

SCHEDULE 2

SCOTTISH PARLIAMENTARY ELECTION RULES

PART 5

DISPOSAL OF DOCUMENTS

Sealing up of ballot papers

67.—(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

68.—(1) This rule applies to the following documents⁽¹⁾—

- (a) the packets of counted ballot papers and of rejected ballot papers sealed by the CRO under rule 67(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);
 - (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.

(1) By virtue of paragraph 31(3) of Schedule 4, rule 68 (together with rules 67, 69 and 70(1)) also applies to the documents specified in that paragraph.

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Orders for production of documents and records

69.—(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
- (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), 13AB(2)

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or 13B(3), (3B) or (3D) of the 1983 Act⁽²⁾ (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 provided by this paragraph, 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

70.—(1) The CRO shall retain the documents specified in rule 68(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.

(2) Sections 13A and 13B were added by the 2000 Act, Schedule 1, paragraph 6. Section 13AB was added by the Electoral Registration and Administration Act 2013 (c.6), section 16(3). Section 13B was amended by the 2006 Act, section 11(4).