on which a postal voters' ballot box is opened in accordance with paragraph 18, also open any postal ballot box and the receptacle for ballot paper envelopes and—

- (a) retrieve the cancelled ballot paper;
- (b) show the ballot paper number on the cancelled ballot paper to the agents;
- (c) retrieve the postal voting statement that relates to a cancelled ballot paper from the receptacle for postal voting statements;
- (d) attach any cancelled postal ballot paper to the postal voting statement to which it relates;
- (e) place the cancelled documents in a separate packet and deal with that packet in the manner provided for by paragraph 13(7); and
- (f) unless the postal ballot box has been opened for the purposes of the counting of votes under rule 55 of the Scottish Parliamentary Election Rules, re-seal the postal ballot box in the presence of the agents.

(3) Whilst retrieving a cancelled ballot paper in accordance with sub-paragraph (2), the CRO and the CRO's staff—

- (a) shall keep the ballot papers face downwards and shall take all proper precautions for preventing any person seeing the votes made on the ballot papers, and
- (b) shall not be permitted to view the corresponding number list used at the issue of postal ballot papers.

### **Lists of rejected postal ballot papers**

**25.**—(1) In respect of any election, the CRO shall keep two separate lists of rejected postal ballot papers.

(2) In the first list, the CRO shall record the ballot paper number of any postal ballot paper which is not accompanied by a valid postal voting statement.

(3) In the second list, the CRO shall record the ballot paper number of any postal ballot paper which is entered on a valid postal voting statement where that ballot paper is not received with the postal voting statement.

### **Checking of lists kept under paragraph 25**

**26.**—(1) Where the CRO receives a valid postal voting statement without the postal ballot paper (or papers or, as the case may be, all of the papers) to which it relates, the CRO shall from time to time prior to the close of the poll, check the list kept under paragraph 25(2) to see whether the number (or numbers) of a postal ballot paper to which the statement relates is (or are) entered in that list.

(2) Where the CRO receives a postal ballot paper without the postal voting statement relating to it, the CRO may, at any time prior to the close of the poll, check the list kept under paragraph 25(3) to see whether the number of that ballot paper is entered in that list.

(3) The CRO shall conduct the checks described in sub-paragraphs (1) and (2) as soon as practicable after the receipt of packets from every polling station in the constituency or, as the case may be, electoral area under rule 53 of the Scottish Parliamentary Election Rules.

(4) Where the ballot paper number in the list matches the number of a valid postal voting statement or, as the case may be, a postal ballot paper, the CRO shall retrieve the relevant statement or paper.

(5) The CRO shall then take the appropriate steps under this Schedule as though any document earlier marked “provisionally rejected” had not been so marked and shall amend the document accordingly.

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### **Confirming receipt of postal votes and postal voting statements**

**27.**—(1) An elector or a proxy voter who is shown in the postal voters list or proxy postal voters list may request, at any time before the close of the poll, that the CRO confirm—

- (a) whether a mark is shown in the marked copy of the postal voters list or proxy postal voters list in a place corresponding to the number of the elector to denote that a postal vote or votes have been returned; and
- (b) whether the number of the ballot paper or papers issued to the elector or the elector’s proxy have been recorded on either of the lists of rejected votes kept by the CRO under sub-paragraphs (2) and (3) of paragraph 25.

(2) The CRO shall establish whether any such request has been made by the elector or their proxy, and if it is so established shall provide confirmation of the matters specified in sub-paragraph (1).

### **Sealing of receptacles**

**28.**—(1) As soon as practicable after the completion of the procedure under paragraph 26(3) and (4), the CRO shall make up into separate packets the contents of—

- (a) the receptacle for rejected votes;
- (b) the receptacle for postal voting statements;
- (c) the receptacle for rejected ballot paper envelopes;
- (d) the lists of spoilt and lost postal ballot papers;
- (e) the receptacle for rejected votes (verification procedure); and
- (f) the receptacle for postal voting statements (verification procedure),

and shall seal up such packets.

(2) Any document in those packets marked “provisionally rejected” shall be deemed to be marked “rejected”.

### **Abandoned poll**

**29.**—(1) Where a poll is abandoned or countermanded after postal ballot papers have been issued, by reason of the death of a candidate, the CRO—

- (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 paragraphs 19 to 23, treat all unopened covering envelopes and the contents of those that have been opened as if they were counted ballot papers.

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

### **Retention of documents by CRO**

**30.**—(1) The CRO shall retain together with the documents specified in rule 69(1) of the Scottish Parliamentary Election Rules—

- (a) any packets referred to in paragraphs 12, 13(7), 14(5), 19(11) and 28, subject to paragraph 29, endorsing on each packet a description of its contents, the date of the election to which it relates and the name of the constituency or electoral ward for which the election (or elections) was (or were) held; and
- (b) a completed statement in form W set out in the Appendix of the number of postal ballot papers issued.

(2) Where—

- (a) any covering envelopes are received by the CRO after the close of the poll (apart from those delivered in accordance with rule 53(2)(g) of the Scottish Parliamentary Election Rules);
- (b) any envelopes addressed to postal voters are returned as undelivered too late to be readdressed; or
- (c) any spoilt ballot papers are returned too late to enable other postal ballot papers to be issued,

the CRO shall put them unopened in a separate packet, seal up such packet and endorse and retain it in the manner described in sub-paragraph (1).

(3) Rules 68, 69, 70 and 71(1) of the Scottish Parliamentary Election Rules shall apply to any packet or document retained under this paragraph.

(4) A copy of the statement referred to in sub-paragraph (1)(b) shall be provided by the CRO to the Secretary of State and the Electoral Commission in the period which starts 10 days after the day of the poll and ends 15 days after the day of the poll.

## SCHEDULE 5

Article 13(5)

### COMBINATION OF POLLS

#### PART 1

#### GENERAL

##### **Returning officers and polling stations**

1.—(1) Where the polls at a Scottish parliamentary general election and an ordinary local government election are taken together under article 13(1)—

- (a) those functions of the returning officer at the local government election which are specified in paragraph 2 shall be discharged by the CRO for the Scottish parliamentary election for such part of the local government area as is situated in the Scottish parliamentary constituency; and
- (b) only polling stations used for the Scottish parliamentary election shall be used for the local government election.

(2) Where the polls for related areas are taken together under article 13(2)—

- (a) the returning officers for those elections shall decide which returning officer shall discharge in the area in which the polls are combined (“the combined area”) those functions of the other which are specified in paragraph 2; and
- (b) the only polling stations which shall be used in the combined area at such elections are the polling stations used at the election for which the returning officer who discharges the functions referred to above acts as returning officer.

##### **Functions at combined polls**

2.—(1) The functions referred to in paragraph 1 are the functions conferred or imposed—

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- (a) at a Scottish parliamentary election by those rules in the Scottish Parliamentary Election Rules which are specified in sub-paragraph (2); and
- (b) at a local government election, by those rules in the rules made under sections 3 and 16 of the Local Governance (Scotland) Act 2004(103) which correspond to the provisions specified in sub-paragraph (2),

and, where the proceedings on the issue and receipt of postal ballot papers at two or more elections are taken together under paragraph 2 of Schedule 4, the functions conferred or imposed by that Schedule and by Part 5 of the 2001 Regulations(104).

(2) The rules referred to in sub-paragraph (1) are—

- (a) rule 33(2)(a) (notice of situation of polling stations);
- (b) where the proceedings on the issue and receipt of postal ballot papers at two or more elections are taken together under paragraph 2 of Schedule 4, rule 34 (postal ballot papers);
- (c) rule 35 (provision of polling stations);
- (d) rule 36(1) and (2) (appointment of presiding officers and clerks) to the extent that that rule concerns the appointment of presiding officers and clerks to assist them;
- (e) rule 38 (equipment of polling stations);
- (f) rule 40(1) (notification of requirement of secrecy at polling station);
- (g) rule 41(4) (signature of certificate as to employment);
- (h) rule 42(2)(b) (authorisation to order removal from polling station); and
- (i) in rule 55 paragraph (1) (the count) (as substituted by paragraph 18 of this Schedule) and paragraph (5).

### **Modification of provisions about expenses in this Order and the 1983 Act**

3.—(1) Where those functions of a returning officer at an election which are specified in paragraph 2 are discharged by the returning officer at another election under paragraph 1, references to the returning officer or his charges or expenditure—

- (a) in subsections (3), (3A), (3B), (3C), (7) and (8) of section 29 of the 1983 Act(105) (payments by and to returning officers) as applied and modified by article 18;
- (b) in article 19 (taxation of returning officer's accounts); and
- (c) in subsections (5) and (6) of section 42 of the 1983 Act (expenses at local elections),

shall, to the extent that such functions are so discharged, be construed as references to the returning officer who discharges those functions and to that returning officer's charges or expenditure in respect of those functions.

(2) The reference in section 42(6) of the 1983 Act to the returning officer or person acting as returning officer requesting an advance in respect of his expenses shall, to the extent that those expenses relate to the functions specified in paragraph 2 and in respect of the remuneration of presiding officers and clerks, include a reference to the returning officer who under paragraph 1 discharges those functions at the local government election.

(103) 2004 asp 9; section 3 was amended by the [Local Electoral Administration and Registration Services \(Scotland\) Act 2006](#), (asp 14), section 34(6); section 16 was amended by the [Scottish Local Government \(Elections\) Act 2009](#) (asp 10), section 2. The current rules are the [Scottish Local Government Elections Rules 2007](#), comprising Schedule 1 to the [Scottish Local Government Elections Order 2007](#) (S.S.I. 2007/42).

(104) Part 5 has been amended by [S.I. 2002/1872](#), [2006/834](#), [2007/925](#), [2008/305](#) and [2010/930](#).

(105) Section 29 was amended by the [Representation of the People Act 1991](#) (c.11), section 1; the 2006 Act, section 68 and [S.I. 1991/1728](#), article 3. It will be amended by the [2000 Political Parties Act](#), Schedule 21, paragraph 6(3) and the 2006 Act, Schedule 1, paragraph 107(2); but these amendments are not yet in force.



(3) In relation to elections the polls at which are taken together under article 13(1) or (2), the Secretary of State may under section 29(3) of the 1983 Act as applied and modified by article 18 include special provision for services rendered, or expenses incurred, in respect of the discharge of functions specified in paragraph 2, and in respect of the remuneration of presiding officers and clerks, by the returning officer who discharges those functions by virtue of paragraph 1.

## PART 2

### MODIFICATIONS OF THE SCOTTISH PARLIAMENTARY ELECTION RULES

#### **Modifications of the Scottish Parliamentary Election Rules: general provision**

4. Where the poll at a Scottish parliamentary election is taken with the poll at a local government election under article 13(1) or (2), the Scottish Parliamentary Election Rules shall have effect subject to the modifications set out in the remaining paragraphs of this Part.

#### **Colour of ballot papers where polls combined**

5. After rule 28 there shall be inserted—

##### **“Colour of ballot papers where polls combined**

**28A.** The ballot paper to be used at a local government election the poll for which is taken together with the poll at a Scottish parliamentary election shall be of a different colour from that of any ballot paper to be used at the Scottish parliamentary election.”.

#### **Rule 33 (notice of poll)**

6. At the end of rule 33 there shall be added—

“(3) The notice published under paragraph (2) shall—

- (a) state that the poll at the Scottish parliamentary election is to be taken together with the poll at a local government election;
- (b) specify the relevant local authority and, in the case of a local government election to fill a casual vacancy, the electoral area for which the election is held; and
- (c) where the polls are to be taken together in part of a Scottish parliamentary constituency only, specify that part.”.

#### **Rule 37 (issue of official poll cards)**

7. At the end of rule 37 there shall be added—

“(6) An official poll card issued under this rule may be combined with any official poll card or notification issued at a local government election.”.

#### **Rule 38 (equipment of polling stations)**

8.—(1) After paragraph (1) of rule 38 there shall be inserted—

“(1A) A different ballot box shall be used for the poll at the local government election from the ballot box or ballot boxes used for the poll at the Scottish parliamentary election.”

(2) In paragraph (11) of that rule, for “form O” there shall be substituted “form O3”.

(3) In paragraph (12) of that rule, for “form P” there shall be substituted “form X”.

**Rule 39 (appointment of polling and counting agents)**

9. After paragraph (6) of rule 39 there shall be inserted—

“(6A) Notices of the appointment of polling agents which are required by paragraphs (4), (5) and (6) to be given to the returning officer shall be given to the returning officer who discharges the functions specified in paragraph 2 of Schedule 5.”.

**Rule 44 (questions to be put to voters)**

10.—(1) In paragraph (1) of rule 44, in questions 1(b), 2(b) and 4 before “election” there shall be inserted “Scottish parliamentary”.

(2) In paragraph (1) of rule 44, in question 3(b) after “elsewhere” there shall be inserted “at this Scottish parliamentary election”.

**Rule 46 (voting procedure)**

11. At the end of rule 46 there shall be added—

“(7) Where the poll at a Scottish parliamentary election is taken together with a poll at a local government election the same copy of the polling register may be used under paragraph (2) for each election and one mark may be placed in that register under paragraph (2)(c) or in the list of proxies under paragraph (2)(d) to denote that a ballot paper has been received in respect of each election; except that, where a ballot paper has been issued in respect of one election only, a different mark shall be placed in the polling register or, as the case may be, list of proxies so as to identify the election in respect of which the ballot paper was issued.”.

**Rule 47 (votes marked by presiding officer)**

12. At the end of rule 47 there shall be added—

“(5) Where the poll at a Scottish parliamentary election is taken together with a poll at a local government election the same list of votes marked by the presiding officer may be used for each election and, where it is so used, an entry in that list shall be taken to mean that the ballot papers were so marked in respect of each election, unless the list identifies the election at which the ballot paper was so marked.”.

**Rule 48 (voting by persons with disabilities)**

13. At the end of rule 48 there shall be added—

“(9) Where the poll at a Scottish parliamentary election is taken together with a poll at a local government election the same list of voters with disabilities assisted by companions may be used for each election and, where it is so used, an entry in that list shall be taken to mean that votes were so given in respect of each election, unless the list identifies the election at which the vote was so given.”.

**Rule 49 (tendered ballot papers)**

14. At the end of rule 49 there shall be added—

“(11) Where the poll at a Scottish parliamentary election is taken together with a poll at a local government election the same tendered votes list may be used for each election and, where it is so used, an entry in that list shall be taken to mean that tendered ballot papers were marked in respect of each election, unless the list identifies the election at which a tendered ballot paper was marked.”.

### **Rule 52 (adjournment of poll in case of riot)**

15. In rule 52(1) for the words “CRO” there shall be substituted—  
“returning officer who discharges the functions specified in paragraph 2 of Schedule 5.”.

### **Rule 53 (procedure on close of poll)**

16. After rule 53(2) there shall be inserted—  
“(2A) The contents of the packets referred to in paragraph (2)(a), (b), (d) and (g) shall not be combined with the contents of packets made up under the corresponding rule that applies at a local government election; nor shall the statement prepared under paragraph (4) be so combined.  
(2B) References to the CRO in paragraph (2) are references to the CRO who discharges the functions specified in paragraph 2 of Schedule 5.”.

### **Rule 54 (attendance at counting of votes)**

- 17.—(1) For paragraph (1) of rule 54 there shall be substituted the following paragraphs—  
“(1) Where the CRO at the Scottish parliamentary election discharges the functions specified in paragraph 2 of Schedule 5, the CRO shall make arrangements for discharging the functions under rule 55 (as amended by paragraph 18 of Schedule 5) in the presence of the counting agents appointed for the purposes of the Scottish parliamentary election as soon as practicable after the close of the poll and for thereafter counting the votes at the Scottish parliamentary election in the presence of those agents; and the CRO shall give to those counting agents notice in writing of the time and place at which the CRO will begin to discharge the functions under rule 55 (as so amended).  
(1A) Where the CRO at the Scottish parliamentary election does not discharge the functions specified in paragraph 2 of Schedule 5, the CRO shall make arrangements for counting the votes in the presence of the counting agents as soon as practicable after the delivery of the ballot papers to the CRO by the returning officer who does discharge those functions, and who shall give to those counting agents notice in writing of the time after which the CRO will begin to count the votes if by then the CRO has received the ballot papers and of the place at which that count will take place.”.  
(2) In rule 54(2), before “at the counting of the votes” there shall be inserted—  
“at the proceedings described in rule 55(1) (as substituted by paragraph 18 of Schedule 5) or.”  
(3) In rule 54(3), before “the counting of the votes” there shall be inserted—  
“proceedings described in rule 55(1) (as so substituted) or.”  
(4) In rule 54(3)(a) before “the efficient” there shall be inserted—  
“the efficient separating of the ballot papers or, as the case may be,”.

### **Rule 55 (the count)**

18. For rule 55(1) there shall be substituted—  
“(1) Where the CRO at the Scottish parliamentary election discharges the functions specified in paragraph 2 of Schedule 5 the CRO shall—  
(a) in the presence of the counting agents appointed for the purposes of the Scottish parliamentary election open each ballot box;

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- (b) separate the ballot papers relating to the Scottish parliamentary election from the ballot papers relating to the local government election;
  - (c) make up into packets the ballot papers for the local government election (including any postal ballot papers which have been duly returned) and seal them up in separate containers endorsing on each a description of the polling station to which the ballot papers relate;
  - (d) in the presence of the counting agents appointed for the purpose of the Scottish parliamentary election, record separately the number of constituency ballot papers there are in each box and the number of regional ballot papers there are in each box;
  - (e) in the presence of those election agents verify each ballot paper account in relation to the ballot papers for the Scottish parliamentary election;
  - (f) count such of the constituency postal ballot papers and regional postal ballot papers as have been duly returned and record separately the number of constituency postal ballot papers counted and the number of regional postal ballot papers counted;
  - (g) deliver or cause to be delivered to the returning officer at the local government election to which the ballot papers relate—
    - (i) the containers referred to in sub-paragraph (c), together with a list of them and of the contents of each; and
    - (ii) the ballot paper accounts, and
  - (h) at the same time deliver, or cause to be delivered, to that returning officer the packets which so relate containing—
    - (i) the unused and spoiled ballot papers;
    - (ii) the tendered ballot papers;
    - (iii) the certificates as to employment on duty on the day of the poll; and
    - (iv) where there are separate completed corresponding number lists for each election, the corresponding number lists of the used ballot papers.
- (1A) Where a CRO at a Scottish parliamentary election does not discharge the functions specified in paragraph 2 of Schedule 5 the CRO shall—
- (a) on receipt of containers from the returning officer who does discharge those functions, and after the time specified in the notice given under rule 54(1A) (as substituted by paragraph 17(1) of Schedule 5), in the presence of the counting agents open each container and record separately the number of constituency ballot papers there are in each container and the number of regional ballot papers there are in each container;
  - (b) in the presence of the election agents appointed for the purposes of the election verify each ballot paper account;
  - (c) count such of the constituency postal ballot papers and regional postal ballot papers as have been duly returned and record separately the number of constituency postal ballot papers counted and the number of regional postal ballot papers counted.”.

**Rule 70 (orders for production of documents and records)**

19. After paragraph (8) of rule 70 there shall be added—

“(9) Paragraph (8) does not apply to a sealed packet of the completed corresponding number lists used at a local government election and at a Scottish parliamentary election in respect of which an order has been made under rule 58 of Schedule 1 to the Scottish Local Government Elections Order 2007(106).”.

### **Countermand or abandonment of poll etc. on death of candidate**

**20.**—(1) After rule 77 (regional election: death of candidate) there shall be added—

#### **“Countermand or abandonment not to affect local government election**

**77A.** The countermanding of a notice of poll or a direction that polling is abandoned under article 72(4), 75(2) or 77(1) shall not affect the poll at a local government election which is taken together with a poll at a Scottish Parliamentary election under article 13(1) or (2).”.

(2) In paragraph (2) of rule 78, for “paragraph (10)” there shall be substituted “paragraphs (10) and (11)”.

(3) After paragraph (10) of rule 78 there shall be added—

“(11) Where a poll at a Scottish parliamentary election is taken together with a poll at a local government election under article 13(1) or (2) but the poll at the Scottish parliamentary election is abandoned in any of the circumstances mentioned in paragraph (1)—

- (a) the steps which the presiding officer is required to take at such a polling station by paragraph (2) shall take place at the close of the poll at the local government election;
- (b) where paragraph (10) applies, paragraph (3) shall have effect as if for “other election” there were substituted “other elections”; and
- (c) where paragraph (10) does not apply, paragraph (3) shall have effect as if after “the CRO” there were inserted “having separated the ballot papers relating to the local government election.”.

## **PART 3**

### **MODIFICATIONS OF THE SCOTTISH LOCAL GOVERNMENT ELECTIONS RULES**

#### **Modifications of the local elections rules: general provision**

**21.**—(1) Where the poll at a local government election is taken together with the poll at a Scottish parliamentary election under article 13(1) or (2), the rules comprised in Schedule 1 to the Scottish Local Government Elections Order 2007(107) shall have effect subject to the modifications set out in the remaining paragraphs of this Part.

(2) In this Part the rules referred to in sub-paragraph (1) are referred to as “the local elections rules”.

#### **Rule 14 of the local elections rules (the ballot papers)**

**22.**—(1) After rule 14(2) of the local elections rules there shall be inserted—

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(106) S.S.I. 2007/42, amended by S.S.I. 2007/379; there are other amendments but none is relevant.

(107) S.S.I. 2007/42, amended by S.S.I. 2007/379; there are other amending instruments but none is relevant.

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“(2A) The ballot paper shall be of a different colour from that of any ballot papers used at a Scottish parliamentary election the poll at which is taken together with the poll at the local government election.”.

(2) At the end of rule 14 of the local election rules there shall be added—

“(6) References to a Scottish parliamentary election in paragraph (2A) and elsewhere in these Rules are to an election to the Scottish Parliament.”.

#### **Rule 19 of the local elections rules (notice of poll)**

23. At the end of rule 19 of the local elections rules there shall be added—

“(5) The notice published under paragraph (4) shall—

- (a) state that the poll at the local government election is to be taken together with the poll at a Scottish parliamentary election;
- (b) specify the Scottish parliamentary constituency and region and the relevant local authority and, in the case of an election to fill a casual vacancy, the electoral area for which the other election is held; and
- (c) where the polls are to be taken together in part of the local government area only, specify that part.”.

#### **Rule 23 of the local elections rules (issue of official poll cards and notifications)**

24. At the end of rule 23 of the local elections rules there shall be added—

“(5) An official poll card or notification issued under this rule may be combined with the official poll card or notification, as the case may be, issued at a Scottish parliamentary election.”.

#### **Rule 24 of the local elections rules (equipment of polling stations)**

25.—(1) After paragraph (1) of rule 24 of the local elections rules there shall be inserted—

“(1A) A different ballot box shall be used for the poll at the local government election from the ballot box or ballot boxes used for the Scottish parliamentary election.”.

(2) For rule 24(5) of the local elections rules there shall be substituted—

“(5) A notice in the form O3 set out in the Appendix to the Scottish Parliament (Elections etc.) Order 2010 shall be printed in conspicuous characters and exhibited inside and outside every polling station.

(5A) In every compartment of every polling station there shall be exhibited a notice in the form X set out in the Appendix to the Scottish Parliament (Elections etc.) Order 2010.

(5B) The forms referred to in paragraphs (5) and (5A) may be used with such variations as the circumstances may require.”.

#### **Rule 25 of the local elections rules (appointment of polling and counting agents)**

26. After rule 25(5) of the local elections rules there shall be inserted—

“(5A) Notices of the appointment of polling agents which are required by paragraphs (3), (4) and (5) to be given to the returning officer shall be given to that returning officer who discharges the functions specified in paragraph 2 of Schedule 5 to the Scottish Parliament (Elections etc.) Order 2010.”.

**Rule 30 of the local elections rules (questions to be put to voters)**

27.—(1) In paragraph (3) of rule 30 of the local elections rules, in questions 1(b), 2(b) and 4 after the words “this election” there shall be added “for this local government area”.

(2) In paragraph (3) of rule 30 of the local elections rules, in question 3(b) after “elsewhere” there shall be inserted “at the election for this local government area”.

**Rule 32 of the local elections rules (voting procedure)**

28. At the end of rule 32 of the local elections rules there shall be added—

“(6) The same copy of the register of electors may be used under paragraph (1) for each election and one mark may be placed in that register under paragraph (1)(c) or in the list of proxies under paragraph (1)(d) to denote that a ballot paper has been received in respect of each election; except that, where a ballot paper has been issued in respect of one election only, a different mark shall be placed in the register or, as the case may be, list so as to identify the election in respect of which the ballot paper was issued.”.

**Rule 33 of the local elections rules (votes marked by presiding officer)**

29. After rule 33(2) of the local elections rules there shall be inserted—

“(2A) The same list of votes marked by the presiding officer may be used for each election and, where it is so used, an entry in that list shall be taken to mean that the ballot papers were so marked in respect of each election, unless the list identifies the election at which the ballot paper was so marked.”.

**Rule 34 of the local elections rules (voting by persons with disabilities)**

30. After rule 34(4) of the local elections rules there shall be inserted—

“(4A) The same list of voters with disabilities assisted by companions may be used for each election and, where it is so used, an entry in that list shall be taken to mean that the votes were so given in respect of each election, unless the list identifies the election at which the vote was so given.”.

**Rule 35 of the local elections rules (tendered ballot papers)**

31. After rule 35(8) of the local election rules there shall be inserted—

“(8A) The same tendered votes list may be used for each election and, where it is so used, an entry in that list shall be taken to mean that tendered ballot papers were marked in respect of each election, unless the list identifies the election at which a tendered ballot paper was marked.”.

**Rule 38 of the local elections rules (adjournment of poll in case of riot)**

32. At the end of paragraph (1) of rule 38 of the local elections rules there shall be inserted the words “who discharges the functions specified in paragraph 2 of Schedule 5 to the Scottish Parliament (Elections etc.) Order 2010”.

**Rule 39 of the local elections rules (procedure on close of poll)**

33. After rule 39(1) of the local elections rules there shall be inserted—

“(1A) The contents of the packets referred to in paragraph (1)(a), (b), (d) and (g) shall not be combined with the contents of the packets made up under the corresponding rule

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that applies at a Scottish parliamentary election; nor shall the statement prepared under paragraph (3) be so combined.

(1B) References to the returning officer in paragraph (1) are references to the returning officer who discharges the functions specified in paragraph 2 of Schedule 5 to the Scottish Parliament (Elections etc.) Order 2010.”.

**Rule 40 of the local elections rules (attendance at counting of votes)**

**34.** For rule 40(1) of the local elections rules there shall be substituted—

“(1) Where the returning officer at the local government election does not discharge the functions specified in paragraph 2 of Schedule 5 to the Scottish Parliament (Elections etc.) Order 2010 he shall make arrangements for counting the votes in the presence of the counting agents after the delivery of the ballot papers to him by the returning officer who does discharge those functions, as soon as practicable after the end of the Scottish parliamentary election count, and shall give to the counting agents notice in writing of the time after which he will begin to count the votes, if by then he has received the ballot papers, and of the place at which that count will take place.

(1A) Where the returning officer at the local government election discharges the functions specified in paragraph 2 of Schedule 5 to the Scottish Parliament (Elections etc.) Order 2010, he shall make arrangements for discharging the functions under rule 42(1) (as substituted by paragraph 35 of Schedule 5 to that Order) in the presence of the counting agents appointed for the purposes of the local government election as soon as practicable after the close of the poll and for thereafter counting the votes at that election in the presence of those agents; and he shall give to those counting agents notice in writing of the time and place at which he will begin to discharge the functions under rule 42(1) (as so substituted).

(2) In paragraph (2) of rule 40 before the words “at the counting of the votes” there shall be inserted the words “at the proceedings under rule 42(1) (as so substituted) or”.

(3) In paragraph (3) of rule 40 before the words “counting of the votes” in the first place where they occur, there shall be inserted the words “proceedings under rule 42(1) (as so substituted) or the,” and before the words “the efficient” there shall be inserted the words “the efficient separating of the ballot papers or, as the case may be,”.

**Rule 42 of the local elections rules (the count)**

**35.** For paragraph (1) of rule 42 of the local elections rules there shall be substituted the following paragraphs—

“(1) Where the returning officer at the local government election discharges the functions specified in paragraph 2 of Schedule 5 to the Scottish Parliament (Elections etc.) Order 2010, he shall—

- (a) in the presence of the counting agents appointed for the purposes of the local government election, open each ballot box;
- (b) separate the ballot papers relating to the local government election from the ballot papers relating to the Scottish parliamentary election;
- (c) in the presence of the counting agents appointed for the purpose of the local government election, record separately the number of ballot papers for the local government election;
- (d) if required to do so by a candidate or election agent, in the presence of the election agents appointed for the purposes of the local government election verify each ballot paper account;



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- (e) count such of the postal ballot papers for the local government election as have been duly returned and record separately the number counted at each election;
  - (f) make up into packets the ballot papers for the Scottish parliamentary election and seal them up in separate containers endorsing on each a description of the polling station to which the ballot papers relate;
  - (g) deliver, or cause to be delivered, to the constituency returning officer for the Scottish parliamentary election to which the ballot papers relate—
    - (i) those containers, together with a list of them and of the contents of each; and
    - (ii) the ballot paper accounts; and
  - (h) at the same time deliver or cause to be delivered to that officer packets which so relate containing—
    - (i) the unused and spoilt ballot papers;
    - (ii) the tendered ballot papers;
    - (iii) the corresponding number lists of the used ballot papers; and
    - (iv) the certificates as to employment on duty on the day of the poll.
- (1A) Where the returning officer at the local government election does not discharge the functions specified in paragraph 2 of Schedule 5 to the Scottish Parliament (Elections etc.) Order 2010, he shall—
- (a) following the receipt of containers from the returning officer who does discharge those functions, and as soon as practicable after the end of the Scottish parliamentary election count (but not before the time specified in the notice given under rule 40(1) (as substituted by paragraph 34 of Schedule 5 to the Scottish Parliament (Elections etc.) Order 2010)), in the presence of the counting agents open each container and record separately the number of ballot papers used in the election, checking the number against the ballot paper account;
  - (b) if required to do so by a candidate or election agent in the presence of the election agents appointed for the purposes of the local government election verify each ballot paper account;
  - (c) count such of the postal ballot papers as have been duly returned and record the number counted.”.

#### **Rule 57 of the local elections rules (delivery of documents)**

**36.** Rule 57 of the local elections rules shall be renumbered as paragraph (1) of that rule and after paragraph (1) as so renumbered there shall be added—

“(2) At an election where the returning officer does not discharge the functions specified in paragraph 2 of Schedule 5 to the Scottish Parliament (Elections etc.) Order 2010, this rule shall have effect as if sub-paragraphs (c), (d) and (f) were omitted.”.

#### **Rule 58 of the local election rules (orders for production of documents)**

**37.**—(1) In rule 58 of the local elections rules, after paragraph (1)(b) (immediately before the word “or” following it), there shall be inserted—

“(bb) or the opening of a sealed packet of the completed corresponding number lists used at a local government election and at a Scottish parliamentary election in the custody of the returning officer for a Scottish Parliament constituency (“CRO”);”.

(2) For paragraph (2) of rule 58 of the local election rules there is substituted—

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“(2) An order for the opening of—

- (a) a sealed packet of the completed corresponding number lists or of the certificates or for the inspection of any counted ballot papers or information held on an electronic copy of information made pursuant to rule 56(1) in the custody of the proper officer of the council; or
- (b) for the opening of a sealed packet of the completed corresponding number lists used at a local government election and at a Scottish parliamentary election in the custody of the CRO,

may be made by an election court.”.

(3) In paragraph (6) of rule 58 of the local election rules, after “council” there is inserted “or by the CRO”.

(4) After paragraph (8) of rule 58 of the local election rules there is added—

“(9) Paragraph (8) does not apply to a sealed packet of the completed corresponding number lists used at a local government election and at a Scottish parliamentary election in respect of which an order has been made under rule 70 of the Scottish Parliamentary Election Rules contained in Schedule 2 to the Scottish Parliament (Elections etc.) Order 2010.”.

#### **Rule 60 of local elections rules (countermand or abandonment of poll on death of candidate)**

**38.**—(1) At the end of rule 60(1) of the local elections rules there shall be added—

“Provided that neither the countermand of the poll at the local government election nor the direction that that poll be abandoned shall affect the poll at the Scottish parliamentary election.”.

(2) For rule 60(2) of the local elections rules there shall be substituted—

“(2) Where the poll at the local government election is abandoned by reason of a candidate’s death, no further ballot papers shall be delivered in any polling station and, at the close of the poll for the Scottish parliamentary election, the presiding officer shall take the like steps for the delivery to the returning officer of the ballot boxes and of ballot papers and other documents as he would be required to do if the poll at the local government election had not been abandoned, and the returning officer shall dispose of ballot papers used at the local government election (at which a candidate has died) as he is required to do on the completion in due course of the counting of the votes, but—

- (a) shall not be necessary for any ballot paper account at that election to be prepared or verified; and
- (b) the returning officer, having separated the ballot papers relating to the Scottish parliamentary election shall take no step or further step for the counting of the ballot papers used at the local government election (at which a candidate has died) or of the votes and shall seal up all of those ballot papers, whether the votes on them have been counted or not.”.

#### **Local elections rules: postal voting statement**

**39.** In Part 6 of Schedule 1 to the local elections rules (forms for use at Scottish local government elections), for Form 8 (form of postal voting statement) there shall be substituted form U or, as the case may be, form Y set out in the Appendix (which may be used with such variations as the circumstances may require).

## Local elections rules: declaration by the companion of a voter with disabilities

**40.** In Part 6 of Schedule 1 to the local elections rules (forms for use at Scottish local government elections), in Form 15 (form of declaration by the companion of a voter with disabilities), after “this election” wherever occurring add “and the election now being held in this Scottish parliamentary constituency”.

### SCHEDULE 6

Article

#### LEGAL PROCEEDINGS

#### PART 1

#### 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)	
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)	

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<i>Provision applied</i>	<i>Modification</i>
Section 138 (list of petitions)	
Section 139 (trial of petition)	<p>In subsection (3) the words from “the acceptance” to “notwithstanding”, in the third place where it occurs, shall be omitted.</p> <p>In subsection (6), the reference to the parliamentary election rules shall be construed as a reference to the Scottish Parliamentary Election Rules.</p>
Section 140 (witnesses)	<p>Omit subsection (6).</p> <p>In subsection (7), omit the words “Subsection (6) above does not apply to Scotland, and in Scotland”.</p>
Section 141 (duty to answer relevant questions)	
Section 143 (expenses of witnesses)	
Section 144 (conclusion of trial of parliamentary election petition)	<p>In subsections (2), (4) and (6), for “Speaker” substitute “Clerk of the Scottish Parliament”.</p> <p>Omit subsections (5) and (7).</p>
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 154 (costs of petition)	
Section 155 (neglect or refusal to pay costs)	
Section 156 (further provision as to costs)	

<i>Provision applied</i>	<i>Modification</i>
Section 157 (appeals and jurisdiction)	<p>Omit subsections (1), (4), (6) and (8).</p> <p>For subsection (2) substitute—</p> <p>“(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 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.”.</p> <p>In subsection (7), omit the words from the beginning to “omitted, but”.</p>
Section 158 (report as to candidate guilty of corrupt or illegal practice)	
Section 159 (candidate reported guilty of corrupt or illegal practice)	
Section 160 (persons reported personally guilty of corrupt or illegal practices)	<p>In subsection (4), after “Commons”, in each place where it occurs, insert “or the Scottish Parliament”.</p> <p>Omit subsection (6).</p>
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.)	

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<i>Provision applied</i>	<i>Modification</i>
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 subsection (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)	In subsection (1) after “Commons”, in each place where it occurs, insert “or the Scottish Parliament”.
	In subsection (7) after “Commons” insert “, the Scottish Parliament” and after “functions”, where it second occurs, insert “as a member of the Scottish Parliament or”.
	Omit subsection (10).
Section 173A (incapacity to hold public or judicial office in Scotland)	
Section 174 (mitigation and remission etc.)	
Section 175 (illegal payments etc.)	
Section 176 (time limit for prosecutions)	Omit subsections (2A) to (2G).

<i>Provision applied</i>	<i>Modification</i>
Section 178 (prosecution of offences committed outside United Kingdom)	
Section 179 (offences by associations)	
Section 180 (evidence by certificate of holding of elections)	
Section 180A (evidence by certificate of electoral registration)	
Section 181 (Director of Public Prosecutions)	Omit subsections (2) to (6).
Section 183 (costs)	
Section 184 (service of notices)	
Section 185 (interpretation of Part 3)	
Section 186 (computation of time for purposes of Part 3)	The reference to “section 119 above” shall be construed as a reference to article 83 and the reference to “Part II of this Act” shall be construed as a reference to Part 3 of this Order.

## PART 2

### 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.”.

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<i>Provision applied</i>	<i>Modification</i>
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—  “122. An election petition shall be presented within 21 days after the day on which the result of the election was declared under rule 66 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 “Clerk of the Scottish Parliament”.
Section 136 (security for costs)	
Section 137 (petition at issue)	



<i>Provision applied</i>	<i>Modification</i>
Section 139 (trial of 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 elections rules shall be construed as a reference to the Scottish Parliamentary Election Rules.</p>
Section 140 (witnesses)	<p>Omit subsection (6).</p> <p>In subsection (7), omit the words “Subsection (6) above does not apply to Scotland, and in Scotland”.</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 was or 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>

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<i>Provision applied</i>	<i>Modification</i>
	<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, except to the extent that the judges are agreed otherwise, the result of the election shall stand.”.</p> <p>Omit subsections (4) to (7).</p>
Section 154 (costs of petition)	
Section 155 (neglect or refusal to pay costs)	
Section 157 (appeals and jurisdiction)	<p>Omit subsections (1), (4), (6) and (8).</p> <p>For subsection (2) substitute—</p> <p>“(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 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.”.</p> <p>In subsection (7), omit the words from the beginning to “omitted, but”.</p>
Section 160 (persons reported personally guilty of corrupt or illegal practices)	<p>Omit subsections (1) to (3) and (6).</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 “Kingdom” insert “or election to the Scottish Parliament”; and</li> <li>(c) after “Commons”, in each place where it occurs, insert “or the Scottish Parliament”.</li> </ul>

<i>Provision applied</i>	<i>Modification</i>
Section 167 (application for relief)	Omit subsection (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)	For the words from the beginning to “prosecution” substitute—  “A person who is guilty of an illegal practice shall be liable—  (a) in the case of an illegal practice under article 42 or 48 of the Order (as applied by article 84 of the Order), on conviction on indictment to a fine;  (b) in the case of any illegal practice (including the ones mentioned in paragraph (a)), on summary conviction, to a fine not exceeding the amount specified as level 5 on the standard scale; and on a prosecution”.
Section 170 (conviction of illegal practice on charge of corrupt practice etc.)	
Section 173A (incapacity to hold public or judicial office in Scotland)	
Section 174 (mitigation and remission etc.)	Omit subsections (1) to (4).  In subsection (5) omit—  (a) “or of the report of an election court”; and  (b) “or report”, in both places where the words occur.

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<i>Provision applied</i>	<i>Modification</i>
Section 175 (illegal payments etc.)	In subsection (2) omit the words from “and if” to the end.
Section 176 (time limit for prosecutions)	Omit subsections (2A) to (2G).
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 180A (evidence by certificate of electoral registration)	
Section 181 (Director of Public Prosecutions)	Omit subsections (2) to (6).
Section 183 (costs)	
Section 184 (service of notices)	
Section 185 (interpretation of Part 3)	At the end, insert—
	““the Order” means the Scottish Parliament (Elections etc.) Order 2010.”.
Section 186 (computation of time for purposes of Part 3)	The reference to “section 119 above” shall be construed as a reference to article 83 and the reference to “Part II of this Act” shall be construed as reference to Part 3 of this Order.

## SCHEDULE 7

Article 67(6)

### USE OF SCHOOL ROOMS AND MEETING ROOMS FOR ELECTION MEETINGS

#### **Use of rooms in school premises**

1.—(1) Any arrangements for the use of a room in school premises shall be made with the education authority managing the school or, in the case of a room in the premises of a self governing school, with the board of management of the school.

(2) Any question—

- (a) as to the rooms in school premises in any constituency which a candidate for return as a constituency member is entitled to use;
- (b) as to the rooms in school premises in any region which an individual candidate for return as a regional member or a registered party is entitled to use;
- (c) as to the times at which that candidate or party is entitled to use them; or
- (d) as to the notice which is reasonable,

shall be determined by the Secretary of State.

#### **Lists of rooms in school premises and meeting rooms**

2.—(1) It is the duty of the proper officer of every local authority to prepare and keep for each Scottish parliamentary constituency wholly or partly situated in the area of that authority—

- (a) a list of rooms in school premises;
- (b) a list of meeting rooms,

which candidates for return as constituency members or individual candidates for return as regional members or registered parties are entitled to use.

(2) The list shall include the rooms in premises outside, as well as those in premises inside, the constituency.

#### **Inspection etc. of lists**

3.—(1) Subject to sub-paragraph (2), in the event of a publication of a notice of election any person stating himself to be, or to be authorised by—

- (a) a candidate or the candidate's election agent; or
- (b) a registered party's nominating officer or the election agent of that registered party in relation to a regional list submitted by that party,

shall be entitled at all reasonable hours to inspect the lists kept in accordance with paragraph 2(1) or a copy of them.

(2) The rights conferred by sub-paragraph (1) on an individual candidate for return as a regional member or a registered party's nominating officer (or the election agent of such a candidate or party) shall not apply in relation to an election to fill a vacancy in the seat of a constituency member.

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## SCHEDULE 8

Article 6(5)

ACCESS TO MARKED REGISTERS AND OTHER DOCUMENTS  
OPEN TO PUBLIC INSPECTION AFTER AN ELECTION

**Interpretation of this Schedule**

1.—(1) In this Schedule references to the “marked register or lists” means any part of the marked copies of—

- (a) the polling register;
- (b) the postal voters list;
- (c) the list of proxies; and
- (d) the proxy postal voters list,

retained by the CRO under paragraph 30 of Schedule 4 (retention of postal ballot papers, etc) or rule 71 of the Scottish Parliamentary Election Rules (retention of documents).

(2) In this Schedule—

- (a) “full register” and “edited register” have the same meaning as in the 2001 Regulations<sup>(108)</sup>;
- (b) “processor” means a person who provides a service which consists of putting information into data form and any reference to a processor includes a reference to the processor’s employees;
- (c) “relevant conditions” has the same meaning as in section 33(1) of the Data Protection Act 1998<sup>(109)</sup>;
- (d) “research purposes” shall be construed in accordance with section 33(1) of the Data Protection Act 1998; and
- (e) any reference to an employee of any person who has access to a copy of the full register shall be deemed to include any person working or providing services for the purposes of that person or employed by or on behalf of, or working for, any person who is so working or who is supplying such a service.

(3) Any duty of a CRO to supply records or lists or make them available for inspection under this Schedule imposes only a duty to provide that information in the form in which the CRO holds it.

**Supply of marked registers and lists after an election**

2.—(1) Any person entitled to be supplied, in accordance with any of the provisions specified in sub-paragraph (2), with copies of the full register at the time of a Scottish parliamentary election is also a person entitled, subject to this paragraph and to paragraphs 4 and 5 (restrictions on supply, disclosure and use, etc), to request that a CRO supply copies of the relevant part (within the meaning of those provisions) of the marked register or lists the CRO is required to keep.

(2) The provisions referred to in sub-paragraph (1) are—

- (a) paragraph 3 of Schedule 1 (supply of full register etc to elected representatives for electoral purposes and restriction on use);
- (b) paragraph 4 of Schedule 1 (supply of full register etc to certain candidates and restriction on use); and
- (c) the following provisions of the 2001 Regulations—

<sup>(108)</sup> See regulation 93(1) inserted by S.I. 2002/1872.

<sup>(109)</sup> 1998 c.29.

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- (i) regulation 99(**110**) (supply of free copy of full register etc. to Electoral Commission and restrictions on use);
- (ii) regulation 104(**111**) (supply of full register etc. to local constituency parties and restrictions on use);
- (iii) regulation 105 (supply of full register etc. to registered political parties etc. and restrictions on use);
- (iv) regulation 108(**112**) (supply of full register etc to police forces and other agencies, and restrictions on use); and
- (v) regulation 112(**113**) (sale of full register to government departments and other bodies).

(3) A person who was entitled to request copies of the marked register or lists under sub-paragraph (1) by being in a category of persons covered by sub-paragraph (2)(a), (b), or (c)(ii) or (iii) before a particular election, shall be entitled to request those documents regardless of whether that person remains in an entitled category after the election for which the marked register or list was prepared.

(4) A request under sub-paragraph (1) must be made in writing and must—

- (a) specify which of the marked register or lists (or the relevant part of the register or lists) are requested;
- (b) state whether a printed copy of the marked register or lists is requested or a copy in data form;
- (c) state the purposes for which the marked register or lists will be used and why the supply or purchase of a copy of the full register or unmarked lists would not be sufficient to achieve those purposes.

(5) The CRO must supply a copy of the relevant part of the marked register or lists where a request is duly made, and—

- (a) the CRO is satisfied that the requestor needs to see the marks on the marked register or lists in order to achieve the purpose for which it is requested, and
- (b) the CRO has received payment of a fee calculated in accordance with paragraph 6.

(6) If the CRO is not satisfied in accordance with sub-paragraph (5)(a) the CRO must inform the requestor of the CRO's decision under this paragraph; and

- (a) where the request relates to the marked register, provide the requestor with information concerning the availability of the published full register for inspection in accordance with regulation 43 of the 2001 Regulations (publication of register);
- (b) where the request relates to the marked lists, provide information concerning the availability of the unmarked lists in accordance with paragraphs 16 and 17 of Schedule 3 (absent voting lists: supply of copies and inspection).

(7) A person who obtains a copy of any part of a marked register or list under this paragraph may use it only for the permitted purposes specified in paragraph 5(3), and any conditions—

- (a) specified in that sub-paragraph; or
- (b) which would apply to the use of the full register under whichever of the provisions specified in sub-paragraph (2) entitled that person to obtain that document,

shall apply to such use.

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(110) Regulation 99 was inserted by [S.I. 2002/1872](#) and amended by [S.I. 2007/925](#).

(111) Regulations 104, 105, 108 and 112 were inserted by [S.I. 2002/1872](#).

(112) Regulation 108 was amended by [S.I. 2006/594](#) and [834](#) and the Counter-Terrorism Act 2008 (c.28).

(113) Regulation 112 was amended by [S.I. 2006/834](#) and the Counter-Terrorism Act 2008.

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(8) Where a person has been supplied with a marked register or list, or any information contained in it (that is not contained in the edited register), by a person to whom a provision specified in sub-paragraph (9) applies, the restrictions in that provision also apply to the person to whom the register, list or information was supplied, as they apply to that other person.

(9) The provisions specified in sub-paragraph (8) are—

- (a) paragraph 3(3) of Schedule 1;
- (b) paragraph 4(5) of Schedule 1; and
- (c) the following provisions of the 2001 Regulations—
  - (i) regulation 99(3);
  - (ii) regulation 104(4);
  - (iii) regulation 105(3); and
  - (iv) regulation 108(3).

(10) Any person who has obtained or is entitled to obtain a copy of the marked register or lists under this paragraph may—

- (a) supply a copy of the marked register or lists to a processor for the purpose of processing the information contained therein; or
- (b) procure that a processor processes and supplies to them any copy of the information in the marked register or lists which the processor has obtained under this paragraph,

for use in respect of the purposes for which that person is entitled to obtain such copy or information (as the case may be).

(11) A processor may not disclose the marked register or lists or the information contained in them except to the person who supplied it to the processor or any other person, or an employee of such a person, who is entitled to obtain a copy of the marked register or lists under this Schedule.

### **Inspection of documents open to public inspection**

**3.—**(1) Any person is entitled to request that the CRO make available for inspection a copy of any of the following documents (referred to in this Schedule as “the documents open to public inspection”)—

- (a) the marked register or lists;
- (b) such other documents relating to a Scottish parliamentary election as the CRO is required by or under any enactment to retain for any period except—
  - (i) ballot papers;
  - (ii) completed corresponding number lists;
  - (iii) certificates as to employment on the day of the election.

(2) A request under sub-paragraph (1) must be made in writing and must specify—

- (a) which documents are requested;
- (b) the purposes for which the information in any document will be used;
- (c) where the request is to inspect the marked register or lists, any reason why inspecting the full register or unmarked lists would not be sufficient to achieve those purposes;
- (d) who will inspect the documents;
- (e) the date on which they wish to inspect the documents; and
- (f) whether they would prefer to inspect the documents in a printed or data form.



(3) Subject to sub-paragraph (5), the CRO must make the documents open to public inspection available for inspection under supervision not later than 10 days after the date of receipt of a request that has been duly made.

(4) In computing the period referred to in sub-paragraph (3), Saturday, Sunday, Christmas Eve, Christmas Day, Good Friday, Easter Monday or a day which is a bank holiday in Scotland under section 1 of the Banking and Financial Dealings Act 1971(114) shall be disregarded.

(5) Where a request has been made to inspect copies of the marked register or lists under sub-paragraph (2) and the CRO is not satisfied that the purposes of the requestor cannot be met by inspection of the full register, the CRO must—

- (a) inform the requestor of the CRO's decision under this paragraph; and
- (b) provide the requestor with information concerning the availability of the published full register for inspection in accordance with regulation 43 of the 2001 Regulations.

(6) A person who obtains a copy of or information in any document open to public inspection under this paragraph may use it only for the permitted purposes specified in paragraph 5, and any conditions—

- (a) specified in that paragraph;
- (b) specified in sub-paragraph (8); or
- (c) which would apply to the use of the full register under regulation 108 of the 2001 Regulations where such a person had obtained a copy of that document under sub-paragraph (9),

shall apply to such use.

(7) Where inspection takes place by providing the records or lists on a computer screen or otherwise in data form, the CRO must ensure that the manner in which, and equipment on which, that copy is provided do not permit any person consulting that copy to—

- (a) search it by electronic means by reference to the name of any person; or
- (b) copy or transmit any part of that copy by electronic or any other means.

(8) Subject to sub-paragraph (9) a person who inspects a copy of a document open to public inspection, whether a printed copy or in data form, may not—

- (a) make copies of any part of it; or
- (b) record any particulars in it,

except that a person who inspects a copy of the marked register or lists may make hand written notes.

(9) The CRO must, on request, supply free of charge copies of any documents open to public inspection—

- (a) to the Security Service, the Government Communications Headquarters, or the Secret Intelligence Service;
- (b) to a person who has inspected those documents and who is entitled to be supplied with a copy of the marked register or lists by virtue of being a person to whom regulation 108 of the 2001 Regulations applies.

### **Restrictions on supply and disclosure of documents open to public inspection**

4.—(1) This paragraph applies to—

- (a) the CRO; and

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(114) 1971 c.80.

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- (b) any person appointed to assist the CRO or who in the course of that person's employment is assigned to assist the CRO.
- (2) A person to whom this paragraph applies must not—
  - (a) supply to any person a copy of the documents open to public inspection, or
  - (b) disclose information contained in those documents (and not contained in the edited register),otherwise than in accordance with this Schedule, or for the purposes of an election.

### **Restriction on use of documents open to public inspection, or of information contained in them**

5.—(1) This paragraph applies to any person who has obtained access to a copy of the documents open to public inspection or information contained in them by any means.

- (2) No person to whom this paragraph applies may—
  - (a) supply a copy of the documents open to public inspection or any part of those documents;
  - (b) disclose any information contained in those documents (that is not contained in the edited register); or
  - (c) make use of any such information,other than for a permitted purpose construed in accordance with sub-paragraphs (3) and (4).

(3) Where a person obtains copies of the information in the marked register or lists in accordance with paragraph 2(1) or inspects information in accordance with paragraph 3(1), the “permitted purpose” means either—

- (a) research purposes within the meaning of that term in section 33 of the Data Protection Act 1998; or
  - (b) electoral purposes.
- (4) Where a copy of any information was supplied in the circumstances to which paragraph 3(9) (b) applies, the “permitted purpose” means either—
- (a) the prevention and detection of crime and the enforcement of the criminal law (whether in Scotland or elsewhere); or
  - (b) the vetting of a relevant person for the purpose of safeguarding national security.

### **Calculating the fee for supply of marked registers or lists**

6.—(1) The fee to be paid in accordance with paragraph 2(5)(b) by a person making a request for a copy of the whole or of any part of the marked register or lists is set out in sub-paragraph (2).

- (2) The fee shall be the sum of £10, plus for a copy—
  - (a) in printed form, £2 for each 1,000 entries (or remaining part of 1,000 entries) covered by the request; and
  - (b) in data form, £1 for each 1,000 entries (or remaining part of 1,000 entries) covered by the request.
- (3) For the purposes of this paragraph, a request for a copy of the whole or the same part of the marked register or lists in both a printed and data form may be treated as two separate requests.

### **Failure to comply with conditions relating to supply etc of certain documents**

- 7.—(1) A person (“P”) is guilty of an offence—
  - (a) if P fails to comply with any of the provisions specified in sub-paragraph (2), or

- (b) if P is an appropriate supervisor of a person (“Q”) who fails to comply with such a provision and P failed to take appropriate steps.
- (2) Those provisions are paragraphs 2(7), (8) and (11), 3(6) and (8), 4(2) and 5(2).
- (3) Q is not guilty of an offence under sub-paragraph (1) if—
- (a) Q had an appropriate supervisor, and
  - (b) Q has complied with all the requirements imposed on Q by Q’s appropriate supervisor.
- (4) A person (“R”) who is not Q or an appropriate supervisor is not guilty of an offence under sub-paragraph (1) if R takes all reasonable steps to ensure that R complies with the provisions.
- (5) In sub-paragraphs (1)(b), (3) and (4)—
- (a) an appropriate supervisor is a person who is a director of a company or concerned in the management of an organisation in which Q is employed or under whose direction or control Q is;
  - (b) appropriate steps are such steps as it was reasonable for the appropriate supervisor to take to secure the operation of procedures designed to prevent, so far as reasonably practicable, the occurrence of a failure to comply with the provisions.
- (6) A person guilty of an offence as mentioned in paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

## SCHEDULE 9

Article 97

### REVOCATIONS

<i>Instruments revoked</i>	<i>References</i>
The Scottish Parliament (Elections etc.) Order 2007	<a href="#">S.I. 2007/937</a>
The Scottish Parliament (Elections etc.) (Amendment) Order 2007	<a href="#">S.I. 2007/2262</a>
The Scottish Parliament (Elections etc.) (Amendment) Order 2008	<a href="#">S.I. 2008/307</a>
Paragraphs 15 and 44 of Schedule 4 to the Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009	<a href="#">S.I. 2009/1182</a>
The Scottish Parliament (Elections etc.) (Amendment) Order 2009	<a href="#">S.I. 2009/1978</a>

### APPENDIX OF FORMS

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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**Article 41  
FORM A**

**Return of expenses which must be authorised by election agent in relation to election of constituency candidate or individual regional candidate**

Election in the constituency/region of: .....

Date of publication of the election notice: .....

Name of candidate: .....

1. The expenses incurred at the above election in support of the above candidate by

.....  
(name of person or association or body of persons incurring the expenses)

being expenses required by article 41 of the Scottish Parliament (Elections etc.) Order 2010 to be authorised in writing by the election agent amounted to £.....

2. That written authority is annexed to this return.

Signature .....

Date .....

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**Article 41  
FORM B**

**Declaration to accompany return of expenses in relation to election of constituency candidate or individual regional candidate**

Election in the constituency/region of: .....

Date of publication of the election notice: .....

Name of Candidate: .....

1. I am the person (or, in the case of an association or a body of persons, the director, general manager, secretary or similar officer of the association or body of persons) named as incurring expenses in the accompanying return, marked ....., of expenses required by article 41 of the Scottish Parliament (Elections etc.) Order 2010 to be authorised in writing by the election agent.

2. To the best of my knowledge and belief that return is complete and correct.

3. The matters for which the expenses referred to in that return were incurred are as follows:

.....  
.....  
.....  
.....

Signature ..... Date .....

Office held (in the case of an association or body) .....

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**Article 48  
FORM D**

**Declaration to be made by an election agent for a constituency candidate or for an individual regional candidate or by such a candidate in respect of election expenses**

Election in the constituency/region of: .....

Date of publication of the election notice: .....

Name of candidate: .....

I solemnly and sincerely declare as follows:

1. *I am the person named above as candidate at this election\*.  
I am the person named above as candidate at this election and was my own election agent\*.  
I was the election agent of the person named above as a candidate\*.*
2. I have examined the return of election expenses *about to be\** delivered by *my election agent/me\** to the returning officer, of which a copy is now shown to me and marked ....., and to the best of my knowledge and belief it is a complete and correct return as required by law.
3. To the best of my knowledge and belief, all expenses shown in the return as paid were paid by *my election agent/me\**, except as otherwise stated.
4. I understand that the law does not allow any election expenses not mentioned in this return to be defrayed except in pursuance of a court order.

Signature ..... Date .....

\*Delete as appropriate

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**Article 49  
FORM E**

**Declaration to be made by a party list candidate in respect of election expenses**

Election in the region of: .....

Date of publication of the election notice: .....

Name of registered party: .....

Name of candidate: .....

I solemnly and sincerely declare as follows:

1. I am the person name above as candidate at this election.
2. The total amount paid by me in relation to personal expenses incurred by me on account of, or in connection with, or incidental to, this election, as per the provisions of article 39(1) of the Scottish Parliament (Elections etc.) Order 2010, was £ .....
3. I understand that the law does not allow any election expenses not mentioned in this declaration to be defrayed except in pursuance of a court order.

Signature: ..... Date: .....



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**Schedule 2, Rule 4  
FORM F**

*(Front of form)*

**CONSTITUENCY NOMINATION PAPER**

**Election of a Member  
to serve in the Scottish Parliament**

**[Name] Constituency**

**Date of Election: [Date of Election]**

I, the undersigned, am nominated as a candidate at the said election.

**DETAILS OF CANDIDATE**

Candidate's surname:

Other names in full:

Commonly used surname (if any)<sup>1</sup>:

Commonly used forenames (if any)<sup>1</sup>:

Description (if desired)<sup>2</sup>:

Candidate's home address in full (including  
postcode):

Signature of candidate:

Date:

**DETAILS OF WITNESS**

Signature of witness:

Witness name in full:  
(Please use BLOCK CAPITALS)

Address of witness  
(including postcode):

Date:

The attention of candidates and electors is drawn to the rules for filling up nomination papers and other provisions relating to nominations contained in Schedule 2 to the Scottish Parliament (Elections etc.) Order 2010.

***The nomination period closes at [time and date of deadline] and completed nomination forms must be delivered to the Returning Officer by this deadline.***

***See notes overleaf***

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*(Back of form)*

**Notes**

1. Where a candidate is commonly known by some title, they may be described by that title as if it was their surname. Where a candidate commonly uses a name which is different from any other name they have, the commonly used name may also appear on the nomination paper, but if it does so, the commonly used name (instead of any other name) will appear on the statement of persons standing nominated and the ballot paper (Schedule 2, rules 4 and 18). However, the statement of persons standing nominated and the ballot paper will show the other name if the Constituency Returning Officer thinks-

- (a) that the use of the commonly used name may be likely to mislead or confuse electors, or
- (b) that the commonly used name is obscene or offensive (Schedule 2, rule 18(5)).

2. The candidate may, if desired, use a description or may leave this line blank to indicate that they do not want to use a description. If a description is to be used then it must either be "Independent" or the name of the candidate's registered political party (or the name of two such parties). If the registered name of a party is used then this may be preceded by the word "Scottish" in terms of rule 4(7). If a party name is to be used then Form I2 must also be submitted to the Constituency Returning Officer (Schedule 2, rule 7).

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**Schedule 2, Rule 5  
FORM G**

*(Front of form)*

**INDIVIDUAL NOMINATION PAPER**

**Election of Individual Member  
to serve in the Scottish Parliament**

**[Name] Region**

**Date of Election: [Date of Election]**

I, the undersigned, am nominated as an individual candidate at the said election.

**DETAILS OF INDIVIDUAL CANDIDATE**

Candidate's surname:

.....

Other names in full:

.....

Commonly used surname (if any)<sup>1</sup>:

.....

Commonly used forenames (if any)<sup>1</sup>:

.....

Description for ballot paper<sup>2</sup>  
(delete one):

- Independent
- No description

Candidate's home address in full (including  
postcode):

.....  
.....  
.....

Signature of candidate:

.....

Date:

.....

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**DETAILS OF WITNESS**

Signature of witness: .....

Witness name in full:  
(Please use BLOCK CAPITALS) .....

Address of witness  
(including postcode):  
.....  
.....  
.....

Date: .....

The attention of candidates and electors is drawn to the rules for filling up nomination papers and other provisions relating to nominations contained in Schedule 2 to the Scottish Parliament (Elections etc.) Order 2010.

*The nomination period closes at [time and date of deadline] and completed nomination forms must be delivered to the Returning Officer by this deadline.*

*See notes overleaf*

*(Back of form)*

**Notes:**

1. Where a candidate is commonly known by some title, they may be described by that title as if it was their surname. Where a candidate commonly uses a name which is different from any other name they have, the commonly used name may also appear on the nomination paper, but if it does so, the commonly used name (instead of any other name) will appear on the statement of persons and parties standing nominated and the ballot paper (Schedule 2, rules 5 and 19).

However, the statement of parties and persons standing nominated and the ballot paper will show the other name if the Regional Returning Officer thinks-

- (a) that the use of the commonly used name may be likely to mislead or confuse electors, or
- (b) that the commonly used name is obscene or offensive (Schedule 2, rule 19(5)).

2. The candidate may, if desired, use the description “Independent” or may indicate that they do not want to use a description.

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**Schedule 2 Rule 6  
FORM H**

*(Front of form)*

**REGIONAL PARTY LIST**

**Election of Regional List Member  
to serve in the Scottish Parliament**

**[Name] Region**

**Date of Election: [Date of Election]**

Name of Registered Political Party<sup>1</sup>: .....

The undersigned nominates the above mentioned registered political party at the said election in the following name and to use the following description.

Name of party as it is to appear on the ballot paper<sup>2</sup>: .....

Description<sup>3</sup>: .....

The candidates for the party, and the order in which they are given, are:

Candidate's surname	Other names in full	Commonly used surname (if any) <sup>4</sup>	Commonly used forename(s) (if any) <sup>4</sup>	Candidate's home address in full (including postcode)
1.				
2.				
3.				
....				
10.				
11.				
12.				

Signed by:  
(nominating officer or person authorised in writing by them) .....

Name in full:  
(in BLOCK CAPITALS)  
(nominating officer or person authorised in writing by them) .....

Date: .....

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The attention of candidates and electors is drawn to the rules for filling up nomination papers and other provisions relating to nominations contained in Schedule 2 to the Scottish Parliament (Elections etc) Order 2010.

*The nomination period closes at [time and date of deadline] and completed nomination forms must be delivered to the Returning Officer before this deadline*

*See notes overleaf*

*(Back of form)*

**Notes:**

1. Insert the name of the party as registered in terms of section 28 of the Political Parties, Elections and Referendums Act 2000. Do not include the word "Scottish" where this is to be added under rule 6(3) of the Scottish Parliamentary Election Rules.
2. Insert the name of the party as it is to appear on the ballot paper. This may if desired, include the word "Scottish" where this is added under rule 6(3) of the Scottish Parliamentary Election Rules.
3. The description must be one which is registered under section 28A of the Political Parties, Elections and Referendums Act 2000.
4. Where a candidate is commonly known by some title, they may be described by that title as if it was their surname. Where a candidate commonly uses a name which is different from any other name they have, the commonly used name may also appear on the regional list, but if it does so the commonly used name (instead of any other name) will appear on the notice of poll and the ballot paper (Schedule 2, rules 6 and 19). However, the statement of persons and parties standing nominated and the ballot paper will show the other name if the Regional Returning Officer thinks-
  - (a) that the use of the commonly used name may be likely to mislead or confuse electors, or
  - (b) that the commonly used name is obscene or offensive (Schedule 2, rule 19(5)).

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**Schedule 2 Rule 6  
FORM II**

**CERTIFICATE OF AUTHORISATION  
in relation to a regional list for a  
Scottish Parliamentary Election**

**[Name] Region**

**Date of Election [Date of Election]**

In accordance with the Scottish Parliament (Elections etc.) Order 2010, I hereby certify that

(Name of party as registered<sup>1</sup>)

.....

may include the following name and the following description<sup>2</sup> on its regional list for the election in the above region on [date of election]:

(Name of party as it is to appear on the ballot paper<sup>3</sup>)

.....

(Description<sup>2</sup>)

.....

Signature of Nominating Officer  
(or person authorised by the Nominating Officer):

.....

.....

Name in full (in BLOCK CAPITALS)

.....

Date:

.....

Notes

1. Insert the name of the party as registered in terms of section 28 of the Political Parties, Elections and Referendums Act 2000. Do not include the word "Scottish" where this is to be added under rule 6(3) of the Scottish Parliamentary Election Rules.

2. The description must be one which is registered under section 28A of the Political Parties, Elections and Referendums Act 2000.

3. Insert the name of the party as it is to appear on the ballot paper. This may, if desired, include the word "Scottish" where this is added under rule 6(3) of the Scottish Parliamentary Election Rules.

**The form must be provided to the Returning Officer along with the party's regional list.**

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**Schedule 2 Rule 7  
FORM I2**

**CERTIFICATE OF AUTHORISATION  
in relation to a constituency nomination paper for a  
Scottish Parliamentary Election**

**[Name] Constituency**

**Date of Election [Date of Election]**

In accordance with the Scottish Parliament (Elections etc.) Order 2010, I hereby certify that

(Candidate's name in full)

.....

may include the following description<sup>1</sup> on their constituency nomination paper for the election in the above constituency on [date of election]:

(Description<sup>1</sup>)

.....

Signature of Nominating Officer  
(or person authorised by the Nominating  
Officer):

.....

Name in full (in BLOCK CAPITALS)

.....

Date:

.....

Note

1. Description means the name (or one of the names) of the political party registered in terms of section 28 of the Political Parties, Elections and Referendums Act 2000. That name may be preceded, if desired, by the word "Scottish" (except if "the" is the first word of the registered name, in which case "Scottish" may instead follow "the"). If the candidate is standing in the name of two parties jointly, then the description must be the names of both of those parties and may include the word "and" between them. This is the description that will appear on the constituency ballot paper.

**This form must be provided to the Returning Officer where a nomination paper is submitted for a candidate standing on behalf of a political party. It must be received by the returning officer at some time during the period for delivery of nomination papers.**



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**Schedule 2 Rule 27  
FORM J**

*(Front of Form of Constituency Ballot Paper)*

**Ballot paper to elect the member of the Scottish Parliament for the  
[insert name of constituency] Constituency**

**Vote once only in  
the box opposite the  
candidate of your  
choice using an X**

<b>SURNAME</b> Forename(s)		
Description (where applicable)	[Emblem]	<input type="checkbox"/>
<b>SURNAME</b> Forename(s)		
Description (where applicable)	[Emblem]	<input type="checkbox"/>
<b>SURNAME</b> Forename(s)		
Description (where applicable)	[Emblem]	<input type="checkbox"/>
<b>SURNAME</b> Forename(s)		
Description (where applicable)	[Emblem]	<input type="checkbox"/>
<b>SURNAME</b> Forename(s)		
Description (where applicable)	[Emblem]	<input type="checkbox"/>

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*(Back of Form of Constituency Ballot Paper)*

[Number and unique identifying mark]

Election for the [name of constituency] Constituency on [date of election]

*Directions as to the printing of the constituency ballot paper*

1. Nothing is to be printed on the ballot paper except in accordance with these directions.
2. As far as is practicable, the following arrangements shall be observed in the printing of the ballot paper:
  - (a) a sans-serif font should be used, e.g. Arial or similar, and all text should be at least 14 point;
  - (b) the words (referred to in these directions as “the heading”) “Ballot paper to elect the member of the Scottish Parliament for the xxx Constituency” (where “xxx” is the name of the constituency) and the words “Vote once only in the box opposite the candidate of your choice using an X” should be printed in a larger font than the main body text, at least 16 point;
  - (c) no word shall be printed on the face except:—
    - (i) the heading;
    - (ii) the words “Vote once only in the box opposite the candidate of your choice using an X”;
    - (iii) the names and, if being used, descriptions of the candidates; and
    - (iv) words forming part of emblems;
  - (d) no rule shall be printed on the face except the horizontal rules separating the names and descriptions of the candidates from one another and from the heading and the words “Vote once only in the box opposite the candidate of your choice using an X”;
  - (e) the whole space between the horizontal rule below the heading and the words “Vote once only in the box opposite the candidate of your choice using an X”, and the bottom of the paper, shall be equally divided between the candidates by the rules separating their names and descriptions.
3. Where an emblem is to be printed against a candidate’s name and description—
  - (a) it shall be printed between the candidate’s name and description and the box where the vote is to be marked, and
  - (b) its size as printed shall not exceed two centimetres square.
4. The surname of each candidate shall in all cases be printed in large bold capitals. The candidate’s other names shall follow the surname on the same line. If being used, the candidate’s description shall be set out below the candidate’s names. Unless paragraph 5 or 6 applies, the candidate’s other names and description shall be printed in ordinary type.
5. If the candidate’s surname is the same as another candidate’s surname, those candidates’ other names shall be printed in small capitals.
6. If the candidate’s other names are also the same as the other candidate’s other names, but the candidates’ descriptions are not the same, the candidates’ descriptions (if any) shall be printed in small capitals.
7. The number and unique identifying mark on the back of the ballot paper shall be printed in a small font.

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**Schedule 2 Rule 28  
FORM K**

*(Front of Form of Regional Ballot Paper)*

**Ballot paper to elect members of the Scottish Parliament for the  
[insert name of region] Region**

**Vote once only in  
the box opposite the  
party or candidate  
of your choice using  
an X**

<hr/> <b>NAME OF PARTY</b>		
Description (where applicable)	[Emblem]	<input type="checkbox"/>
<hr/> <b>NAME OF PARTY</b>		
Description (where applicable)	[Emblem]	<input type="checkbox"/>
<hr/> <b>NAME OF PARTY</b>		
Description (where applicable)	[Emblem]	<input type="checkbox"/>
<hr/> <b>NAME OF PARTY</b>		
Description (where applicable)	[Emblem]	<input type="checkbox"/>
<hr/> <b>SURNAME</b> Forename(s)		
Independent		<input type="checkbox"/>
<hr/> <b>SURNAME</b> Forename(s)		
		<input type="checkbox"/>

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*(Back of Form of Regional Ballot Paper)*

[Number and unique identifying mark]

Election for the [name of region] Region on [date of election]

***Directions as to the printing of the regional ballot paper***

1. Nothing is to be printed on the ballot paper except in accordance with these directions.
2. As far as is practicable, the following arrangements shall be observed in the printing of the ballot paper:
  - (a) a sans-serif font should be used, e.g. Arial or similar, and all text should be at least 14 point;
  - (b) the words (referred to in these directions as “the heading”) “Ballot paper to elect members of the Scottish Parliament for the xxx Region” (where “xxx” is the name of the region) and the words “Vote once only in the box opposite the party or candidate of your choice using an X” should be printed in a larger font than the main body text, at least 16 point;
  - (c) no word shall be printed on the face except:—
    - (i) the heading;
    - (ii) the words “Vote once only in the box opposite the party or candidate of your choice using an X”;
    - (iii) the name (or one of the names) of each political party registered in terms of section 28 of the Political Parties, Elections and Referendums Act 2000 submitting a list; (The name of a political party included on the ballot paper as permitted by this paragraph must include the word “Scottish” where that has been added under rule 6(3));
    - (iv) for each party, if being used, one description registered under section 28A of that Act;
    - (v) the names and, if being used, descriptions of the individual candidates; and
    - (vi) words forming part of emblems;
  - (d) no rule shall be printed on the face except the horizontal rules separating the names and descriptions of the registered political parties and the particulars of the individual candidates from one another and from the heading and the words “Vote once only in the box opposite the party or candidate of your choice using an X”;
  - (e) the whole space between the horizontal rule below the heading and the words “Vote once only in the box opposite the party or candidate of your choice using an X”, and the bottom of the paper, shall be equally divided between the individual candidates and parties by the rules separating their names and descriptions.
3. The name of each registered political party shall be printed in large bold capitals. Where the registered political party is using a description, this shall be printed in ordinary type below the party’s name. Where an emblem is to be printed against a registered political party’s name—
  - (a) it shall be printed between the registered political party’s name and the box where the vote is to be marked, and
  - (b) its size as printed shall not exceed two centimetres square.
4. The surname of each individual candidate shall in all cases be printed in large bold capitals. The candidate’s other names shall follow the surname on the same line. If being used, the candidate’s description shall be set out below the candidate’s names. Unless paragraph 5 or 6 applies, the candidate’s other names and description shall be printed in ordinary type.
5. If the candidate’s surname is the same as another candidate’s surname, those candidates’ other names shall be printed in small capitals.
6. If the candidate’s other names are also the same as the other candidate’s other names, and only one of those candidates is using a description (which must be the word “Independent”), then that description shall be printed in small capitals.
7. The number and unique identifying mark on the back of the ballot paper shall be printed in a small font.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

**Schedule 4 Paragraph 3  
FORM L**

<b>Scottish Parliamentary Election on [insert date] Postal Voting Statement</b>						
Voter's name: [Voter's Name] <sup>1</sup>	Ballot Paper Nos: [Ballot Paper Nos]					
	Constituency/Region:[Constituency/Region]					
	[Other identifying mark]					
<b>Please read the accompanying 'Instructions to the Voter'</b>						
For your votes to be counted you must provide your date of birth [and signature <sup>2</sup> ]. Please write clearly using black ink.						
I am the person the ballot papers numbered above were sent to. (The ballot paper number can be found above and on the back of your ballot papers and you should check that they match. If they do not, please contact the returning officer).						
Enter your <b>Date of Birth</b> in the boxes on the right e.g. 8 September 1961 would be 08 09 1961	<table border="1"><tr><td> </td><td> </td></tr></table> Day			<table border="1"><tr><td> </td><td> </td></tr></table> Month		
	<table border="1"><tr><td> </td><td> </td><td> </td><td> </td></tr></table> Year					
<b>[Please sign your name inside the grey box on the right]<sup>2</sup></b>	<div style="border: 2px solid grey; width: 200px; height: 60px; margin: 0 auto;"></div>					
<b>Electoral fraud is a crime. You must not vote using a ballot paper that is not addressed to you or interfere with another voter's ballot paper.</b>						
<b>ISSUED BY THE RETURNING OFFICER</b>						

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

### **Instructions to the Voter**

If you need help or require replacement documents please contact the Returning Officer at [insert contact details for assistance including address as appropriate].

**After receiving this postal vote, you cannot vote in person at a polling station at this election. You must not vote more than once (unless you are appointed as a proxy for another elector) at the same election.**

You have two ballot papers (a constituency ballot paper coloured [insert colour] and a regional ballot paper coloured [insert colour]). Please check that the ballot paper number on the back of each ballot paper matches the number at the top of the postal voting statement. If it does not match, contact the Returning Officer at the address above.

Your vote is personal – complete it yourself and in private. If you need help voting, the person helping you must not tell anyone how you voted.

For your votes to be counted you must provide your date of birth and signature<sup>2</sup> on the postal voting statement. Please use black ink. Your date of birth and signature<sup>2</sup> will be checked against the date of birth and signature<sup>2</sup> you provided to the Electoral Registration Officer when you asked for a postal vote to ensure that you are the same person who applied for the postal vote.

The ballot papers and postal voting statement must be received by the Returning Officer by **10pm** on [day and date of poll]. You can also deliver your completed postal vote to any polling station in this constituency on polling day up to 10pm.

#### **How do I complete my postal vote?**

##### **Step A – Completing your Ballot Papers**

1. Vote only once on each ballot paper.
2. Vote by marking a cross (X) in the box opposite the name of the candidate or party you are voting for.
3. Do not mark the ballot papers in any other way or your votes may not count.
4. Put the completed ballot papers in the envelope marked 'A' and seal it.

##### **Step B – Completing your Postal Voting Statement**

5. For your votes to be counted you must provide your **date of birth** and **signature**<sup>2</sup>. Please use black ink. Put your **date of birth** in the boxes provided and **sign** in the grey box<sup>2</sup>.

##### **Step C – Before returning your Postal Vote**

6. Check you have marked the ballot papers, put them in envelope 'A' and sealed the envelope.
7. Check you have put your **date of birth** and **signature**<sup>2</sup> on the Postal Voting Statement.
8. Put the envelope marked 'A' together with the Postal Voting Statement in the envelope marked 'B' and seal the envelope.
9. Post it as soon as possible. If you delay posting your vote it may not be received by the Returning Officer in time to be counted.

If you accidentally spoil or lose your ballot papers, you can apply to the Returning Officer for replacements. After 5pm on [insert day and date of poll] replacement papers can only be issued if you apply in person to the Returning Officer. You must return the spoiled ballot papers, the postal voting statement, and the envelopes marked 'A' and 'B'. Make sure you contact the Returning Officer as soon as possible at the address above.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

**Direction for postal voting statement being sent to an anonymous elector**

*(This direction does not form part of the postal voting statement.)*

<sup>1</sup>*Returning Officer to omit name.*

**Direction for postal voting statement being sent to an elector who has been granted a signature waiver**

*(This direction does not form part of the postal voting statement.)*

<sup>2</sup>*Returning Officer to omit grey signature box and references to signature.*

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

**Schedule 2 Rule 37  
FORM M**

*(To be sent to an elector voting in person)*

<b>Scottish Parliamentary Election</b>	
<b>[Name] Constituency</b>	
<b>Date of Election [Date of Election]</b>	
<b>ELECTOR'S OFFICIAL POLL CARD</b>	
Polling District Reference/ Number on Register	Region:
Name and Address <sup>1</sup>	Constituency:
	Your Polling Station will be:
	Polling Day: Polling Hours 7am to 10pm
<p>This card is for information only. You can vote without it, but it will save time if you take it to the polling station and show it to the clerk there<sup>2</sup>.</p> <p style="text-align: center;"><b>PLEASE SEE THE ACCOMPANYING INFORMATION ON HOW TO VOTE</b></p> <p><i>If undelivered return to Returning Officer [Insert address]</i></p>	

**HOW TO VOTE AT A SCOTTISH PARLIAMENTARY ELECTION**

1. When you go to the polling station, tell the clerk your name and address, as shown on the front of this card. The clerk will confirm your details on the register.<sup>3</sup>
2. You will be given two ballot papers (a constituency ballot paper coloured [insert colour] and a regional ballot paper coloured [insert colour]). Go to one of the polling booths. You may vote only once on each ballot paper. Mark your choice with a cross (X) in the box on the right hand side of each ballot paper opposite the name of the candidate or party you are voting for.
3. Do not put any other mark on the ballot papers or your votes may not count.
4. If by mistake you spoil your ballot papers, show them to the Presiding Officer and ask for replacements.
5. When you have marked your choice, show the back of the ballot papers to the Presiding Officer, so that the Presiding Officer can confirm that each the ballot paper has the number and official mark, but do not let anyone see your vote. Put each ballot paper in the ballot box that is marked in the same colour as the ballot paper and leave the polling station.



**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

**If you will be away on the date of the poll:**

- You can apply to vote by post. Your application must be received by the Electoral Registration Officer [insert address] not later than 5pm on [insert day and date of deadline]. You will then be sent an Official Postal Poll Card which will advise of the expected date your postal voting papers will be sent out. Your postal voting papers will normally arrive about 2 weeks before polling day but this can vary slightly if there are postal delays. Your postal ballot paper must be returned to the Returning Officer by 10.00pm on polling day. If you are given a postal vote, you will not be entitled to vote in person at this election.
- You can apply to vote by proxy (this means someone else can vote on your behalf). Your application must be received by the Electoral Registration Office not later than 5pm on [insert day and date of 6 day deadline]. If you appoint a proxy, you can still vote in this election yourself if you do so before your proxy has voted for you (unless they have applied to vote on your behalf as a postal proxy). In certain circumstances it may be possible to apply to vote by proxy after [insert day and date of 6 day deadline]. If you need further advice on proxy voting, please contact the helpline number below.

To change any of your voting arrangements or if you need further help please contact [helpline number] as soon as possible.

**ISSUED BY THE RETURNING OFFICER**

***Directions for poll cards being sent to an anonymous elector:***

*(These directions do not form part of the poll card.)*

*1*Returning Officer to omit name and address. A poll card to an anonymous elector must be delivered in a sealed envelope.

*2*Replace paragraph with: **“You must take this card with you when you go to the polling station to vote. You cannot vote without it.”**

*3*Replace paragraph with: **“When you go to the polling station, ask to speak to the Presiding Officer and show this card to the officer. The Presiding Officer will confirm your entry on the register.”**

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

**Schedule 2 Rule 37  
FORM M1**

*(To be sent to an elector voting in person)*

<b>Scottish Parliamentary Election</b>					
<b>[Name] Constituency</b>					
<b>Date of Election [Date of Election]</b>					
<b>POSTAL VOTER'S OFFICIAL POLL CARD</b>					
Region:  Constituency:  For the election on: (Day and Date of Poll) Polling Hours 7am to 10pm  Polling District Reference/Number on Register	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 5px;">                     This notice is to advise you that for this election you have a postal vote and that you will not be able to obtain ballot papers at a polling station.                 </td> </tr> <tr> <td style="padding: 5px;">                     Your postal voting papers will be sent to you at the address below about 2 weeks before the date of the election.                 </td> </tr> <tr> <td style="padding: 5px;">                     [Insert name and address<sup>1</sup>]                 </td> </tr> <tr> <td style="padding: 5px;">                     If your postal voting papers have not arrived by [day and date] call [helpline number] and ask for assistance.                 </td> </tr> </table>	This notice is to advise you that for this election you have a postal vote and that you will not be able to obtain ballot papers at a polling station.	Your postal voting papers will be sent to you at the address below about 2 weeks before the date of the election.	[Insert name and address <sup>1</sup> ]	If your postal voting papers have not arrived by [day and date] call [helpline number] and ask for assistance.
This notice is to advise you that for this election you have a postal vote and that you will not be able to obtain ballot papers at a polling station.					
Your postal voting papers will be sent to you at the address below about 2 weeks before the date of the election.					
[Insert name and address <sup>1</sup> ]					
If your postal voting papers have not arrived by [day and date] call [helpline number] and ask for assistance.					
If you wish to cancel your postal vote please advise the Electoral Registration Officer [ <i>insert address</i> ], before 5pm on [ <i>insert date eleven working days before the date of poll</i> ]. For further advice call [ <i>helpline number</i> ].					
<p><b>This card is to give you information about voting by post.</b></p> <p style="text-align: center;"><b>PLEASE SEE THE ACCOMPANYING INFORMATION ABOUT HOW TO COMPLETE YOUR POSTAL BALLOT PAPERS</b></p> <p><i>If undelivered return to Returning Officer [Insert address]</i></p>					

**HOW TO COMPLETE YOUR POSTAL BALLOT PAPERS AT A SCOTTISH PARLIAMENTARY ELECTION**

1. When you receive your postal voting pack, please read the "Instructions to the Voter" before completing your postal ballot papers.
2. You will receive two ballot papers (a constituency ballot paper coloured [insert colour] and a regional ballot paper coloured [insert colour]). You may vote only once on each ballot paper. Do not vote more than once. Mark your choice with a cross (X) in the box on the right hand side of each ballot paper opposite the name of the candidate or party you are voting for.
3. Do not put any other mark on the ballot papers or your votes may not count.
4. Your vote is personal – complete it yourself and in private. If you cannot vote without help, the person assisting you must not disclose how you have voted.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

**5. For your votes to be counted you must provide your date of birth and signature on the postal voting statement** (unless you have been granted a signature waiver by prior arrangement with the Electoral Registration Officer). Providing your date of birth and signature is a security measure. It does not mean that your vote can be identified. The Returning Officer will check your date of birth and signature against the date of birth and signature you provided when you applied for a postal vote to ensure that you are the same person that made the application. A signature waiver can be granted if you have difficulty signing your name. If you think that you may require a waiver please contact the helpline number below.

6. If you lose or accidentally spoil your postal ballot paper(s), please call the helpline number below as soon as possible. After 5pm on [insert day and date of poll] replacement papers can only be issued if you apply in person to the Constituency Returning Officer.

7. Complete and return your postal vote as soon as possible. If you cannot post your vote in time to reach the Returning Officer before [insert day and date of poll], you can deliver your completed voting papers to any polling station in the constituency before the close of poll at 10pm on [insert day and date of poll].

8. You cannot vote in person at a polling station at this election unless you cancel your postal vote not later than 5pm on [insert day eleven working days before the date of poll].

To change any of your voting arrangements or if you need further help please contact [helpline number] as soon as possible.

**It is an offence to vote using a ballot paper that is not addressed to you.**

#### **ISSUED BY THE RETURNING OFFICER**

**Direction for poll cards being sent to an anonymous elector:**

*(This direction does not form part of the poll card.)*

*Returning Officer to omit name and address. A poll card to an anonymous elector must be delivered in a sealed envelope.*

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

**Schedule 2 Rule 37  
FORM N**

*(To be sent to a proxy voting in person)*

<b>Scottish Parliamentary Election</b>	
<b>[Name] Constituency</b>	
<b>Date of Election [Date of Election]</b>	
<b>PROXY'S OFFICIAL POLL CARD</b>	
Polling District Reference/Elector's Number on Register	Region:
Proxy's Name and Address <sup>1</sup>	Constituency:
	The Elector's Polling Station is:
	Polling Day: Polling Hours 7am to 10pm
<p><b>This card is for information only. You can vote without it, but it will save time if you take it to the polling station and show it to the clerk there<sup>2</sup>.</b></p> <p><b>PLEASE SEE THE ACCOMPANYING INFORMATION ON HOW TO VOTE</b></p> <p><i>If undelivered return to Returning Officer [insert address]</i></p>	

**HOW TO VOTE AT A SCOTTISH PARLIAMENTARY ELECTION**

This poll card is to tell you that for this election you are appointed as proxy for<sup>3</sup>:

Elector's Name and Address<sup>3</sup>:  
**[Name and Address]**

Polling District Reference/Elector's Number on Register<sup>3</sup>:  
**[Number on register]**

1. When you go to the polling station, tell the clerk that you wish to vote as proxy on behalf of the elector shown above<sup>4</sup>. The clerk will confirm the entry on the register. The method of voting as proxy is the same as for casting your own vote.
2. You will be given two ballot papers (a constituency ballot paper coloured [insert colour] and a regional ballot paper coloured [insert colour]). Go to one of the polling booths. You may vote only once on each ballot paper. Mark the elector's choice with a cross (X) in the box on the right hand side of each ballot paper opposite the name of the candidate or party they are voting for.
3. Do not put any other mark on the ballot papers or the votes may not count.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

4. If by mistake you spoil the ballot papers, show them to the Presiding Officer and ask for replacements.
5. When you have marked the elector's choice, show the back of the ballot papers to the Presiding Officer, so that the Presiding Officer can confirm that each ballot paper has the number and official mark, but do not let anyone see the elector's votes. Put each ballot paper in the ballot box that is marked in the same colour as the ballot paper and leave the polling station.
6. The elector who appointed you as proxy may vote in person at this election if they are able and wish to do so, as long as they vote before you vote as their proxy (unless you apply to vote as a postal proxy when they will not be able to vote).

**If you will be away on the date of the poll:**

- You can apply to vote by post. Your application must be received by the Electoral Registration Officer, [insert address] not later than 5pm on [insert date of 11 day deadline]. You will be sent a Proxy Postal Voter's Official Poll Card which will advise of the expected date postal voting papers will be sent out. Your postal voting papers will normally arrive about 2 weeks before polling day but this can vary slightly if there are postal delays. Your postal ballot paper must be returned to the Returning Officer by 10.00pm on polling day. If you are given a proxy postal vote, neither you nor the elector will be entitled to vote in person at this election.

**You must not:**

- Vote as proxy at the same election for more than two persons of whom you are not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild.
- Vote as proxy for some other person if you know that that person is not allowed to vote.
- Vote more than once as proxy for the person named overleaf at the same election.
- Vote more than once on your own behalf at the same election.

To change any of your voting arrangements or if you need further help, please contact [helpline number] as soon as possible.

**ISSUED BY THE RETURNING OFFICER**

**Directions for poll cards being sent to a proxy for an anonymous elector:**

*(These directions do not form part of the poll card.)*

<sup>1</sup>Returning Officer to omit proxy's name and address. A poll card to the proxy of an anonymous elector must be delivered in a sealed envelope.

<sup>2</sup>Replace the paragraph with "You must have this card with you when you vote as this elector's proxy. You cannot vote as proxy without it."

<sup>3</sup>Replace the paragraphs with "You are entitled to vote as proxy for the elector whose electoral number is shown below:

Polling District Reference/Electoral Number of Elector \_\_\_\_\_"

<sup>4</sup>Replace the words "When you go to the polling station, tell the clerk that you wish to vote as proxy on behalf of the elector shown above" with "To vote as proxy you must go to the polling station shown on the front of this card. Ask to speak to the Presiding Officer and show this card to the officer."

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

**Schedule 2 Rule 37  
FORM N1**

*(To be sent to a proxy voting by post)*

**Scottish Parliamentary Election**

**[Name] Constituency**

**Date of Election [Date of Election]**

**PROXY POSTAL VOTER'S OFFICIAL POLL CARD**

Region:  
Constituency:

This card is to remind you that for this election an elector named in the accompanying information has appointed you as their proxy and you have asked to vote by post.

For the election on:  
[Day and Date of Poll]  
Polling Hours 7am to 10pm

You will not be able to vote on behalf of the elector in a polling station.

Polling District Reference/Elector Number on Register

The proxy postal voting papers will be sent to you at the address below about 2 weeks before the date of the election.

[insert name and address<sup>1</sup>]

If your proxy postal voting papers have not arrived by [day and date], call [helpline number] and ask for assistance.

If you wish to cancel your proxy postal vote please advise the Electoral Registration Officer [insert address], before 5pm on [insert date eleven working days before the date of poll].

**This card is to provide you with information about voting by post as proxy.**

**PLEASE SEE THE ACCOMPANYING INFORMATION ABOUT  
HOW TO COMPLETE YOUR PROXY POSTAL BALLOT PAPERS**

*If undelivered return to Returning Officer  
[insert address]*

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

## HOW TO COMPLETE YOUR PROXY POSTAL BALLOT PAPERS AT A SCOTTISH PARLIAMENTARY ELECTION

This card is to remind you that for this election you have been appointed as proxy for the elector named below and that you have asked to vote by post.<sup>2</sup>

Elector's Name and Address<sup>1,2</sup>

**[Name and Address]**

Polling District Reference/Elector's number on register<sup>2</sup>:

**[Number on register]**

1. When you receive the postal voting pack, please read the "Instructions to the Voter" before completing the postal ballot paper.
2. You will receive two ballot papers (a constituency ballot paper coloured [insert colour] and a regional ballot paper coloured [insert colour]). You may vote only once on each ballot paper. Mark the elector's choice with a cross (X) in the box on the right hand side of each ballot paper opposite the name of the candidate or party they are voting for.
3. Do not put any other mark on the ballot papers or the votes may not count.
4. The vote is personal to the elector – complete it yourself and in private. If you cannot vote without help, the person assisting you must not disclose how the elector has voted.
5. **For the elector's votes to be counted you must provide your date of birth and signature on the postal voting statement** (unless you have been granted a signature waiver by prior arrangement with the Electoral Registration Officer). Providing your date of birth and signature is a security measure. It does not mean that the elector's vote can be identified. The Returning Officer will check your date of birth and signature against the date of birth and signature you provided when you applied for a postal proxy vote to ensure that you are the same person that made the application. A signature waiver can be granted if you have difficulty signing your name. If you think that you may require a waiver please contact the helpline number below.
6. If you lose or accidentally spoil the postal ballot papers, please call the helpline number below as soon as possible. After 5pm on [insert day and date of poll] replacement papers can only be issued if you apply in person to the Constituency Returning Officer.
7. Complete and return the postal vote as soon as possible. If you cannot post the vote in time to reach the Returning Officer before [insert day and date of poll], you can deliver the completed voting papers to any polling station in the constituency before the close of poll at 10pm on [insert day and date of poll].
8. You cannot vote on behalf of the elector in person at a polling station at this election unless you cancel your postal vote not later than 5pm on [insert day eleven working days before the date of poll].

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

You must not:

- Vote as proxy at the same election for more than two persons of whom you are not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild.
- Vote as proxy for some other person if you know that that person is not allowed to vote.
- Vote more than once as proxy for the person named overleaf at the same election.
- Vote more than once on your own behalf at the same election.

To change any of your voting arrangements or if you need further help, please contact [helpline number] as soon as possible.

**It is an offence to vote using a ballot paper that is not addressed to you.**

### **ISSUED BY THE RETURNING OFFICER**

**Directions for poll cards being sent to a postal proxy for an anonymous elector:**

*(These directions do not form part of the poll card.)*

<sup>1</sup>*Returning Officer to omit Elector's name and address. A poll card to the proxy of an anonymous elector must be delivered in a sealed envelope.*

<sup>2</sup>*Replace the paragraphs with "You are entitled to vote as proxy for the elector whose electoral number is shown below:*

*Polling District Reference/Electoral Number of Elector \_\_\_\_\_"*



**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

**Schedule 2 Rule 37  
Form N2**

*(To be sent to an elector who has appointed a proxy)*

**Scottish Parliamentary Election**

**[Name] Constituency**

**Date of Election [Date of Election]**

**ELECTOR'S OFFICIAL POLL CARD  
WHERE ELECTOR HAS APPOINTED A PROXY**

Polling District Reference/Number on Register	Region:
Name and Address <sup>1</sup>	Constituency:
	Your Polling Station will be:
	Polling Day:
	Polling Hours 7am to 10pm

**This card is to remind you that you have appointed a proxy to vote on your behalf at this election.**

If you wish to cancel this proxy vote please advise the Electoral Registration Officer *[insert address]*, before 5pm on *[insert date of deadline]*. For further advice call *[helpline number]*.

**PLEASE SEE THE ACCOMPANYING INFORMATION ON HOW TO VOTE**

*If undelivered return to Returning Officer  
[Insert address]*

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

## HOW TO VOTE AT A SCOTTISH PARLIAMENTARY ELECTION

This card is to remind you that for this election you have appointed the following person as your proxy:

[Insert Name of Proxy]

If you would like to cancel your proxy appointment please advise the Electoral Registration Officer, [insert address], in writing not later than 5pm on [date of deadline]. For further advice call the helpline number below.

You can still vote in person at the polling station shown if you vote before the proxy votes on your behalf (unless they have applied to vote as a postal proxy, which means you can't vote).

If you decide to vote in person you can vote without your poll card, but it will save time if you take it to the polling station and show it to the clerk there<sup>2</sup>.

1. When you go to the polling station, tell the clerk your name and address, as shown on the front of the card. The clerk will confirm your details on the register.<sup>3</sup>
2. You will be given two ballot papers (a constituency ballot paper coloured [insert colour] and a regional ballot paper coloured [insert colour]). Go to one of the polling booths. You may vote only once on each ballot paper. Mark your choice with a cross (X) in the box on the right hand side of each ballot paper opposite the name of the candidate or party you are voting for.
3. Do not put any other mark on the ballot papers or your votes may not count.
4. If by mistake you spoil your ballot papers, show them to the Presiding Officer and ask for replacements.
5. When you have marked your choice, show the back of the ballot papers to the Presiding Officer, so that the Presiding Officer can confirm that each ballot paper has the number and official mark, but do not let anyone see your votes. Put each ballot paper in the ballot box that is marked in the same colour as the ballot paper and leave the polling station.

To change any of your voting arrangements or if you need further help please contact [helpline number] as soon as possible.

## ISSUED BY THE RETURNING OFFICER

### Directions for poll cards being sent to an anonymous elector:

*(These directions do not form part of the poll card.)*

<sup>1</sup>Returning Officer to omit name and address. A poll card to an anonymous elector must be delivered in a sealed envelope.

<sup>2</sup>Replace the paragraph with: "If you decide to vote in person you must take this card with you when you go to the polling station to vote. You cannot vote without it."

<sup>3</sup>Replace the paragraph with: "When you go to the polling station, ask to speak to the Presiding Officer and show this card to the officer. The presiding officer will confirm your entry on the register."

**Schedule 2 Rule 38  
FORM O**

**Scottish Parliamentary Election**

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**GUIDANCE FOR VOTERS**

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- You will be given two ballot papers.
- Once you have been given your ballot papers by the polling staff, go to one of the polling compartments.
- Vote only once on each ballot paper.
- Mark your choice with a cross (X) in the box on the right hand side of the ballot paper opposite the name of the candidate or party you are voting for.
- Put no other mark on the ballot paper, or your vote may not count.
- If by mistake you spoil a ballot paper, take it to the Presiding Officer and ask for another one.
- When you have marked your choice, show the back of the ballot papers to the Presiding Officer, so that the Presiding Officer can confirm that the ballot papers have the numbers and official marks, but do not let anyone see how you have voted.
- Put each ballot paper in the ballot box marked in the same colour and leave the polling station.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

**Schedule 2 Rule 38 (as modified by Schedule 5 Paragraph 8)**  
**Schedule 5 Paragraph 25**  
**FORM O3**  
**Scottish Parliamentary and Local Government Elections**

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**GUIDANCE FOR VOTERS**

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- You will be given three ballot papers.
- Once you have been given your ballot papers by the polling staff, go to one of the polling compartments.
- On the Scottish Parliament ballot papers, coloured [*insert colours*], mark your choices with a cross (X) in the box on the right hand side of each ballot paper opposite the name of the candidate or party you are voting for. Put only one X on each ballot paper.
- On the white ballot paper for the local government election, number the candidates in the order of your choice instead of using a cross. Put the number 1 in the box next to the name of the candidate who is your first choice, then put the number 2 in the box next to the name of the candidate who is your second choice, the number 3 in the box next to your third choice, the number 4 in the box next to your fourth choice, and so on. You can mark as many choices as you wish.
- Put no other mark on the ballot papers, or your vote may not count.
- If by mistake you spoil a ballot paper, take it to the Presiding Officer and ask for another one.
- When you have marked your choices, show the back of the ballot papers to the Presiding Officer, so that the Presiding Officer can confirm that the ballot papers have the number and official mark, but do not let anyone see how you have voted.
- Put each ballot paper in the ballot box marked in the same colour and leave the polling station.

## Schedule 2 Rule 38 FORM P

Notice providing further information for voters at polling stations at a Scottish parliamentary election other than an election for a constituency member only. (This notice may be printed and laid out in any format that clearly presents the information in it.)

### SCOTTISH PARLIAMENTARY ELECTION

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#### INFORMATION FOR VOTERS

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##### There are two ballot papers

##### **Constituency Ballot Paper** (*[Insert colour]* ballot paper)

Votes cast in this poll will decide the election of a member to represent your constituency in the Scottish Parliament.

- You have one vote on this paper.
- You should place a cross (X) in one box only.
- Do not make any other mark on the ballot paper, or your vote may not be counted.

(The form of a constituency ballot paper to be illustrated).

##### **Regional Ballot Paper** (*[Insert colour]* ballot paper)

Votes cast in this poll will decide the allocation of 7 additional seats in the Scottish Parliament for this region. You may use this vote (either)\* for a political party putting forward a list of candidates (or for an individual candidate not standing on a party list)\*.

- You have one vote on this paper.
- You should place a cross (X) in one box only.
- Do not make any other mark on the ballot paper, or your vote may not be counted.

(The form of a regional ballot paper to be illustrated).

(\*may be deleted where no individual candidates are standing for election as regional members).

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

**Schedule 2 Rule 41  
FORM Q**

**Certificate of Employment  
for a  
Scottish Parliamentary Election**

..... **Constituency**

**Date of Election:** .....

The person named below is entitled to vote at any polling station in the above constituency on production and surrender of this certificate to the presiding officer.

I certify that (name) .....  
who is numbered<sup>1</sup> .....

in the register of electors for the constituency named above, cannot reasonably be expected to go in person to the polling station allotted to them at the election on the above date by reason of the particular circumstances of his or her employment on that date for purposes connected with the election:

- (a) as a constable<sup>2</sup>
- (b) by me<sup>2</sup> (Only applies to Returning Officers' staff).

Signature: .....  
Returning Officer/Police Officer (Inspector or above)<sup>2</sup>:

Date: .....

**Notes on completion**

<sup>1</sup>The elector's number can be found on the poll card which was sent to them shortly after the election was announced.

<sup>2</sup>Delete whichever does not apply.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

**Schedule 2 Rule 48  
FORM R**

**Declaration by the Companion of a Voter with Disabilities  
at a  
Scottish Parliamentary Election**

**[Name] Constituency**

**Date of Election [Date of Election]**

A voter who is unable to vote without assistance (due to blindness or other disability, or due to their inability to read) may make a declaration under Schedule 2, rule 48 of the Scottish Parliament (Elections etc.) Order 2010 to that effect. If the Presiding Officer of the polling station is satisfied by that declaration, such a voter may be assisted by a companion provided that the companion satisfies the terms of that rule, including completing the following declaration.

Ballot Box No: ..... Polling Station No: .....

Name of Presiding Officer: .....

**SECTION 1 – TO BE COMPLETED BY COMPANION OF VOTER WITH DISABILITIES**

It is an offence knowingly to make a false statement with the intention of being permitted to act as a companion.

I, ..... (companion's name)  
of .....  
..... (companion's address including postcode)  
having been asked to assist ..... (voter's name)  
whose number on the register is ..... (voter's elector number)  
to record their vote at the election now being held in this constituency, declare that

- I am entitled to vote as an elector at this election\*
- or
- I am the spouse/civil partner/parent/grandparent/brother/sister/child/grandchild\* of the voter with disabilities and have attained the age of 18 years\*.

(\*Delete as appropriate)

I declare that I have not previously assisted any voter with disabilities at this election except as noted below.

You are only allowed to assist up to two voters with disabilities. If you have already assisted a voter with disabilities at today's election please provide the following details:

Name of voter: .....  
Address of voter: .....

Signature of companion: ..... Date: .....

**SECTION 2 – PRESIDING OFFICER'S COUNTER-SIGNATURE**

I, the undersigned, being the Presiding Officer for the ..... Polling Station for the ..... Constituency, confirm that this form was signed in my presence.

Signature of Presiding Officer: ..... Date and Time: .....

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

**Schedule 2 Rule 62  
FORM S**

**Certificate by the Constituency Returning Officer  
in respect of the election of a member for  
the [name of constituency] Scottish Parliamentary Constituency**

I certify that the Member elected to the Scottish Parliament for the [Name] Constituency at the election on [date of poll] is:

Name of Member: .....

Name of registered political party\*,  
“Independent” or “No description”  
as Applicable: .....

Address of Member: .....  
.....  
.....

Signature: .....  
Constituency Returning Officer

Date: .....

\*Use the name of the party as registered. Do not include the word “Scottish” where that has been added under rule 4(7).



**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

**Schedule 2 Rule 66  
FORM T**

**Certificate by the Regional Returning Officer  
in respect of the election of members for  
the [name of region] Scottish Parliamentary Region**

I certify that the persons elected to the Scottish Parliament to serve as Members for the [Name] Region at the election held on [date of poll] are:

	Name and Address of Member	Name of registered political party*, “Independent” or “No description” as applicable
1	..... ..... .....	.....
2	..... ..... .....	.....
3	..... ..... .....	.....
4	..... ..... .....	.....
5	..... ..... .....	.....
6	..... ..... .....	.....
7	..... ..... .....	.....

Signature: ..... Date .....

Regional Returning Officer

\*Use the name of the party as registered. Do not include the word “Scottish” where that has been added under rule 6(3).

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

**Schedule 4 Paragraph 3  
Schedule 5 Paragraph 39  
FORM U**

*(To be used where the proceedings on the issue and receipt of postal ballot papers in respect of each election are taken together)*

**Scottish Parliamentary Election and Local Government Election  
on [insert date]  
Postal Voting Statement**

Voter's name: [Voter's Name]<sup>1</sup>

Ballot Paper Nos: [Ballot Paper Nos]

Constituency/Region: [Constituency/Region]

Local Government electoral ward: [Electoral Ward]

[Other identifying mark]

**Please read the accompanying 'Instructions to the Voter'**

For your votes to be counted you must provide your date of birth [and signature]<sup>2</sup>. Please write clearly using black ink.

I am the person the ballot papers numbered above were sent to. (The ballot paper number can be found above and on the back of your ballot papers and you should check that they match. If they do not, please contact the returning officer.)

Enter your **Date of Birth** in the boxes on the right e.g. 8 September 1961 would be 08 09 1961

--	--

Day

--	--

Month

--	--	--	--

Year

**[Please sign your name inside the grey box on the right]<sup>2</sup>**

--

**Electoral fraud is a crime. You must not vote using a ballot paper that is not addressed to you or interfere with another voter's ballot paper.**

**ISSUED BY THE RETURNING OFFICER**

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

### **Instructions to the Voter**

If you need help or require replacement documents please contact the Returning Officer at [insert contact details for assistance including address as appropriate].

**After receiving this postal vote, you cannot vote in person at a polling station at this election. You must not vote more than once (unless you are appointed as a proxy for another elector) at the same election.**

You have three ballot papers (a constituency ballot paper coloured [insert colour], a regional ballot paper coloured [insert colour] and a Local Government ballot paper coloured white). Please check that the ballot paper number on the back of each ballot paper matches the number at the top of the postal voting statement. If it does not match, contact the Returning Officer at the address above.

Your vote is personal – complete it yourself and in private. If you need help voting, the person helping you must not tell anyone how you voted.

For your vote to be counted you must provide your date of birth and signature<sup>2</sup> on the postal voting statement. Please use black ink. Your date of birth and signature<sup>2</sup> will be checked against the date of birth and signature<sup>2</sup> you provided to the Electoral Registration Officer when you asked for a postal vote to ensure that you are the same person who applied for the postal vote.

The ballot papers and postal voting statement must be received by the Returning Officer by **10pm on (day and date of poll)**. You can also deliver your completed postal vote to any polling station in this constituency on polling day up to 10pm.

#### **How do I complete my postal vote?**

##### **Step A – Completing your Ballot Papers**

1. On the Scottish Parliament ballot papers coloured [insert colour], mark your choices with a cross (X) in the box on the right hand side of each ballot paper opposite the name of the candidate or party you are voting for. Put only one X on each ballot paper.

2. On the white ballot paper for the local government election, number the candidates in the order of your choice instead of using a cross. Put the number 1 in the box next to the name of the candidate who is your first choice, then put 2 in the box next to the name of the candidate who is your second choice, 3 in the box next to your third choice, 4 in the box next to your fourth choice, and so on. You can mark as many choices as you wish.

3. Put no other mark on the ballot papers, or your votes may not count.

4. Put all the completed ballot papers in the envelope marked 'A' and seal it.

##### **Step B – Completing your Postal Voting Statement**

5. For your votes to be counted you must provide your **date of birth** and **signature**<sup>2</sup>. Please use black ink. Put your **date of birth** in the boxes provided and **sign** in the grey box<sup>2</sup>.

##### **Step C – Before returning your Postal Vote**

6. Check you have marked the ballot papers, put them in envelope 'A' and sealed the envelope.

7. Check you have put your **date of birth** and **signature**<sup>2</sup> on the Postal Voting Statement.

8. Put the envelope marked 'A' together with the Postal Voting Statement in the envelope marked 'B' and seal the envelope.

9. Post it as soon as possible. If you delay posting your vote it may not be received by the Returning Officer in time to be counted.

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If you accidentally spoil or lose your ballot papers, you can apply to the Returning Officer for replacements. After 5pm on [insert day and date of poll] replacement papers can only be issued if you apply in person to the Returning Officer. You must return the spoiled ballot papers, the postal voting statement, and the envelopes marked 'A' and 'B'. Make sure you contact the Returning Officer as soon as possible at the address above.

**Direction for postal voting statement being sent to an anonymous elector**

*(This direction does not form part of the postal voting statement.)*

<sup>1</sup>Returning Officer to omit name.

**Direction for postal voting statement being sent to an elector who has been granted a signature waiver**

*(This direction does not form part of the postal voting statement.)*

<sup>2</sup>Returning Officer to omit grey signature box and references to signature.

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### Schedule 4 Paragraph 3 FORM V

*(To be used where the proceedings on the issue and receipt of postal ballot papers in respect of each election are NOT taken together)*

<b>Scottish Parliamentary Election on [insert date] Postal Voting Statement</b>		
Voter's name <sup>1</sup> : [Voter's name]	Ballot Paper Nos: [Ballot Paper Nos]	
	Constituency/Region: [Constituency/Region]	
	[Other identifying mark]	
<b>Please read the accompanying 'Instructions to Voter'</b>		
For your votes to be counted you must provide your date of birth [and signature] <sup>2</sup> . Please write clearly in black ink.		
I am the person the ballot papers numbered above were sent to. (The ballot paper number can be found above and on the back of your ballot papers and you should check that they match. If they do not please contact the returning officer.)		
Enter your <b>Date of Birth</b> in the grey boxes on the right e.g. 8 September 1961 would be 08 09 1961	<input type="text"/> Day	<input type="text"/> Month
		<input type="text"/> Year
<b>[Please sign your name inside the box on the right]<sup>2</sup></b>	<div style="border: 2px solid black; height: 80px; width: 100%;"></div>	
<b>Electoral fraud is a crime. You must not vote using a ballot paper that is not addressed to you or interfere with another voter's ballot paper.</b>		
<b>ISSUED BY THE RETURNING OFFICER</b>		

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

### ***Instructions to the Voter***

If you need help or require replacement documents please contact the Returning Officer at [insert contact details for assistance including address as appropriate].

**After receiving this postal vote, you cannot vote in person at a polling station at this election. You must not vote more than once (unless you are appointed as a proxy for another elector) at the same election.**

This postal voting statement relates to the ballot papers for the Scottish parliamentary election only. You will receive your Local Government election ballot papers and instructions separately. If you have not received them by [insert date], please contact the Returning Officer.

You have two ballot papers (a constituency ballot paper coloured [insert colour] and a regional ballot paper coloured [insert colour]). Please check that the ballot paper number on the back of each ballot paper matches the number at the top of the postal voting statement. If it does not match, contact the Returning Officer at the address above.

Your vote is personal – complete it yourself and in private. If you need help voting, the person helping you must not tell anyone how you voted.

For your votes to be counted you must provide your date of birth and signature<sup>2</sup> on the postal voting statement. Please use black ink. Your date of birth and signature<sup>2</sup> will be checked against the date of birth and signature<sup>2</sup> you provided to the Electoral Registration Officer when you asked for a postal vote to ensure that you are the same person who applied for the postal vote.

The ballot papers and postal voting statement must be received by the Returning Officer by **10pm** on [day and date of poll]. You can also deliver your completed postal vote to any polling station in this constituency on polling day up to 10pm.

#### **How do I complete my postal vote?**

##### **Step A – Completing your Ballot Papers**

1. Vote only once on each ballot paper.
2. Vote by marking a cross (X) in the box opposite the name of the candidate or party you are voting for.
3. Do not mark the ballot papers in any other way or your votes may not count.
4. Put the completed ballot papers in the envelope marked ‘A’ and seal it.

##### **Step B – Completing your Postal Voting Statement**

5. For your votes to be counted you must provide your **date of birth** and **signature**<sup>2</sup>. Please use black ink. Put your **date of birth** in the boxes provided and **sign** in the grey box<sup>2</sup>.

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### **Step C – Before returning your Postal Vote**

6. Check you have marked the ballot papers, put them in envelope 'A' and sealed the envelope.
7. Check you have put your **date of birth** and **signature**<sup>2</sup> on the Postal Voting Statement.
8. Put the envelope marked 'A' together with the Postal Voting Statement in the envelope marked 'B' and seal the envelope.
9. Post it as soon as possible. If you delay posting your vote it may not be received by the Returning Officer in time to be counted.

If you accidentally spoil or lose your ballot papers, you can apply to the Returning Officer for replacements. After 5pm on [insert day and date of poll] replacement papers can only be issued if you apply in person to the Returning Officer. You must return the spoiled ballot papers, the postal voting statement, and the envelopes marked 'A' and 'B'. Make sure you contact the Returning Officer as soon as possible at the address above.

### **Direction for postal voting statement being sent to an anonymous elector**

*(This direction does not form part of the postal voting statement.)*

<sup>1</sup>Returning Officer to omit name.

### **Direction for postal voting statement being sent to an elector who has been granted a signature waiver**

*(This direction does not form part of the postal voting statement.)*

<sup>2</sup>Returning Officer to omit grey signature box and references to signature.

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**Schedule 4 Paragraph 30  
FORM W**

<b>SCOTTISH PARLIAMENTARY ELECTION STATEMENT AS TO POSTAL BALLOT PAPERS</b>			
Constituency/Region :		[Name of Constituency/Region]	Date of poll: [Date of poll]
<b>A</b>	<b>Issue of postal ballot papers</b>	<b>Number Constituency</b>	<b>Number Region</b>
1	Total number of postal ballot papers issued under paragraphs 8(1), 13(3) and 14(6)		
<b>B(1)</b>	<b>Receipt and replacement of postal ballot papers</b>	<b>Number Constituency</b>	<b>Number Region</b>
2	Number of postal ballot papers received by the Returning Officer or at a polling station before the close of the poll (excluding any returned either as undelivered or under paragraph 13(2) or 14(3)).		
3	Number of covering envelopes received by the Returning Officer after the close of the poll, excluding any returned as undelivered.		
4	Number of postal ballot papers returned spoilt for cancellation in time for another ballot paper to be issued under paragraph 13(3).		
5	Number of postal ballot papers identified as lost or not received in time for another ballot paper to be issued under paragraph 14(6).		
6	Number of postal ballot papers cancelled and retrieved in time for another ballot paper to be issued under paragraph 14(6).		
7	Number of postal ballot papers returned as spoilt too late for another ballot paper to be issued under paragraph 13(3).		
8	Number of postal ballot papers identified as lost or not received too late for another ballot paper to be issued under paragraph 14(6).		
9	Number of postal ballot papers received and cancelled too late for another ballot paper to be issued under paragraph 14(6).		
10	Number of covering envelopes returned as undelivered up to the date of this statement.		
11	Total number of postal ballot papers returned (total of lines 2 to 10).		



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12	Number of postal ballot papers which have been issued but which have not been received by the Returning Officer at the date of this statement. (This should be the total at line 1 above minus the total at line 11 above).		
<b>B(2)</b>	<b>Receipt of postal ballot papers – Personal identifiers</b> (Cancellations under paragraph 13 (spoilt) or 14 (lost or not received) should not be included in lines 14 to 17 below).	<b>Number Constituency</b>	<b>Number Region</b>
13	Number of covering envelopes set aside for the verification of personal identifiers on postal voting statements in accordance with paragraph 19(2) or (7).		
14	Number of postal voting statements not subject to verification procedure rejected as not completed under paragraph 20(3).		
15	Number of postal voting statements subject to verification procedure rejected as not completed under paragraph 21(3).		
16	Number of postal voting statements rejected following verification procedures due to the personal identifiers on the postal voting statement not matching those in the personal identifiers record under paragraph 21(3).		
17	Number of ballot papers rejected following verification procedures due to the number on the postal voting statement not matching the number on the ballot paper under paragraph 21(5) to (8).		
<b>C</b>	<b>Count of Ballot Papers</b>	<b>Number Constituency</b>	<b>Number Region</b>
18	Number of ballot papers returned by postal voters which were included in the count of ballot papers.		
19	Number of cases in which a covering envelope or its contents were marked "Rejected".		

Signed: .....  
Constituency Returning Officer

*The completed statement must be sent to the Secretary of State and to the Electoral Commission during a period of 6 days starting 10 days after the day of the poll.*

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**Schedule 2 Rule 38 (as modified by Schedule 5 Paragraph 8)  
Schedule 5 Paragraph 25  
Form X**

**Scottish Parliamentary and Local Government Elections**

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**INFORMATION FOR VOTERS**

---

**You will be given three ballot papers.**

**SCOTTISH PARLIAMENT – Constituency Ballot Paper (*insert colour*) ballot paper)**

Votes cast in this poll will decide the election of a member to represent your constituency in the Scottish Parliament.

- You have one vote on this paper.
- You should place a cross (X) in one box only.
- Do not make any other mark on the ballot paper, or your vote may not be counted.

(The form of the constituency ballot paper to be illustrated.)

**SCOTTISH PARLIAMENT – Regional Ballot Paper (*insert colour*) ballot paper)**

Votes cast in this poll will decide the allocation of 7 additional seats in the Scottish Parliament for this region. You may use this vote (either)\* for a political party putting forward a list of candidates (or for an individual candidate not standing on a party list)\*.

- You have one vote on this paper.
- You should place a cross (X) in one box only.
- Do not make any other mark on the ballot paper, or your vote may not be counted.

(The form of the regional ballot paper to be illustrated.)

**LOCAL GOVERNMENT (white ballot paper)**

Votes cast in this poll will decide the election of local councillors to represent this ward.

- On this paper, number the candidates in the order of your choice instead of using a cross. Put the number 1 in the box next to the name of the candidate who is your first choice, then put 2 in the box next to the name of the candidate who is your second choice, 3 in the box next to your third choice, 4 in the box next to your fourth choice, and so on. You can mark as many choices as you wish.
- Do not make any other mark on the ballot paper, or your vote may not be counted.

(The form of the local government ballot paper to be illustrated.)

(\*may be deleted where no individual candidates are standing for election as regional members)

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**Schedule 5 Paragraph 39  
FORM Y**

*(To be used where the polls at a Scottish parliamentary election and a local government election are taken together but the proceedings on the issue and receipt of postal ballot papers in respect of each election are NOT taken together)*

**POSTAL VOTING STATEMENT FOR A POSTAL VOTE AT LOCAL GOVERNMENT ELECTION**

**POSTAL VOTING STATEMENT**

**You must fill in this form and send it back with the ballot paper**

\*Voter's name ..... Ballot paper number .....

\*(Returning Officer to insert name but omit where ballot papers are sent to an anonymous elector)

[other identifying mark]

**You must provide your [\*\*signature and] date of birth. If you do not, the postal voting statement will be invalid and your vote will not be counted.**

I AM THE PERSON TO WHOM THE BALLOT PAPER NUMBERED AS ABOVE WAS SENT

Date of Birth 

D	D
---	---

M	M
---	---

Y	Y	Y	Y
---	---	---	---

 (voter's date of birth)

\*\*Signature

Signature Here

(voter's signature)  
**IMPORTANT – Keep signature within border**

\*\*Returning Officer to omit where a person has been granted a waiver

**Electoral fraud is a crime. You must not vote using a ballot paper that is not addressed to you or interfere with another voter's ballot paper.**

PLEASE READ THE INSTRUCTIONS ON THE BACK OF THIS FORM

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## INSTRUCTIONS TO THE VOTER

### **Your vote is personal – complete the ballot paper yourself and in private.**

1. This postal voting statement relates to the ballot paper for the Local Government election only. You will receive your Scottish Parliament election ballot papers and instructions separately. If you have not received them by (insert date), please contact me.
2. On the ballot paper (the one with the names on it), number the candidates in order of your choice instead of using a cross. Put the number 1 in the box next to the name of the candidate who is your first choice, then put 2 in the box next to the name of the candidate who is your second choice, 3 in the box next to your third choice, 4 in the box next to your fourth choice and so on. You can mark as many choices as you wish.  
  
If you need help from someone to complete the ballot paper, they must not tell anyone who you have voted for.
3. Do not put any other marks on the ballot paper. If you do, your vote might not be counted.
4. You must provide your [\*\*signature and] date of birth on the postal voting statement. If you do not, it will be invalid and your vote will not be counted.
5. Put the ballot paper in the envelope marked A and seal it. Then put this envelope together with the postal voting statement in the larger envelope marked B and seal it. Post the envelope back quickly. The ballot paper must be received by the returning officer not later than the close of poll. It may be posted to the returning officer before polling day or delivered by hand to any polling station in the local authority area on polling day before the poll closes.
6. If you get more than one ballot paper, by accident, then just use one. Remember that it is an offence to vote more than once in the same election (unless you are voting for someone else by proxy).
7. Remember, as you have received a postal vote you cannot vote in person at the polling station even if you have in your name an official poll card, an official postal poll card, an official poll card issued to the proxy of an elector or an official postal poll card issued to the proxy of an elector. If you are voting, you must use the ballot paper sent to you. Your postal vote can be handed into any polling station in the local authority area on polling day before the poll closes.
8. If you make a mistake on the ballot paper you can ask the returning officer to send by post another one up until 5pm on the day before polling day. You will need to return everything you have received (ballot paper, postal voting statement and the envelopes). You should do this straightaway as there is not much time for a new ballot paper to be sent to you, returned and counted.
9. If you lose the ballot paper, postal voting statement or accompanying envelopes, by the third day before the day of the poll, you may apply to the returning officer to send by post a replacement ballot paper up until 5pm on the day before polling day. You will be required to provide evidence of your identity.
10. If you want to apply for a replacement ballot paper after 5pm on the day before polling day and up to 5pm on polling day, you must do so in person at the address shown below. You will be required to provide evidence of identity.

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## REMINDER

1. Have you remembered to [**\*\***sign your name and] provide your date of birth on the postal voting statement?
2. Have you put your ballot paper in the envelope A and sealed it?
3. Have you put envelope A together with the postal voting statement into envelope B and sealed it?
4. You must make sure that you send your postal vote to the returning officer or deliver it to the polling station before the close of poll at 10pm on (*insert date*).

If two or more postal vote envelopes have been delivered to your address – please make sure that the correct documents are in the correct return envelope.

Printed and published by the Returning Officer

*\*\*Returning officer to omit where a person has been granted a waiver*



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**Corresponding Number List**  
**Scottish Parliamentary Election**  
**[Name] Constituency**  
**Date of Election: [Date of Election]**

**Part 2 – For ballot papers provided by the constituency returning officer to polling stations**

Polling Station	
Sheet No:	
Ballot Paper Number	Electors Number

---

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order sets out afresh the provisions as to the conduct of elections for, and the return of members to, the Scottish Parliament, established by the Scotland Act 1998. The Order revokes the Scottish Parliament (Elections etc.) Order 2007.

The Electoral Commission has been consulted on the draft of this Order, as required by section 7 of the Political Parties, Elections and Referendums Act 2000.

Part 1 of the Order (articles 1 and 2) contains general provisions concerning the citation, commencement and interpretation of the Order. The Order will not apply to any elections held on

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or before 4th April 2011. New provisions on the control of donations to candidates will not apply to money or property provided before 5th January 2011.

Part 2 of the Order (articles 3 to 31) makes provision about the franchise for the Scottish Parliament and the exercise of that franchise.

Part 3 of the Order (articles 32 to 83) deals with election campaigns and election expenses at Scottish Parliament elections. This includes new provisions on details to appear on election publications, control of donations to candidates and pre-candidacy expenses. The polling places and districts are aligned with those used for Parliamentary elections.

Part 4 of the Order (article 84) along with Schedule 6, makes provision for legal proceedings.

Part 5 of the Order (articles 85 to 97) makes miscellaneous and supplementary provision. It increases, to 28 working days, the “minimum period” used to calculate the date of dissolution of the Scottish Parliament ahead of an ordinary general election.

Schedule 1 makes provision about the free supply and the sale of the register of local government electors to MSPs, their election agents and to candidates standing for election to the Scottish Parliament and also the election agents of registered political parties in respect of list MSP candidates.

Schedule 2 contains the Scottish Parliamentary Election Rules. They are substantially in the same form as the earlier Rules set out in Schedule 2 to the 2007 Order. There is no separate timetable for by-elections. The responsibility for retention of certain documents after an election is transferred to the Constituency Returning Officer (previously the Sheriff Clerk). New provision is made for the rules to apply in the event of the death of a candidate.

Schedule 3 contains provision about absent voting. New provision is made for access to and supply of absent voting records and lists.

Schedule 4 makes provision about the issue and receipt of postal ballot papers.

Schedule 5 makes provision for the combination of polls. In particular it deals with the combination of the poll at a Scottish parliamentary election with the poll at a Scottish local government election.

Schedule 6 applies, with modifications, provisions of the Representation of the People Act 1983 concerning legal proceedings, for the purposes of Scottish parliamentary elections.

Schedule 7 provides for the use of rooms in school premises and meeting rooms for election meetings.

Schedule 9 makes new provision about access to marked copies of the register and other documents retained by constituency returning officers after an election.

The Appendix sets out forms for use at Scottish parliamentary elections.