
Changes to legislation: There are currently no known outstanding effects for the Parliamentary Voting System and Constituencies Act 2011, Counting of votes. (See end of Document for details)

SCHEDULES

SCHEDULE 7

COMBINATION OF POLLS: SCOTLAND

PART 1

PROVISION ABOUT COMBINATION

COUNTING OF VOTES

Attendance and arrangements for counting

- 42 (1) The counting officer must make arrangements for counting the ballot papers and carrying out the other functions conferred by paragraph 46 in the presence of the counting agents.
- (2) The counting officer must give the counting agents and the regional returning officer notice in writing of the time and place at which the proceedings under paragraph 46 will begin.
- (3) A person may be present at the proceedings under paragraph 46 only if—
- (a) the person is entitled to be present at the counting of the votes for the referendum or the Scottish parliamentary election, or
 - (b) the person is permitted by the counting officer to attend.
- (4) The counting officer may give a person permission under sub-paragraph (3)(b) only if—
- (a) the officer is satisfied that the person's attendance will not impede the efficient conduct of the proceedings, and
 - (b) the officer has consulted the referendum agents and election agents or thought it impracticable to do so.
- (5) The counting officer must give the counting agents—
- (a) whatever reasonable facilities for overseeing the proceedings, and
 - (b) whatever information with respect to the proceedings,
- the officer can give them consistently with the orderly conduct of the proceedings and the discharge of the officer's duties.
- 43 Rule 39(1) of the referendum rules (arrangements for the counting of votes in the referendum) has effect with the omission of the words “after the close of the poll”.
- 44 (1) The constituency returning officer must make arrangements for counting the votes for the Scottish parliamentary election in the presence of the counting agents for the election as soon as practicable after receiving the ballot papers from the counting officer under paragraph 47.

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- (2) The constituency returning officer must give the counting agents for the Scottish parliamentary election and the regional returning officer notice in writing of the time and place at which the counting of the votes for the elections will begin.
- (3) A person may be present at the counting of the votes for a Scottish parliamentary election only if—
- (a) the person is permitted by the constituency returning officer to attend, or
 - (b) the person would be entitled to be present at the counting of votes for the Scottish parliamentary election if it were taken on its own.
- (4) The constituency returning officer may give a person permission under subparagraph (3)(a) only if—
- (a) the officer is satisfied that the person's attendance will not impede the efficient counting of the votes, and
 - (b) the officer has consulted the election agents or thought it impracticable to do so.
- (5) The constituency returning officer must give the counting agents for the Scottish parliamentary election—
- (a) whatever reasonable facilities for overseeing the proceedings, and
 - (b) whatever information with respect to the proceedings,
- the officer can give them consistently with the orderly conduct of the proceedings and the discharge of the officer's duties.
- (6) In particular, where the votes are counted by sorting the ballot papers into lots according to the votes marked on them and then counting the number of ballot papers in each lot, the counting agents for the Scottish parliamentary election are entitled to satisfy themselves that the ballot papers are correctly sorted.
- 45 Paragraphs 42 and 44 apply instead of rule 54 of the Scottish Parliamentary Election Rules.

Counting and separation of ballot papers by counting officer

- 46 (1) As soon as practicable after the close of the poll the counting officer must—
- (a) in the presence of the counting agents, open the ballot boxes and count and record separately the number of referendum ballot papers, constituency ballot papers and regional ballot papers;
 - (b) where proceedings on the issue and receipt of postal ballot papers for the referendum and the Scottish parliamentary election are taken together by virtue of paragraph 2 of Schedule 4 to the 2010 Order, count the postal ballot papers that have been duly returned for the referendum, the constituency poll and the regional poll and record separately the number relating to each;
 - (c) where proceedings on the issue and receipt of postal ballot papers for the referendum and the Scottish parliamentary election are not taken together by virtue of paragraph 2 of Schedule 4 to the 2010 Order, count the duly returned referendum postal ballot papers and record the number;
 - (d) separate the referendum ballot papers, the constituency ballot papers and the regional ballot papers.
- (2) The counting officer must not count any tendered ballot papers.

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- (3) The counting officer, while counting and recording the number of ballot papers, must—
 - (a) keep the ballot papers with their faces upwards, and
 - (b) take all proper precautions for preventing anyone from seeing the numbers or other unique identifying marks printed on the back of the papers.
- (4) The counting officer must, in the presence of the referendum agents and the election agents for the Scottish parliamentary election—
 - (a) verify each ballot paper account by comparing it with the number of ballot papers recorded by the officer, and the unused and spoilt ballot papers in the officer's possession and the tendered votes list (opening and resealing the packets containing the unused and spoilt ballot papers and the tendered votes list);
 - (b) draw up a separate statement as to the result of the verification in relation to each poll.
- (5) The counting officer must, on request, provide an election agent for the Scottish parliamentary election with a copy of the statement relating to that election.
- (6) A counting agent for the referendum present at the verification may copy the statement relating to the referendum.
- (7) Once the statement relating to the referendum is drawn up, the counting officer must—
 - (a) in the case of a voting area in a region for which a Regional Counting Officer is appointed, inform the Regional Counting Officer of the contents of the statement;
 - (b) in the case of any other voting area, inform the Chief Counting Officer of the contents of the statement.
- (8) Rule 40 of the referendum rules does not apply.

Delivery of ballot papers etc to returning officers

- 47
- (1) The counting officer must deliver or cause to be delivered to the constituency returning officer the ballot papers for the Scottish parliamentary election.
 - (2) The counting officer must also deliver or cause to be delivered to the constituency returning officer the packets of—
 - (a) the ballot paper accounts and the statements as to the result of the verification of the ballot paper accounts for the Scottish parliamentary election;
 - (b) the unused and spoilt ballot papers for that election;
 - (c) the tendered ballot papers for that election;
 - (d) the certificates as to employment on duty on the day of the poll for that election.
 - (3) If the counting officer has not begun to count the votes given on the referendum ballot papers by the time the statements as to the result of the verification of the ballot paper accounts in relation to all the polls are prepared—
 - (a) those ballot papers must be sealed into packets, each of which must be endorsed with a description of its contents, and

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- (b) the packets may not be opened until the counting officer begins dealing with the ballot papers in those packets under paragraph 48(1).
- (4) If, in respect of the constituency poll or the regional poll, none of the ballot papers have been delivered under sub-paragraph (1) by the time the statements as to the result of the verification of the ballot paper accounts in relation to all the polls are prepared—
 - (a) the ballot papers for that poll must be sealed into packets, each of which must be endorsed with a description of its contents, and
 - (b) the packets may not be opened until the constituency returning officer begins dealing with the ballot papers in those packets under paragraph 48(3).

Counting of votes

- 48 (1) The counting officer must count the votes given on the referendum ballot papers, but must not do so until—
- (a) in the case of postal ballot papers, they have been mixed with the ballot papers from at least one ballot box;
 - (b) in the case of ballot papers from a ballot box, they have been mixed with the ballot papers from at least one other ballot box.
- (2) Where proceedings on the issue and receipt of postal ballot papers are not taken together by virtue of paragraph 2 of Schedule 4 to the 2010 Order, the constituency returning officer for the Scottish parliamentary election must count the duly returned postal constituency ballot papers and the duly returned postal regional ballot papers and record separately the number relating to each.
- (3) The constituency returning officer must count the votes given on the constituency ballot papers and regional ballot papers, but must not do so until—
- (a) in the case of postal ballot papers, they have been mixed with the ballot papers from at least one ballot box;
 - (b) in the case of ballot papers from a ballot box, they have been mixed with the ballot papers from at least one other ballot box.
- (4) The counting or constituency returning officer, while counting the votes, must—
- (a) keep the ballot papers with their faces upwards, and
 - (b) take all proper precautions for preventing anyone from seeing the numbers or other unique identifying marks printed on the back of the papers.
- (5) The counting or constituency returning officer must so far as practicable proceed continuously with the counting of votes, allowing only time for refreshment, except that—
- (a) the officer may exclude the whole or any part of the period between 7 pm and 9 am on the next day;
 - (b) the officer may exclude a day mentioned in rule 2(1) of the referendum rules.
- (6) During the time so excluded the counting or constituency returning officer must—
- (a) place the ballot papers and other documents relating to the referendum or Scottish parliamentary election under the officer's own seal and the seals of any of the counting agents who want to affix their seals, and
 - (b) otherwise take proper precautions for the security of the papers and documents.

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- (7) This paragraph and paragraph 49 apply instead of rule 55 of the Scottish Parliamentary Election Rules.

Ballot papers placed in wrong ballot box

- 49 Where separate ballot boxes are used for referendum ballot papers, constituency ballot papers and regional ballot papers, the placing of a ballot paper in the wrong ballot box does not render it void.

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