
STATUTORY INSTRUMENTS

2002 No. 2779

The Scottish Parliament (Elections etc.) Order 2002

PART V

MISCELLANEOUS AND SUPPLEMENTAL

Vacancies: constituency seats

82. 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, he shall forthwith send a notice to the constituency returning officer 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

83.—(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, he shall forthwith send a notice in accordance with paragraph (2) below to the regional returning officer for that region.

(2) A notice under paragraph (1) above 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 his name is included.

(3) On receipt of a notice under paragraph (1) above, the regional returning officer shall ascertain the name of the person, if any, who is to fill the vacancy in accordance with section 10 of the 1998 Act as modified by article 84 below.

Modification of section 10 of the 1998 Act

84. Section 10 of the 1998 Act⁽¹⁾ shall be modified by substituting, for subsections (4) to (5A) of that section, 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

(1) Section 10 was modified by [S.I. 1999/787](#), article 88.

- (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—
 - (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 and address appears next in that list (“the second choice”) or, where sub paragraph (a) or (b) of this subsection applies in respect of that person, in respect of the person (if any) whose name and address appear 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 sub 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

85. The “minimum period” for the purpose of section 2(3) of the 1998 Act (ordinary general elections) is a period of 21 days, computed in accordance with rule 2 of the Scottish Parliamentary Election Rules.

Advertisements

86. The Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984(2) 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: variations

87. The forms set out in the Appendix to this Order may be used with such variations as the circumstances may require.

Sending of applications, notices etc

88.—(1) Any application, notice, claim or objection which is required by this Order to be made to a registration officer or a returning officer shall be made in writing and sent by post or delivered to his office or to the address specified by him for the purpose.

(2) Where a registration officer or returning officer 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 him 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(3) of the 1983 Act) or, as the case may be, the British Council.

Interference with notices etc

89. If any person without lawful authority destroys, mutilates, defaces or removes any notice published by a registration officer or a returning officer in connection with his duties or any copies of a document which have been made available for inspection in pursuance of those duties, he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Premises used for election purposes

90. In relation to premises in Scotland, section 65(6) of the Local Government Finance Act 1988(3) (occupation for election meetings and polls) shall have effect as if—

- (a) 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; and
- (b) the reference to use by a returning officer for the purpose of taking the poll in an election included a reference to use by a constituency returning officer in taking a poll or counting of the votes at a Scottish parliamentary election in accordance with Schedule 2.

Effect of demise of the Crown

91. 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

92. In the definition of “election petition” in rule 69.1 of the Rules of the Court of Session(4) (interpretation of Chapter 69 - election petitions), for “article 85 of and Schedule 6 to the Scottish Parliament (Elections etc.) Order 1999” substitute “article 81 of and Schedule 6 to the Scottish Parliament (Elections etc.) Order 2002”.

(3) 1988 c. 41.

(4) S.I. 1994/1443 as modified by S.I. 1999/787, Schedule 8, paragraph 3.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
