

SCHEDULE 2

SCOTTISH PARLIAMENTARY ELECTION RULES

PART IV

FINAL PROCEEDINGS IN CONTESTED AND UNCONTESTED ELECTIONS

Declaration of result: constituency members

61.—(1) In a contested election for return of a constituency member, when the result of the poll for the return of a constituency member has been ascertained, the constituency returning officer shall forthwith—

- (a) declare to be elected the candidate to whom the majority of votes has been given;
- (b) return his name and, if a certificate has been received by the constituency returning officer issued by or on behalf of the nominating officer of a registered party under rule 8(1) above in respect of that candidate, the name of that party, to the Clerk of the Scottish Parliament (“the Clerk of the Parliament”); and
- (c) give public notice of—
 - (i) his name and, if applicable, the name of the registered party referred to in sub paragraph (b) above; and
 - (ii) the total number of votes given for each candidate together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers.

(2) In an uncontested election, the statement of persons nominated for return as a constituency member, in addition to showing the person standing nominated, shall also declare that person elected, and the constituency returning officer shall forthwith return his name and, if a certificate has been received by the constituency returning officer issued by or on behalf of the nominating officer of a registered party under rule 8(1) above in respect of that candidate, the name of that party, to the Clerk of the Parliament.

(3) In any case to which paragraph (1) or (2) above applies (except in an election to fill a vacancy in the seat of a constituency member) the constituency returning officer shall forthwith also notify the regional returning officer of the candidate who has been returned and, if applicable, the name of the registered political party referred to in paragraph (1)(b) or, as the case may be, (2) above.

(4) For the purposes of paragraph (1)(b) and (2) above the constituency returning officer shall return those names required to be returned by—

- (a) completing a certificate in the form S set out in the Appendix; and
- (b) delivering it, or causing it to be delivered, to the Clerk of the Parliament.

Attendance at allocation of seats for regional members

62.—(1) At a contested election, the regional returning officer shall make arrangements for making the calculation and allocation referred to in rule 63 below as soon as practicable after receipt by him of the statement prepared under rule 60 above and of the notification under rule 61(3) above from each constituency returning officer in that region.

(2) No person other than—

- (a) the regional returning officer and members of his staff;
- (b) each candidate on a registered party’s regional list and one guest each;

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(c) each individual candidate and one guest each;
(d) the election agent of each individual candidate or registered party standing nominated, or a person acting on his behalf;
(e) the nominating officer of each registered party standing nominated,
may be present at that calculation and allocation unless permitted by the regional returning officer to attend.

(3) A person not entitled to attend the proceedings under rule 63 below shall not be permitted to do so by the regional returning officer unless he—

- (a) is satisfied that the efficient conduct of those proceedings will not be impeded; and
- (b) has either consulted the election agents or thought it impracticable to do so.

(4) The regional returning officer shall give to—

- (a) the nominating officer and election agent of each registered party standing nominated;
- (b) each individual candidate and his election agent; and
- (c) each constituency returning officer for a constituency included in that region,

notice in writing of the place at which he will begin the proceedings under rule 63 below.

Allocation of seats

63.—(1) The regional returning officer shall calculate the total number of regional votes given for each registered party and each individual candidate in all of the constituencies included in the region by adding together the votes given for that registered party or, as the case may be, individual candidate as shown in the statements received under rule 60 above.

(2) An individual candidate for return as a regional member or his election agent, or the election agent for a party standing nominated (or, in the absence of such agent, any candidate included in that party’s list) may, prior to the allocation of the seats by the regional returning officer under paragraph (3) below, if present when the calculation under paragraph (1) above (or any recalculation under this paragraph) is completed, require the regional returning officer to recalculate or again recalculate the total number of regional votes given for each registered party and each individual candidate in all of the constituencies included in the region, but the regional returning officer may refuse to do so if in his opinion the request is unreasonable.

(3) The regional returning officer shall then allocate the seats in accordance with sections 7 and 8 of the 1998 Act.

Equality of votes at poll for return of regional members

64. Section 8(7) of the 1998 Act shall be modified by substituting, for the words after “candidates”, the following words:—

- “(a) the subsection in question shall apply to each of them; or
- (b) if paragraph (a) would result in more than the correct number of seats for the region being allocated, the subsection in question shall apply as if the regional figure for each of those parties or candidates had been adjusted in accordance with subsection (8).

(8) The regional figure for a party or candidate is adjusted in accordance with this subsection by—

- (a) adding one vote to the total number of regional votes given for the party or candidate in all the constituencies included in the region; and
- (b) (in the case of a party) recalculating the regional figure accordingly.

(9) If, on the application of the subsection in question in accordance with subsection (7) (b), seats would be allocated to two or more parties or individual candidates and that would result in more than the correct number of seats for the region being allocated, the regional returning officer shall decide between them by lot.”.

Declaration of results: regional members

65.—(1) When the regional returning officer has allocated the regional member seats he shall forthwith—

- (a) announce the individual candidates or the candidates on a registered party’s regional list to whom seats have been allocated;
- (b) declare those candidates to have been elected;
- (c) return the names of those persons to the Clerk of the Parliament in accordance with paragraph (2) below;
- (d) give public notice—
 - (i) of the name of any individual candidate elected;
 - (ii) of the name of any candidate elected who was included on a registered party’s regional list (and the name of the registered party on whose list he was included);
 - (iii) (in a contested election) of the total number of votes given for each individual candidate or registered party together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers; and
 - (iv) whether, in the case of a registered party, there are candidates remaining on that party’s regional list who have not been declared to be elected;
- (e) send a copy of that notice to each constituency returning officer for a constituency included in that region.

(2) For the purposes of paragraph (1) above the regional returning officer shall return those names required to be returned by—

- (a) completing a certificate in the form T set out in the Appendix;
- (b) delivering it, or causing it to be delivered, to the Clerk of the Parliament.

Return or forfeiture of deposit

66.—(1) The deposit made under rule 11 above shall either be returned to the person making it or his personal representatives or be forfeited to Her Majesty.

(2) Except in the cases mentioned below in this rule, the deposit shall be returned not later than the next day after that on which the result or results of the election is or are declared.

(3) For the purposes of paragraph (2) above—

- (a) a day shall be disregarded if it would be disregarded under rule 3 above in computing any period of time for the purposes of the timetable for the election; and
- (b) the deposit shall be treated as being returned on a day if a cheque for the amount of the deposit is posted on that day.

(4) If a candidate for return as a constituency member is not shown as standing nominated in the statement required by rule 19 above, or if the poll is countermanded or abandoned by reason of his death, the deposit shall be returned as soon as practicable after the publication of the statement or after his death, as the case may be.

(5) Where—

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- (a) a registered party or an individual candidate for return as a regional member is not shown as standing nominated in the statement prepared under rule 20 above; or
- (b) in the case of an individual candidate, that candidate dies,

the deposit shall be returned as soon as practicable after the publication of that statement or the time when the regional returning officer is satisfied of the candidate's death, as the case may be.

(6) Subject to paragraph (4) above, the deposit made by or on behalf of a candidate for return as a constituency member shall be forfeited if a poll is taken and, after the counting of the votes by the constituency returning officer (including any re-count) is completed, the candidate is found not to have polled more than one twentieth of the total number of votes polled by all the candidates.

(7) Subject to paragraph (5) above, the deposit made by or on behalf of any individual candidate for return as a regional member or any registered party standing nominated shall be forfeited if after the total number of regional votes given for each registered party and each individual candidate in all of the constituencies included in the region has been calculated (or recalculated) under rule 63 above, the registered party or individual candidate is found not to have polled more than one twentieth of the total number of votes polled by all the registered parties and individual candidates in all of the constituencies included in the region and has not been allocated a seat under section 8 of the 1998 Act.