DRAFT SCOTTISH STATUTORY INSTRUMENTS

2015 No.

CONSTITUTIONAL LAW REPRESENTATION OF THE PEOPLE

The Scottish Parliament (Elections etc.) Order 2015

Made - - - 2015

Coming into force in accordance with article I(1)

THE SCOTTISH PARLIAMENT (ELECTIONS ETC.) ORDER 2015

PART 1

GENERAL

- 1. Citation, commencement, transitional and saving provisions
- 2. Interpretation

PART 2

THE FRANCHISE AND ITS EXERCISE

- 3. Supply of electoral registers
- 4. Absent voting appeals
- 5. Polling districts and places at elections
- 6. Rules for Scottish parliamentary elections
- 7. Manner of voting at Scottish parliamentary elections
- 8. Absent vote at Scottish parliamentary elections for an indefinite or a particular period
- 9. Absent vote at a particular Scottish parliamentary election and special lists
- 10. Proxies at Scottish parliamentary elections
- 11. Voting as proxy
- 12. Absent voting at elections: miscellaneous
- 13. Combination of polls
- 14. Constituency returning officers
- 15. Officers of local authorities to be placed at disposal of returning officers
- 16. Returning officers: discharge of functions
- 17. Returning officers: general
- 18. Payments by and to returning officers
- 19. Taxation of returning officer's account
- 20. Loan of equipment for Scottish parliamentary elections

- 21. Effect of registers
- 22. Effect of misdescription
- 23. Discharge of registration duties
- 24. Payment of expenses of registration duties
- 25. Personation
- 26. Other voting offences
- 27. Offences relating to applications for postal and proxy votes
- 28. Breach of official duty
- 29. Tampering with nomination papers, ballot papers etc.
- 30. False statements in nomination papers etc.
- 31. Requirement of secrecy

PART 3

THE ELECTION CAMPAIGN

- 32. Appointment of election agent
- 33. Appointment of sub-agent
- 34. Office of election agent
- 35. Effect of default in election agent's appointment
- 36. Control of donations to candidates
- 37. Expenses of constituency candidate
- 38. Payment of expenses through election agent: constituency and individual regional candidates
- 39. Expenses which may be paid otherwise than by election agent
- 40. Expenses incurred otherwise than for election purposes
- 41. Prohibition of expenses not authorised by election agent: constituency and individual regional candidates
- 42. Limitation of election expenses: constituency and individual regional candidates
- 43. Limitation of pre-candidacy election expenses: constituency and individual regional candidates at Scottish Parliament general elections
- 44. Time for sending in and paying claims
- 45. Disputed claims
- 46. Election agent's claim
- 47. Return as to election expenses: constituency and individual regional candidates
- 48. Declarations as to election expenses: constituency and individual regional candidates
- 49. Declarations as to election expenses: candidates on a registered party's regional list
- 50. Where no return and declaration is needed
- 51. Penalty for failure as respects return of declarations
- 52. Penalty for sitting or voting where no return and declaration is transmitted
- 53. Authorised excuses for failure as to return and declarations
- 54. Court's power to require information from election agent or sub-agent
- 55. Duty of appropriate returning officer to forward returns and declarations to Electoral Commission
- 56. Publication of time and place of inspection of returns and declarations
- 57. Inspection of returns and declarations: candidates
- 58. Meaning of "election expenses"
- 59. Election expenses list of matters and general exclusions
- 60. Property, goods, services etc. provided free of charge or at a discount
- 61. Right to send election address post free

- 62. Remuneration for free postal services provided
- 63. Imitation poll cards and notifications
- 64. Schools and rooms for Scottish parliamentary election meetings: candidates for return as constituency members
- 65. Schools and rooms for Scottish parliamentary election meetings: candidates for return as regional members
- 66. Disturbances at Scottish parliamentary election meetings
- 67. Officials not to act for candidates
- 68. Illegal canvassing by police officers
- 69. False statements as to candidates
- 70. Corrupt withdrawal from candidature
- 71. Payments for exhibition of election notices
- 72. Details to appear on election publications
- 73. Prohibition of paid canvassers
- 74. Providing money for illegal purposes
- 75. Bribery
- 76. Treating
- 77. Undue influence
- 78. Rights of creditors
- 79. Savings as to Scottish parliamentary elections
- 80. Interpretation of Part 3
- 81. Computation of time for purposes of Part 3

PART 4

LEGAL PROCEEDINGS

82. Application of certain provisions for Scottish parliamentary elections

PART 5

MISCELLANEOUS AND SUPPLEMENTAL

- 83. Vacancies: constituency seats
- 84. Dissolution of Parliament: minimum period
- 85. Advertisements
- 86. Forms and documents: variations and translations
- 87. Sending of applications, notices etc.
- 88. Interference with notices etc.
- 89. Premises used for election purposes
- 90. Correction of procedural errors
- 91. Effect of demise of the Crown
- 92. Consequential amendment
- 93. Revocations
 - Signature

SCHEDULE 1 — SUPPLY OF ELECTORAL REGISTERS

- 1. Supply of free copy of full register for electoral purposes
- 2. Supply of full register etc. under paragraphs 3 and 4: general provisions
- 3. Supply of full register etc. to elected representatives for electoral purposes and restrictions on use
- 4. Supply of full register etc. to certain candidates and restrictions on use
- 5. Meaning of "edited register" and "registration area"

6. Information about persons aged under 16

SCHEDULE 2 — SCOTTISH PARLIAMENTARY ELECTION RULES PART 1 — PROVISIONS AS TO TIME

- 1 Timetable
- 2. Computation of time

PART 2 — STAGES COMMON TO CONTESTED AND UNCONTESTED ELECTIONS

Notice of election

3. Notice of election

Nomination

- 4. Nomination of candidate for return as a constituency member
- 5. Nomination of individual candidate for return as a regional member
- 6. Nomination of candidates on a regional list
- 7. Constituency nomination papers: name of registered party
- 8. Nomination papers and regional lists: miscellaneous
- 9. Consent to nomination
- 10. Deposit
- 11. Place for delivery of constituency nomination papers
- 12. Place for delivery of individual nomination papers and regional lists
- 13. Right to attend nomination
- 14. Decisions as to validity of constituency nomination papers
- 15. Decisions as to validity of individual nomination papers
- 16. Decisions as to validity of regional lists and as to the validity of nominations included on such a list
- 17. Withdrawal of candidates
- 18. Publication of statement of persons nominated as candidates for return as a constituency member
- 19. Publication of statement of persons and parties nominated for return as regional members
- 20. Correction of minor errors
- 21. Disqualification by Representation of the People Act 1981: candidates for return as constituency members
- 22. Disqualification by Representation of the People Act 1981: candidates for return as regional members
- 23. Adjournment of nomination proceedings in the case of riot
- 24. Method of election: candidates for return as constituency members
- 25. Method of election: candidates for return as regional members

PART 3 — CONTESTED ELECTIONS

General Provisions

- 26. Poll to be taken by ballot
- 27. The ballot paper: constituency candidates
- 28. The ballot paper: regional candidates
- 29. Corresponding number list
- 30. The official mark

- 31. Prohibition of disclosure of vote
- 32. Use of schools and public rooms

Action to be taken before the poll

- 33. Notice of poll
- 34. Postal ballot papers
- 35. Provision of polling stations
- 36. Appointment of presiding officers and clerks
- 37. Issue of official poll cards
- 38. Equipment of polling stations
- 39. Appointment of polling and counting agents
- 40. Notification of requirement of secrecy

The Poll

- 41. Admission to polling station
- 42. Keeping of order in station
- 43. Sealing of ballot boxes
- 44. Questions to be put to voters
- 45. Challenge of voter
- 46. Voting procedure
- 47. Votes marked by presiding officer
- 48. Voting by persons with disabilities
- 49. Tendered ballot papers
- 50. Spoilt ballot papers
- 51. Correction of errors on day of poll
- 52. Adjournment of poll in case of riot
- 53. Procedure on close of poll

Counting of votes

- 54. Attendance at counting of votes
- 55. The count
- 56. Re-count: constituency election
- 57. Re-count: regional votes in a constituency
- 58. Rejected ballot papers
- 59. Decisions on ballot papers
- 60. Equality of votes: election for return of constituency members
- 61. Conveying results of count etc. to RRO

PART 4 — FINAL PROCEEDINGS IN CONTESTED AND UNCONTESTED ELECTIONS

- 62. Declaration of result: constituency members
- 63. Attendance at allocation of seats for regional members
- 64. Allocation of seats
- 65. Declaration of results: regional members
- 66. Return or forfeiture of deposit

PART 5 — DISPOSAL OF DOCUMENTS

- 67. Sealing up of ballot papers
- 68. Retention of documents by CRO
- 69. Orders for production of documents and records
- 70. Retention and public inspection of documents

PART 6 — DEATH OF CANDIDATE

71. Constituency election: death of independent candidate

- 72. Constituency election: deceased independent candidate wins
- 73. Constituency election: deceased independent candidate with equality of votes
- 74. Constituency election: death of party candidate
- 75. Regional election: death of candidate
- 76. Abandoned poll

PART 7 — MISCELLANEOUS

77. Return of members and record of returns etc.

SCHEDULE 3 — ABSENT VOTING

- 1. General requirements for applications
- 2. Checking of signatures
- 3. Provision of fresh signatures
- 4. 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)
- 5. Additional requirements for applications for proxy vote on grounds of disability
- 6. Additional requirements for applications for a proxy vote based on occupation, service, employment or attendance on a course
- 7. Additional requirements for applications for a proxy vote in respect of a particular election
- 8. Additional requirements for applications for appointment of a proxy
- 9. Closing dates for applications
- 10. Grant or refusal of applications for a postal or proxy vote
- 11. Notice of appeal
- 12. Cancellation of proxy appointment
- 13. Inquiries by registration officer about postal and proxy voters
- 14. Requirement to provide fresh signatures at five yearly intervals
- 15. Absent voting lists: form
- 16. Absent voting lists: supply of copies, etc.
- 17. Absent voting lists: inspection
- 18. Supply and inspection of absent voting lists: general provisions
- 19. Conditions on the use, supply and inspection of absent voter lists
- 20. (1) This paragraph applies to any person who has obtained...
- 21. Supply and inspection of absent voting lists: offences
- 22. The personal identifiers record
- 23. Use of personal identifier information
- 24. Marked register for polling stations
- 25. Notification of a rejected postal voting statement

SCHEDULE 4 — ISSUE AND RECEIPT OF POSTAL BALLOT PAPERS

- 1. Interpretation
- 2. Combination of polls
- 3. Form of postal voting statement
- 4. Persons entitled to be present at proceedings on issue of postal ballot papers
- 5. Persons entitled to be present at receipt of postal ballot papers
- 6. Notification of requirement of secrecy
- 7. Time when postal ballot papers are to be issued
- 8. Procedures on the issue of postal ballot papers
- 9. Refusal to issue postal ballot paper
- 10. Envelopes
- 11. Delivery of postal ballot papers

- 12. Security of marked lists
- 13. Spoilt ballot paper
- 14. Lost postal ballot paper
- 15. Cancellation of postal ballot papers
- 16. Notice of opening of postal ballot paper envelopes
- 17. Postal ballot boxes and receptacles
- 18. Receipt of covering envelope and collection of postal votes
- 19. Opening of postal voters' ballot box
- 20. Opening of covering envelopes
- 21. Confirming receipt of postal votes and postal voting statements
- 22. Procedure in relation to postal voting statements: personal identifier verification
- 23. Opening of ballot paper envelopes
- 24. Retrieval of cancelled postal ballot papers
- 25. Lists of rejected postal ballot papers
- 26. Checking of lists kept under paragraph 25
- 27. Sealing of receptacles
- 28. Abandoned poll
- 29. Retention of documents by CRO
- 30. Forwarding of a rejected ballot paper list by CRO

SCHEDULE 5 — COMBINATION OF POLLS

PART 1 — GENERAL

- 1. Returning officers and polling stations
- 2. Functions at combined polls
- 3. Modification of provisions about expenses in this Order and the 1983 Act

PART 2 — MODIFICATIONS OF THE SCOTTISH PARLIAMENTARY ELECTION RULES

- 4. Modifications of the Scottish Parliamentary Election Rules: general provision
- 5. Colour of ballot papers where polls combined
- 6. Rule 33 (notice of poll)
- 7. Rule 37 (issue of official poll cards)
- 8. Rule 38 (equipment of polling stations)
- 9. Rule 39 (appointment of polling and counting agents)
- 10. Rule 44 (questions to be put to voters)
- 11. Rule 46 (voting procedure)
- 12. Rule 47 (votes marked by presiding officer)
- 13. Rule 48 (voting by persons with disabilities)
- 14. Rule 49 (tendered ballot papers)
- 15. Rule 52 (adjournment of poll in case of riot)
- 16. Rule 53 (procedure on close of poll)
- 17. Rule 54 (attendance at counting of votes)
- 18. Rule 55 (the count)
- 19. Rule 69 (orders for production of documents and records)
- 20. Countermand or abandonment of poll etc. on death of candidate

PART 3 — MODIFICATIONS OF THE SCOTTISH LOCAL GOVERNMENT ELECTIONS RULES

- 21. Modifications of the local elections rules: general provision
- 22. Rule 14 of the local elections rules (the ballot papers)
- 23. Rule 20 of the local elections rules (notice of poll)
- 24. Rule 24 of the local elections rules (issue of official poll cards and notifications)

- 25. Rule 25 of the local elections rules (equipment of polling stations)
- 26. Rule 26 of the local elections rules (appointment of polling and counting agents)
- 27. Rule 31 of the local elections rules (questions to be put to voters)
- 28. Rule 33 of the local elections rules (voting procedure)
- 29. Rule 34 of the local elections rules (votes marked by presiding officer)
- 30. Rule 35 of the local elections rules (voting by persons with disabilities)
- 31. Rule 36 of the local elections rules (tendered ballot papers)
- 32. Rule 39 of the local elections rules (adjournment of poll in case of riot)
- 33. Rule 40 of the local elections rules (procedure on close of poll)
- 34. Rule 41 of the local elections rules (attendance at counting of votes)
- 35. Rule 43 of the local elections rules (the count)
- 36. Rule 58 of the local elections rules (delivery of documents)
- 37. Rule 59 of the local election rules (orders for production of documents)
- 38. Rule 65 of local elections rules (countermand or abandonment of poll on death of party candidate)
- 39. Rule 66 of local elections rules (abandonment of poll)
- 40. Local elections rules: postal voting statement
- 41. Local elections rules: declaration by the companion of a voter with disabilities

SCHEDULE 6 — LEGAL PROCEEDINGS

PART 1 — ELECTION AND RETURN OF CONSTITUENCY MEMBER

PART 2 — ELECTION AND RETURN OF REGIONAL MEMBER

SCHEDULE 7 — USE OF SCHOOL ROOMS AND MEETING ROOMS FOR ELECTION MEETINGS

- 1. Use of rooms in school premises
- 2. Lists of rooms in school premises and meeting rooms
- 3. Inspection etc. of lists

SCHEDULE 8 — ACCESS TO MARKED REGISTERS AND OTHER DOCUMENTS OPEN TO PUBLIC INSPECTION AFTER AN ELECTION

- 1. Interpretation of this Schedule
- 2. Supply of marked registers and lists after an election
- 3. Inspection of documents open to public inspection
- 4. Restrictions on supply and disclosure of documents open to public inspection
- 5. Restriction on use of documents open to public inspection, or of information contained in them
- 6. Calculating the fee for supply of marked registers or lists
- 7. Failure to comply with conditions relating to supply etc. of certain documents

SCHEDULE 9 — REVOCATIONS

- 1. The Scottish Parliament (Elections etc.) Order 2010
- 2. Subject to paragraph 3, the 2010 Order is revoked.
- 3. The following provisions of the 2010 Order are not revoked—...
- 4. The Postal Services Act 2011 (Consequential Modifications and Amendments) Order 2011
- 5. The Health and Social Care Act 2012 (Consequential Provision—Social Workers) Order 2012

6. The Scotland Act 2012 (Saving and Consequential Provisions) Order 2015

APPENDIX OF FORMS

CONTENTS

Explanatory Note