

## SCHEDULES

### SCHEDULE 7

#### COMBINATION OF POLLS: SCOTLAND

#### PART 1

##### PROVISION ABOUT COMBINATION

##### GENERAL PROVISIONS

##### *Interpretation*

- 1 The polls to be taken together under section 4(3) are referred to in this Schedule as “combined polls”.
- 2 In this Schedule—
  - “the 2010 Order” means the Scottish Parliament (Elections etc.) Order 2010 (S.I. 2010/2999);
  - “constituency ballot paper” means a ballot paper for the poll for electing a constituency member in a Scottish parliamentary election;
  - “constituency returning officer” is to be construed in accordance with Article 14 of the 2010 Order;
  - “counting agent” means a counting agent for the referendum or a counting agent for a Scottish parliamentary election (except where one or other is specified);
  - “regional ballot paper” means a ballot paper for the poll for electing a regional member in a Scottish parliamentary election;
  - “referendum ballot paper” means a ballot paper for the referendum;
  - “regional returning officer” has the meaning given by section 12(6) of the Scotland Act 1998;
  - “returning officer” means a person who is a constituency returning officer or a regional returning officer (unless one or other is specified);
  - “Scottish parliamentary election” means an election in a constituency held under section 2 of the Scotland Act 1998 (comprising the poll for electing a constituency member and the poll for electing regional members);
  - “Scottish Parliamentary Election Rules” means the rules set out in Schedule 2 to the 2010 Order.

##### *Cost of combined polls*

- 3 The cost of taking the combined polls (excluding any cost solely attributable to the referendum or the Scottish parliamentary election), and any cost attributable to their combination, is to be apportioned equally between—

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- (a) the referendum, and
  - (b) the Scottish parliamentary election.
- 4 (1) In section 29 of the 1983 Act (payments by and to returning officer) as it has effect for the purposes of a Scottish parliamentary election by virtue of Article 18 of the 2010 Order, subsections (3) to (9) apply—
  - (a) as if a reference to a returning officer included a reference to a counting officer carrying out functions that, but for this Schedule, would be exercisable by a returning officer (“transferred functions”), and
  - (b) as if, in relation to that counting officer, a reference to services or expenses were to services rendered or expenses incurred in respect of transferred functions.
- (2) An order under subsection (3)(b) of that section (as it has effect as mentioned above) may include special provision for services rendered or expenses incurred by a counting officer in respect of transferred functions.
- (3) Article 19 of the 2010 Order (taxation of returning officer's accounts) applies as if a reference to a returning officer included a reference to a counting officer carrying out transferred functions.

#### *Forms*

- 5 Forms 2, 3, 4, 6, 7 and 9 in Part 3 of this Schedule are “relevant forms” for the purposes of rule 10 of the referendum rules.

#### ACTION TO BE TAKEN BEFORE POLL

#### *Corresponding number lists*

- 6 (1) This paragraph applies where proceedings on the issue and receipt of postal ballot papers are taken together by virtue of paragraph 2 of Schedule 4 to the 2010 Order.
- (2) The function of the constituency returning officer under rule 29 of the Scottish Parliamentary Election Rules is to be carried out by the counting officer.
- (3) If the counting officer thinks fit, the lists prepared under rule 29 of the Scottish Parliamentary Election Rules and rule 6 of the referendum rules may be combined in the form set out in Form 1 in Part 3 of this Schedule.
- (4) In that case, this paragraph applies instead of—
  - (a) rule 6(2) of the referendum rules;
  - (b) rule 29(2) of the Scottish Parliamentary Election Rules.
- 7 (1) This paragraph applies 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.
- (2) The counting officer must prepare a list under sub-paragraph (3) or (4) as the officer thinks fit.
- (3) A list under this sub-paragraph is a list containing the numbers and other unique identifying marks of all of the ballot papers to be provided to presiding officers in pursuance of rule 38(1) of the Scottish Parliamentary Election Rules.

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- (4) A list under this sub-paragraph is a list containing the numbers and other unique identifying marks of all of the ballot papers to be provided to presiding officers in pursuance of the following provisions—
- (a) rule 17(1) of the referendum rules;
  - (b) rule 38(1) of the Scottish Parliamentary Election Rules.
- The list must be in the form set out in Form 1 in Part 3 of this Schedule.
- (5) A list prepared under rule 29 of the Scottish Parliamentary Election Rules must not include details relating to ballot papers in relation to which a list is prepared under sub-paragraph (3) or (4).
- (6) A reference in an enactment to a list prepared under rule 29 of the Scottish Parliamentary Election Rules has effect, in so far as it relates to ballot papers to be provided in pursuance of rule 38(1) of those rules, as a reference to the list prepared under sub-paragraph (3) or (4).
- (7) Where the counting officer prepares a list under sub-paragraph (4) in relation to ballot papers—
- (a) the list prepared under rule 6 of the referendum rules must not include details relating to those ballot papers;
  - (b) a reference in an enactment to a list prepared under rule 6 of the referendum rules has effect, in so far as it relates to ballot papers to be provided in pursuance of rule 17(1) of the referendum rules, as a reference to the list prepared under sub-paragraph (4).

#### *Notice of polling stations*

- 8        The functions of the constituency returning officer under rule 33(2) of the Scottish Parliamentary Election Rules are to be carried out by the counting officer.
- 9        (1) The notice given by a constituency returning officer under rule 33(2) of the Scottish Parliamentary Election Rules must—
- (a) state that the poll at the Scottish parliamentary election is to be taken together with the poll for the referendum;
  - (b) specify the relevant voting area.
- (2) The notice given by a counting officer under rule 11(3) of the referendum rules must—
- (a) state that the poll for the referendum is to be taken together with the polls for the relevant Scottish parliamentary election, and
  - (b) specify the relevant constituency.

#### *Postal voting*

- 10       (1) This paragraph applies where proceedings on the issue and receipt of postal ballot papers are taken together by virtue of paragraph 2 of Schedule 4 to the 2010 Order.
- (2) The functions of the constituency returning officer under rule 34 of the Scottish Parliamentary Election Rules are to be carried out by the counting officer.
- (3) The form of postal voting statement to be issued to those entitled to vote by post in the referendum and in the Scottish parliamentary election must be in the form set out in Form 2 in Part 3 of this Schedule.

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- (4) Where that form is used, this paragraph applies instead of any requirement in the following provisions for a postal voting statement to be in a particular form.
- (5) The provisions are—
  - (a) rule 12(1)(b) of the referendum rules;
  - (b) rule 34(1) of the Scottish Parliamentary Election Rules.
- 11 (1) This paragraph applies 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.
- (2) The form of postal voting statement to be issued to those entitled to vote by post in the referendum must be in the form set out in Form 3 in Part 3 of this Schedule.
- (3) Sub-paragraph (2) applies instead of the requirement in rule 12(1)(b) of the referendum rules for a postal voting statement to be in a particular form.
- (4) The form of postal voting statement to be issued to those entitled to vote in the Scottish parliamentary election must be in the form set out in Form 4 in Part 3 of this Schedule.
- (5) Sub-paragraph (4) applies instead of the requirement in rule 34(1) of the Scottish Parliamentary Election Rules for a postal voting statement to be in a particular form.

#### *Polling stations*

- 12 The functions of the constituency returning officer under rule 35 of the Scottish Parliamentary Election Rules are to be carried out by the counting officer.
- 13 The referendum polling stations are to be used for the combined polls.

#### *Appointment of presiding officers and clerks*

- 14 The functions of the constituency returning officer under the following paragraphs of rule 36 of the Scottish Parliamentary Election Rules are to be carried out by the counting officer—
  - (a) paragraph (1) so far as it relates to the appointment of presiding officers and clerks;
  - (b) paragraph (2).

#### *Official poll cards*

- 15 (1) If the counting officer thinks fit, the official poll cards used for the referendum and the Scottish parliamentary election may be combined.
- (2) In that case, the forms required to be used for official poll cards for the referendum and election must be adapted in whatever manner seems necessary.

#### *Equipment of polling stations*

- 16 The functions of the constituency returning officer under rule 38 of the Scottish Parliamentary Election Rules are to be carried out by the counting officer.
- 17 (1) If the counting officer thinks fit, the same ballot box may be used at the polls for the referendum and the Scottish parliamentary election (in which case the requirement

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for separate ballot boxes in rule 38(1) of the Scottish Parliamentary Election Rules does not apply).

- (2) Where separate ballot boxes are used, each must be clearly marked—
- (a) to show whether it is for referendum ballot papers, constituency ballot papers or regional ballot papers, and
  - (b) to show the colour of ballot papers that should be placed in it.

*Colour of ballot papers*

- 18 The referendum ballot papers must be of a different colour from the colour of the constituency ballot papers or the regional ballot papers.

*Form of corresponding number lists provided to polling stations*

- 19 (1) If the counting officer thinks fit, the lists to be provided under the following provisions may be combined in the form set out in Form 5 in Part 3 of this Schedule—
- (a) rule 17(3)(d) of the referendum rules;
  - (b) rule 38(3)(d) of the Scottish Parliamentary Election Rules.
- (2) In that case, this paragraph applies instead of the second sentence in rule 17(3) of the referendum rules.

*Ballot paper displayed in polling stations*

- 20 (1) The large version of the ballot paper displayed inside the polling station under rule 17(4)(a) of the referendum rules must be of the same colour as the ballot papers to be used for the referendum.
- (2) The enlarged sample copy of the constituency ballot paper displayed at the polling station under rule 38(4)(a) of the Scottish Parliamentary Election Rules, and the enlarged sample copy of the regional ballot paper displayed under that rule, must be of the same colour as the actual ballot papers.

*Guidance to be exhibited outside and inside polling stations*

- 21 (1) A notice in the form set out in Form 6 in Part 3 of this Schedule, giving directions for the guidance of voters in voting, must be printed in conspicuous characters and exhibited outside and inside every polling station.
- (2) This paragraph applies instead of—
- (a) rule 17(6) of the referendum rules;
  - (b) rule 38(11) of the Scottish Parliamentary Election Rules.

*Guidance to be exhibited in each polling station compartment*

- 22 (1) A notice in the form set out in Form 7 in Part 3 of this Schedule, giving directions for the guidance of voters in voting, must be exhibited in every compartment of every polling station.
- (2) This paragraph applies instead of—
- (a) rule 17(7) of the referendum rules;
  - (b) rule 38(12) of the Scottish Parliamentary Election Rules.

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*Notice of appointment of polling and counting agents*

- 23 A notice required to be given to a constituency returning officer under rule 39(4), (5) or (6) of the Scottish Parliamentary Election Rules is to be given instead to the counting officer.

*Notification of requirement of secrecy*

- 24 The functions of the constituency returning officer under rule 40(1) of the Scottish Parliamentary Election Rules are to be carried out by the counting officer.

THE POLL

*Admission to the polling station*

- 25 (1) Rule 21(1) of the referendum rules has effect as if the persons listed there included persons who would be entitled to be admitted to the polling station for a Scottish parliamentary election if the poll for the election were held on its own.
- (2) Rule 41(1) of the Scottish Parliamentary Election Rules has effect as if the persons listed there included persons who would be entitled to be admitted to the polling station for the referendum if the poll for the referendum were held on its own.

*Voting by persons on duty on day of poll*

- 26 (1) Paragraph 2(5) of Schedule 3 has effect as if in the words after paragraph (b) the reference to any polling station were to any polling station in the same voting area as the allotted polling station.
- (2) A certificate as to employment on duty on the day of the poll for the referendum must be in the form set out in Form 8 in Part 3 of this Schedule.
- (3) Sub-paragraph (2) applies instead of rule 21(4)(b) of the referendum rules.
- 27 The returning officer's function of signing certificates as to employment under rule 41(4) of the Scottish Parliamentary Election Rules is to be carried out by the counting officer.

*Removal from polling station*

- 28 The constituency returning officer's function under rule 42(2)(b) of the Scottish Parliamentary Election Rules of authorising someone to remove a person from a polling station is to be carried out by the counting officer.

*Voting procedure: copies of registers and lists of proxies*

- 29 (1) If the counting officer thinks fit, the same copy of the register of electors may be used under the following provisions for the purposes of the referendum and the Scottish parliamentary election—
- (a) rule 28(2) of the referendum rules;
  - (b) rule 46(2) of the Scottish Parliamentary Election Rules.
- (2) Sub-paragraphs (3) and (4) apply where the same copy of the register is used as mentioned in sub-paragraph (1).

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- (3) In a case where a referendum ballot paper, and a constituency ballot paper and regional ballot paper, are delivered at the same time, a single mark must be placed in the register against the number of the elector under—
    - (a) rule 28(2)(c) of the referendum rules, and
    - (b) rule 46(2)(c) of the Scottish Parliamentary Election Rules.
  - (4) In any other case, a mark must be placed in the register against the number of the elector identifying the poll to which each ballot paper delivered relates.
  - (5) In the case of an elector who is added to the register in pursuance of a notice issued under section 13B(3B) or (3D) of the 1983 Act—
    - (a) references in this paragraph to the copy of the register of electors are to be read as references to the copy of the notice;
    - (b) references to a mark being placed in the register of electors are to be read as references to a mark being made on the copy of the notice.
  - (6) Where the same copy of the register is used as mentioned in sub-paragraph (1), this paragraph applies instead of rule 46(6) of the Scottish Parliamentary Election Rules except so far as it relates to the list of proxies.
- 30 (1) If the counting officer thinks fit, the counting officer may require the relevant registration officer to produce a combined list of proxies for the referendum and the Scottish parliamentary election.
- (2) The following provisions apply where the lists are combined and a person applies for a ballot paper as proxy.
- (3) Immediately before delivery of the ballot paper the list of proxies must be marked in a way that—
  - (a) identifies the proxy,
  - (b) identifies the elector for whom the proxy is applying for the ballot paper, and
  - (c) indicates whether the ballot paper is a referendum ballot paper, a constituency ballot paper or a regional ballot paper.
- (4) Sub-paragraph (3) applies instead of—
  - (a) rule 28(2)(d) of the referendum rules;
  - (b) rule 46(2)(d) of the Scottish Parliamentary Election Rules and rule 46(6) of those rules so far as it relates to the list of proxies.
- 31 (1) This paragraph applies where proceedings on the issue and receipt of postal ballot papers are taken together by virtue of paragraph 2 of Schedule 4 to the 2010 Order.
- (2) If the counting officer think fit, the counting officer may require the relevant registration officer to produce a combined postal voters list and a combined proxy postal voters list for the referendum and the Scottish parliamentary election.

*List of votes marked by presiding officer*

- 32 (1) If the counting officer thinks fit, a single list of votes marked by the presiding officer may be used in respect of—
  - (a) votes marked on referendum ballot papers,
  - (b) votes marked on constituency ballot papers, and
  - (c) votes marked on regional ballot papers.

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- (2) Where a person's entry in that list does not relate to all three kinds of ballot paper, the entry must identify each kind to which it relates.
- (3) In this paragraph “list of votes marked by the presiding officer” means a list compiled under—
  - (a) rule 30(4) of the referendum rules, or
  - (b) rule 47(2) of the Scottish Parliamentary Election Rules.
- (4) Where a single list is used as mentioned in sub-paragraph (1), this paragraph applies instead of rule 47(4) of the Scottish Parliamentary Election Rules.

*Declaration to be made by the companion of a voter with disabilities*

- 33 (1) A declaration made by the companion of a voter with disabilities must be in the form set out in Form 9 in Part 3 of this Schedule.
- (2) In this paragraph “declaration made by the companion of a voter with disabilities” means a declaration made by a companion under—
  - (a) rule 31 of the referendum rules, or
  - (b) rule 48 of the Scottish Parliamentary Election Rules.
- (3) This paragraph applies instead of—
  - (a) rule 31(5)(a) of the referendum rules;
  - (b) rule 48(6)(a) of the Scottish Parliamentary Election Rules.

*List of voters with disabilities assisted by companions*

- 34 (1) If the counting officer thinks fit, a single list of voters with disabilities assisted by companions may be used in respect of—
  - (a) votes marked on referendum ballot papers,
  - (b) votes marked on constituency ballot papers, and
  - (c) votes marked on regional ballot papers.
- (2) Where a person's entry in that list does not relate to all three kinds of ballot paper, the entry must identify each kind to which it relates.
- (3) In this paragraph “list of voters with disabilities assisted by companions” means a list compiled under—
  - (a) rule 31(8) of the referendum rules, or
  - (b) rule 48(4) of the Scottish Parliamentary Election Rules.
- (4) Where a single list is used as mentioned in sub-paragraph (1), this paragraph applies instead of rule 48(8) of the Scottish Parliamentary Election Rules.

*Tendered votes list*

- 35 (1) If the counting officer thinks fit, a single tendered votes list may be used in respect of—
  - (a) tendered referendum ballot papers,
  - (b) tendered constituency ballot papers, and
  - (c) tendered regional ballot papers.



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- (2) Where a person's entry in that list does not relate to all three kinds of tendered ballot paper, the entry must identify each kind to which it relates.
- (3) In this paragraph “tendered votes list” means a list compiled under—
  - (a) rule 33(7) of the referendum rules, or
  - (b) rule 49(7) of the Scottish Parliamentary Election Rules.
- (4) Where a single list is used as mentioned in sub-paragraph (1), this paragraph applies instead of rule 49(10) of the Scottish Parliamentary Election Rules.

*Lists relating to correction of errors on day of poll*

- 36 (1) If the counting officer thinks fit, a single list of persons to whom ballot papers are delivered in consequence of late alterations to the register may be used in respect of—
  - (a) referendum ballot papers,
  - (b) constituency ballot papers, and
  - (c) regional ballot papers.
- (2) Where a person's entry in that list does not relate to all three kinds of ballot paper, the entry must identify each kind to which it relates.
- (3) In this paragraph “list of persons to whom ballot papers are delivered in consequence of late alterations to the register” means a list compiled under—
  - (a) rule 36 of the referendum rules, or
  - (b) rule 51 of the Scottish Parliamentary Election Rules.

*Notice of adjournment in case of riot*

- 37 Rule 52(1) of the Scottish Parliamentary Election Rules has effect as if “counting officer” were substituted for “CRO”.

*Procedure on close of poll*

- 38 (1) In rule 38(1) of the referendum rules the reference to polling agents includes a reference to polling agents appointed for the purposes of a Scottish parliamentary election.
- (2) In rule 53(1) and (2) of the Scottish Parliamentary Election Rules, a reference to polling agents includes a reference to polling agents appointed for the purposes of the referendum.
- (3) Rule 53(2)(g) of those rules does not apply.
- 39 (1) A packet made up under one of the following provisions may not be combined with a packet made up under another of those provisions.
- (2) The provisions are—
  - (a) rule 38(1)(b), (c) or (f) of the referendum rules;
  - (b) rule 53(2)(a), (b) or (d) of the Scottish Parliamentary Election Rules.
- 40 Rule 53(2) of the Scottish Parliamentary Election Rules has effect as if “counting officer” were substituted for “CRO” in each place.

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- 41 The ballot paper accounts prepared under rule 38(6) of the referendum rules and rule 53(4) of the Scottish Parliamentary Election Rules may not be combined.

#### 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.
- (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 sub-paragraph (3)(a) only if—

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- (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.
- (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);

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- (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
  - (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).

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### *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.
- (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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*Changes to legislation:* There are currently no known outstanding effects for the Parliamentary Voting System and Constituencies Act 2011, PART 1. (See end of Document for details)

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## DECLARATION OF RESULT

### *Declaration*

- 50 The result of the referendum or the constituency or regional poll in the Scottish parliamentary election may not be declared until the statement as to the result of the verification of the ballot paper accounts in relation to each poll has been prepared.

## DISPOSAL OF DOCUMENTS ETC

### *Packets of documents*

- 51 (1) The counting officer may not open the sealed packets of—
- (a) the completed corresponding number lists for the Scottish parliamentary election, or
  - (b) marked copies of the polling register (within the meaning given in Article 2(1) of the 2010 Order), and lists of proxies, for the Scottish parliamentary election.
- (2) Rule 68(2) of the Scottish Parliamentary Election Rules has effect as if subparagraphs (b) and (d) were omitted.

### *Delivery and retention of documents*

- 52 (1) Rules 50(1)(b) and 52 of the referendum rules apply to the specified documents.
- (2) The specified documents are those specified in rule 69(1)(c), (d) and (f) of the Scottish Parliamentary Election Rules.
- (3) Rule 70 of the Scottish Parliamentary Election Rules applies to the specified documents as if references to the CRO were to the counting officer.
- (4) Except for the purposes of this paragraph, rule 69 of the Scottish Parliamentary Election Rules has effect as if it did not include a reference to the specified documents.
- (5) Rule 70(8) of the Scottish Parliamentary Election Rules has effect as if for “by this paragraph provided” there were substituted “ provided by this paragraph (or a court order) ”.
- 53 Schedule 8 to the 2010 Order has effect—
- (a) as if the reference in paragraph 1 to documents retained under rule 71 of the Scottish Parliamentary Election Rules were to documents retained under rule 50(1)(b) of the referendum rules as applied by paragraph 52 above;
  - (b) as if the reference to that Schedule in paragraph 4(2) were to any enactment;
  - (c) as if references to the CRO included references to the counting officer.

### *Countermand or abandonment of poll on death of candidate*

- 54 (1) Where under rule 72(4), 75(2) or 77(1) of the Scottish Parliamentary Election Rules—
- (a) notice of the constituency poll or the regional poll for the Scottish parliamentary election is countermanded, or
  - (b) it is directed that the poll be abandoned,

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the countermand or direction does not affect the other poll at the Scottish parliamentary election or the poll for the referendum.

(2) Rule 78 of the Scottish Parliamentary Election Rules has effect as if it were amended in accordance with sub-paragraphs (3) and (4).

(3) In paragraph (2), after “CRO” insert “ or counting officer ”.

(4) For paragraph (3) substitute—

“(3) After the close of any polls that are being taken together with the poll that has been abandoned, the counting officer must—

- (a) separate the ballot papers for the abandoned poll, and
- (b) deliver or cause to be delivered to the CRO the ballot papers and other documents relating to the abandoned poll.

(3A) Paragraphs (4) to (9) apply in relation to the poll that has been abandoned.”

(5) This paragraph applies instead of rule 78(10) of the Scottish Parliamentary Election Rules.

#### PROVISION OF REGISTERS ETC TO COUNTING OFFICER

##### *Registers*

55 Paragraph 1 of Schedule 1 to the 2010 Order has effect as if a reference to a returning officer included a reference to the counting officer.

##### *Absent voters lists*

56 As soon as practicable after 5 pm on the 6th day before the date of the poll, the registration officer must provide the counting officer with the following lists, and any subsequent revised lists or revisions to the lists—

- (a) the list of proxies for the Scottish parliamentary election;
- (b) the postal voters list for the Scottish parliamentary election;
- (c) the proxy postal voters list for the Scottish parliamentary election.

##### *Personal identifier information*

57 Where proceedings on the issue and receipt of postal ballot papers are taken together by virtue of paragraph 2 of Schedule 4 to the 2010 Order, paragraph 23(1) of Schedule 3 to the 2010 Order has effect as if a reference to a CRO were a reference to the counting officer.

**Changes to legislation:**

There are currently no known outstanding effects for the Parliamentary Voting System and Constituencies Act 2011, PART 1.