

SCHEDULE 4

Article 13(3)

ISSUE AND RECEIPT OF POSTAL BALLOT PAPERS

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Interpretation

1. For the purposes of this Schedule, unless the context otherwise requires—
“agent” includes an election agent and a person appointed to attend in the election agent’s place;
“ballot paper envelope” and “covering envelope” mean the envelopes referred to in paragraph 10 below;
“issue” includes the original and any subsequent issue;

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- “list of postal proxies” means the list kept under article 12(7);
- “postal ballot box” means the ballot box referred to in paragraph 16(1)(b) below;
- “postal ballot paper” means a ballot paper issued to a postal voter;
- “postal voter” means a voter who is entitled to vote by post (and includes a postal proxy);
- “postal voters' ballot box” means the ballot box referred to in paragraph 16(1)(a) below;
- “receptacle for ballot paper envelopes” and “receptacle for declarations of identity” mean the receptacles referred to in paragraph 16(5) below;
- “receptacle for rejected ballot paper envelopes” means the receptacle referred to in paragraph 15(4) below;
- “receptacle for rejected votes” means the receptacle referred to in paragraph 16(5) below; and
- “spoilt postal ballot paper” means a ballot paper referred to in paragraph 13(1) below.

Issue of postal ballot papers

Combination of polls

2. Where the polls at elections are taken together under article 14(1) or (2) the proceedings on the issue and receipt of postal ballot papers in respect of each election may, if the returning officers concerned agree, be taken together.

Form of declaration of identity

3. The declaration of identity sent with the postal ballot paper to a postal voter shall be—
- (a) in the form L set out in the Appendix at a Scottish parliamentary election other than one to which sub paragraph (b) or (c) below applies;
 - (b) in the form U set out in the Appendix to a Scottish parliamentary election where the proceedings on the issue and receipt of ballot papers are taken together with those proceedings at another election under paragraph 2 above; and
 - (c) in the form V set out in the Appendix at a Scottish parliamentary election the poll at which is taken together with a poll at another election under article 14(1) or (2) in any part of the constituency but where the proceedings on the issue and receipt of postal ballot papers are not taken together under paragraph 2 above, for use in that part of the constituency in which polls at more than one election are taken together.

Persons entitled to be present at proceedings on issue of postal ballot papers

4. No person may be present at the proceedings on the issue of postal ballot papers other than the constituency returning officer and members of his staff.

Persons entitled to be present at receipt of postal ballot papers

5.—(1) No person may be present at the proceedings on the receipt of postal ballot papers other than—

- (a) the constituency returning officer and members of his staff;
- (b) a candidate for return as a constituency member or an election agent of such a candidate or any person appointed by a candidate to attend in his election agent's place;
- (c) except in the case of an election to fill a vacancy in the seat of a constituency member—
 - (i) the regional returning officer;

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- (ii) an individual candidate for return as a regional member or his election agent or any person authorised by the candidate to attend in his election agent's place or;
 - (iii) the election agent of a registered party standing nominated or the nominating officer of that party or any person authorised by that officer to attend in his place; and
 - (d) an agent appointed under sub paragraph (1) below.
- (2) Each–
- (a) candidate for return as a constituency member; and
 - (b) except in the case of an election to fill a vacancy in the seat of a constituency member, individual candidate for return as a regional member and each election agent for a registered party standing nominated,

may appoint one or more agents up to the number he may be authorised by the constituency returning officer to appoint, so, however, that the number authorised should be the same in the case of each candidate or, as the case may be, election agent for a registered party standing nominated.

(3) Notice of the appointment stating the names and addresses of the persons appointed shall be given by the candidate or election agent to the constituency returning officer before the time fixed for the issue of the postal ballot papers or the opening of the postal voters' ballot boxes, as the case may be.

(4) Where postal ballot papers for more than one election are issued together under paragraph 2 above, the constituency returning officer to whom notice shall be given under sub-paragraph (3) above and sub-paragraphs (5) and (6) below is the returning officer who issues the postal ballot papers.

(5) If an agent dies or becomes incapable of acting, the candidate or election agent may appoint another agent in his place and shall forthwith give to the constituency returning officer notice in writing of the name and address of the agent appointed.

(6) Agents may be appointed and notice of appointment given to the constituency returning officer by a candidate's election agent instead of by the candidate.

(7) In this Schedule references to agents shall be taken as references to agents whose appointments have been duly made and notified and, in the case of agents appointed under sub-paragraph (2) above, who are within the number authorised by the constituency returning officer.

- (8) Any of the following persons, namely–
- (a) a candidate for return as a constituency member;
 - (b) an individual candidate for return as a regional member;
 - (c) the election agent of a registered party standing nominated,

may himself do any act or thing which any agent of his, if appointed, would have been authorised to do, or may assist his agent in doing any such act or thing.

(9) Where in this Schedule any act or thing is required or authorised to be done in the presence of the candidates or their agents, the non-attendance of any such person at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

Notification of requirement of secrecy

6. The constituency returning officer shall make arrangements to ensure that every person attending the proceedings in connection with the issue or receipt of postal ballot papers has been given a copy in writing of the provisions of article 30(4) and (6).

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Time when postal ballot papers are to be issued

7.—(1) In the case of a person shown in the record kept under—

- (a) article 9(4)(a); or
- (b) article 12(5),

no postal ballot paper (and no declaration of identity) shall be issued until after 5 p.m. on the eleventh day before the date of the poll (computed in accordance with paragraph 6(4) of Schedule 3).

(2) In the case of any other person, the postal ballot paper (and declaration of identity) shall be issued by the constituency returning officer as soon as practicable after the registration officer has granted the application to vote by post.

Procedures on the issue of postal ballot papers

8.—(1) Each postal ballot paper issued shall be stamped with the official mark and the name and number of the elector as stated in the register shall be called out, and such number shall be marked on the counterfoil, and a mark shall be placed in the absent voters list or the list of postal proxies against the number of the elector to denote that a ballot paper has been issued to the elector or his proxy but without showing the particular ballot paper issued.

(2) The number of a postal ballot paper shall be marked on the declaration of identity sent with that paper.

(3) Where postal ballot papers for more than one election are issued together under paragraph 2 above—

- (a) one mark shall be placed in the absent voters list or the list of postal proxies under subparagraph (1) above to denote that ballot papers have been issued in respect of all of those elections, except that where ballot papers are not so issued a different mark shall be placed in the absent voters list or list of postal proxies to identify the election in respect of which the ballot paper was issued; and
- (b) the number of each ballot paper shall be marked on the declaration of identity under subparagraph (2) above.

(4) Where the poll at a Scottish parliamentary election is taken with the poll at another election under article 14(1) or (2) but the proceedings on the issue and receipt of postal ballot papers are not taken together under paragraph 2 above, the colours of the postal ballot papers (or, as the case may be, the colour of the postal ballot paper) shall also be marked on the declaration of identity sent with those papers (or as the case may be, that paper).

Refusal to issue postal ballot paper

9. Where a constituency returning officer is satisfied that two or more entries in either the absent voters list, or the list of postal proxies, or in each of those lists relate to the same elector he shall not issue more than one constituency ballot paper or, as the case may be, more than one regional ballot paper in respect of the same elector in respect of the same election.

Envelopes

10.—(1) The envelope which the constituency returning officer is required by rule 34 of the Scottish Parliamentary Election Rules⁽¹⁾ to send to a postal voter for the return of postal ballot papers (or, as the case may be, a postal ballot paper) and the declaration of identity (referred to as a “covering envelope”) shall be marked with the letter “B”.

(1) Schedule 2 to this Order.

(2) In addition to the documents referred to in sub-paragraph (1) above, the constituency returning officer shall send to a postal voter a smaller envelope (referred to as a “ballot paper envelope”) which shall be marked with—

- (a) the letter “A”;
- (b) the words “Ballot paper envelope”; and
- (c) the number of each ballot paper.

(3) Where the poll at one election is taken together with the poll at another election under article 14(1) or (2) but the proceedings on the issue and receipt of postal ballot papers are not be taken together under paragraph 2 above—

- (a) the envelope referred to in sub-paragraph (1) above shall also be marked “Covering envelope for the [insert colour of ballot paper(s)] coloured ballot paper(s)”; and
- (b) on the envelope referred to in sub-paragraph (2) above, after the words “Ballot paper envelope” there shall be added the words “for the [insert colour of ballot paper(s)] coloured ballot paper(s)”.

Delivery of postal ballot papers

11.—(1) For the purpose of delivering postal ballot papers, the constituency returning officer may use—

- (a) a universal postal service provider;
- (b) a commercial delivery firm; or
- (c) members of his own staff.

(2) Where the services of a universal postal service provider or commercial delivery firm are to be used, envelopes addressed to postal voters shall be counted and delivered by the constituency returning officer with such form of receipt to be endorsed by that provider or firm as may be arranged.

(3) Postage shall be prepaid on envelopes addressed to the postal voters (except where sub paragraph (1)(c) above applies).

(4) Return postage shall be prepaid on all covering envelopes where the address provided by the postal voter for the receipt of the postal ballot paper is within the United Kingdom.

(5) In this paragraph, “universal postal service provider” has the meaning given in the Postal Services Act 2000 to a “universal service provider”.

Sealing up of special lists and counterfoils

12.—(1) As soon as practicable after the issue of each batch of postal ballot papers, the constituency returning officer shall make up into a packet the counterfoils of those ballot papers which have been issued and shall seal such a packet.

(2) As soon as practicable after the last batch of postal ballot papers have been issued, the constituency returning officer shall make up into a packet the marked copy of the absent voters list and the list of postal proxies and shall seal such a packet.

(3) Until the time referred to in sub-paragraph (2) above, the constituency returning officer shall take proper precautions for the security of the lists referred to in that sub paragraph.

Spoilt postal ballot paper

13.—(1) If a postal voter has inadvertently dealt with a postal ballot paper of his in such manner that it cannot be conveniently used as a ballot paper (referred to as “a spoilt postal ballot paper”) he

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may return (either by hand or by post) to the constituency returning officer the spoilt postal ballot paper and the declaration of identity.

(2) Where two or more postal ballot papers have been issued together to him (whether at a Scottish parliamentary general election or under paragraph 2 above), the postal voter shall, if he exercises the entitlement conferred by sub-paragraph (1) above, return all of the ballot papers so issued, whether spoilt or not.

(3) On receipt of the documents referred to in sub-paragraph (1) or (2) above the constituency returning officer shall issue a replacement ballot paper or, as the case may be, papers except where those documents are received after 5.00 p.m. on the day before the day of the poll.

(4) Paragraphs 4, 5, 6 and 8 to 12 above shall apply to the issue of postal ballot papers under sub-paragraph (3) above.

(5) The spoilt postal ballot paper, and any other postal ballot paper issued with it and the declaration of identity, shall be immediately cancelled.

(6) The constituency returning officer, as soon as practicable after cancelling those documents, shall make up those documents in a separate packet and shall seal the packet; and if on any subsequent occasion documents are cancelled as mentioned above, the sealed packet shall be opened and the additional cancelled documents included in it and the packet shall then be again made up and sealed.

(7) Where a postal voter applies in person, the constituency returning officer may hand a replacement postal ballot paper to him instead of delivering it in accordance with paragraph 11 above.

(8) The constituency returning officer shall enter in a list kept for the purpose (“the list of spoilt postal ballot papers”)-

- (a) the name and number of the elector as stated in the register;
- (b) the number of the postal ballot paper (or papers) issued under this paragraph, and
- (c) where the postal voter whose ballot paper is spoilt is a proxy, his name and address.

Lost postal ballot paper

14.—(1) Where a postal voter has not received his postal ballot paper by the third day before the day of the poll, he may apply (whether or not in person) to the constituency returning officer for a replacement ballot paper.

(2) Such an application shall include evidence of the voter’s identity.

(3) Where the application is received by the constituency returning officer before 5pm on the day before the day of the poll and the constituency returning officer-

- (a) is satisfied as to the voter’s identity, and
- (b) has no reason to doubt that the postal voter did not receive the original postal ballot paper,

he shall issue another postal ballot paper or, as the case may be, postal ballot papers.

(4) The constituency returning officer shall enter in a list kept for the purpose (“the list of lost postal ballot papers”)-

- (a) the name and number of the elector as stated in the register;
- (b) the number of the lost postal ballot paper and of its replacement issued under this paragraph; and
- (c) where the postal voter whose ballot paper is lost is a proxy, his name and address.

(5) Paragraphs 4, 5, 6 and 8 to 12 above shall apply to the issue of replacement postal ballot papers under sub-paragraph (3) above.

(6) Where a postal ballot voter applies in person, the constituency returning officer may hand a replacement ballot paper to him instead of delivering it in accordance with paragraph 11 above.

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(7) Where the constituency returning officer issues another ballot paper, or as the case may be, postal ballot papers under sub-paragraph (3) above, the lost ballot paper shall be void and of no effect.

Receipt of postal ballot papers

Notice of opening of postal ballot paper envelopes

15.—(1) The constituency returning officer shall give not less than 48 hours' notice in writing of each occasion on which a postal voters' ballot box and the envelopes contained in it is to be opened, to—

- (a) each candidate for return as a constituency member; and
 - (b) except in each case of an election to fill a vacancy in the seat of a constituency member, each individual candidate for return as a regional member and the election agent for each registered party standing nominated.
- (2) Such a notice shall specify—
- (a) the time and place at which such an opening is to take place, and
 - (b) the number of agents a candidate may appoint under paragraph 5(2) above to attend each opening.

Postal ballot boxes and receptacles

16.—(1) The constituency returning officer shall provide a separate ballot box for the reception of—

- (a) the covering envelopes when returned by the postal voters (“postal voters' ballot box”); and
- (b) postal ballot papers (“postal ballot box”).

(2) Each such ballot box shall be marked “postal voters' ballot box” or “postal ballot box”, as the case may be, and with the name of the constituency or electoral area for which the election is, or, as the case may be, the elections are, held.

(3) The postal ballot box shall be shown to the agents present on the occasion of opening the first postal voters' ballot box as being empty.

(4) The constituency returning officer shall then lock the ballot box and apply his seal in such manner as to prevent its being opened without breaking the seal; any of the agents present who wish to add their seals may then do likewise.

- (5) The constituency returning officer shall provide the following receptacles—
- (a) the receptacle for rejected votes;
 - (b) the receptacle for declarations of identity;
 - (c) the receptacle for ballot paper envelopes; and
 - (d) the receptacle for rejected ballot paper envelopes.

(6) The constituency returning officer shall take proper precautions for the safe custody of every ballot box and receptacle referred to in this paragraph.

Receipt of covering envelope

17.—(1) The constituency returning officer shall, immediately on receipt (whether by hand or by post) of a covering envelope (or an envelope which is stated to include a postal vote) before the close of the poll, place it unopened in a postal voters' ballot box.

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(2) Where an envelope, other than a covering envelope issued by the constituency returning officer—

(a) has been opened; and

(b) contains a ballot paper envelope, declaration of identity or ballot papers,

the first-mentioned envelope, together with its contents, shall be placed in a postal voters' ballot box.

Opening of postal voters' ballot box

18.—(1) Each postal voters' ballot box shall be opened by the constituency returning officer in the presence of any agents, if in attendance.

(2) So long as the constituency returning officer ensures that there is at least one sealed postal voters' ballot box for the reception of covering envelopes up to the time of the close of the poll, the other postal voters' ballot boxes may previously be opened by him.

(3) The last postal voters' ballot box and the postal ballot box shall be opened at the counting of the votes under rule 54 of the Scottish Parliamentary Election Rules.

Opening of covering envelopes

19.—(1) When a postal voters' ballot box is opened, the constituency returning officer shall count and record the number of covering envelopes, and shall then open each covering envelope (including any envelope to which paragraph 17(2) above applies) separately.

(2) The procedure in paragraph 20 below applies where a covering envelope (including an envelope to which paragraph 17 (2) above applies) contains both—

(a) a declaration of identity; and

(b) a ballot paper envelope, or if there is no ballot paper envelope, a ballot paper (or ballot papers).

(3) Where the covering envelope does not contain the declaration of identity separately, the constituency returning officer shall open the ballot paper envelope to ascertain whether the declaration of identity is inside.

(4) Where a covering envelope does not contain both—

(a) a declaration of identity (whether separately or not); and

(b) a ballot paper envelope or, if there is no ballot paper envelope, a ballot paper (or ballot papers)

the constituency returning officer shall mark the covering envelope “provisionally rejected”, attach its contents (if any) and place it in the receptacle for rejected votes.

Procedure in relation to declarations of identity

20.—(1) The constituency returning officer shall satisfy himself that the declaration of identity has been duly signed by the voter and authenticated by a witness who has signed the declaration and given his address (referred to as a “valid declaration of identity”).

(2) Where the constituency returning officer is not so satisfied, he shall mark the declaration “rejected”, attach to it the ballot paper envelope, or if there is no such envelope, the ballot paper (or ballot papers), and, subject to sub-paragraph (3) below, place it in the receptacle for rejected votes.

(3) Before placing the declaration in the receptacle for rejected votes, the constituency returning officer shall show it to the agents and, if any of them object to his decision, he shall add the words “rejection objected to”.

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(4) The constituency returning officer shall then compare the number (or numbers) on the declaration of identity against the number or (numbers) on the ballot paper envelope and, where they are the same, he shall place the declaration and the ballot paper envelope in, respectively the receptacle for declarations of identity and the receptacle for ballot paper envelopes.

(5) Where there is a valid declaration of identity but no ballot paper envelope, or where the envelope has been opened under paragraph 19(3) above, he shall place—

- (a) in the postal ballot box, any ballot paper the number on which is the same as the number (or one of the numbers) on the declaration of identity;
- (b) in the receptacle for rejected votes, any other ballot paper, to which shall be attached the declaration of identity marked “provisionally rejected”; and
- (c) in the receptacle for declarations of identity, any declaration of identity not disposed of under sub paragraph (b) above.

(6) Where the number (or numbers) on a valid declaration of identity is (or are) not the same as the number (or numbers) on the ballot paper envelope or where that envelope has no number on it (or only one number where the declaration of identity has more than one), the constituency returning officer shall open the envelope.

(7) Where an envelope has been opened under paragraph 19(3) above or sub paragraph (6) above, the constituency returning office shall—

- (a) place in the postal ballot box any ballot paper the number on which is the same as the number (or one of the numbers) on the valid declaration of identity;
- (b) place in the receptacle for rejected votes any other ballot paper, to which shall be attached the declaration of identity marked “provisionally rejected”;
- (c) place in the receptacle for rejected votes any declaration of identity marked “provisionally rejected” in respect of a ballot paper envelope—
 - (i) which does not contain a ballot paper; or
 - (ii) which does not contain a sufficient number of ballot papers if more than one number appears on the declaration,and shall indicate the missing ballot paper, where that is the case; and
- (d) place in the receptacle for declarations of identity, any such declaration not disposed of under sub paragraph (b) or (c) above.

Opening of ballot paper envelopes

21.—(1) The constituency returning officer shall open separately each ballot paper envelope placed in the receptacle for ballot paper envelopes.

(2) He shall place—

- (a) in the postal ballot box, any ballot paper the number on which is the same as the number (or one of the numbers) on the ballot paper envelope;
- (b) in the receptacle for rejected votes, any other ballot paper which shall be marked “provisionally rejected” and to which shall be attached the ballot paper envelope; and
- (c) in the receptacle for rejected ballot paper envelopes, any ballot paper envelope which shall be marked “provisionally rejected” because it does not contain either a ballot paper or, where more than one number appears on the ballot paper envelope, a sufficient number of ballot papers (and indicating, in such a case, the missing ballot paper/or papers).

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Lists of rejected postal ballot papers

22.—(1) In respect of any election, the constituency returning officer shall keep two separate lists of rejected postal ballot papers.

(2) In the first list, he shall record the ballot paper number of any postal ballot paper which is not accompanied by a valid declaration of identity.

(3) In the second list, he shall record the ballot paper number of any postal ballot paper which is entered on a valid declaration of identity where that ballot paper is not received with the declaration of identity.

Checking of lists kept under paragraph 22

23.—(1) Where the constituency returning officer receives a valid declaration of identity without the postal ballot paper (or papers or, as the case may be, all of the papers) to which it relates, he shall from time to time prior to the close of the poll, check the list kept under paragraph 22(2) above to see whether the number (or numbers) of a postal ballot paper to which the declaration relates is (or are) entered in that list.

(2) Where the constituency returning officer receives a postal ballot paper without the declaration of identity relating to it, he may, at any time prior to the close of the poll, check the list kept under paragraph 22(3) above to see whether the number of that ballot paper is entered in that list.

(3) The constituency returning officer shall conduct the checks required by sub paragraphs (1) and (2) above as soon as practicable after the receipt of packets from every polling station in the constituency or, as the case may be, electoral area under rule 52 of the Scottish Parliamentary Election Rules.

(4) Where the ballot paper number in the list matches the number of a valid declaration of identity or, as the case may be, a postal ballot paper, the constituency returning officer shall retrieve the relevant declaration or paper.

(5) The constituency returning officer shall then take the appropriate steps under this Schedule as though any document earlier marked “provisionally rejected” had not been so marked and shall amend the document accordingly.

Sealing of receptacles

24.—(1) As soon practicable after the completion of the procedure under paragraph 23(3) and (4) above, the constituency returning officer shall make up into separate packets the contents of—

- (a) the receptacle of rejected votes;
- (b) the receptacle of declarations of identity;
- (c) the receptacle of rejected ballot paper envelopes; and
- (d) the lists of spoilt and lost postal ballot papers,

and shall seal up such packets.

(2) Any document in those packets marked “provisionally rejected” shall be deemed to be marked “rejected”.

Abandoned poll

25.—(1) Where a poll is abandoned or countermanded after postal ballot papers have been issued, by reason of the death of a candidate, the constituency returning officer—

- (a) shall not take any step or further step to open covering envelopes or deal with the contents in accordance with the provisions of this Schedule; and

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(b) shall, notwithstanding paragraphs 19 to 21 above, treat all unopened covering envelopes and the contents of those that have been opened as if they were counted ballot papers.

(2) Sub-paragraph (1) above shall not apply where postal ballot papers for more than one election have been issued together under paragraph 2 above.

Forwarding of documents

26.—(1) The constituency returning officer shall forward to the sheriff clerk at the same time as he forwards the documents mentioned in rule 68 of the Scottish Parliamentary Election Rules—

- (a) any packets referred to in paragraphs 12, 13(6) and 24 above, subject to paragraph 25 above, endorsing on each packet a description of its contents, the date of the election to which it relates and the name of the constituency or electoral ward for which the election (or elections) was (or were) held; and
- (b) a completed statement in form W set out in the Appendix of the number of postal ballot papers issued.

(2) Where—

- (a) any covering envelopes are received by the constituency returning officer after the close of the poll (apart from those delivered in accordance with Rule 52(1)(i) of the Scottish Parliamentary Election Rules);
- (b) any envelopes addressed to postal voters are returned as undelivered too late to be readdressed; or
- (c) any spoilt postal ballot papers are returned too late to enable other postal ballot papers to be issued

the constituency returning officer shall put them unopened in a separate packet, seal up such packet and endorse and forward it at a subsequent date in the manner described in sub paragraph (1) above.

(3) Rules 67 and 68 of the Scottish Parliamentary Election Rules shall apply to any packet or document forwarded under this paragraph.

(4) A copy of the statement referred to in sub-paragraph (1)(b) above shall be provided by the constituency returning officer to the Secretary of State.