
SCOTTISH STATUTORY INSTRUMENTS

2011 No. 399

REPRESENTATION OF THE PEOPLE

The Scottish Local Government Elections Order 2011

Made - - - - 10th November 2011

Coming into force in accordance with article 1

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 3, 3A and 16 of the Local Governance (Scotland) Act 2004⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 16(5) of that Act⁽²⁾, a draft of the Order has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and extent

1.—(1) This Order may be cited as the Scottish Local Government Elections Order 2011 and comes into force on 10th November 2011 except for the purposes of any election to be held on or before 2nd May 2012.

(2) This Order extends to Scotland only.

Interpretation

2. In this Order, unless the context otherwise requires—

“1983 Act” means the Representation of the People Act 1983⁽³⁾;

“absent voter” means an elector who is entitled to vote by proxy or an elector or proxy who is entitled to vote by post;

“anonymous elector” means an elector with an anonymous entry in the register of electors;

“anonymous entry” in relation to the register of electors shall be construed in accordance with section 9B of the 1983 Act and “the record of anonymous entries” means the record prepared in pursuance of regulations made by virtue of paragraph 8A of Schedule 2 to the 1983 Act;

“ballot paper account” has the meaning given in rule 40(3);

(1) 2004 asp 9. Section 3 was amended by section 34(6) of the [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\)](#) and section 3A inserted by section 2(1) of the [Scottish Local Government \(Elections\) Act 2009 \(asp 10\)](#).
(2) Section 16(5) has been modified by paragraph 5 of Schedule 3 to the [Interpretation and Legislative Reform \(Scotland\) Act 2010 \(asp 10\)](#).
(3) 1983 c.2. Section 9B was inserted by section 10(1) of the [Electoral Administration Act 2006 \(c.22\)](#). Paragraph 8A of Schedule 2 was inserted by paragraph 15(6) of Schedule 1 to that Act.

“by-election” means an election to fill a casual vacancy in the office of a councillor in accordance with section 37 of the Local Government (Scotland) Act 1973(4);

“companion” has the meaning given in rule 35(1);

“completed corresponding number list” has the meaning given in rule 40(1)(e);

“continuing candidate” means any candidate not deemed to be elected as a councillor and not excluded from the list of candidates under rule 51;

“corresponding number list” means the list prepared in accordance with rule 15;

“council” means a council constituted by section 2 of the Local Government etc. (Scotland) Act 1994(5);

“count” means all the operations involved in counting and crediting votes, including the ascertainment of the quota, the transfer of ballot papers and the exclusion of candidates;

“election” means an election under the Local Governance (Scotland) Act 2004 and, for the purposes of articles 1(1) and 6(2), an election under the Local Government etc. (Scotland) Act 1994;

“election court” means the court constituted under the 1983 Act for the trial of a petition questioning an election;

“election petition” means a petition presented in pursuance of Part III of the 1983 Act as that Act is applied by this Order;

“elector” means a person who is registered in the register (or, in the case of a person who has an anonymous entry in the register, in the record of anonymous entries) to be used at the election as a local government elector for the local government area in which the election is held and includes a person shown in the register as below voting age if (but only if) it appears from the register that such person will be of voting age on the day fixed for the poll;

“electoral registration officer” has the same meaning as in the 1983 Act;

“electronic counting system” means such computer hardware and software, other equipment, data and services as may be necessary in order to—

- (a) maintain a list of the areas in relation to which an election is being held by reference to ward barcodes on ballot papers issued to voters in relation to that area;
- (b) read electronically the votes marked and the unique identifying number on each ballot paper returned;
- (c) calculate the number of votes cast for each candidate at the election otherwise than on any spoilt, tendered or rejected ballot paper; and
- (d) ensure the retention of a record of the votes given for each candidate, without identifying the elector by whom, or on whose behalf, the votes were cast;

“list of proxies” has the meaning given by paragraph 5(3) of Schedule 4 to the Representation of the People Act 2000(6);

“local authority” means a council constituted by section 2 of the Local Government etc. (Scotland) Act 1994;

“local government area” is to be construed in accordance with section 1 of the Local Government etc. (Scotland) Act 1994;

“next available preference” means a preference which is the second or, as the case may be, subsequent preference in consecutive order for a continuing candidate (any preferences for

(4) 1973 c.65; section 37 has been amended but these amendments are not relevant for the purposes of this Order.

(5) 1994 c.39.

(6) 2000 c.2.

any candidate who is deemed to be elected or is excluded from the list of candidates under rule 51 being ignored);

“non-transferable paper” means a ballot paper on which there is no next available preference;

“postal voters list” means the list of persons kept in pursuance of paragraph 5(2) (persons whose applications to vote by post have been granted) of Schedule 4 to the Representation of the People Act 2000(7);

“presiding officer” has the meaning given in rule 23(1) and (2);

“proper officer” has the same meaning as in section 235(3) of the Local Government (Scotland) Act 1973(8);

“proxy postal voters list” means the list of persons kept in pursuance of paragraph 7(8) (persons whose applications to vote by post as proxy have been granted) of Schedule 4 to the Representation of the People Act 2000;

“qualifying address” in relation to a person registered in the register of electors, is the address in respect of which that person is entitled to be so registered;

“quota” has the meaning given in rule 47;

“register of electors” means the register of local government electors maintained under section 9(1)(b) of the 1983 Act;

“registered political party” means a party registered under Part II of the Political Parties, Elections and Referendums Act 2000(9);

“returning officer” means, in relation to an election, the returning officer appointed for the election under section 41(1) (duty of local authority to appoint returning officer for each local authority election) of the 1983 Act;

“spoilt ballot paper” has the meaning given in rule 37;

“stage of the count” means—

- (a) the determination of the number of votes for each candidate as first preference;
- (b) the transfer of transferable papers from a candidate deemed to be elected who has a surplus; or
- (c) the exclusion of a candidate at any given time;

“surplus” means the number of votes, if any, by which the total number of votes credited to a candidate deemed to be elected as a councillor exceeds the quota;

“tendered ballot paper” has the meaning given in rule 36(5);

“tendered votes list” has the meaning given in rule 36(7);

“transfer value” means the value of a vote on a ballot paper calculated in accordance with rule 49;

“transferable paper” means a ballot paper on which a next available preference is given;

“unique identifying mark” means the mark (for example, a bar code, letter, number or numerical sequence) on a ballot paper which is unique to that ballot paper and which identifies that ballot paper as a ballot paper to be issued by the returning officer; and

“voter” means a person voting at an election and includes a person voting as proxy and “vote” (whether noun or verb) shall be construed accordingly and any reference to an elector voting or an elector’s vote shall include a reference to an elector voting by proxy or an elector’s vote given by proxy.

(7) 2000 c.2. Paragraph 7(8) was amended by paragraph 137(7) of Schedule 1 to the Electoral Administration Act 2006 (c.22).

(8) 1973 c.65. Section 235(8) was amended by S.I. 1995/789.

(9) 2000 c.41. Part 11 was amended by S.I. 2004/366 and by sections 48 to 51 of the Electoral Administration Act 2006 (c.22).

(2) References in this Order to “rules” are references to the rules set out in Schedule 1 to this Order.

(3) Any reference in this Order to a numbered article, rule or Schedule is a reference to the article, rule or Schedule, as the case may be, bearing that number in this Order and a reference to a numbered paragraph or sub-paragraph is a reference to the paragraph or sub-paragraph having that number in the article, rule or paragraph in which the reference appears.

(4) A reference to a numbered Form is a reference to the form bearing that number as set out in Part VII of Schedule 1 or, as the case may be, a form substituted for any such form in accordance with article 3(2) and Schedules 2, 3 and 4.

(5) Where the timetable in rule 1(1) is modified in accordance with paragraphs (2) or (3) of rule 1 or a direction made under section 45 of the 1983(10) Act, references to the “timetable in rule 1” are references to that timetable as so modified.

Local government elections rules

3.—(1) Subject to paragraph (2), elections of councillors for local government areas shall be conducted in accordance with the local government elections rules set out in Schedule 1.

(2) In the application of the local government elections rules set out in Schedule 1 to any election where the poll is taken together with the poll at another election under section 15(1) or (2) of the Representation of the People Act 1985(11) the modifications set out in Schedules 2, 3 and 4 apply.

(3) It is the returning officer’s general duty to do all such acts and things as may be necessary for effectually conducting the election in the manner provided by these rules.

(4) It is the duty of any returning officer to whom a direction is given under section 5 of the Local Electoral Administration (Scotland) Act 2011(12) to discharge his or her functions in accordance with that direction.

Application of Part III of the Representation of the People Act 1983

4. Part III(13) of the 1983 Act applies to elections of councillors for local government areas with exception of the following provisions—

- (a) sections 120 to 126;
- (b) section 128(3)(a) and (4);
- (c) sections 130 to 133;
- (d) sections 135 and 135A;
- (e) section 144; and
- (f) section 145A.

(10) Section 45 was amended by [S.S.I. 2007/42](#).

(11) [1985 c.50](#).

(12) [2011 asp 10](#).

(13) Part III was amended by the Representation of the People Act 2000 (c.2), Schedule 1, paragraph 20, the Political Parties, Elections and Referendums Act 2000 (c.41), section 136 and Schedule 1, paragraphs 122 and 123, Schedule 17, paragraphs 2, 3, 7, 8, 9 and 10, Schedule 18, paragraphs 1, 6, 18 and 19, Schedule 21, paragraph 6 and Schedule 22, paragraph 1, the Licensing Act 2003 (c.17), Schedule 6, paragraph 8, the Civil Partnership Act 2004 (c.33), Schedule 27, paragraph 84, the Local Governance (Scotland) Act 2004, section 5, and Constitutional Reform Act 2005 (c.4), Schedule 4, paragraph 149 and Schedule 11, paragraph 28, the Electoral Administration Act 2006 (c.22), section 70, Schedule 1, paragraphs 11, 12, 120, 121, 122 and 123, the Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14), sections 20 and 34 and Schedule 2, paragraphs 10, 11 and 12, the Tribunals, Courts and Enforcement Act 2007 (c.15), Schedule 10, paragraph 14, [S.I. 1996/675](#), [2001/1149](#) and [2007/931](#) and [S.S.I. 2009/248](#).

Amendments

5.—(1) In regulation 15C of the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Regulations 2007(**14**) (provision of information on removal of absent vote entitlement) for “Rule 21 of Schedule 1 to the Scottish Local Government Elections Order 2007” substitute “rule 22 of Schedule 1 to the Scottish Local Government Elections Order 2011”.

(2) The Representation of the People (Postal Voting for Local Government Elections) (Scotland) Regulations 2007(**15**) are amended as follows—

- (a) in regulation 3(2) (interpretation), for “Scottish Local Government Elections Order 2007” substitute “Scottish Local Government Elections Order 2011”;
- (b) in regulation 12(1) (postal voting envelopes), for “rule 20” substitute “rule 21”;
- (c) in regulation 14(1)(c) (delivery of postal ballot papers), for “rule 22(1)” substitute “Rule 23(1)”;
- (d) in regulation 16(1) (lost postal ballot papers), for “third” substitute “fourth”;
- (e) in regulation 17 (alternative means of returning postal ballot papers etc.)—
 - (i) in paragraph (1), for “rule 42(1)(c)” substitute “rule 43(1)(c)”;
 - (ii) in paragraph (2), for “rule 39(1)” substitute “rule 40(1)”;
- (f) in regulation 21(3) (opening of postal voters box), for “rule 42” substitute “rule 43”;
- (g) in regulation 26(2)(f) (retrieval of cancelled postal ballot papers), for “rule 42 of the elections rules” substitute “rule 43”;
- (h) in regulation 28(3) (checking of lists), for “rule 39(1)” substitute “rule 40(1)”;
- (i) in regulation 31 (forwarding of documents)—
 - (i) in paragraph (1), for “rule 57” substitute “rule 58”;
 - (ii) in paragraph (3), for “Rules 58 and 59” substitute “Rules 59 and 60”.

(3) Regulation 2 of the Representation of the People (Post-Local Government Elections Supply and Inspection of Documents) (Scotland) Regulations 2007(**16**) (interpretation) is amended as follows—

- (a) in paragraph (1), for “Scottish Local Government Elections Order 2007” substitute “Scottish Local Government Elections Order 2011”;
- (b) in paragraph (3), for “rule 57(b) and (c)” substitute “rule 58(b) and (c)”.

(4) In regulation 15(2)(a) of the Absent Voting at Scottish Local Government Elections (Provision of Personal Identifiers) Regulations 2009(**17**), for “rule 21 of Schedule 1 to the Scottish Local Government Elections Order 2007” substitute “rule 22 of Schedule 1 to the Scottish Local Government Elections Order 2011”.

Revocations and saving provision

6.—(1) Subject to paragraph (2), the Scottish Local Government Elections Order 2007(**18**), the Scottish Local Government Elections Amendment Order 2007(**19**) and the Scottish Local Government Elections Amendment Order 2009(**20**) are revoked.

(14) S.S.I. 2007/170; paragraph 15C was added by S.S.I. 2009/35.

(15) S.S.I. 2007/263; there are amendments but none are relevant.

(16) S.S.I. 2007/264.

(17) S.S.I. 2009/35.

(18) S.S.I. 2007/42 as amended by S.S.I. 2007/379 and 2009/36.

(19) S.S.I. 2007/379.

(20) S.S.I. 2009/36.

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

(2) The instruments referred to in paragraph (1) shall continue to have effect on and after 10th November 2011 as they had effect immediately before that date, for the purposes of any election to be held on or before 2nd May 2012.

St Andrew's House,
Edinburgh
10th November 2011

AILEEN CAMPBELL
Authorised to sign by the Scottish Ministers

SCHEDULE 1

Article 3(1)

SCOTTISH LOCAL GOVERNMENT ELECTIONS RULES
**RULES FOR CONDUCT OF A SCOTTISH LOCAL GOVERNMENT ELECTION WHERE
 THE POLL IS NOT TAKEN TOGETHER WITH THE POLL AT ANOTHER ELECTION**

PART I

PROVISIONS AS TO TIME

Timetable

1.—(1) Subject to paragraphs (2) to (4), the proceedings at the election must be conducted in accordance with the following table—

Timetable

<i>Proceeding</i>	<i>Time</i>
1. Publication of notice of election	Not earlier than the thirty-fifth day before the date of the poll and not later than the twenty-eighth day before the date of the poll.
2. Delivery of nomination papers	Not later than 4 p.m. on any day after the date of the publication of the notice of election but not later than the twenty-third day before the date of the poll.
3. Delivery of notice of withdrawal of nomination	Within the time for the delivery of nomination papers at the election.
4. Notice in case of uncontested election and notice of poll in contested election	As soon as practicable after the deadline for withdrawal of nominations.
5. Polling	Between the hours of 7 a.m. and 10 p.m. on the date of the poll.

(2) At any election held under section 37 (*filling of casual vacancies*) of the Local Government (Scotland) Act 1973(21), the timetable in paragraph (1) shall apply subject to any modifications necessary to secure completion of the proceedings listed in items 1 to 4 in the first column of that timetable, before the date fixed as the day of election by the returning officer under subsection (1) of that section.

(3) At any election held under rule 63 or rule 65 (*countermand or abandonment of poll on death of candidate*), the timetable in paragraph (1) shall apply subject to any modifications necessary to secure completion of the proceedings listed in items 1 to 4 in the first column of that timetable, before the date fixed as the day of election by the returning officer under that rule.

(4) At any election held under section 45 (*non-election of local authority etc.*) of the 1983 Act, the timetable in paragraph (1) shall be subject to any direction made by the Scottish Ministers in exercise of the powers conferred by that section.

(21) 1973 c.65.

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Computation of time

- 2.—(1) In computing any period of time for the purposes of the timetable—
- (a) a Saturday or Sunday;
 - (b) Christmas Eve, Christmas Day, Good Friday or Easter Monday;
 - (c) a day which is a bank holiday in Scotland under the Banking and Financial Dealings Act 1971⁽²²⁾; or
 - (d) a day appointed for public thanksgiving or mourning,

shall be disregarded, and any such day shall not be treated as a day for the purpose of any proceedings up to the completion of the poll.

(2) Nothing in this rule shall apply in relation to the counting of the votes and the other proceedings of the returning officer after the close of the poll or to things done by other persons in the course of those proceedings, but the returning officer shall not be obliged to proceed with the counting on any of the days mentioned in paragraph (1).

PART II

STAGES COMMON TO CONTESTED AND UNCONTESTED ELECTIONS

Notice of election

Notice of election

3.—(1) The returning officer shall publish notice of the election in the form set out in Form 1, or a form to the like effect, stating—

- (a) the place and times at which nomination papers are to be delivered;
 - (b) that forms of such nomination papers may be obtained at that place and at those times; and
 - (c) the date of the poll in the event of a contest.
- (2) The notice of election shall state the day by which—
- (a) applications to vote by post or by proxy; and
 - (b) other applications and notices about postal or proxy voting,

must reach the electoral registration officer in order that they may be effective for the election.

Nomination

Nomination of candidates

4.—(1) Each candidate shall be nominated by a separate nomination paper, in the form set out in Form 2, or a form to the like effect, delivered at the place fixed for the purpose by the returning officer.

(2) The nomination paper shall state the full name of the candidate (with the surname first) and the candidate's home address in full.

(3) If a candidate commonly uses a surname or forename in addition to or instead of any other surname or forename the candidate has, the nomination paper may state the commonly used surname or forename in addition to or instead of the other name, as the case may be.

(22) 1971 c.80.

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(4) The particulars of a candidate given in a nomination paper may, if desired, include a description in addition to the particulars required by paragraphs (2) and (3); but the description (if any) must consist of either—

- (a) a description which is authorised as mentioned in paragraphs (5), (6) or (7); or
- (b) the word “Independent”.

(5) A nomination paper may not include a description of a candidate which is likely to lead electors to associate the candidate with a registered political party unless the party is a qualifying party in relation to the local government area and the description is authorised by a certificate—

- (a) issued by or on behalf of the registered nominating officer of the party; and
- (b) received by the returning officer at some time during the period for delivery of nomination papers set out in the timetable in rule 1.

(6) An authorised description may be either—

- (a) the name of the party registered under section 28 of the Political Parties, Elections and Referendums Act 2000⁽²³⁾; or
- (b) a description of the party registered under section 28A⁽²⁴⁾ of that Act.

(7) A nomination paper may not include a description of a candidate which is likely to lead electors to associate the candidate with two or more registered political parties unless the parties are each qualifying parties in relation to the local government area and the description is a registered description authorised by a certificate—

- (a) issued by or on behalf of the registered nominating officer of each of the parties; and
- (b) received by the returning officer at some time during the period for delivery of nomination papers set out in the timetable in rule 1.

(8) For the purposes of paragraph (7), a description is a registered description if it is a description registered for the use by the parties under section 28B of the Political Parties, Elections and Referendums Act 2000.

(9) For the purposes of the application of this rule in relation to an election—

- (a) “registered political party” means a party which was registered under Part II of the Political Parties, Elections and Referendums Act 2000 on the day (“the relevant day”) which is two days before the last day for the delivery of nomination papers at the election; and
- (b) a registered political party is a qualifying party in relation to a local government area if the party was on the relevant day registered in respect of Scotland in the Great Britain register mentioned under that Part of that Act.

Consent to nomination

5. A person shall not be validly nominated unless that person’s consent to nomination is given in writing on the nomination paper on, or within one month before, the last day for the delivery of nomination papers.

Subscription of nomination paper

6.—(1) The nomination paper shall be subscribed by the candidate and by a witness to the candidate’s signature.

(2) The returning officer—

⁽²³⁾ 2000 c.41.

⁽²⁴⁾ Section 28A and 28B were added by section 49 of the Electoral Administration Act 2006 (c.22).

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

- (a) shall supply any person with a nomination paper at the place and during the time for delivery of nomination papers; and
 - (b) shall at any person's request prepare a nomination paper for signature,
- but it is not necessary for a nomination to be on a form supplied by the returning officer.
- (3) The nomination paper shall state the name and home address of the witness to the candidate's signature.

Decisions as to validity of nomination papers

7.—(1) Where a nomination paper is delivered in accordance with these rules, the candidate shall be deemed to stand nominated unless and until—

- (a) the returning officer decides that the nomination paper is invalid;
- (b) proof is given to the returning officer's satisfaction of the candidate's death; or
- (c) the candidate withdraws.

(2) The returning officer is entitled to hold a nomination paper invalid only on one or more of the following grounds:—

- (a) the paper does not bear to be subscribed by the candidate;
- (b) the particulars of the candidate are not as required by these rules;
- (c) the paper does not bear to have been subscribed by a witness; or
- (d) the paper does not bear to include the name of the witness or the home address of the witness.

(3) Subject to paragraph (4) the returning officer shall examine each nomination and decide whether the candidate has been validly nominated—

- (a) as soon as practicable after delivery of the nomination paper; and
- (b) in any event, before the end of the period of 24 hours starting with the close of the period for delivery of nomination papers set out in the timetable in rule 1.

(4) If in the returning officer's opinion a nomination paper contravenes rule 4(4) to (7), the returning officer shall give a decision to that effect—

- (a) as soon as practicable after the delivery of the nomination paper; and
- (b) in any event, before the end of the period of 24 hours starting with the close of the period for delivery of nomination papers set out in the timetable in rule 1.

(5) Where the returning officer decides that a nomination paper is invalid, the returning officer shall endorse and sign on the paper the fact and the reasons for such decision.

(6) The returning officer shall send notice of such decision that a nomination paper is valid or invalid to each candidate at the candidate's home address as given in such nomination paper.

(7) The returning officer's decision that a nomination paper is valid shall be final and shall not be questioned in any proceeding whatsoever.

(8) Subject to paragraph (7), nothing in this rule prevents the validity of a nomination being questioned on an election petition.

Withdrawal of candidates

8. A candidate may withdraw candidature by notice of withdrawal—

- (a) signed by such candidate and attested by one witness; and
- (b) delivered to the returning officer at the place for delivery of nomination papers.

Nomination in more than one electoral ward

9. If at an election of councillors for the council of a local government area a candidate is validly nominated for more than one electoral ward, such candidate shall withdraw from candidature in all but one of those electoral wards; and if such candidate does not so withdraw within the time for the delivery of notices of withdrawal, such candidate shall be deemed to have withdrawn as a candidate for election to that council.

Correction of errors in nomination papers

10.—(1) A returning officer may correct minor errors in a nomination paper before the end of the period of 24 hours starting with the close of the period for delivery of nomination papers set out in the timetable in rule 1.

(2) Errors which may be corrected include—

- (a) errors as to a person's electoral number; and
- (b) obvious errors of spelling in relation to the details of a candidate.

(3) Returning officers must have regard to any guidance issued by the Electoral Commission on the correction of minor errors in nomination papers for the purposes of this rule.

(4) Anything done by a returning officer in pursuance of this rule shall not be questioned in any proceedings other than proceedings on an election petition.

Inspection of nomination papers

11. Any person may inspect and take copies of, or extracts from, nomination papers during ordinary office hours on any day, other than a day specified in rule 2(1), after expiry of the 24 hour period after the latest time for delivery of nomination papers but before the date of the poll.

Method of election and notice of uncontested election

12.—(1) If after the expiry of the time for the delivery of notices of withdrawal of nomination, more candidates remain validly nominated for an electoral ward than the number of councillors to be returned for that electoral ward, the councillors for that electoral ward shall be elected from among them at a poll under Part III of this Schedule.

(2) If the number of candidates validly nominated for an electoral ward is equal to, or less than, the number of councillors to be returned for that electoral ward, the returning officer shall cause public notice to be given that there will be no poll in that electoral ward, and that on the day of election those candidates shall be declared elected in accordance with the provisions of paragraph (3).

(3) Where notice of an uncontested election has been given under paragraph (2), the returning officer shall—

- (a) not later than 11 a.m. on the day of election declare to be elected the validly nominated candidates referred to in the said notice of uncontested election;
- (b) give notice of the names of the persons to whom sub-paragraph (a) applies to the proper officer of the council for which the election was held; and
- (c) give public notice of the names of such persons, and such public notice may be combined with a public notice given under rule 56.

(4) The public notice to be given under paragraph (2) shall be in the form as set out in Form 3, or a form to the like effect and shall, except where in the circumstances it is not appropriate, be combined with the public notice of poll to be given under rule 20.

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

PART III
CONTESTED ELECTIONS
General provisions

Poll to be by ballot

13. The votes at the poll shall be given by ballot, counted and the result shall be ascertained in accordance with this Part of this Schedule.

The ballot papers

14.—(1) The ballot of every voter shall consist of a ballot paper and the persons remaining validly nominated for the electoral ward after any withdrawals under these rules, and no other persons, shall be entitled to have their names inserted in the ballot paper.

(2) Every ballot paper shall be in the form set out in Form 4 or a form to the like effect and shall be printed in accordance with the directions in Form 5, and in accordance with sub-paragraphs (a) to (e)—

- (a) the ballot paper shall contain the names, addresses and descriptions (if any) of the candidates as shown in their respective nomination papers and arranged alphabetically in the order of their surnames;
- (b) where a commonly used surname or forename is stated by a candidate on that candidate's nomination paper in accordance with rule 4(3), the commonly used surname or forename (instead of any other name) shall, subject to paragraphs (7) and (8), appear on the ballot paper;
- (c) if there are two or more candidates with the same surname, they shall be arranged alphabetically in the order of their other names;
- (d) where a candidate is qualified as a registered local government elector and any of such candidate's names or such candidate's address has been changed between the qualifying date for the register and the last day for the submission of nomination papers, the ballot paper shall also, if so required by the candidate, give such candidate's present names and current address; and
- (e) the ballot paper shall have a letter or letters, number or numbers or combination of letter and number or letters and numbers and other unique identifying mark printed on the back.

(3) If a candidate who is the subject of a registered political party's authorisation under rule 4(5) or (6) so requests, the ballot paper shall contain, against the candidate's particulars, the party's registered emblem (or, as the case may be, one of the party's registered emblems).

(4) If a candidate who is the subject of an authorisation under rule 4(7) so requests, the ballot paper shall contain, against the candidate's particulars, the registered emblem (or, as the case may be, one of the registered emblems) of one of those parties.

(5) The request referred to in paragraphs (3) and (4) must—

- (a) be made in writing to the returning officer; and
- (b) be received by the returning officer before the last time for the delivery of nomination papers set out in the timetable in rule 1.

(6) For the purposes of paragraph (5), the first valid nomination paper delivered at the place appointed for the delivery of nomination papers in respect of a candidate shall be deemed to be the nomination paper of that candidate.

(7) Where the returning officer thinks—

(a) that showing a candidate's commonly used name on the ballot paper is likely to mislead or confuse electors; or

(b) that the commonly used name is obscene or offensive,

the returning officer may refuse to show the commonly used name on the ballot paper.

(8) Where paragraph (7) applies, the returning officer shall give notice in writing to the candidate of the returning officer's reasons for refusing to allow the commonly used name to be shown on the ballot paper.

Corresponding number list

15.—(1) The returning officer shall prepare a list (“the corresponding number list”) in accordance with paragraph (2).

(2) The corresponding number list shall—

(a) be in two parts, part one containing the numbers and unique identifying marks of all ballot papers issued in pursuance of rule 21(1) and part two containing the numbers (but not the unique identifying marks) of all the ballot papers to be issued in pursuance of rule 25(1); and

(b) be in the form set out in Form 6 or a form to the like effect.

Security marking

16.—(1) Every ballot paper must bear or contain—

(a) a unique identifying mark; and

(b) an official mark.

(2) The official mark shall be kept secret, and an interval of not less than five years shall intervene between the use of the same official mark at elections for the same local authority.

Prohibition of disclosure of vote

17. No person who has voted at the election shall, in any legal proceedings to question the election, be required to state for whom the person voted.

Use of schools and public rooms

18.—(1) The returning officer may use, free of charge, for the purpose of taking the poll or counting the votes—

(a) a room in a school other than an independent school within the meaning of section 135 of the Education (Scotland) Act 1980⁽²⁵⁾; and

(b) a room the expense of maintaining which is payable out of local authority funds,

provided that nothing in this paragraph shall authorise the use of a room used as part of a private dwellinghouse.

(2) The returning officer shall make good any damage done to, and defray any expense incurred by the persons having control over, any such room as mentioned above by reason of its being used for the purpose of taking the poll or counting the votes.

(25) 1980 c.44. Section 135 was amended by section 3 of the School Education (Ministerial Powers and paragraph 3(9) of schedule 2 to the Independent Schools) (Scotland) Act 2004 (asp 12) and the Standards in Scotland's Schools etc. Act 2000 (asp 6).

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Supply of free copy of register, lists and notices

19.—(1) Each electoral registration officer must, on the request of the relevant returning officer, supply free of charge to the returning officer as many printed copies of—

- (a) the latest version of the register of electors published under section 13(1) or (3) of the 1983 Act⁽²⁶⁾, as the case may be;
- (b) any notice setting out an alteration to that version of the register issued under—
 - (i) section 13A(2) of that Act,
 - (ii) section 13B(3), (3B) or (3D) of that Act, or
 - (iii) section 13BB(4) or (5) of that Act; and
- (c) any record of anonymous entries,

as the returning officer may reasonably require for the purposes of the poll.

(2) Each electoral registration officer must, as soon as practicable, supply free of charge to the relevant returning officer as many printed copies of—

- (a) the postal voters list;
- (b) the list of proxies; and
- (c) the proxy postal voters list,

as the returning officer may reasonably require for the purposes of the poll.

(3) If, after supplying copies of the register and notices in accordance with paragraph (1), any further notices of the kind referred to in paragraph (1)(b) are issued by an electoral registration officer, the electoral registration officer must, as soon as reasonably practicable after issuing the notices, supply the relevant returning officer with as many printed copies as the returning officer may reasonably require for the purposes of the poll.

(4) The duty under paragraph (1) to supply as many printed copies of the register and notices as the returning officer may reasonably require includes a duty to supply one copy in data form.

(5) For the purposes of this rule—

“data” means information which is recorded with the intention that it should be processed by means of equipment operating automatically in response to instructions given for that purpose; and

“data form” means data which is in a form which is capable of being processed by means of equipment operating automatically in response to instructions given for that purpose.

Action to be taken before the poll

Notice of poll

20.—(1) Notice of the poll in the form set out in Form 7, or a form to the like effect shall be published by the returning officer and the said notice, which may apply to one or more electoral wards, shall, except where in the circumstances it is not appropriate, be combined with the notice of an uncontested election to be given under rule 12.

(2) Notwithstanding the generality of paragraph (1), the notice of poll shall contain information about the number of councillors to be elected to the ward in question.

(26) Sections 13, 13A and 13B were substituted by the Representation of the People Act 2000 (c.2), Schedule 1, paragraph 6 and are amended by the Electoral Administration Act 2006 (c.22), section 11 and Schedule 1(2) paragraph 32 and by the Political Parties and Elections Act 2009 (c.12), section 23 and Schedule 6, paragraphs 2 and 3. Section 13BB was inserted by the Political Parties and Elections Act 2009, section 23(1). There are other amendments that are not relevant for the purposes of this Order.

(3) The names of the candidates in the notice of poll shall be arranged in the same manner as they are arranged on the ballot paper in accordance with rule 14(2).

(4) The returning officer shall, not later than the time of the publication of the notice of the poll, also give public notice of—

- (a) the situation of each polling station; and
- (b) the description of voters entitled to vote there,

and shall as soon as practicable after giving such a notice give a copy of it to each of the election agents.

Postal ballot papers

21.—(1) The returning officer shall as soon as practicable issue to those entitled to vote by post—

- (a) a ballot paper; and
- (b) a postal voting statement in the form set out in Form 8, or a form to the like effect,

together with envelopes for their return.

(2) The returning officer must also issue to those entitled to vote by post such information as the returning officer thinks appropriate about how to obtain—

- (a) translations into languages other than English of any directions to or guidance for voters sent with the ballot paper;
- (b) a translation into Braille of such directions or guidance;
- (c) graphical representations of such directions or guidance; and
- (d) the directions or guidance in any other form (including any audible form).

Provision of polling stations

22.—(1) The returning officer shall provide a sufficient number of polling stations and, subject to the following provisions of this rule, shall allot the electors to the polling stations.

(2) One or more polling stations may be provided in the same room.

(3) The returning officer shall provide each polling station with such number of compartments as may be necessary in which the voters can mark their votes screened from observation.

Appointment of presiding officers and clerks

23.—(1) The returning officer shall appoint and pay—

- (a) a presiding officer to attend at each polling station; and
- (b) such clerks as may be necessary for the purposes of the election,

but shall not appoint any person who has been employed by or on behalf of a candidate in or about the election.

(2) The returning officer may preside at a polling station and the provisions of these rules relating to a presiding officer shall apply to a returning officer so presiding with the necessary modifications as to things done by the returning officer to the presiding officer or by the presiding officer to the returning officer.

(3) A presiding officer may authorise the clerks appointed to assist such presiding officer to do any act (including the asking of questions) which such presiding officer is required or authorised by these rules to do at a polling station, except order the exclusion or removal of any person from the polling station.

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Issue of official poll cards and notifications

24.—(1) The returning officer shall as soon as practicable after the issue of the notice of poll send to electors and their proxies an official poll card, an official postal poll card, an official poll card issued to the proxy of an elector and an official postal poll card issued to the proxy of an elector, as appropriate.

(2) An official poll card shall not be sent to a person registered, or to be registered, in pursuance of an overseas elector's declaration.

(3) An elector's official poll card or notification shall be sent or delivered to such elector's qualifying address, and a proxy's official poll notification to such proxy's address as shown in the list of proxies.

(4) The official poll card, the official postal poll card, the official poll card issued to the proxy of an elector and the official postal poll card issued to the proxy of an elector shall be in the form set out in Forms 9, 10, 11 and 12 respectively, or a form to the like effect, and shall include—

- (a) the name of the council and of the electoral ward to which councillors are to be elected and the number of councillors to be elected for that electoral ward;
- (b) the elector's name, qualifying address and number in the register; and
- (c) the date and hours of the poll and, in the case of Forms 9 and 11, the situation of the elector's polling station.

(5) In the case of an elector with an anonymous entry, instead of containing the information mentioned in paragraph (4)(b) the polling card shall contain such matter as is specified in Forms 9 to 12.

Equipment of polling stations

25.—(1) The returning officer shall provide each presiding officer with such number of ballot boxes and ballot papers as the returning officer considers necessary.

(2) Every ballot box shall be so constructed that the ballot papers can be put in it, but cannot be withdrawn from it, without the box being opened.

(3) The returning officer shall provide each polling station with—

- (a) materials to enable voters to mark the ballot papers;
- (b) copies of the register of electors for the electoral ward or such part of it as contains the entries relating to the electors allotted to the station;
- (c) the parts of any lists of persons entitled to vote by post or by proxy prepared for the election corresponding to the register of electors for the electoral ward or the part of it provided under sub-paragraph (b);
- (d) copies of forms of declarations and other documents required for the purpose of the poll; and
- (e) part two of the corresponding number list, which contains the numbers (but not the other unique identifying marks) corresponding to those on the ballot papers provided to the presiding officer of the polling station.

(4) A notice in the form set out in Form 13, or a form to the like effect, giving directions for the guidance of voters in voting, shall be printed—

- (a) in conspicuous characters; and
- (b) in a graphical format,

and exhibited inside and outside every polling station and in every compartment of every polling station.

- (5) The returning officer shall also provide each polling station with—
- (a) an enlarged hand-held sample copy of the ballot paper for the assistance of voters who are partially sighted; and
 - (b) a device for enabling voters who are blind or partially-sighted to vote without any need for assistance from the presiding officer or any companion.
- (6) The returning officer shall cause to be displayed at every polling station an enlarged sample copy of the ballot paper clearly marked as a specimen provided only for the guidance of voters and may include a translation of those words into such other languages as is reasonably practicable.
- (7) The sample copy mentioned in paragraph (5)(a) and (6) must be clearly marked as a specimen provided only for the guidance of voters.

Appointment of polling and counting agents

- 26.**—(1) Each candidate may, before the commencement of the poll, appoint—
- (a) polling agents to attend at polling stations for the purpose of detecting personation; and
 - (b) counting agents to attend at the counting of the votes.
- (2) The returning officer may limit the number of counting agents, but the number shall be the same in the case of each candidate.
- (3) Notice in writing of the appointment, stating the names and addresses of the persons appointed, shall be given by the candidate to the returning officer and shall be so given not later than the fifth day before the day of the poll.
- (4) If an agent dies, or becomes incapable of acting, the candidate may appoint another agent in such agent's place, and shall forthwith give to the returning officer notice in writing of the name and address of the agent appointed.
- (5) Any appointment authorised by this rule may be made and the notice of appointment given to the returning officer by the candidate's election agent, instead of by the candidate.
- (6) In the following provisions of these rules, references to polling agents and counting agents shall be taken as references to agents—
- (a) whose appointments have been duly made and notified; and
 - (b) where the number of agents is restricted, who are within the permitted number.
- (7) Any notice required to be given to a counting agent by the returning officer may be delivered at or sent by post to the address stated in the notice of appointment and, where a candidate has no counting agent, any such notice shall be given to the candidate.
- (8) A candidate may do any act or thing which any polling or counting agent of such candidate, if appointed, would have been authorised to do, or may assist such agent in doing any such act or thing.
- (9) A candidate's election agent may do or assist in doing anything which a polling or counting agent of such candidate is authorised to do; and anything required or authorised by these rules to be done in the presence of the polling or counting agents may be done in the presence of a candidate's election agent instead of such candidate's polling agent or counting agents.
- (10) Where by these rules any act or thing is required or authorised to be done in the presence of the polling or counting agents, the non-attendance of any agent or agents 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.

Requirement of secrecy

- 27.**—(1) The following persons attending at a polling station, namely—

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- (a) a returning officer or a member of staff of a returning officer;
- (b) a presiding officer or clerk;
- (c) a candidate;
- (d) an election agent;
- (e) a polling agent;
- (f) a person attending by virtue of sections 6A to 6D of the Political Parties, Elections and Referendums Act 2000⁽²⁷⁾ (representatives of the Electoral Commission and accredited observers),

shall maintain and aid in maintaining the secrecy of voting and shall not, except for some purpose authorised by law, communicate to any person before the poll is closed the information described in paragraph (2).

(2) The information referred to in paragraph (1) is any information as to—

- (a) the name of any elector or proxy for an elector who has or has not applied for a ballot paper or voted at a polling station;
- (b) the number on the register of electors of any elector who, or whose proxy, has or has not applied for a ballot paper or voted at a polling station; or
- (c) the official mark being used in accordance with rule 16(1).

(3) Every person attending at the counting of the votes shall maintain and aid in maintaining the secrecy of voting and shall not—

- (a) ascertain or attempt to ascertain at the counting of the votes the number or other unique identifying mark on the back of any ballot paper;
- (b) communicate any information obtained at the counting of the votes as to the candidate for whom any vote is given on any particular ballot paper.

(4) No person shall—

- (a) interfere with or attempt to interfere with a voter when the voter is recording the voter's vote;
- (b) otherwise obtain or attempt to obtain in a polling station information as to the candidate for whom a voter in that station is about to vote or has voted;
- (c) communicate at any time to any person any information obtained in a polling station as to the candidate or candidates for whom a voter in that station is about to vote or has voted, or as to the number or other unique identifying mark on the back of a ballot paper given to a voter at that station; or
- (d) directly or indirectly induce a voter to display a ballot paper after the voter has marked it so as to make known to any person the name of the candidate or candidates for whom the voter has or has not voted.

(5) Every person attending the proceedings in connection with the issue or the receipt of ballot papers for persons voting by post shall maintain and aid in maintaining the secrecy of voting and shall not—

- (a) except for some purpose authorised by law, communicate, before the poll is closed, to any person any information obtained at those proceedings as to the official mark;
- (b) except for some purpose authorised by law, communicate to any person at any time any information obtained at those proceedings as to the number or other unique identifying mark on the back of any ballot paper sent to any person;

⁽²⁷⁾ 2000 c.41; sections 6A to 6D were inserted by section 29 of the Electoral Administration Act 2006 (c.22) and amended by section 11 of the Local Electoral Administration (Scotland) Act 2011 (asp 10).

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- (c) except for some purpose authorised by law, attempt to ascertain at the proceedings in connection with the receipt of ballot papers the number or other unique identifying mark on the back of any ballot paper; or
 - (d) attempt to ascertain at the proceedings in connection with the receipt of ballot papers the name of the candidate for whom any vote is given in any particular ballot paper or communicate any information with respect thereto obtained at those proceedings.
- (6) No person having undertaken to assist a voter with disabilities to vote shall communicate at any time to any person any information as to the name of the candidate or candidates for whom that voter intends to vote or has voted, or as to the number or other unique identifying mark on the back of a ballot paper given for the use of that voter.
- (7) No person may publish before the close of the poll—
- (a) any statement relating to the way in which voters have voted in the poll where that statement is (or might reasonably be taken to be) based on information given by voters after they have voted; or
 - (b) any forecast or estimate as to the result of the election which is (or might reasonably be taken to be) based on information so given.
- (8) If a person acts in contravention of this rule that person shall be liable on summary conviction to a fine not exceeding the amount specified as level 5 on the standard scale or to imprisonment for a term not exceeding three months.
- (9) In this rule—
- (a) a voter with disabilities is a voter who has made a declaration under rule 35 that the voter is so incapacitated by blindness or other disability or by inability to read, as to be unable to vote without assistance;
 - (b) “publish” means make available to the public at large (or any section of the public), in whatever form and by whatever means; and
 - (c) the reference to the result of the election is a reference to the result of the election either as a whole or so far as any particular candidate or candidates at the election are concerned.
- (10) The returning officer shall make such arrangements as are reasonably practicable to ensure that every person attending a polling station and every person attending at the counting of the votes has been given a copy of these provisions.
- (11) But these arrangements shall not apply to—
- (a) a person attending the polling station for the purpose of voting;
 - (b) a person under the age of 18 years of age accompanying a voter;
 - (c) a person assisting a voter with disabilities to vote; or
 - (d) a constable on duty at a polling station or at the count.

The poll

Admission to polling station

- 28.—**(1) The presiding officer shall exclude all persons from the polling station except—
- (a) voters;
 - (b) persons under the age of 18 who accompany voters to the polling station;
 - (c) the candidates and their election agents;
 - (d) the polling agents appointed to attend at the polling station;
 - (e) the clerks appointed to attend at the polling station;

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- (f) the constables on duty;
- (g) the companions of voters with disabilities;
- (h) the returning officer and the returning officer's staff; and
- (i) persons entitled to attend in accordance with sections 6A to 6D of the Political Parties, Elections and Referendums Act 2000.

(2) The presiding officer shall regulate the total number of voters and persons under the age of 18 who accompany them to be admitted to the polling station at the same time.

(3) Not more than one polling agent shall be admitted at the same time to a polling station on behalf of the same candidate.

(4) A constable or person employed by a returning officer shall not be admitted to vote in person elsewhere than at the polling station allotted under these rules, except on production and surrender of a certificate as to such employment which shall be in the form set out in Form 14, or a form to the like effect, and signed by an officer of police of or above the rank of inspector or by the returning officer, as the case may be.

(5) Any certificate surrendered under this rule shall forthwith be cancelled.

Keeping of order in station

29.—(1) It is the presiding officer's duty to keep order at the polling station.

(2) If a person commits a misconduct in a polling station, or fails to obey the presiding officer's lawful orders, such person may immediately, by the presiding officer's order, be removed from the polling station—

(a) by a constable in or near that station; or

(b) by any other person authorised in writing by the returning officer to remove such person, and the person so removed shall not, without the presiding officer's permission, again enter the polling station during that day.

(3) Any person so removed may, if charged with the commission in the polling station of an offence, be dealt with as a person taken into custody by a constable for an offence without a warrant.

(4) The powers conferred by this rule shall not be exercised so as to prevent a voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

Sealing of ballot boxes

30. Immediately before the commencement of the poll, the presiding officer shall—

(a) show each ballot box proposed to be used for the purposes of the poll empty to such persons, if any, as are present in the polling station, so that they may see that each box is empty;

(b) place the presiding officer's seal on it in such a manner as to prevent it being opened without breaking the seal;

(c) place each box in the presiding officer's view for the receipt of ballot papers; and

(d) keep it so sealed.

Questions to be put to voters

31.—(1) At the time of the application for a ballot paper (but not afterwards), the questions specified in paragraph (3) shall be put by the presiding officer to the applicant if a candidate or a candidate's election or polling agent requires the question to be put.

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(2) At the time of the application for a ballot paper (but not afterwards), the questions specified in paragraphs (3) and (4) may be put by the presiding officer to the applicant.

(3) The questions referred to in paragraphs (1) and (2) are—

Person applying for ballot paper	Questions
1. A person applying as an elector	(a) “Are you the person registered in the register of local government electors for this election as follows?” (read the whole entry from the register).
	(b) “Have you already voted at this election [adding, in the case of an election for more than one electoral ward, in this or any other electoral ward] otherwise than as proxy for some other person?”
2. A person applying as proxy	(a) “Are you the person whose name appears as A.B. in the list of proxies for this election as entitled to vote as proxy on behalf of C.D.?”
	(b) “Have you already voted at this election [adding, in the case of an election for more than one electoral ward, in this or any other electoral ward] as proxy on behalf of C.D.?”
	(c) “Are you the spouse, civil partner, parent, grandparent, brother/sister, child or grandchild of C.D.?”
3. A person applying as proxy for an elector with an anonymous entry (instead of the questions at entry 2 above)	(a) “Are you the person entitled to vote as proxy on behalf of the elector whose number on the register of local government electors is (read out the number from the register)?”
	(b) “Have you already voted here or elsewhere as proxy on behalf of the elector whose number on the register of local government electors is (read out the number from the register)?”
	(c) “Are you the spouse, civil partner, parent, grandparent, brother/sister, child or grandchild of the person whose number on the register of local government electors is (read out the number from the register)?”
4. Person applying as proxy if the question at entry 2(c) or 3(c) is not answered in the affirmative	“Have you already voted at this election [adding, in the case of an election for more than one electoral ward, in this or any other electoral ward] on behalf of two persons of whom you are not the spouse, civil partner, parent, grandparent, brother/sister, child or grandchild?”

(4) The questions referred to in paragraph (2) are—

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<i>Person applying for ballot paper</i>	<i>Questions</i>
1. A person applying as an elector in relation to whom there is an entry in the postal voters list	(a) “Did you apply to vote by post?”
	(b) “Why have you not voted by post?”
2. A person applying as proxy who is named in the proxy postal voters list	(a) “Did you apply to vote by post as proxy?”
	(b) “Why have you not voted by post as proxy?”

(5) In the case of an elector in respect of whom a notice has been issued under section 13B(3B) or (3D) of the 1983 Act, the references in the questions at entries 1(a) and 3(a), (b) and (c) to reading from the register must be taken as references to reading from the notice issued under section 13B(3B) or (3D).

(6) A ballot paper shall not be delivered to any person required to answer the above questions or any of them unless such person has answered the questions or question satisfactorily.

(7) Except as authorised by this rule, no inquiry shall be permitted as to the right of any person to vote.

Challenge of voter

32. A person shall not be prevented from voting by reason only that—

- (a) a candidate or that candidate’s election or polling agent has reasonable cause to believe that the person has committed an offence of personation and makes a declaration to that effect; or
- (b) the person is arrested on the grounds of being suspected of committing or of being about to commit such an offence.

Voting procedure

33.—(1) A ballot paper shall be delivered to a voter who applies for one, and immediately before delivery—

- (a) the number and (unless paragraph (2) applies) name of the elector as stated in the copy of the register of electors shall be called out;
- (b) the number of the elector shall be marked on part two of the corresponding number list mentioned beside the number of the ballot paper to be issued to the elector;
- (c) a mark shall be placed in the copy of the register of electors against the number of the elector to note that a ballot paper has been received but without showing the particular ballot paper which has been received; and
- (d) in the case of a person applying for a ballot paper as proxy, a mark shall also be placed against that person’s name in the list of proxies.

(2) In the case of an elector who has an anonymous entry, the elector’s official poll card must be shown to the presiding officer and only the elector’s number shall be called out in pursuance of paragraph (1)(a).

(3) 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, paragraph (1) is modified as follows—

- (a) in sub-paragraph (a), for “copy of the register of electors” substitute “copy of the notice issued under section 13B(3B) or (3D) of the 1983 Act”;

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(b) in sub-paragraph (c), for “in the copy of the register of electors” substitute “on the copy of the notice issued under section 13B(3B) or (3D) of the 1983 Act”.

(4) The voter, on receiving the ballot paper, shall forthwith proceed into one of the compartments in the polling station and there secretly mark the voter’s ballot paper and put the ballot paper into the ballot box in the presiding officer’s presence.

(5) The voter shall vote without undue delay, and shall leave the polling station as soon as the voter has put the ballot paper into the ballot box.

(6) For the avoidance of doubt, in the event that a voter is held in a queue at the polling station at the close of the poll and has not been able to cast their vote, the presiding officer shall permit them to cast their vote as soon as practicable immediately following the time specified as the close of the poll.

Votes marked by presiding officer

34.—(1) The presiding officer, on the application of a voter—

- (a) who is incapacitated by blindness or other disability from voting in manner directed by these rules; or
- (b) who declares orally an inability to read,

shall, in the presence of the polling agents, cause the voter’s vote to be marked on a ballot paper in the manner directed by the voter, and the ballot paper to be placed in the ballot box.

(2) The name and number in the copy of the register of electors of every voter whose vote is marked in pursuance of this rule, and the reason why it is so marked, shall be entered on a list (in these rules called “the list of votes marked by the presiding officer”) and in the case of a person voting as proxy for an elector, the number to be entered together with the voter’s name shall be the elector’s number.

(3) In the case of a person in respect of whom a notice has been issued under section 13B(3B) or (3D) of the 1983 Act, paragraph (2) applies as if for “in the copy of the register of electors of every voter” there were substituted “relating to every voter in respect of whom a notice has been issued under section 13B(3B) or (3D) of the 1983 Act”.

Voting by persons with disabilities

35.—(1) If a voter makes an application to the presiding officer to be allowed, on the ground of—

- (a) blindness or other disability; or
- (b) inability to read,

to vote with the assistance of another person by whom such voter is accompanied (in these rules referred to as “the companion”), the presiding officer shall require the voter to declare, orally or in writing, whether such voter is so disabled by blindness or other disability, or by inability to read, as to be unable to vote without assistance.

(2) If the presiding officer—

- (a) is satisfied that the voter is so incapacitated; and
- (b) is also satisfied by a written declaration made in accordance with the requirements of paragraph (6) by the companion (in these rules referred to as “the declaration made by the companions of voters with disabilities”) that the companion—
 - (i) is a qualified person within the meaning of this rule, and
 - (ii) has not previously assisted more than one voter with disabilities to vote at the election,

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the presiding officer shall grant the application, and then anything which is by these rules required to be done to or by that voter in connection with the giving of that voter's vote may be done to, or with the assistance of, the companion.

(3) For the purposes of these rules, a person is a voter with disabilities if such person has made such a declaration as is mentioned in paragraph (1), and a person shall be qualified to assist a voter with disabilities to vote if that person—

- (a) is a person who is entitled to vote as an elector at the election; or
- (b) is the father, mother, brother, sister, husband, wife, civil partner, grandparent, child or grandchild of the voter and has attained the age of 18 years.

(4) The name and number in the copy of the register of electors of every voter whose vote is given in accordance with this rule and the name and address of the companion shall be entered on a list (in these rules referred to as “the list of voters with disabilities assisted by companions”) and in the case of a person voting as proxy for an elector, the number to be entered together with the voter's name shall be the elector's number.

(5) In paragraph (4), where the voter being assisted by a companion has an anonymous entry, only the voter's number in the copy of the register of electors shall be entered on the list of voters with disabilities assisted by companions.

(6) In the case of a person in respect of whom a notice has been issued under section 13B(3B) or (3D) of the 1983 Act, paragraph (4) applies as if for “in the copy of the register of electors of every voter” there were substituted “relating to every voter in respect of whom a notice has been issued under section 13B(3B) or (3D) of the 1983 Act”.

(7) The declaration made by the companion under paragraph (2)(b)—

- (a) shall be in the form set out in Form 15; and
- (b) shall be made before the presiding officer at the time when the voter applies to vote with the assistance of a companion and shall forthwith be given to the presiding officer who shall attest and retain it.

(8) No fee or other payment shall be charged in respect of the declaration.

Tendered ballot papers

36.—(1) Paragraph (5) applies if a person represents to be—

- (a) a particular elector named in the register of electors and not named in the postal voters list or list of proxies; or
- (b) a particular person named in the list of proxies as proxy for an elector and not entitled to vote by post as proxy,

and that person applies for a ballot paper after another person has voted in person either as the elector or the elector's proxy.

(2) Paragraph (5) also applies if—

- (a) a person applies for a ballot paper by representing to be a particular elector named in the register of electors;
- (b) the person is also named in the postal voters list; and
- (c) the person claims not to have made an application to vote by post at the election.

(3) Paragraph (5) also applies if—

- (a) a person applies for a ballot paper by representing to be a particular person named as a proxy in the list of proxies;
- (b) the person is also named in the proxy postal voters list; and

(c) the person claims not to have made an application to vote by post as proxy.

(4) Paragraph (5) also applies if, before the close of the poll but after the last time at which a person may apply for a replacement postal ballot paper, a person represents to be—

(a) a particular elector named in the register of electors and who is also named in the postal voters list; or

(b) a particular person named as a proxy in the list of proxies and who is also named in the proxy postal voters list,

and claims to have lost or not to have received that person's postal ballot paper.

(5) The person shall, on satisfactorily answering the questions permitted under rule 31 to be asked at the time of applying for a ballot paper, be entitled, subject to the following provisions of this rule, to mark a ballot paper (in these rules referred to as a "tendered ballot paper") in the same manner as any other voter.

(6) A tendered ballot paper shall—

(a) be a different colour from the other ballot papers;

(b) instead of being put into the ballot box, be given to the presiding officer and endorsed by the presiding officer with the name of the voter and the voter's number in the register of electors, and set aside in a separate packet.

(7) The name of the voter and the voter's number in the register of electors shall be entered on a list (in these Rules referred to as the "tendered votes list").

(8) In the case of a person voting as proxy for an elector, the number to be endorsed or entered together with the voter's name shall be the number of that elector.

(9) This rule applies to an elector who has an anonymous entry subject to the following modifications—

(a) in paragraphs (6)(b) and (7) the references to the name of the voter must be ignored;

(b) otherwise, a reference to a person named in the register of electors or a list must be construed as a reference to a person whose number appears on the register of electors or list (as the case may be).

(10) This rule applies in the case of a person in respect of whom a notice has been issued under section 13(3B) or (3D) of the 1983 Act as if—

(a) in paragraphs (1), (2)(a) and (4)(a) for "named on the register" there were substituted "in respect of whom a notice under section 13B(3B) or (3D) of the 1983 Act has been issued";

(b) in paragraph (7) for "the voter's number in the copy of the register of electors" there were substituted "the number relating to that person on a notice issued under section 13B(3B) or (3D) of the 1983 Act".

Spoilt ballot papers

37. A voter who has inadvertently dealt with a ballot paper in such manner that it cannot be conveniently used as a ballot paper may, on delivering it to the presiding officer and proving to the presiding officer's satisfaction the fact of the inadvertence, obtain another ballot paper in the place of the ballot paper so delivered (in these rules the ballot paper so delivered is referred to as a "spoilt ballot paper"), and the spoilt ballot paper shall be immediately cancelled.

Correction of errors on day of poll

38. The presiding officer shall keep a list of persons to whom ballot papers are delivered in consequence of an alteration to the register made by virtue of section 13B(3B) or (3D) of the 1983 Act (notice of alteration of register) which takes effect on the day of the poll.

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Adjournment of poll in case of riot

39.—(1) Where the proceedings at any polling station are interrupted or obstructed by riot or open violence, the presiding officer shall adjourn the proceedings until the following day and shall forthwith give notice to the returning officer.

(2) Where the poll is adjourned at any polling station—

- (a) the hours of polling on the day to which it is adjourned shall be the same as for the original day; and
- (b) references in these rules to the close of the poll shall be construed accordingly.

Procedure on close of poll

40.—(1) As soon as practicable after every voter has cast their vote in terms of rule 33, the presiding officer shall, in the presence of the polling agents, using the presiding officer's own seal and the seals of such polling agents as desire to affix their seals, seal each ballot box in use at the station so as to prevent the introduction of additional ballot papers and thereafter separate and make up into separate packets, sealed with the presiding officer's own seal and the seals of such polling agents as desire to affix their seals—

- (a) the unused and spoilt ballot papers placed together;
- (b) the tendered ballot papers;
- (c) the marked copies of the register of electors and any notices setting out an alteration to the register of electors referred to in rule 19(b), the marked copies of the postal voters list, the list of proxies and the proxy postal voters list;
- (d) the certificates as to employment on duty on the day of the poll surrendered under rule 28(4);
- (e) part two of the corresponding number list completed in accordance with rule 33(1)(b) (referred to in these rules as “the completed corresponding number list”);
- (f) any postal ballot paper or postal voting statement returned to the station in terms of rule 43(2);
- (g) as a single packet—
 - (i) the list of votes marked by the presiding officer maintained under rule 34(2) together with a statement of the number of voters whose votes are marked under the heads ‘disability’ and ‘unable to read’;
 - (ii) the declarations made by the companions of voters with disabilities under rule 35(2)(b);
 - (iii) the list of voters with disabilities assisted by companions maintained under rule 35(4);
 - (iv) the tendered votes list maintained under rule 36(7); and
 - (v) the list maintained under rule 38,

and shall deliver the sealed ballot boxes or packets or cause them to be delivered to the returning officer to be taken charge of by the returning officer; but if the sealed ballot boxes or packets are not delivered by the presiding officer personally to the returning officer, the arrangements for their delivery shall require the returning officer's approval.

(2) The marked copies of the register of electors and of the list of proxies shall be in one packet but shall not be in the same packet as the lists mentioned in paragraph (1)(e) or the certificates as to employment on duty on the day of the poll.

(3) The packets shall be accompanied by a statement (in these rules referred to as the “ballot paper account”) made by the presiding officer, showing the number of ballot papers entrusted to the presiding officer and accounting of them under the heads of ballot papers issued and not otherwise accounted for, unused, spoiled and tendered ballot papers.

Counting of votes

Attendance at counting of votes

41.—(1) The returning officer shall make arrangements for counting the votes in the presence of the counting agents as soon as practicable after the close of the poll, and shall give to the counting agents notice in writing of the time and place at which the returning officer will begin to count the votes.

(2) No person other than—

- (a) the returning officer and the returning officer’s staff;
- (b) the candidates and one guest each;
- (c) the election agents;
- (d) the counting agents;
- (e) persons performing duties under a contract for services entered into in connection with the conduct of or administration of the election; and
- (f) a person who is entitled to attend by virtue of sections 6A to 6D of the Political Parties Elections and Referendums Act 2000 (representatives of the Electoral Commission and accredited observers),

may be present at the counting of the votes, unless permitted by the returning officer to attend.

(3) A person may only be permitted by the returning officer to attend at the counting of the votes if the returning officer—

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

(4) The returning officer shall give the counting agents all such reasonable facilities for overseeing the proceedings, and all such information with respect to them, as the returning officer can give them consistently with the orderly conduct of the proceedings and the discharge of the returning officer’s duties in connection with them.

Counting of votes

42.—(1) Subject to paragraphs (3) and (4), the returning officer shall provide an electronic counting system and the count shall be conducted by means of such electronic counting system.

(2) For the purposes of enabling the count to be conducted using the electronic counting system the returning officer may carry out any functions or perform any procedure to be undertaken in connection with the count by electronic means and the references to ballot papers and parcels of ballot papers shall include references to such ballot papers or parcels in electronic form.

(3) If it proves impossible or impracticable to conduct the count, or some or all of the operations comprising the count, using the electronic counting system, the returning officer may make arrangements for the count, or such operations, as the case may be, to be conducted by other means.

(4) The returning officer may decide to conduct the count in respect of a by-election manually instead of using an electronic counting system.

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The count

43.—(1) The returning officer shall—

- (a) in the presence of the counting agents open each ballot box and count and record the number of ballot papers in it, checking the number against the ballot paper account;
- (b) if required to do so by a candidate or an election agent, in the presence of the election agents verify each ballot paper account; and
- (c) count such of the postal ballot papers as have been duly returned and record the number counted.

(2) A postal ballot paper shall not be deemed to be duly returned unless it is returned—

- (a) by hand to a polling station in the same local government area; or
- (b) by hand or post to the returning officer,

before the close of the poll and is accompanied by the postal voting statement duly completed.

(3) The returning officer shall not count any tendered ballot paper.

(4) The returning officer, while counting and recording the number of ballot papers and counting the votes, shall take all proper precautions for preventing any person from identifying the voter who cast the vote.

(5) Where under paragraph (1)(b) the returning officer is required to verify each ballot paper account, the returning officer shall do so by comparing it with the number of ballot papers recorded, the unused and spoilt ballot papers in the returning 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) and shall draw up a statement as to the result of the verification, which any election agent may copy.

(6) The returning officer shall so far as practicable proceed continuously with counting the votes, allowing only time for refreshment, except that the returning officer may, insofar as the returning officer and the agents agree, exclude any hours between 7 p.m. and 9 a.m. on the following morning and for the purposes of this exception the agreement of a candidate or such candidate's election agent shall be as effective as the agreement of such candidate's counting agents.

(7) During the time so excluded the returning officer shall—

- (a) place the ballot papers and other documents relating to the election under the returning officer's own seal and the seals of such of the counting agents as desire to affix their seals; and
- (b) otherwise take proper precautions for the security of the papers and documents.

Rejected ballot papers

44.—(1) Any ballot paper—

- (a) which does not bear a unique identifying mark in a form that is capable of being read by electronic means;
- (b) on which a number standing alone is not placed so as to indicate a first preference for some candidate;
- (c) on which the figure "1" standing alone indicating a first preference is set opposite the name of more than one candidate;
- (d) on which anything is written or marked by which the voter can be identified except the printed number and other unique identifying mark on the back; or
- (e) which is unmarked or void for uncertainty,

shall, subject to paragraph (2), be void and not counted.

- (2) A ballot paper on which the vote is marked—
 - (a) elsewhere than in the proper place;
 - (b) otherwise than by means of a figure indicating a first or subsequent preference; or
 - (c) by more than one mark,

shall not for such reason be deemed to be void by reason only of indicating a preference by the use of words (or any other mark) instead of figures, if in the opinion of the returning officer the word or mark clearly indicates a preference or preferences, and the way the paper is marked does not itself identify the voter and it is not shown that such voter can be identified by it.

(3) The returning officer shall mark as rejected any ballot paper which under this rule is not to be counted, and shall add to that mark that the rejection is objected to if any counting agent objects to the rejection.

(4) The returning officer shall draw up a statement showing the number of ballot papers rejected under each of sub-paragraphs (a) to (e) of paragraph (1).

Decisions on ballot papers

45. The decision of the returning officer, whether express or implied, on any question arising in respect of a ballot paper, the exclusion of a candidate or the transfer of votes shall be final, but shall be subject to review on an election petition.

First stage

46.—(1) The returning officer shall sort the valid ballot papers into parcels according to the candidates for whom first preference votes are given.

- (2) The returning officer shall then—
 - (a) count the number of ballot papers in each parcel;
 - (b) credit the candidate receiving the first preference vote with one vote for each ballot paper; and
 - (c) record those numbers.
- (3) The returning officer shall also ascertain and record the total number of valid ballot papers.

The quota

47.—(1) The returning officer shall divide the total number of valid ballot papers for the electoral ward by a number exceeding by one the number of councillors to be elected at the election for that electoral ward.

(2) The result of the division under paragraph (1) (ignoring any decimal places), increased by one, is the number of votes sufficient to secure the return of a candidate as a councillor (in these rules referred to as the “quota”).

Return of councillors

48.—(1) Where, at any stage of the count, the number of votes for a candidate equals or exceeds the quota, the candidate is deemed to be elected.

(2) A candidate is returned as a councillor when declared to be elected in accordance with rule 56(a).

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Transfer of surplus votes

49.—(1) Where, at the end of any stage of the count, the number of votes credited to any candidate exceeds the quota and, subject to rules 50 and 53, one or more vacancies remain to be filled, the returning officer shall sort the ballot papers received by that candidate into further parcels so that they are grouped—

- (a) according to the next available preference given on those papers; and
- (b) where no such preference is given, as a parcel of non-transferable papers.

(2) The returning officer shall, in accordance with this rule and rule 50, transfer each parcel of ballot papers referred to in paragraph (1)(a) to the continuing candidate for whom the next available preference is given on those papers and shall credit such continuing candidates with an additional number of votes calculated in accordance with paragraph (3).

(3) The vote on each ballot paper transferred under paragraph (2) shall have a value (“the transfer value”) calculated as follows—

A divided by B

Where

A = the value which is calculated by multiplying the surplus of the transferring candidate by the value of the ballot paper when received by that candidate; and

B = the total number of votes credited to that candidate,

the calculation being made to five decimal places (any remainder being ignored).

(4) For the purposes of paragraph (3)—

- (a) “transferring candidate” means the candidate from whom the ballot paper is being transferred; and
- (b) “the value of the ballot paper” means—
 - (i) for a ballot paper on which a first preference vote is given for the transferring candidate, one; and
 - (ii) in all other cases, the transfer value of the ballot paper when received by the transferring candidate.

Transfer of surplus votes – supplementary provisions

50.—(1) If, at the end of any stage of the count, the number of votes credited to two or more candidates exceeds the quota the returning officer shall—

- (a) first sort the ballot papers of the candidate with the highest surplus; and
- (b) then transfer the transferable papers of that candidate.

(2) If the surpluses determined in respect of two or more candidates are equal, the transferable papers of the candidate who had the highest number of votes at the end of the most recent preceding stage at which they had unequal numbers of votes shall be transferred first.

(3) If the numbers of votes credited to two or more candidates were equal at all stages of the count, the returning officer shall decide, by lot, which candidate’s transferable papers are to be transferred first.

Exclusion of candidates

51.—(1) If, one or more vacancies remain to be filled and—

- (a) the returning officer has transferred all ballot papers which are required by rule 49 or this rule to be transferred; or

(b) there are no ballot papers to be transferred under rule 49 or this rule, the returning officer shall exclude from the election at that stage the candidate with the then lowest number of votes.

(2) The returning officer shall sort the ballot papers for the candidate excluded under paragraph (1) into parcels so that they are grouped—

(a) according to the next available preference given on those papers; and

(b) where no such preference is given, as a parcel of non-transferable papers.

(3) The returning officer shall, in accordance with this rule, transfer each parcel of ballot papers referred to in paragraph (2)(a) to the continuing candidate for whom the next available preference is given on those papers and shall credit such continuing candidates with an additional number of votes calculated in accordance with paragraph (4).

(4) The vote on each ballot paper transferred under paragraph (3) shall have a transfer value of one unless the vote was transferred to the excluded candidate in which case it shall have the same transfer value as when transferred to the candidate excluded under paragraph (1).

(5) This rule is subject to rule 53.

Exclusion of candidates – supplementary provisions

52.—(1) If, when a candidate has to be excluded under rule 51—

(a) two or more candidates each have the same number of votes; and

(b) no other candidate has fewer votes,

paragraph (2) applies.

(2) Where this paragraph applies—

(a) regard shall be had to the total number of votes credited to those candidates at the end of the most recently preceding stage of the count at which they had an unequal number of votes and the candidate with the lowest number of votes at that stage shall be excluded; and

(b) where the number of votes credited to those candidates was equal at all stages, the returning officer shall decide, by lot, which of those candidates is to be excluded.

Filling of last vacancies

53.—(1) Where the number of continuing candidates is equal to the number of vacancies remaining unfilled, the continuing candidates are deemed to be elected.

(2) Where the last vacancies can be filled under this rule, no further transfer shall be made.

Re-count

54.—(1) A candidate or such candidate's election agent may, if present when the counting or re-counting of the votes is completed, require the returning officer to have the votes re-counted or again re-counted but the returning officer may refuse to do so if in the returning officer's opinion the request is unreasonable.

(2) No step shall be taken on the completion of the counting or any re-counting of votes until the candidates and election agents present at its completion have been given a reasonable opportunity to exercise the right conferred by this rule.

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Counting of votes by means other than electronic counting

55. Where in accordance with rule 42(3) or (4) the returning officer makes arrangements for the count to be conducted other than by means of an electronic counting system these rules shall apply with the following modifications—

- (a) in rule 43—
 - (i) after paragraph (1) insert—

“(1A) The returning officer shall not count the votes given on any ballot papers until the ballot papers from a ballot box have been mixed with at least one other ballot box.”;
 - (ii) for paragraph (4) substitute—

“(4) The returning officer, while counting and recording the number of ballot papers and confirming the votes, shall keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers or other unique identifying marks printed on the back of the papers.”;
- (b) in rule 44 for paragraph (1)(a) substitute, “(a) which does not bear or contain an official mark.”;
- (c) in rule 53 after paragraph (1) insert—

“(1A) Where only one vacancy remains unfilled and the number of votes then credited to any one continuing candidate (“the highest continuing candidate”) is equal to or greater than the total number of votes then credited to all the other continuing candidates, the highest continuing candidate is deemed to be elected.”; and
- (d) in rule 57—
 - (i) for paragraph (1) substitute—

“(1) On the completion of the counting at a contested election, the returning officer shall seal up in separate packets the counted and rejected ballot papers.”; and
 - (ii) omit paragraphs (3) and (4).

Declaration of result

56. In a contested election, when the result of the poll has been ascertained, the returning officer shall—

- (a) declare to be elected the candidates who have been deemed to be elected as councillors under this Part;
- (b) give notice of the names of the candidates elected to the proper officer of the council for which the election was held; and
- (c) give public notice of—
 - (i) the name of the candidates elected;
 - (ii) the number of first and subsequent preferences for each candidate;
 - (iii) the numbers of ballot papers transferred and their transfer values at each stage of the count;
 - (iv) the number of votes credited to each candidate at each stage of the count;
 - (v) the number of non-transferable ballot papers and the number of non-transferable votes at each stage of the count; and
 - (vi) the number of rejected ballot papers under each head shown in the statement of rejected ballot papers.

PART IV

DISPOSAL OF DOCUMENTS

Sealing up of ballot papers

57.—(1) On the completion of the counting at a contested election the returning officer shall seal up in packets the ballot papers and a complete electronic copy of the information stored in the electronic counting system held in a device suitable for the purposes of its storage.

(2) The returning officer shall not open the sealed packets of—

- (a) tendered ballot papers;
- (b) the completed corresponding number lists;
- (c) certificates as to employment on duty on the day of the poll; or
- (d) marked copies of the register of electors and any notices setting out an alteration to the register of electors referred to in rule 19(b), marked copies of the postal voters list, the list of proxies and the proxy postal voters list.

(3) As soon as reasonably practicable after the electronic copy mentioned in paragraph (1) has been stored in accordance with that paragraph, the returning officer shall obtain a copy of such information as may be required to comply with the requirements of rule 61 (publication of voting information) and shall then procure that all original electronic data or records relating to the election are removed from the electronic counting system and that it (and any copy of that data or records other than a copy made pursuant to paragraph (1) or to comply with the requirements of rule 61) are destroyed in a manner which ensures that the confidentiality of the data or records is preserved.

(4) Any information retained to comply with the requirements of rule 61 may be used only for that purpose and the returning officer must, in keeping and using it, take all reasonable steps to maintain the secrecy of voting.

Delivery of documents

58. The returning officer shall then forward to the proper officer of the council for which the election was held the following documents:—

- (a) the packets of ballot papers in the returning officer's possession;
- (b) the ballot paper accounts and the statements of rejected ballot papers and of the result of any verification of the ballot paper accounts;
- (c) the tendered votes list, the lists of voters with disabilities assisted by companions, the lists of votes marked by the presiding officer, the lists maintained under rule 38, and the declarations made by the companions of voters with disabilities;
- (d) the packets of the completed corresponding number lists;
- (e) the packets of certificates as to employment on duty on the day of the poll;
- (f) the packets containing marked copies of registers (including any notices setting out an alteration to the register of electors referred to in rule 19(1), the marked copies of the postal voters list, the list of proxies and the proxy postal voters list); and
- (g) the electronic copy of information made pursuant to rule 57(1),

endorsing on each packet a description of its contents, the date of the election to which they relate and the name of the electoral ward for which the election was held.

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Orders for production of documents

59.—(1) An order—

- (a) for the inspection or production of any rejected ballot papers in the custody of the proper officer of the council;
- (b) for the opening of a sealed packet of the completed corresponding number lists or of certificates as to employment on duty on the day of the poll or the inspection of any counted ballot papers in such officer's custody; or
- (c) for the inspection or production of information held on an electronic copy of information made pursuant to rule 57(1),

may be made by the sheriff principal having jurisdiction in the local government area and, where more than one sheriff principal has jurisdiction in the said area, by any such sheriff principal, on being satisfied by evidence on oath that the order is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of an election petition.

(2) An order for the opening of a sealed packet of the completed corresponding number lists or of certificates or for the inspection of any counted ballot papers or information held on an electronic copy of information made pursuant to rule 57(1) in the custody of the proper officer of the council may be made by an election court.

(3) An order under this rule may be made subject to such conditions as to—

- (a) persons;
- (b) time;
- (c) place and mode of inspection; and
- (d) production or opening,

as the sheriff principal or election court making the order may think expedient; but in making and carrying into effect an order for the opening of a packet of the completed corresponding number lists or of certificates or for the inspection of counted ballot papers or information held on an electronic copy of information made pursuant to rule 57(1), care shall be taken that the way in which the vote of any particular elector has been given shall not be disclosed until it has been proved—

- (i) that such vote was given; and
- (ii) that such vote has been declared by a competent court to be invalid.

(4) An appeal lies to the Court of Session from any order of a sheriff principal under this rule.

(5) Any power given under this rule to a sheriff principal may be exercised otherwise than in open court.

(6) Where an order is made for the production by the proper officer of the council of any document in such officer's possession relating to any specified election—

- (a) the production by such officer or the officer's agent of the document ordered in such manner as may be directed by that order shall be conclusive evidence that the document relates to the specified election; and
- (b) any endorsement on any packet of ballot papers so produced shall be *prima facie* evidence that the ballot papers are what they are stated to be by the endorsement.

(7) The production from proper custody of—

- (a) a ballot paper purporting to have been used at any election; and
- (b) a completed corresponding number list with a number marked in writing beside the number of the ballot paper,

shall be *prima facie* evidence that the elector whose vote was given by that ballot paper was the person whose entry in the register of electors or on a notice issued under section 13B(3B) or (3D)

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of the 1983 Act (notice of alteration in the register) at the time of the election contained the same number as the number written as mentioned in sub-paragraph (b).

- (8) Except as provided by this rule, no person shall be allowed to—
- (a) inspect any rejected or counted ballot papers in the possession of the proper officer of the council or any information held on an electronic copy made pursuant to rule 57(1); or
 - (b) open any sealed packet of the completed corresponding number list or of certificates.

Retention of documents

- 60.** The proper officer of the council shall retain amongst the records of the council for one year—
- (a) all documents; and
 - (b) all electronic copies of information made under rule 57(1)

relating to an election forwarded to such officer in pursuance of these rules by a returning officer, and at the expiry of that period shall, unless otherwise directed by an order of a sheriff principal or an election court, cause them to be destroyed.

PART V

PUBLICATION OF VOTING INFORMATION

61.—(1) In a contested election where the count is conducted by means of an electronic counting system, the returning officer must (except as provided for by paragraph (6)) give public notice of the information specified in paragraphs (2) and (4) (“the information”), within one week following the declaration of the result of the poll.

- (2) The information is, for each polling station (except as provided for by paragraph (3))—
- (a) the number of first and subsequent preferences for each candidate;
 - (b) the numbers of ballot papers transferred and their transfer values at each stage of the count;
 - (c) the number of votes credited to each candidate at each stage of the count;
 - (d) the number of non-transferable ballot papers at each stage of the count; and
 - (e) the number of rejected ballot papers under each head shown in the statement of rejected ballot papers.

(3) Where in total less than 200 votes were cast at a polling station the returning officer is to give public notice of the information for that polling station aggregated with (and indistinguishable from) that information from one or more other polling stations in the same ward, being such polling stations as the returning officer sees fit, such that as aggregated the information will include in total no less than 200 votes.

(4) The information is, for postal ballot papers (except as provided for by paragraph (5)) the information specified in paragraph 2(a) to (e).

(5) Where in total less than 200 postal votes were cast in a ward, the information to be published in respect of those postal ballot papers is only the number of postal votes cast.

(6) Where in total less than 200 votes were cast at polling stations in a ward, no public notice of the information is to be given.

(7) Once public notice of the information and the postal ballot information has been given, the returning officer must as soon as reasonably practicable procure the destruction of any electronic data or other records retained under rule 57(3) pursuant to this rule, in a manner which ensures that their confidentiality is preserved.

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PART VI

DEATH OF CANDIDATE

Independent candidate

62.—(1) This rule applies if at a contested election proof is given to the returning officer's satisfaction before the result of the election is declared that one of the persons named or to be named as an independent candidate in the ballot papers for a particular electoral ward has died.

(2) Subject to this rule and rules 63 and 64, these rules apply to the election as if the candidate had not died.

(3) The following provisions of these rules do not apply in relation to the deceased candidate—

- (a) rule 28(1)(c) and (d) (admission to polling station); and
- (b) rule 41(2)(b) to (d) (attendance at count).

(4) If there are an equal number of remaining candidates and vacancies the returning officer must—

- (a) if polling has not begun, countermand the notice of poll;
- (b) if polling has begun, direct that the poll is abandoned;
- (c) subject to rule 66, treat the election as an uncontested election.

(5) For the purposes of this rule a person is named or to be named on the ballot papers as an independent candidate if the description on the candidate's nomination paper is the word "Independent" or the candidate has no description on that nomination paper.

Deceased independent candidate wins

63.—(1) This rule applies if at an election mentioned in rule 62(1) the deceased candidate obtains sufficient votes to be elected.

(2) Rule 56 (declaration of result) does not apply but the returning officer must—

- (a) declare that the deceased candidate has obtained sufficient votes to be elected;
- (b) declare that no member is returned; and
- (c) give public notice of 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.

(3) The proceedings with reference to the election must be commenced afresh subject to the following provisions of this rule.

(4) The new notice of election must be published on the first working day after the end of the period of seven days starting on the day of the election mentioned in rule 62(1).

(5) No fresh nomination is necessary in the case of a person shown in the notice of poll previously published pursuant to rule 20, and no other nomination may be made.

(6) The last day on which a notice of withdrawal of candidature by a person who stands nominated by virtue of paragraph (5) may be delivered is the seventh working day after the day on which the new notice of election is published.

(7) Subject to paragraph (8), the poll must be held on a day in the period "the first period" which starts 21 working days after the day on which the new notice of election is published and ends 28 working days after that day.

(8) If any of the days within the first period is a day in the period which starts with 22nd December and ends with 3rd January following, the day of the poll may be held in the period which starts 25

working days after the day on which the new notice is published and ends 32 working days after that day.

(9) For the purposes of this rule a working day is a day which is not a day specified in rule 2(1)(a) to (d).

Deceased independent candidate with equality of votes

64. In an election mentioned in rule 62(1), if at any stage of the count the number of votes credited to a deceased candidate is equal with the number of votes credited to another candidate, the number of votes credited to the deceased candidate must be regarded for the purposes of that stage as being the lower number.

Party candidate

65.—(1) This rule applies if—

- (a) at a contested election proof is given to the returning officer's satisfaction before the result of the election is declared that one of the persons named or to be named as a candidate in the ballot paper has died; and
- (b) that person is standing in the name of a registered political party.

(2) The returning officer must—

- (a) countermand notice of the poll; or
- (b) if polling has begun, direct that the poll be abandoned.

(3) The proceedings with reference to the election must be commenced afresh subject to the following provisions of this rule.

(4) The new notice of election must be published on the first working day after the end of the period of seven days starting on the day the proof is given to the returning officer.

(5) No fresh nomination is necessary in the case of a person shown in the notice of poll previously published pursuant to rule 20.

(6) No other nomination may be made except for a person standing in the name of the same registered political party in whose name the deceased candidate was standing.

(7) The last day on which a nomination mentioned in paragraph (6) may be delivered is the seventh working day after the day on which the notice is published.

(8) The last day on which a notice of withdrawal of candidature by a person who stands nominated by virtue of paragraph (5) or in pursuance of paragraph (6) may be delivered is the seventh working day after the day on which the notice is published.

(9) Subject to paragraph (10), the poll must be held on a day in the period ("the first period") which starts 21 working days after the day on which the notice is published and ends 28 working days after that day.

(10) If any of the days within the first period is a day in the period which starts with 22nd December and ends with 3rd January following, the day of the poll may be held in the period which starts 25 working days after the day on which the new notice is published and ends 32 working days after that day.

(11) For the purposes of this rule—

- (a) a person stands in the name of a registered political party if that person's nomination paper contains a description which is authorised as mentioned in rule 4(5) or (7).
- (b) a working day is a day which is not a day specified in rule 2(1)(a) to (d).

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Abandoned poll

66.—(1) This rule applies to a poll which is abandoned in pursuance of rule 62(4)(b) or rule 65(2)(b).

(2) The presiding officer at a polling station must take the like steps (so far as not already taken) for the delivery to the returning officer of ballot boxes and of ballot papers and other documents as the presiding officer is required to take on the close of the poll.

(3) The returning officer must dispose of ballot papers and other documents in that officer's possession as would be required on the completion of the counting of the votes.

(4) It is not necessary for a ballot paper account to be prepared or verified.

(5) No step or further step is to be taken for the counting of the ballot papers or of the votes.

(6) The returning officer must seal up all the ballot papers (whether the votes on them have been counted or not) and it is not necessary to seal up counted and rejected ballot papers in separate packets.

(7) The provisions of these rules as to the inspection, production, retention and destruction of ballot papers and other documents relating to a poll at an election apply subject to paragraphs (8) and (9).

(8) Ballot papers on which the votes were neither counted nor rejected must be treated as counted ballot papers.

(9) No order is to be made for—

(a) the production or inspection of any ballot papers; or

(b) the opening of a sealed packet of the completed corresponding number lists or of certificates as to employment on the day of the poll,

unless the order is made by a court with reference to a prosecution.

PART VII

FORMS FOR USE AT SCOTTISH LOCAL GOVERNMENT ELECTIONS

The forms contained in this Part may be adapted so far as circumstances require and, in particular, may relate to one or more electoral wards.

Rule 14(2)
FORM 4







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BALLOT PAPER
Front of ballot paper

(NAME OF COUNCIL) - (NAME OF WARD)

(Number to be elected) of the candidates listed below will be elected.
You can make as many or as few choices as you wish.

Put the number **1** in the voting box next to your **first** choice.
Put the number **2** in the voting box next to your **second** choice.
Put the number **3** in the voting box next to your **third** choice. **And so on.**

ANDERSON Hans 57 Easter Road, Anytown Rowan Party		<input type="checkbox"/>
CRANSTON Helen 912 Main Street, Anytown Beech Party		<input type="checkbox"/>
FLEMING Douglas Martin 112 South Street, Anytown Independent		<input type="checkbox"/>
HAMILTON Flora 45 Hill Place, Anytown Willow party		<input type="checkbox"/>
KUMAR Kuldip 3 Castle Wynd, Anytown Elm Party		<input type="checkbox"/>
MACDONALD Donald Alexander 4 Elgin Ave, Anytown Oak Party		<input type="checkbox"/>
MACKENZIE Robert William Sutherland 192 Blackhall Road, Anytown Independent		<input type="checkbox"/>
MASTERS Susan Caroline 93 Holyrood Road, Anytown Sycamore Party		<input type="checkbox"/>

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(back of form)

1. On the ballot paper, number the candidates in order of your choice. You can make as many choices as you wish. Put the number 1 in the box next to the name of the candidate who is your first choice, then put 2 in the box next to the name of the candidate who is your second choice, 3 in the box next to your third choice, and so on. If you need help from someone to complete the ballot paper, they must not tell anyone who you have voted for.

2. Do not put any other marks on the ballot paper. If you do, your vote might not be counted.

3. You must provide [****your signature and**] date of birth on the postal voting statement. If you do not, it will be invalid and your vote will not be counted.

4. Put the ballot paper in the envelope marked A and seal it. Then put this envelope together with the postal voting statement in the larger envelope marked B and seal it. Post the envelope back quickly. The ballot paper must be received by the returning officer not later than the close of poll. It may be posted to the returning officer before polling day or delivered by hand to any polling station in the local authority area on polling day before the poll closes.

5. If you get more than one ballot paper, by accident, then just use one. Remember that it is an offence to vote more than once in the same election (unless you are voting for someone else - by proxy).

6. Remember, if you have received a postal vote you cannot vote in person at the polling station even if you have a poll card. If you are voting, you must use the ballot paper sent to you. Your postal vote can be handed into any polling station in the local authority area on polling day before the poll closes.

7. If you make a mistake on the ballot paper you can ask the returning officer for another one up until 5 p.m. on the day before polling day. You will need to return everything you have received (ballot paper, postal voting statement and the envelopes). You should do this straightaway as there is not much time for a new ballot paper to be sent to you, returned and counted.

8. If you lose the ballot paper, postal voting statement or accompanying envelopes you may apply to the returning officer for a replacement ballot paper. The application may be made from the fourth day before the poll up until 5 p.m. on the day before polling day. You will be required to provide evidence of your identity.

9. If you want to apply for a replacement ballot paper after 5 p.m. on the day before polling day and up to 5 pm on polling day, you must do so in person at the address shown below. You will be required to provide evidence of identity.

REMINDER

1. Have you remembered to [****sign your name and**] provide your date of birth on the postal voting statement?

2. Have you put your ballot paper in the envelope A and sealed it?

3. Have you put envelope A together with the postal voting statement into envelope B and sealed it?

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4. You must make sure that you send your postal vote to the returning officer or deliver it to the polling station before the close of poll at 10 p.m. on (*insert date*).

If two or more postal vote envelopes have been delivered to your address – please make sure that the correct documents are in the correct return envelope.

***Returning officer to omit where a person has been granted a waiver*

Back of card

LOCAL GOVERNMENT ELECTION

***This card is for information only. You can vote without it, but it will save time if you take it to the polling station and show it to the clerk there.**

* When you go to the polling station, tell the clerk your name and address, as shown on the front of the card. The clerk will give you a ballot paper.

Go to one of the compartments. Number the candidates in the order of your choice. You can make as many choices as you wish. Put the number 1 in the box next to the name of the candidate who is your first choice, 2 in the box next to your second choice, 3 in the box next to your third choice, and so on.

Put no other mark on the ballot paper, or your vote may not be counted.

Do not let anyone see your vote. Put the ballot paper in the ballot box and leave the polling station.

If by mistake you spoil a ballot paper, show it to the presiding officer and ask for another one.

If you have appointed a proxy to vote in person for you, you may nevertheless vote at this election if you do so before your proxy has voted on your behalf.

If you have been given a postal vote, you will *not* be entitled to vote in person at this election, so please ignore this poll card.

If you need further help, please ring (insert telephone number).

ISSUED BY THE RETURNING OFFICER

*Where a poll card is sent to an anonymous elector, substitute the following for the paragraphs marked with * above*

You must have this card with you when you vote. You cannot vote without it.

When you go to the polling station, ask to speak to the presiding officer and show this card to the officer.

The presiding officer will confirm your entry on the register.

Back of card

LOCAL GOVERNMENT ELECTION

This card is to give you information about voting by post. If you have appointed a proxy to vote by post for you, you will not receive postal voting papers.

When you receive your postal voting pack, please read the “Instructions to the Voter” before completing your postal ballot paper.

Mark your vote secretly. If you cannot vote without help, the person assisting you must not disclose how you have voted.

You must sign the postal voting statement (unless you have been granted a waiver by the returning officer) and provide your date of birth. This is a security measure, it will not affect your vote or

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mean that it can be identified. Without this, the statement will not be valid and your vote will not be counted.

If you lose or accidentally spoil your postal ballot papers, please call (helpline number) as soon as possible. Replacement ballot papers cannot be issued after 5 p.m. on *(insert day and date of poll)*.

Complete and return your postal vote as soon as possible. If you have not posted your vote before *(insert day and date of poll)*, you can deliver your vote to any polling station in your local authority area.

It is an offence to vote using a ballot paper that is not addressed to you.

You cannot vote in person at a polling station at these elections unless you cancel your postal vote before 5 p.m. on *(insert date eleven working days before the date of poll)*.

If you need further help, please call [helpline number].

***It is an offence to vote using a ballot paper that was not addressed to you
ISSUED BY THE RETURNING OFFICER***

SCHEDULE 2

Article 3(2)

MODIFICATIONS TO THE LOCAL GOVERNMENT ELECTIONS RULES IN SCHEDULE 1 TO APPLY WHERE THE POLL AT A LOCAL GOVERNMENT ELECTION IS TAKEN TOGETHER WITH THE POLL AT ANOTHER ELECTION UNDER SECTION 15(1) OR (2) OF THE REPRESENTATION OF THE PEOPLE ACT 1985(28)

1. At the end of rule 14(2) (the ballot papers) insert—
 - “(f) the ballot paper shall be of a different colour from that of any ballot papers used at an election the poll at which is taken together with the poll at the local government election”.
2. At the end of rule 20 (notice of poll) insert—
 - “(5) The notice published under paragraph (4) shall—
 - (a) state that the poll at the local election is to be taken together with the poll at a parliamentary or a European Parliamentary election;
 - (b) specify the parliamentary or European Parliamentary constituency; and
 - (c) where the polls are to be taken together in part of the local government area only, specify that part.”.
3. After rule 22(2) insert—
 - “(2A) The polling station allotted to electors from any parliamentary polling district wholly or partly within the electoral ward shall, in the absence of special circumstances, be

in the parliamentary polling place for that district, unless that place is outside the electoral ward.”.

4. At the end of rule 24 (issue of official poll cards and notifications) insert—

“(6) An official poll card or notification issued under this rule may be combined with the official poll card or notification issued at a parliamentary election or European Parliamentary election.”.

5. After rule 25(1) (equipment of polling stations) insert—

“(1A) The same ballot box may be used for the poll at the local government election and the poll at the parliamentary election or European Parliamentary election.”.

6. For rule 25(4) (equipment of polling stations) substitute—

“(4) The following notice shall be printed in conspicuous characters and a graphical format and be exhibited inside and outside every polling station and in every compartment of every polling station—

*PARLIAMENTARY ELECTION

([Specify colour] ballot paper)

Vote for one candidate only.

[Specify name of council.] COUNCIL ELECTION

([Specify colour] ballot paper)

Instead of using a cross, number the candidates in the order of your choice. Put the number 1 in the box next to the name of the candidate who is your first choice, 2 in the box next to your second choice, 3 in the box next to your third choice and so on.

*EUROPEAN PARLIAMENTARY ELECTION

([Specify colour] ballot paper)

Vote for one party or candidate only.

PUT NO OTHER MARK ON THE BALLOT PAPERS, OR YOUR VOTE MAY NOT COUNT.

*Delete as necessary.”.

7. After rule 26(3) (appointment of polling and counting agents) insert—

“(3A) Notices of the appointment of polling agents which are required by paragraph (3) above and paragraphs (4) and (5) to be given to the returning officer shall be given to that returning officer who discharges the functions specified in regulation 96 of the Representation of the People (Scotland) Regulations 1986(29).”.

8. In questions 1(a) and (b) and question 4 of rule 31(3) (questions to be put to voters) after “this election” insert “for this local government area”.

9. At the end of rule 33 (voting procedure) insert—

“(7) The same copy of the register of electors or the notice issued under section 13B(3B) or (3D) of the 1983 Act may be used under paragraph (1) for each election and one mark may be placed in that register under paragraph (1)(c) or in the list of proxies under paragraph (1) (d) to denote that a ballot paper has been issued in respect of each election, except that, where a ballot paper has been issued in respect of one election only, a different mark shall be placed in the register or, as the case may be, list so as to identify the election in respect of which ballot paper was issued.”.

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10. After rule 34(3) (votes marked by presiding officer) insert—

“(4) The list referred to in paragraph (2) may be used for each election and, where it is so used, an entry in that list shall be taken to mean that the ballot papers were so marked in respect of each election, unless the list identifies the election at which the ballot paper was so marked.”.
11. After rule 35(6) (voting by persons with disabilities) insert—

“(6A) The same list may be used for each election and, where it is so used, an entry in that list shall be taken to mean that the votes were so given in respect of each election, unless the list identifies the election at which the vote was so given.”.
12. At the end of rule 36(7) (tendered ballot papers) insert—

“and the same list may be used for each election and, where it is so used, an entry in that list shall be taken to mean that tendered ballot papers were marked in respect of each election, unless the list identifies the election at which a tendered ballot paper was marked.”.
13. At the end of rule 39(1) (adjournment of poll in case of riot) insert—

“who discharges the functions specified in regulation 96 of the Representation of the People (Scotland) Regulations 1986.”.
14. After rule 40(1) (procedure on close of poll) insert—

“(1A) The contents of the packets referred to in sub-paragraphs (b), (c) and (e) of paragraph (1) shall not be combined with the contents of the packets made under the corresponding rule that applies at a parliamentary election or European Parliamentary election; nor shall the statement prepared under paragraph (3) be so combined.

(1B) References to the returning officer in paragraph (1) are references to the returning officer who discharges the functions specified in regulation 96 of the Representation of the People (Scotland) Regulations 1986.”.
15. For rule 41(1) (attendance at counting of votes) substitute—

“(1) Where the returning officer at the local government election discharges the functions specified in regulation 96 of the Representation of the People (Scotland) Regulations 1986, such returning officer shall make arrangements for discharging the functions under rule 43(1) (as substituted by Schedule 2 to this Order) in the presence of the counting agents appointed for the purposes of the local government election as soon as practicable after the close of the poll and for thereafter counting the votes at that election in the presence of those agents; and shall give to those counting agents notice in writing of the time and place at which such returning officer will begin to discharge the functions under rule 43(1) (as so substituted).

(1A) Where the returning officer at the local government election does not discharge the functions specified in regulation 96 of the Representation of the People (Scotland) Regulations 1986, such returning officer shall make arrangements for counting the votes in the presence of the counting agents as soon as practicable after the delivery of the ballot papers to such returning officer by the returning officer who does discharge those functions, and shall give to the counting agents notice in writing of the time after which such returning officer will begin to count the votes if by then such returning officer has received the ballot papers, and of the place at which that count will take place.”.
16. In rule 41(2) before “at the counting of the votes” there shall be inserted “at the proceedings under rule 43(1) (as so substituted) or”.

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17. In rule 41(3) before the words “counting of the votes” in the first place where they occur, insert “proceedings under rule 43(1) (as so substituted) or the” and before “the efficient” insert “the efficient separating of the ballot papers or, as the case may be,”.

18. For rule 43(1) (the count) substitute—

“(1) Where the returning officer at the local government election discharges the functions specified in regulation 96 of the Representation of the People (Scotland) Regulations 1986, such returning officer shall—

- (a) in the presence of the counting agents appointed for the purposes of the local government election open each ballot box and record separately the number of ballot papers used in each election, checking the number against the ballot paper account;
- (b) if required to do so by a candidate or election agent, in the presence of the election agents appointed for the purposes of the local government election verify each ballot paper account;
- (c) count such of the postal ballot papers as have been duly returned and record separately the number counted at each election;
- (d) separate the ballot papers relating to the local government election from the ballot papers relating to the parliamentary election, or, as the case may be, European Parliamentary election;
- (e) make up into packets the ballot papers for each election other than the local government election and seal them up in separate containers endorsing on each a description of the area to which the ballot papers relate;
- (f) deliver or cause to be delivered to the returning officer for the election to which the ballot papers relate—
 - (i) those containers, together with a list of them and of the contents of each; and
 - (ii) the ballot paper accounts, together with a copy of the statement as to the result of their verification, if any, in respect of that election; and
- (g) at the same time deliver or cause to be delivered to that officer packets which so relate containing—
 - (i) the unused and spoilt ballot papers;
 - (ii) the tendered ballot papers; and
 - (iii) the completed corresponding number list and the certificates as to employment on duty on the day of the poll.

(2ZA) After completion of the proceedings under paragraph (1), the returning officer shall mix together all of the ballot papers used at the local government election, and count the votes given on them.

(2ZB) Where the returning officer at the local government election does not discharge the functions specified in regulation 96 of the Representation of the People (Scotland) Regulations 1986, such returning officer shall—

- (a) on receipt of containers from the returning officer who does discharge those functions and after the time specified in the notice given under rule 41(1A) (as substituted by Schedule 2 to this Order) in the presence of counting agents, open each container;
- (b) where the proceedings on the issue and receipt of postal ballot papers are not taken together with those proceedings at another election under regulation 76 of the Representation of the People (Scotland) Regulations 1986, count such of the

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postal ballot papers as have been duly returned and record the number counted; and

- (c) mix together the postal ballot papers and the ballot papers from all of the containers and count the votes given on them.

(2ZC) Paragraph (5) does not apply to these proceedings.”.

19. At the end of rule 58 (delivery of documents) insert—

“and at an election where the returning officer does not discharge the functions referred to in regulation 96 of the Representation of the People (Scotland) Regulations 1986(30), this rule shall have effect as if paragraphs (c), (e) and (f) were omitted.”.

20. In rule 62 (countermand or abandonment of poll on death of independent candidate)—

- (a) at the end of paragraph (1) insert—

“provided that neither the countermand of the poll at the local government election nor the direction that that poll be abandoned shall affect the poll at the parliamentary election, or, as the case may be, European Parliamentary election.”; and

- (b) after paragraph (1) insert—

“(1A) Where the poll at the local government election is abandoned by reason of a candidate’s death, at the close of the poll for the parliamentary election, or as the case may be, European Parliamentary election, the presiding officer shall take the like steps for the delivery to the returning officer of the ballot boxes and of ballot papers and other documents as such presiding officer would be required to do if the poll at the local government election had not been abandoned, and the returning officer shall dispose of ballot papers used at the local government election (at which a candidate has died) as such presiding officer is required to do in accordance with rule 66, following the separation of the ballot papers relating to the parliamentary or European Parliamentary election, from the ballot papers used at the local government election (at which a candidate has died).”.

21. In Schedule 1, for Form 6 (the Corresponding Number List), substitute the form set out in Schedule 3 to this Order where the local government election is combined with another election or referendum.

22. In Schedule 1, for Form 8 (the postal voting statement) substitute the form set out in Schedule 4 to this Order where the proceedings on the issue and receipt of postal ballot papers at the local government election are taken together with those proceedings at another election under regulation 76 of the Representation of the People (Scotland) Regulations 1986(31).

23. In Schedule 1, for Form 13 (the form of directions for the guidance of the voters) substitute—

“Form 13

GUIDANCE FOR VOTERS AT COMBINED POLLS

1. Go to one of the compartments. You may vote once only on each ballot paper for parliamentary and European parliamentary elections. For ballot papers for local government elections, you can make as many choices as you want (see note 3 below).

2. Mark your choice with a cross (X) on the [colour] ballot paper for the [parliamentary] or [colour] ballot paper for the [European parliamentary] election.

(30) S.I. 1986/1111.

(31) Regulation 76 was saved insofar as it relates to local government elections by S.I. 2001/497, Schedule 2.

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3. On the [colour] ballot of paper for the local government election, you can make as many choices as you wish. Mark the figure '1' opposite the name of the candidate who is your first choice, then the figure '2' opposite the name of the candidate who is your second choice, then the figure '3' opposite the name of the candidate who is your third choice and so on.
 4. Put no other mark on each ballot paper, or your votes may not count.
 5. Do not let anyone see how you voted. Put the ballot papers in the ballot boxes marked in the same colour and leave the place.
 6. If by mistake you spoil a ballot paper, show it to the presiding officer and ask for another one.”.
24. In Schedule 1, in Form 15 (the form of declaration to be made by the companion of a voter with disabilities) for the word “election” in the three places where it occurs substitute “elections”.

SCHEDULE 3

Article 3(2)

FORM OF CORRESPONDING NUMBER LIST REFERRED TO IN PARAGRAPH 21 OF SCHEDULE 2

SCHEDULE 4

Article 3(2)

FORM OF POSTAL VOTING STATEMENT REFERRED TO IN PARAGRAPH 22 OF SCHEDULE 2

***POSTAL VOTING STATEMENT FOR A POSTAL VOTE AT PARLIAMENTARY
OR EUROPEAN PARLIAMENTARY ELECTION WHICH IS TAKEN WITH
THE LOCAL GOVERNMENT ELECTION AND THE PROCEEDINGS
ON THE ISSUE AND RECEIPT OF POSTAL BALLOT PAPERS
IN RESPECT OF EACH ELECTION ARE TAKEN TOGETHER***

Your vote is personal – complete the ballot paper yourself and in private.

1. On the [colour] (Parliamentary Election)/(European Parliamentary Election)* ballot paper(s), mark a cross (x) in the box opposite the name of the candidate or party you are voting for.
2. On the [colour] ballot paper for the local government election number the candidates in the order of your choice instead of using a cross. You can make as many choices as you wish. Put the number 1 in the box next to your first choice, 2 in the box next to your second choice, 3 in the box next to your third choice, and so on.
3. Do not put any other marks on the ballot paper. If you do, your vote might not be counted.
4. Complete your ballot papers in secret. If you need someone to help you complete them, they must not tell anyone who you have voted for.

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5. You must provide [****your signature and**] date of birth on the postal voting statement. If you do not, it will be invalid and your vote will not be counted.

6. Put the ballot papers in the envelope marked A and seal it. Then put this envelope together with the postal voting statement in the larger envelope marked B and seal it. Post the envelope back quickly. The ballot papers, in order to be counted, must be received **by the returning officer** not later than the close of poll. They may be posted to the returning officer before polling day or delivered by hand to any polling station in the local authority area on polling day.

7. If you get more than one ballot paper of the same colour, by accident, then just use one. Please remember that it is illegal to vote more than once in the same election (unless you are voting for someone else – by proxy).

8. Remember, as you have received a postal vote you cannot vote in person at the polling station even if you have an official poll card. If you are voting, you must use the ballot paper sent to you. Your postal vote can be handed into any polling station in the local authority area on polling day before the poll closes.

9. If you make a mistake on the ballot paper you can ask the returning officer for another one up until 5 p.m. on the day before polling day. You will need to return everything you have received (ballot paper, postal voting statement and the envelopes). You should do this straightaway as there is not much time for a new ballot paper to be sent to you, returned and counted.

10. If you lose the ballot paper, postal voting statement or accompanying envelopes by the third day before polling day, you may apply to the returning officer for a replacement ballot paper up until 5 p.m. on the day before polling day. You will be required to produce evidence of your identity.

11. If you want to apply for a replacement ballot paper after 5 p.m. on the day before polling day and up to 5 p.m. on polling day, you must do so in person at the address shown below. You will be required to provide evidence of your identity.

REMINDER

1. Have you remembered to [****sign your name and**] provide your date of birth on the postal voting statement?

2. Have you put your ballot paper in the envelope A and sealed it?

3. Have you put envelope A together with the postal voting statement into envelope B and sealed it?

4. You must make sure then that you send your postal vote to the returning officer or deliver it to the polling station before the close of poll at 10 p.m. on (*insert date*).

If two or more postal vote envelopes have been delivered to your address – please make sure that the correct documents are in the correct return envelope.

Printed and published by the Returning Officer

* delete as necessary

** Returning officer to omit where a person has been granted a waiver.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which revokes and replaces the Scottish Local Elections Order 2007 (“the 2007 Order”), provides for the conduct of elections of members of local authorities.

Article 3 provides that such elections shall be conducted in accordance with the rules set out in Schedule 1 to the Order. Article 2 defines various terms used in the Order. Article 6 makes saving provision to provide that the Order applies to the local government elections to be held on 3rd May 2012 and subsequent elections but not to any election held before that date, to which the 2007 Order will continue to apply.

Schedule 1 to the Order sets out the rules which apply for the purpose of the conduct of local government elections. These rules contain some differences from the rules in the 2007 Order, in many cases to follow amendments made to the parliamentary elections rules.

In particular, rule 1 (timetable) now provides that nomination papers must be delivered by not later than the 23rd day before the poll, rather than the 16th day. Rule 4 (nomination of candidates) allows for use of commonly used names instead of other names. There are changes to rule 19 (supply of free copy of register, lists and notices), rule 22 (provision of polling stations), rule 24 (issue of official poll cards and notifications) and rule 26 (appointment of polling and counting agents). Rule 27 (requirement of secrecy) now includes a prohibition on publication of exit polls, in line with other elections.

Rule 33 (voting procedure) clarifies that where a person is waiting to cast their vote at a polling station at the close of the poll, they must be permitted to vote.

Changes have been made to the rules for counting of votes and retention of documents. Rule 42 (counting of votes) allows non-electronic counting of votes at a by-election and rule 44 (rejected ballot papers) permits void ballot papers to be so marked electronically. Rule 60 (retention of documents) requires that information be kept by the proper officer of the council for one year after a poll, rather than requiring electronic information to be kept for four years. Rule 61 (publication of voting information) has been introduced to make some voting information available after a poll where electronic counting is used, with safeguards to ensure that the secrecy of individual votes is protected.

Rule 62 (death of a candidate) has been amended in line with the approach taken at Scottish Parliamentary elections, which allow in some cases a result to be declared where the deceased candidate does not obtain sufficient votes to be elected. However, where a deceased candidate obtains sufficient votes to be elected, no member will be returned and the poll will be re-arranged.

The forms in Schedule 1 have been revised to take account of changes to electoral procedures. Specifically, the format of the ballot paper (Form 4) has been revised, including the instructions to voters.

Schedule 2 modifies the rules in Schedule 1 where the poll at a local government election is taken together with a poll at UK parliamentary or European parliamentary elections under section 15(1) or (2) of the Representation of the People Act 1985. Section 15(1) requires the poll at an ordinary local government election to be taken together with the poll at a parliamentary or European Parliament general election when those polls are to be taken on the same day. Section 15(2) allows the returning officers at two or more elections for related areas (within the meaning of section 15(3)), the polls at which are taken on the same day, to agree to those polls being taken together. Schedule 2 makes

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provision equivalent to the modifications to the parliamentary elections rules made by regulation 98 of the Representation of the People (Scotland) Regulations 1986.

Schedules 3 and 4 prescribe modified forms in consequence of the modifications prescribed in Schedule 2.