

SCHEDULE 5

Article 13(5)

COMBINATION OF POLLS

PART 1

GENERAL

Returning officers and polling stations

1.—(1) Where the polls at a Scottish parliamentary general election and an ordinary local government election are taken together under article 13(1)—

- (a) those functions of the returning officer at the local government election which are specified in paragraph 2 shall be discharged by the CRO for the Scottish parliamentary election for such part of the local government area as is situated in the Scottish parliamentary constituency; and
- (b) only polling stations used for the Scottish parliamentary election shall be used for the local government election.

(2) Where the polls for related areas are taken together under article 13(2)—

- (a) the returning officers for those elections shall decide which returning officer shall discharge in the area in which the polls are combined (“the combined area”) those functions of the other which are specified in paragraph 2; and
- (b) the only polling stations which shall be used in the combined area at such elections are the polling stations used at the election for which the returning officer who discharges the functions referred to above acts as returning officer.

Commencement Information

- II** Sch. 5 para. 1 in force at 16.12.2015 in accordance with art. 1(1)

Functions at combined polls

2.—(1) The functions referred to in paragraph 1 are the functions conferred or imposed—

- (a) at a Scottish parliamentary election by those rules in the Scottish Parliamentary Election Rules which are specified in sub-paragraph (2); and
- (b) at a local government election, by those rules in the rules made under sections 3 and 16 of the Local Governance (Scotland) Act 2004⁽¹⁾ which correspond to the provisions specified in sub-paragraph (2),

and, where the proceedings on the issue and receipt of postal ballot papers at two or more elections are taken together under paragraph 2 of Schedule 4, the functions conferred or imposed by that Schedule and by Part 5 of the 2001 Regulations⁽²⁾.

(2) The rules referred to in sub-paragraph (1) are—

- (a) rule 33(2)(a) (notice of situation of polling stations);

⁽¹⁾ 2004 asp 9; section 3 was amended by the Local Electoral Administration and Registration Services (Scotland) Act 2006, (asp 14), section 34(6); section 16 was amended by the Scottish Local Government (Elections) Act 2009 (asp 10), section 2. The current rules are the Scottish Local Government Elections Rules 2011, comprising Schedule 1 to the Scottish Local Government Elections Order 2011 (S.S.I. 2011/399, amended by S.S.I. 2012/60 and S.S.I. 2012/342).

⁽²⁾ Part 5 has been amended by S.I. 2002/1872, S.I. 2006/834, S.I. 2007/925, S.I. 2008/305 and S.I. 2010/930.

Changes to legislation: There are currently no known outstanding effects for the The Scottish Parliament (Elections etc.) Order 2015, SCHEDULE 5. (See end of Document for details)

- (b) where the proceedings on the issue and receipt of postal ballot papers at two or more elections are taken together under paragraph 2 of Schedule 4, rule 34 (postal ballot papers);
- (c) rule 35 (provision of polling stations);
- (d) rule 36(1) and (2) (appointment of presiding officers and clerks) to the extent that that rule concerns the appointment of presiding officers and clerks to assist them;
- (e) rule 38 (equipment of polling stations);
- (f) rule 40(1) (notification of requirement of secrecy at polling station);
- (g) rule 41(4) (signature of certificate as to employment);
- (h) rule 42(2)(b) (authorisation to order removal from polling station); and
- (i) in rule 55 paragraph (1) (the count) (as substituted by paragraph 18 of this Schedule) and paragraph (5).

Commencement Information

I2 Sch. 5 para. 2 in force at 16.12.2015 in accordance with art. 1(1)

Modification of provisions about expenses in this Order and the 1983 Act

3.—(1) Where those functions of a returning officer at an election which are specified in paragraph 2 are discharged by the returning officer at another election under paragraph 1, references to the returning officer or the returning officer's charges or expenditure—

- (a) in article 18 (payments by and to returning officers) and article 19 (taxation of returning officer's accounts); and
- (b) in subsections (5) and (6) of section 42 of the 1983 Act (expenses at local elections),

shall, to the extent that such functions are so discharged, be construed as references to the returning officer who discharges those functions and to that returning officer's charges or expenditure in respect of those functions.

(2) The references in article 18(7) and section 42(6) of the 1983 Act to the returning officer or person acting as returning officer requesting an advance in respect of expenses shall, to the extent that those expenses relate to the functions specified in paragraph 2 and in respect of the remuneration of presiding officers and clerks, include a reference to the returning officer who under paragraph 1 discharges those functions at the local government election.

(3) In relation to elections the polls at which are taken together under article 13(1) or (2), the Scottish Ministers may in regulations made under article 18(2) include special provision for services rendered, or expenses incurred, in respect of the discharge of functions specified in paragraph 2, and in respect of the remuneration of presiding officers and clerks, by the returning officer who discharges those functions by virtue of paragraph 1.

Commencement Information

I3 Sch. 5 para. 3 in force at 16.12.2015 in accordance with art. 1(1)

PART 2

MODIFICATIONS OF THE SCOTTISH PARLIAMENTARY ELECTION RULES

Modifications of the Scottish Parliamentary Election Rules: general provision

4. Where the poll at a Scottish parliamentary election is taken with the poll at a local government election under article 13(1) or (2), the Scottish Parliamentary Election Rules shall have effect subject to the modifications set out in the remaining paragraphs of this Part.

Commencement Information

I4 Sch. 5 para. 4 in force at 16.12.2015 in accordance with art. 1(1)

Colour of ballot papers where polls combined

5. After rule 28 there shall be added—

“Colour of ballot papers where polls combined

28A. The ballot paper to be used at a local government election the poll for which is taken together with the poll at a Scottish parliamentary election shall be of a different colour from that of any ballot paper to be used at the Scottish parliamentary election.”.

Commencement Information

I5 Sch. 5 para. 5 in force at 16.12.2015 in accordance with art. 1(1)

Rule 33 (notice of poll)

6. At the end of rule 33 there shall be added—

“(3) The notice published under paragraph (2) shall—

- (a) state that the poll at the Scottish parliamentary election is to be taken together with the poll at a local government election;
- (b) specify the relevant local authority and, in the case of a local government election to fill a casual vacancy, the electoral area for which the election is held; and
- (c) where the polls are to be taken together in part of a Scottish parliamentary constituency only, specify that part.”.

Commencement Information

I6 Sch. 5 para. 6 in force at 16.12.2015 in accordance with art. 1(1)

Rule 37 (issue of official poll cards)

7. At the end of rule 37 there shall be added—

“(6) An official poll card issued under this rule may be combined with any official poll card or notification issued at a local government election.”.

Commencement Information

I7 Sch. 5 para. 7 in force at 16.12.2015 in accordance with art. 1(1)

Rule 38 (equipment of polling stations)

8.—(1) After paragraph (1) of rule 38 there shall be added—

“(1A) A different ballot box shall be used for the poll at the local government election from the ballot box or ballot boxes used for the poll at the Scottish parliamentary election.”

(2) In paragraph (11) of that rule, for “form N1” there shall be substituted “form N2”.

(3) In paragraph (12) of that rule, for “form O” there shall be substituted “form W”.

Commencement Information

I8 Sch. 5 para. 8 in force at 16.12.2015 in accordance with art. 1(1)

Rule 39 (appointment of polling and counting agents)

9. After paragraph (6) of rule 39 there shall be added—

“(6A) Notices of the appointment of polling agents which are required by paragraphs (4), (5) and (6) to be given to the returning officer shall be given to the returning officer who discharges the functions specified in paragraph 2 of Schedule 5.”.

Commencement Information

I9 Sch. 5 para. 9 in force at 16.12.2015 in accordance with art. 1(1)

Rule 44 (questions to be put to voters)

10.—(1) In paragraph (1) of rule 44, in questions 1(b), 2(b) and 4 before “election” there shall be inserted “Scottish parliamentary”.

(2) In paragraph (1) of rule 44, in question 3(b) after “elsewhere” there shall be inserted “at this Scottish parliamentary election”.

Commencement Information

I10 Sch. 5 para. 10 in force at 16.12.2015 in accordance with art. 1(1)

Rule 46 (voting procedure)

11. At the end of rule 46 there shall be added—

“(8) Where the poll at a Scottish parliamentary election is taken together with a poll at a local government election the same copy of the polling register may be used under paragraph (2) for each election and one mark may be placed in that register under paragraph (2)(c) or in the list of proxies under paragraph (2)(d) to denote that a ballot paper has been received 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 polling register

or, as the case may be, list of proxies so as to identify the election in respect of which the ballot paper was issued.”.

Commencement Information

I11 Sch. 5 para. 11 in force at 16.12.2015 in accordance with art. 1(1)

Rule 47 (votes marked by presiding officer)

12. At the end of rule 47 there shall be added—

“(5) Where the poll at a Scottish parliamentary election is taken together with a poll at a local government election the same list of votes marked by the presiding officer 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.”.

Commencement Information

I12 Sch. 5 para. 12 in force at 16.12.2015 in accordance with art. 1(1)

Rule 48 (voting by persons with disabilities)

13. At the end of rule 48 there shall be added—

“(9) Where the poll at a Scottish parliamentary election is taken together with a poll at a local government election the same list of voters with disabilities assisted by companions may be used for each election and, where it is so used, an entry in that list shall be taken to mean that votes were so given in respect of each election, unless the list identifies the election at which the vote was so given.”.

Commencement Information

I13 Sch. 5 para. 13 in force at 16.12.2015 in accordance with art. 1(1)

Rule 49 (tendered ballot papers)

14. At the end of rule 49 there shall be added—

“(11) Where the poll at a Scottish parliamentary election is taken together with a poll at a local government election the same tendered votes 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.”.

Commencement Information

I14 Sch. 5 para. 14 in force at 16.12.2015 in accordance with art. 1(1)

Rule 52 (adjournment of poll in case of riot)

15. In rule 52(1) for “CRO” there shall be substituted—

“returning officer who discharges the functions specified in paragraph 2 of Schedule 5”.

Commencement Information

I15 Sch. 5 para. 15 in force at 16.12.2015 in accordance with art. 1(1)

Rule 53 (procedure on close of poll)

16. After rule 53(2) there shall be added—

“(2A) The contents of the packets referred to in paragraph (2)(a), (b), (d) and (g) shall not be combined with the contents of packets made up under the corresponding rule that applies at a local government election; nor shall the statement prepared under paragraph (4) be so combined.

(2B) References to the CRO in paragraph (2) are references to the CRO who discharges the functions specified in paragraph 2 of Schedule 5.”.

Commencement Information

I16 Sch. 5 para. 16 in force at 16.12.2015 in accordance with art. 1(1)

Rule 54 (attendance at counting of votes)

17.—(1) For paragraphs (1) and (2) of rule 54 there shall be substituted the following paragraphs—

“(1) Where the CRO at the Scottish parliamentary election discharges the functions specified in paragraph 2 of Schedule 5, the CRO shall make arrangements for discharging the functions under rule 55 (as amended by paragraph 18 of Schedule 5) in the presence of the counting agents appointed for the purposes of the Scottish parliamentary election as soon as practicable after the close of the poll and for thereafter counting the votes at the Scottish parliamentary election in the presence of those agents, but in making such arrangements the CRO shall not knowingly appoint or employ any person who has been employed by or on behalf of a candidate or a registered party in or about the election.

(1A) Where paragraph (1) applies, the CRO shall give to those counting agents notice in writing of the time and place at which the CRO will begin to discharge the functions under rule 55 (as so amended).

(2) Where the CRO at the Scottish parliamentary election does not discharge the functions specified in paragraph 2 of Schedule 5, the CRO 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 the CRO by the returning officer who does discharge those functions, but in making such arrangements the CRO shall not knowingly appoint or employ any person who has been employed by or on behalf of a candidate or a registered party in or about the election.

(2A) Where paragraph (2) applies, the CRO shall give to those counting agents notice in writing of the time after which the CRO will begin to count the votes if by then the CRO has received the ballot papers and of the place at which that count will take place.”.

(2) In rule 54(3), before “at the counting of the votes” there shall be inserted—

“at the proceedings described in rule 55(1) (as substituted by paragraph 18 of Schedule 5) or”.

(3) In rule 54(4), before “at the counting of the votes” there shall be inserted—

“at the proceedings described in rule 55(1) (as so substituted) or”.

(4) In rule 54(4)(a) before “the efficient” there shall be inserted—
“the efficient separating of the ballot papers or, as the case may be,”.

Commencement Information

I17 Sch. 5 para. 17 in force at 16.12.2015 in accordance with art. 1(1)

Rule 55 (the count)

18. For rule 55(1) there shall be substituted—

“(1) Where the CRO at the Scottish parliamentary election discharges the functions specified in paragraph 2 of Schedule 5 the CRO shall—

- (a) in the presence of the counting agents appointed for the purposes of the Scottish parliamentary election open each ballot box;
- (b) separate the ballot papers relating to the Scottish parliamentary election from the ballot papers relating to the local government election;
- (c) make up into packets the ballot papers for the local government election (including any postal ballot papers which have been duly returned) and seal them up in separate containers endorsing on each a description of the polling station to which the ballot papers relate;
- (d) in the presence of the counting agents appointed for the purpose of the Scottish parliamentary election, record separately the number of constituency ballot papers there are in each box and the number of regional ballot papers there are in each box;
- (e) in the presence of those election agents verify each ballot paper account in relation to the ballot papers for the Scottish parliamentary election;
- (f) count such of the constituency postal ballot papers and regional postal ballot papers as have been duly returned and record separately the number of constituency postal ballot papers counted and the number of regional postal ballot papers counted;
- (g) deliver or cause to be delivered to the returning officer at the local government election to which the ballot papers relate—
 - (i) the containers referred to in sub-paragraph (c), together with a list of them and of the contents of each; and
 - (ii) the ballot paper accounts, and
- (h) at the same time deliver, or cause to be delivered, to that returning officer the packets which so relate containing—
 - (i) the unused and spoilt ballot papers;
 - (ii) the tendered ballot papers;
 - (iii) the certificates as to employment on duty on the day of the poll; and
 - (iv) where there are separate completed corresponding number lists for each election, the corresponding number lists of the used ballot papers.

(1A) Where a CRO at a Scottish parliamentary election does not discharge the functions specified in paragraph 2 of Schedule 5 the CRO 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 54(2A) (as substituted by paragraph 17(1) of Schedule 5), in the presence of the counting agents open each container and record separately the number of constituency ballot papers there are in each container and the number of regional ballot papers there are in each container;
- (b) in the presence of the election agents appointed for the purposes of the election verify each ballot paper account;
- (c) count such of the constituency postal ballot papers and regional postal ballot papers as have been duly returned and record separately the number of constituency postal ballot papers counted and the number of regional postal ballot papers counted.”.

Commencement Information

I18 Sch. 5 para. 18 in force at 16.12.2015 in accordance with art. 1(1)

Rule 69 (orders for production of documents and records)

19. After paragraph (8) of rule 69 there shall be added—

“(9) Paragraph (8) does not apply to a sealed packet of the completed corresponding number lists used at a local government election and at a Scottish parliamentary election in respect of which an order has been made under rule 59 of Schedule 1 to the Scottish Local Government Elections Order 2011(3).”.

Commencement Information

I19 Sch. 5 para. 19 in force at 16.12.2015 in accordance with art. 1(1)

Countermand or abandonment of poll etc. on death of candidate

20.—(1) After rule 75 (regional election: death of candidate) there shall be added—

“Countermand or abandonment not to affect local government election

75A. The countermanding of a notice of poll or a direction that polling is abandoned under rule 71(4), 74(2) or 75(1) shall not affect the poll at a local government election which is taken together with a poll at a Scottish Parliamentary election under article 13(1) or (2).”.

(2) In paragraph (2) of rule 76, for “paragraph (10)” there shall be substituted “paragraphs (10) and (11)”.

(3) After paragraph (10) of rule 76 there shall be added—

“(11) Where a poll at a Scottish parliamentary election is taken together with a poll at a local government election under article 13(1) or (2) but the poll at the Scottish parliamentary election is abandoned in any of the circumstances mentioned in paragraph (1)—

- (a) the steps which the presiding officer is required to take at such a polling station by paragraph (2) shall take place at the close of the poll at the local government election;

(3) [S.S.I. 2011/399](#), amended by [S.S.I. 2012/60](#) and [S.S.I. 2012/342](#).

- (b) where paragraph (10) applies, paragraph (3) shall have effect as if for “other election” there were substituted “other elections”; and
- (c) where paragraph (10) does not apply, paragraph (3) shall have effect as if after “the CRO” there were inserted “having separated the ballot papers relating to the local government election.”.

Commencement Information

I20 Sch. 5 para. 20 in force at 16.12.2015 in accordance with art. 1(1)

PART 3

MODIFICATIONS OF THE SCOTTISH LOCAL GOVERNMENT ELECTIONS RULES

Modifications of the local elections rules: general provision

21.—(1) Where the poll at a local government election is taken together with the poll at a Scottish parliamentary election under article 13(1) or (2), the rules comprised in Schedule 1 to the Scottish Local Government Elections Order 2011(4) shall have effect subject to the modifications set out in the remaining paragraphs of this Part.

(2) In this Part the rules referred to in sub-paragraph (1) are referred to as “the local elections rules”.

Commencement Information

I21 Sch. 5 para. 21 in force at 16.12.2015 in accordance with art. 1(1)

Rule 14 of the local elections rules (the ballot papers)

22.—(1) After rule 14(2) of the local elections rules there shall be added—

“(2A) The ballot paper shall be of a different colour from that of any ballot papers used at a Scottish parliamentary election the poll at which is taken together with the poll at the local government election.”.

(2) At the end of rule 14 of the local election rules there shall be added—

“(9) References to a Scottish parliamentary election in paragraph (2A) and elsewhere in these Rules are to an election to the Scottish Parliament.”.

Commencement Information

I22 Sch. 5 para. 22 in force at 16.12.2015 in accordance with art. 1(1)

Rule 20 of the local elections rules (notice of poll)

23. At the end of rule 20 of the local elections rules there shall be added—

“(5) The notice published under paragraph (4) shall—

(4) [S.S.I. 2011/399](#), amended by [S.S.I. 2012/60](#) and [S.S.I. 2012/342](#).

Changes to legislation: There are currently no known outstanding effects for the The Scottish Parliament (Elections etc.) Order 2015, SCHEDULE 5. (See end of Document for details)

- (a) state that the poll at the local government election is to be taken together with the poll at a Scottish parliamentary election;
- (b) specify the Scottish parliamentary constituency and region and the relevant local authority and, in the case of an election to fill a casual vacancy, the electoral area for which the other election is held; and
- (c) where the polls are to be taken together in part of the local government area only, specify that part.”.

Commencement Information

I23 Sch. 5 para. 23 in force at 16.12.2015 in accordance with art. 1(1)

Rule 24 of the local elections rules (issue of official poll cards and notifications)

24. At the end of rule 24 of the local elections rules there shall be added—

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

Commencement Information

I24 Sch. 5 para. 24 in force at 16.12.2015 in accordance with art. 1(1)

Rule 25 of the local elections rules (equipment of polling stations)

25.—(1) After paragraph (1) of rule 25 of the local elections rules there shall be added—

“(1A) A different ballot box shall be used for the poll at the local government election from the ballot box or ballot boxes used for the Scottish parliamentary election.”.

(2) For rule 25(4) of the local elections rules there shall be substituted—

“(4) A notice in the form N2 set out in the Appendix to the Scottish Parliament (Elections etc.) Order 2015 shall be printed in conspicuous characters and exhibited inside and outside every polling station.

(4A) In every compartment of every polling station there shall be exhibited a notice in the form W set out in the Appendix to the Scottish Parliament (Elections etc.) Order 2015.

(4B) The forms referred to in paragraphs (4) and (4A) may be used with such variations as the circumstances may require.”.

Commencement Information

I25 Sch. 5 para. 25 in force at 16.12.2015 in accordance with art. 1(1)

Rule 26 of the local elections rules (appointment of polling and counting agents)

26. After rule 26(5) of the local elections rules there shall be added—

“(5A) Notices of the appointment of polling agents which are required by paragraphs (3), (4) and (5) to be given to the returning officer shall be given to that returning officer who discharges the functions specified in paragraph 2 of Schedule 5 to the Scottish Parliament (Elections etc.) Order 2015.”.

Commencement Information

I26 Sch. 5 para. 26 in force at 16.12.2015 in accordance with art. 1(1)

Rule 31 of the local elections rules (questions to be put to voters)

27.—(1) In paragraph (3) of rule 31 of the local elections rules, in questions 1(b), 2(b) and 4 after “this election” there shall be inserted “for this local government area”.

(2) In paragraph (3) of rule 31 of the local elections rules, in question 3(b) after “elsewhere” there shall be inserted “at the election for this local government area”.

Commencement Information

I27 Sch. 5 para. 27 in force at 16.12.2015 in accordance with art. 1(1)

Rule 33 of the local elections rules (voting procedure)

28. After rule 33(3) of the local elections rules there shall be added—

“(3A) The same copy of the register of electors 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 received 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 the ballot paper was issued.”.

Commencement Information

I28 Sch. 5 para. 28 in force at 16.12.2015 in accordance with art. 1(1)

Rule 34 of the local elections rules (votes marked by presiding officer)

29. After rule 34(2) of the local elections rules there shall be added—

“(2A) The same list of votes marked by the presiding officer 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.”.

Commencement Information

I29 Sch. 5 para. 29 in force at 16.12.2015 in accordance with art. 1(1)

Rule 35 of the local elections rules (voting by persons with disabilities)

30. After rule 35(4) of the local elections rules there shall be added—

“(4A) The same list of voters with disabilities assisted by companions 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.”.

Commencement Information

I30 Sch. 5 para. 30 in force at 16.12.2015 in accordance with art. 1(1)

Rule 36 of the local elections rules (tendered ballot papers)

31. After rule 36(8) of the local election rules there shall be added—

“(8A) The same tendered votes 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.”.

Commencement Information

I31 Sch. 5 para. 31 in force at 16.12.2015 in accordance with art. 1(1)

Rule 39 of the local elections rules (adjournment of poll in case of riot)

32. At the end of paragraph (1) of rule 39 of the local elections rules there shall be inserted “who discharges the functions specified in paragraph 2 of Schedule 5 to the Scottish Parliament (Elections etc.) Order 2015”.

Commencement Information

I32 Sch. 5 para. 32 in force at 16.12.2015 in accordance with art. 1(1)

Rule 40 of the local elections rules (procedure on close of poll)

33. After rule 40(1) of the local elections rules there shall be added—

“(1A) The contents of the packets referred to in paragraph (1)(a), (b), (d) and (f) shall not be combined with the contents of the packets made up under the corresponding rule that applies at a Scottish 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 paragraph 2 of Schedule 5 to the Scottish Parliament (Elections etc.) Order 2015.”.

Commencement Information

I33 Sch. 5 para. 33 in force at 16.12.2015 in accordance with art. 1(1)

Rule 41 of the local elections rules (attendance at counting of votes)

34.—(1) For rule 41(1) of the local elections rules there shall be substituted—

“(1) Where the returning officer at the local government election does not discharge the functions specified in paragraph 2 of Schedule 5 to the Scottish Parliament (Elections etc.) Order 2015 the returning officer shall make arrangements for counting the votes in the presence of the counting agents after the returning officer has received the ballot papers

from the returning officer who does discharge those functions, as soon as practicable after the end of the Scottish parliamentary election count, but in making such arrangements the returning officer shall not knowingly appoint or employ any person who has been employed by or on behalf of a candidate or a registered party in or about the election.

(1A) Where paragraph (1) applies, the returning officer at the local government election shall give to the counting agents notice in writing of the time after which that returning officer will begin to count the votes, if by then that returning officer has received the ballot papers, and of the place at which that count will take place.

(1B) Where the returning officer at the local government election discharges the functions specified in paragraph 2 of Schedule 5 to the Scottish Parliament (Elections etc.) Order 2015, the returning officer shall make arrangements for discharging the functions under rule 43(1) (as substituted by paragraph 35 of Schedule 5 to that 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, but in making such arrangements the returning officer shall not knowingly appoint or employ any person who has been employed by or on behalf of a candidate or a registered party in or about the election.

(1C) Where paragraph (1B) applies, the returning officer shall give to those counting agents notice in writing of the time and place at which the returning officer will begin to discharge the functions under rule 43(1) (as so substituted).”.

(2) In paragraph (2) of rule 41 before “at the counting of the votes” there shall be inserted “at the proceedings under rule 43(1) (as so substituted) or”.

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

Commencement Information

I34 Sch. 5 para. 34 in force at 16.12.2015 in accordance with art. 1(1)

Rule 43 of the local elections rules (the count)

35.—(1) For paragraph (1) of rule 43 of the local elections rules there shall be substituted—

“(1) Where the returning officer at the local government election discharges the functions specified in paragraph 2 of Schedule 5 to the Scottish Parliament (Elections etc.) Order 2015, the returning officer shall—

- (a) in the presence of the counting agents appointed for the purposes of the local government election, open each ballot box;
- (b) separate the ballot papers relating to the local government election from the ballot papers relating to the Scottish parliamentary election;
- (c) in the presence of the counting agents appointed for the purpose of the local government election, record separately the number of ballot papers for the local government election;
- (d) 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;

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- (e) count such of the postal ballot papers for the local government election as have been duly returned and record separately the number counted at each election;
- (f) make up into packets the ballot papers for the Scottish parliamentary election and seal them up in separate containers endorsing on each a description of the polling station to which the ballot papers relate;
- (g) deliver, or cause to be delivered, to the constituency returning officer for the Scottish parliamentary 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; and
- (h) 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;
 - (iii) the corresponding number lists of the used ballot papers; and
 - (iv) the certificates as to employment on duty on the day of the poll.

(1A) Where the returning officer at the local government election does not discharge the functions specified in paragraph 2 of Schedule 5 to the Scottish Parliament (Elections etc.) Order 2015, the returning officer shall—

- (a) following the receipt of containers from the returning officer who does discharge those functions, and as soon as practicable after the end of the Scottish parliamentary election count (but not before the time specified in the notice given under rule 41(1A) (as substituted by paragraph 34 of Schedule 5 to the Scottish Parliament (Elections etc.) Order 2015)), in the presence of the counting agents open each container and record separately the number of ballot papers used in the 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 the number counted.”.

(2) In paragraph (5) of rule 43 of the local elections rules, for “paragraph (1)(b)” there shall be substituted “paragraph (1)(d) or (1A)(b)”.

Commencement Information

I35 Sch. 5 para. 35 in force at 16.12.2015 in accordance with art. 1(1)

Rule 58 of the local elections rules (delivery of documents)

36. Rule 58 of the local elections rules shall be renumbered as paragraph (1) of that rule and after paragraph (1) as so renumbered there shall be added—

“(2) At an election where the returning officer does not discharge the functions specified in paragraph 2 of Schedule 5 to the Scottish Parliament (Elections etc.) Order 2015, this rule shall have effect as if sub-paragraphs (c), (d) and (f) were omitted.”.

Commencement Information

I36 Sch. 5 para. 36 in force at 16.12.2015 in accordance with art. 1(1)

Rule 59 of the local election rules (orders for production of documents)

37.—(1) In rule 59 of the local elections rules, after paragraph (1)(b) (immediately before the word “or” following it), there shall be inserted—

“(ba) for the opening of a sealed packet of the completed corresponding number lists used at a local government election and at a Scottish parliamentary election in the custody of the returning officer for a Scottish Parliament constituency (“CRO”);”.

(2) For paragraph (2) of rule 59 of the local election rules there is substituted—

“(2) An order for the opening of—

(a) a sealed packet of the completed corresponding number lists or of the 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; or

(b) a sealed packet of the completed corresponding number lists used at a local government election and at a Scottish parliamentary election in the custody of the CRO,

may be made by an election court.”.

(3) In paragraph (6) of rule 59 of the local election rules, after “council” there is inserted “or by the CRO”.

(4) After paragraph (8) of rule 59 of the local election rules there is added—

“(9) Paragraph (8) does not apply to a sealed packet of the completed corresponding number lists used at a local government election and at a Scottish parliamentary election in respect of which an order has been made under rule 69 of the Scottish Parliamentary Election Rules contained in Schedule 2 to the Scottish Parliament (Elections etc.) Order 2015.”.

Commencement Information

I37 Sch. 5 para. 37 in force at 16.12.2015 in accordance with art. 1(1)

Rule 65 of local elections rules (countermand or abandonment of poll on death of party candidate)

38. After rule 65(2) of the local elections rules there shall be added—

“(2A) Neither the countermand of the poll at the local government election nor a direction that that poll be abandoned shall affect the poll at the Scottish parliamentary election.”.

Commencement Information

I38 Sch. 5 para. 38 in force at 16.12.2015 in accordance with art. 1(1)

Rule 66 of local elections rules (abandonment of poll)

39. For rule 66(2) to (6) of the local elections rules there shall be substituted—

“(2) Where the poll at the local government election is abandoned by reason of a candidate’s death, no further ballot papers for that poll shall be delivered in any polling station and, at the close of the poll for the Scottish parliamentary election, the presiding officer must take the like steps for the delivery to the returning officer of the ballot boxes and of ballot papers and other documents as the presiding officer would be required to do if the poll at the local government election had not been abandoned.

(3) The returning officer shall dispose of ballot papers used at the local government election (at which a candidate has died) as the returning officer is required to do on the completion in due course of the counting of the votes.

(4) It is not necessary for any ballot paper account at that election to be prepared or verified.

(5) The returning officer, having separated the ballot papers relating to the Scottish parliamentary election, shall take no step or further step for the counting of the ballot papers used at the local government election (at which a candidate has died) or of the votes.

(6) The returning officer must seal up all of those ballot papers, whether the votes on them have been counted or not.”.

Commencement Information

I39 Sch. 5 para. 39 in force at 16.12.2015 in accordance with art. 1(1)

Local elections rules: postal voting statement

40. In Part 7 of Schedule 1 to the local elections rules (forms for use at Scottish local government elections), for Form 8 (form of postal voting statement) there shall be substituted form T or, as the case may be, form X set out in the Appendix (which may be used with such variations as the circumstances may require).

Commencement Information

I40 Sch. 5 para. 40 in force at 16.12.2015 in accordance with art. 1(1)

Local elections rules: declaration by the companion of a voter with disabilities

41. In Part 7 of Schedule 1 to the local elections rules (forms for use at Scottish local government elections), in Form 15 (form of declaration by the companion of a voter with disabilities), after “this election” wherever occurring insert “and the election now being held in this Scottish parliamentary constituency”.

Commencement Information

I41 Sch. 5 para. 41 in force at 16.12.2015 in accordance with art. 1(1)

Changes to legislation:

There are currently no known outstanding effects for the The Scottish Parliament (Elections etc.) Order 2015, SCHEDULE 5.