

SCHEDULE 4

Article 12(3)

ISSUE AND RECEIPT OF POSTAL BALLOT PAPERS

Interpretation

1. For the purposes of this Schedule, unless the context otherwise requires—
 - “agent” includes an election agent and a person appointed to attend in the election agent’s place;
 - “ballot paper envelope” and “covering envelope” mean the envelopes referred to in paragraph 10;
 - “issue” includes the original and any subsequent issue;
 - “postal ballot paper” means a ballot paper issued, or to be issued, to a postal voter;
 - “postal voter” means a voter who is entitled to vote by post (and includes a proxy postal voter);
 - “postal voters’ ballot box” means the ballot box referred to in paragraph 17(1)(a);
 - “receptacle for ballot paper envelopes”, “receptacle for postal voting statements (verification procedure)”, “receptacle for rejected ballot paper envelopes”, “receptacle for rejected votes” and “receptacle for rejected votes (verification procedure)” mean, respectively, the receptacles referred to in paragraph 17(5);
 - “spoilt ballot paper” means a ballot paper referred to in paragraph 13(1); and
 - “valid postal voting statement” means a postal voting statement which, in accordance with paragraph 22, the CRO is satisfied has been duly completed.

Combination of polls

2. Where the polls at elections are taken together under article 13(1) or (2) the proceedings on the issue and receipt of postal ballot papers in respect of each election may, if the returning officers concerned agree, be taken together.

Form of postal voting statement

3. The postal voting statement sent with the postal ballot paper to a postal voter shall be—
 - (a) in the form K set out in the Appendix at a Scottish parliamentary election other than one to which sub-paragraph (b) or (c) applies;
 - (b) in the form T set out in the Appendix at a Scottish parliamentary election where the proceedings on the issue and receipt of ballot papers are taken together with those proceedings at another election under paragraph 2; and
 - (c) in the form U set out in the Appendix at a Scottish parliamentary election the poll at which is taken together with a poll at another election under article 13(1) or (2) in any part of the constituency but where the proceedings on the issue and receipt of postal ballot papers are not taken together under paragraph 2, for use in that part of the constituency in which polls at more than one election are taken together.

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

- 4.—(1) Without prejudice to the provisions of section 6A, 6B, 6C or 6D of the 2000 Political Parties Act⁽¹⁾ (representatives of the Electoral Commission and accredited observers), no person may be present at the proceedings on the issue of postal ballot papers other than the CRO and members of the CRO’s staff.

(1) These sections and section 6E were inserted by the 2006 Act, section 29.

(2) The CRO shall be the relevant officer for the purposes of section 6E of that Act (powers of a relevant officer to limit attendance and the conduct of observers).

Persons entitled to be present at receipt of postal ballot papers

5.—(1) Without prejudice to the provisions of section 6A, 6B, 6C, or 6D of the 2000 Political Parties Act, no person may be present at the proceedings on the receipt of postal ballot papers other than—

- (a) the CRO and members of the CRO's staff;
- (b) a candidate for return as a constituency member or an election agent of such a candidate or any person appointed by a candidate to attend in the election agent's place;
- (c) except in the case of an election to fill a vacancy in the seat of a constituency member—
 - (i) the RRO;
 - (ii) an individual candidate for return as a regional member or the candidate's election agent or any person appointed by the candidate to attend in the election agent's place;
 - (iii) the election agent for a registered party standing nominated or the nominating officer of that party or any person authorised by that officer to attend in the nominating officer's place; and
- (d) an agent appointed under sub-paragraph (3).

(2) The CRO shall be the relevant officer for the purposes of section 6E of the 2000 Political Parties Act.

(3) Each—

- (a) candidate for return as a constituency member; and
- (b) except in the case of an election to fill a vacancy in the seat of a constituency member, individual candidate for return as a regional member and each election agent for a registered party standing nominated,

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

(4) Notice of the appointment stating the names and addresses of the persons appointed shall be given by the candidate or election agent to the CRO before the time fixed for the opening of the postal voters' ballot boxes.

(5) If a notice of appointment under sub-paragraph (4) states more names than are authorised by the CRO under sub-paragraph (3), the CRO must, after consulting the candidate or election agent who submitted the notice, determine which of the persons named (being the number of agents so authorised) are to be taken as having been appointed.

(6) Where postal ballot papers for more than one election are issued together under paragraph 2, the CRO to whom notice must be given under sub-paragraph (4) and sub-paragraphs (7) and (8) is the returning officer who issues the postal ballot papers.

(7) If an agent dies or becomes incapable of acting, the candidate or election agent may appoint another agent in that agent's place and shall forthwith give to the CRO notice in writing of the name and address of the agent appointed.

(8) Agents may be appointed and notice of appointment given to the CRO by a candidate's election agent instead of by the candidate.

(9) In this Schedule references to agents shall be taken as references to agents whose appointments have been duly made and notified and, in the case of agents appointed under sub-paragraph (3), who are within the number authorised by the CRO.

(10) Any of the following persons, namely—

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

may do any act or thing which any of that person's agents, if appointed, would have been authorised to do, or may assist such an agent in doing any such act or thing.

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

Notification of requirement of secrecy

6. The CRO shall make arrangements to ensure that every person attending the proceedings in connection with the issue or receipt of postal ballot papers has been given a copy in writing of the provisions of article 31(5), (7) and (8).

Time when postal ballot papers are to be issued

7. Postal ballot papers (and postal voting statements) must be issued by the CRO as soon as it is practicable to do so.

Procedures on the issue of postal ballot papers

8.—(1) Each postal ballot paper issued shall bear the official mark and the name and number of the elector as stated in the polling register shall be called out, and such number shall be marked on the corresponding number list, next to the ballot paper number of the ballot paper issued to that elector, and a mark shall be placed in the postal voters list or the proxy postal voters list against the number of the elector to denote that a ballot paper has been issued to the elector or the elector's proxy but without showing the particular ballot paper issued.

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

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

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

(4) Where the poll at a Scottish parliamentary election is taken with the poll at another election under article 13(1) or (2) but the proceedings on the issue and receipt of postal ballot papers are not taken together under paragraph 2, the colours of the postal ballot papers (or, as the case may be, the colour of the postal ballot paper) shall also be marked on the postal voting statement sent with those papers (or as the case may be, that paper).

(5) The address to which the postal ballot paper, postal voting statement and the envelopes referred to in paragraph 10 are to be sent is—

- (a) in the case of an elector, the address shown in the postal voters list; and
- (b) in the case of a proxy, the address shown in the proxy postal voters list.

(6) Where a person has an anonymous entry in the register of electors, the items specified in sub-paragraph (5) must be sent (as the case may be) to the address to which postal ballot papers should be sent—

- (a) as shown in the record kept under article 8(4); or
- (b) as given in pursuance of an application made under article 9(1) or (2).

Refusal to issue postal ballot paper

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

Envelopes

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

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

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

(3) Where the poll at one election is taken together with the poll at another election under article 13(1) or (2) but the proceedings on the issue and receipt of postal ballot papers are not taken together under paragraph 2—

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

Delivery of postal ballot papers

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

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

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

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

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

Security of marked lists

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

(2) Until the time referred to in paragraph 20(9) for the opening of covering envelopes, the CRO shall take proper precautions for the security of the marked copy of the postal voters list and the postal proxy voters list.

Spoilt ballot paper

13.—(1) If a postal voter has inadvertently dealt with that voter's postal ballot paper or postal voting statement in such a manner that it cannot be conveniently used as a ballot paper (referred to as "a spoilt ballot paper") or, as the case may be, a postal voting statement (referred to as "a spoilt postal voting statement") the postal voter may return (either by hand or by post) to the CRO the spoilt ballot paper or, as the case may be, the spoilt postal voting statement.

(2) Where a postal voter exercises the entitlement conferred by sub-paragraph (1), the postal voter shall also return—

- (a) the postal ballot paper or, as the case may be, the postal voting statement, whether spoilt or not;
- (b) where two or more postal ballot papers have been issued together to the postal voter (whether at a Scottish parliamentary general election or under paragraph 2), all other ballot papers so issued, whether spoilt or not; and
- (c) the envelopes supplied for the return of the documents mentioned in sub-paragraph (1) or paragraph (a) or (b).

(3) Subject to sub-paragraph (4), on receipt of the documents referred to in sub-paragraphs (1) and (2) the CRO shall issue a replacement ballot paper or, as the case may be, papers except where those documents are received after 5 pm on the day of the poll.

(4) Where the CRO receives the documents referred to in sub-paragraphs (1) and (2) after 5 pm on the day before the day of the poll, the CRO shall only issue another postal ballot paper or, as the case may be, ballot papers if the postal voter returns the documents by hand.

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

(6) Any postal ballot paper and the postal voting statement, whether spoilt or not, returned in accordance with sub-paragraphs (1) and (2) shall be immediately cancelled.

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

(8) Where a postal voter applies in person—

- (a) by 5 pm on the day before the day of the poll, the CRO may hand a replacement postal ballot paper to the postal voter;
- (b) after 5 pm on the day before the day of the poll, the CRO may only hand a replacement postal ballot paper to the postal voter;

instead of delivering it in accordance with paragraph 11.

(9) The CRO shall enter in a list kept for the purpose ("the list of spoilt postal ballot papers")—

- (a) the name and number of the elector as stated in the polling register (or in the case of an elector who has an anonymous entry, the elector's electoral number alone);

- (b) the number of the postal ballot paper (or papers) issued under this paragraph; and
- (c) where the postal voter whose ballot paper is spoilt is a proxy, the proxy's name and address.

Lost postal ballot paper

14.—(1) Where a postal voter claims either to have lost or not to have received—

- (a) the postal voter's postal ballot paper;
- (b) the postal voting statement; or
- (c) one or more of the envelopes supplied for their return,

the postal voter may apply (whether or not in person) to the CRO for a replacement ballot paper.

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

(3) Where a postal voter exercises the entitlement conferred by sub-paragraph (1), the postal voter shall return—

- (a) the documents referred to in sub-paragraph (1)(a) to (c); and
- (b) where two or more postal ballot papers have been issued together to the postal voter (whether at a Scottish parliamentary general election or under paragraph 2), all other ballot papers so issued,

which the postal voter has received and which have not been lost.

(4) Any postal ballot paper and the postal voting statement returned in accordance with sub-paragraph (3) shall be immediately cancelled.

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

(6) Subject to sub-paragraphs (7) and (8), where the CRO is satisfied as to the voter's identity, the CRO shall issue another postal ballot paper or, as the case may be, postal ballot papers.

(7) The CRO may refuse to issue another postal ballot paper if the CRO—

- (a) has reason to doubt that the postal voter has either lost or has not received the original postal ballot paper or the postal voting statement or one or more of the envelopes provided for their return, or
- (b) considers that it is reasonable for the voter to allow further time for delivery of the documents in accordance with paragraph 11.

(8) Where the application under sub-paragraph (1) is received by the CRO after 5 pm on the day before the day of the poll, the CRO shall only issue another postal ballot paper, or as the case may be, ballot papers if the postal voter applies in person.

(9) The CRO must keep a list of lost postal ballot papers, containing—

- (a) the name and number of the elector as stated in the polling register (or, in the case of an elector who has an anonymous entry, the elector's electoral number alone);
- (b) the number of the lost postal ballot paper, the numbers of any ballot papers returned along with it, and the numbers of all replacement ballot papers issued under this paragraph; and
- (c) where the postal voter is a proxy, the proxy's name and address.

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

(11) Where a postal voter applies in person—

- (a) by 5 pm on the day before the day of the poll, the CRO may hand a replacement postal ballot paper to the postal voter; or
- (b) after 5 pm on the day before the day of the poll, the CRO may only hand a replacement postal ballot paper to the postal voter,

instead of delivering it in accordance with paragraph 11.

(12) Where the CRO issues another postal ballot paper or, as the case may be, postal ballot papers under sub-paragraph (6), the lost or unreceived ballot paper shall be void and of no effect.

Cancellation of postal ballot papers

15.—(1) Where, after the latest time for delivery of nomination papers for candidature for a Scottish parliamentary election, an application is granted that—

- (a) will result in a voter being removed from the postal voters list or the proxy postal voters list; or
- (b) is an application from a person under articles 9(4)(a) or 11(6) (an application by a person, or a proxy for a person, for postal ballot papers to be sent to a different address),

and the grant of that application is not to be disregarded for the purposes of that election under paragraph 9 of Schedule 3, the ERO must notify the CRO who must immediately cancel any postal ballot paper issued to the elector or proxy and, in the case of an application mentioned in sub-paragraph (b), must issue a replacement postal ballot paper or, as the case may be, papers.

(2) Where a person returns a postal ballot paper that has been or is to be cancelled in accordance with sub-paragraph (1) (whether to the ERO or CRO), it must be dealt with as follows—

- (a) the ballot paper, together with any other ballot papers, postal voting statements or covering envelopes which are returned to the ERO must be given by the ERO to the CRO;
- (b) any document returned in accordance with this sub-paragraph, but not cancelled in accordance with sub-paragraph (1), must be cancelled immediately;
- (c) the CRO, as soon as practicable after receiving and cancelling those documents, must make up those documents in a separate packet and seal that packet, and if on any subsequent occasion further such documents are returned, the sealed packet is to be opened and the additional cancelled documents included in it and the packet is then to be again made up and sealed.

(3) The CRO must enter in a list kept for the purpose of recording postal ballot papers cancelled under this paragraph (“the list of cancelled postal ballot papers”)—

- (a) the name and number of the elector as stated in the register of electors (or, in the case of an elector who has an anonymous entry, their electoral number alone);
- (b) the numbers of all cancelled postal ballot papers;
- (c) the numbers of any replacement postal ballot papers issued under sub-paragraph (1), and
- (d) where the postal voter is a proxy, their name and address.

(4) Paragraphs 8 (except sub-paragraph (3)(a)), 10, 11 and 12 apply to a replacement postal ballot paper issued under paragraph (1).

Notice of opening of postal ballot paper envelopes

16.—(1) The CRO shall give not less than 48 hours’ notice in writing of each occasion on which a postal voters’ ballot box and the envelopes contained in it are to be opened, to—

- (a) each candidate for return as a constituency member; and

- (b) except in the case of an election to fill a vacancy in the seat of a constituency member, each individual candidate for return as a regional member and the election agent for each registered party standing nominated.
- (2) Such a notice shall specify—
 - (a) the time and place at which such an opening is to take place, and
 - (b) the number of agents a candidate may appoint under paragraph 5(3) to attend the opening.

Postal ballot boxes and receptacles

- 17.—(1) The CRO shall provide a separate ballot box for the reception of—
- (a) the covering envelopes when returned by the postal voters (“postal voters’ ballot box”); and
 - (b) postal ballot papers (“postal ballot box”).
- (2) Each such ballot box shall be marked “postal voters’ ballot box” or “postal ballot box”, as the case may be, and with the name of the constituency or electoral area for which the election is, or, as the case may be, the elections are, held.
- (3) The postal ballot box shall be shown to the agents present on the occasion of opening the first postal voters’ ballot box as being empty.
- (4) The CRO shall then apply the CRO’s seal in such manner as to prevent its being opened without breaking the seal; any of the agents present who wish to add their seals may then do likewise.
- (5) The CRO shall provide the following receptacles—
- (a) the receptacle for rejected votes;
 - (b) the receptacle for ballot paper envelopes;
 - (c) the receptacle for rejected ballot paper envelopes;
 - (d) the receptacle for rejected votes (verification procedure); and
 - (e) the receptacle for postal voting statements (verification procedure).
- (6) The CRO shall take proper precautions for the safe custody of every ballot box and receptacle referred to in this paragraph.

Receipt of covering envelope and collection of postal votes

- 18.—(1) The CRO shall, immediately on receipt (whether by hand or by post) of a covering envelope (or an envelope which is stated to include a postal vote) before the close of the poll, place it unopened in a postal voters’ ballot box.
- (2) Where an envelope, other than a covering envelope issued by the CRO—
- (a) has been opened; and
 - (b) contains a ballot paper envelope, postal voting statement or ballot papers,
- the first-mentioned envelope, together with its contents, shall be placed in a postal voters’ ballot box.
- (3) The CRO may collect, or cause to be collected, any postal ballot paper or postal voting statement which by virtue of rule 53(2)(g) (procedure on close of poll) of the Scottish Parliamentary Election Rules the presiding officer of a polling station would otherwise be required to deliver or cause to be delivered to the CRO.
- (4) Where the CRO collects, or causes to be collected, any postal ballot paper or postal voting statement in accordance with sub-paragraph (3) the presiding officer shall first make it (or them) up into a packet (or packets) sealed with the presiding officer’s own seal and the seals of such polling agents as are present and desire to affix their seals.

Opening of postal voters' ballot box

19.—(1) So long as the CRO ensures that there is at least one sealed postal voters' ballot box for the reception of covering envelopes up to the time of the close of the poll, the CRO may open the other postal voters' ballot boxes prior to that time.

(2) Each postal voters' ballot box shall be opened by the CRO in the presence of any agents, if in attendance.

(3) The last postal voters' ballot box and the postal ballot box shall be opened at the counting of the votes under rule 55 of the Scottish Parliamentary Election Rules.

Opening of covering envelopes

20.—(1) When a postal voters' ballot box is opened, the CRO shall count and record the number of covering envelopes (including any envelope which is stated to include a postal vote and any envelope described in paragraph 18(2)).

(2) The CRO shall open separately each covering envelope (including an envelope described in paragraph 18(2)).

(3) The procedure in paragraph 22 applies where a covering envelope (including any envelope to which paragraph 18(2) applies) contains a postal voting statement.

(4) Where the covering envelope does not contain the postal voting statement separately, the CRO shall open the ballot paper envelope to ascertain whether the postal voting statement is inside.

(5) Where a covering envelope does not contain a postal voting statement (whether separately or not), the CRO shall mark the covering envelope "provisionally rejected", attach its contents (if any) and place it in the receptacle for rejected votes.

(6) In carrying out the procedures in this paragraph and paragraphs 22 to 26, the CRO and the CRO's staff—

(a) shall keep the ballot papers face downwards and shall take all proper precautions for preventing any person from seeing the votes made on the ballot papers; and

(b) shall not be permitted to view the corresponding number list used at the issue of postal ballot papers.

(7) Where an envelope opened in accordance with sub-paragraph (2) contains a postal voting statement, the CRO shall place a mark in the marked copy of the postal voters list or proxy postal voters list in a place corresponding to the number of the elector to denote that a postal vote has been returned.

(8) A mark made under sub-paragraph (7) shall be distinguishable from and shall not obscure the mark made under paragraph 8(1) or (3)(a).

(9) As soon as practicable after the last covering envelope has been opened, the CRO shall make up into a packet the copy of the postal voters list and proxy postal voters list that have been marked in accordance with sub-paragraph (7) and shall seal the packet.

Confirming receipt of postal votes and postal voting statements

21.—(1) An elector or a proxy voter who is shown in the postal voters list or proxy postal voters list may request, at any time before the close of the poll, that the CRO confirm—

(a) whether a mark is shown in the marked copy of the postal voters list or proxy postal voters list in a place corresponding to the number of the elector to denote that a postal vote or votes have been returned; and

- (b) whether the number of the ballot paper or papers issued to the elector or the elector's proxy have been recorded on either of the lists of rejected votes kept by the CRO under sub-paragraphs (2) and (3) of paragraph 25.

(2) The CRO shall establish whether any such request has been made by the elector or their proxy, and if it is so established shall provide confirmation of the matters specified in sub-paragraph (1).

Procedure in relation to postal voting statements: personal identifier verification

22.—(1) This paragraph applies in the circumstances described in paragraph 20(3).

(2) The CRO must establish whether the postal voting statement is duly completed and as part of that process must compare the date of birth and the signature on the postal voting statement against the date of birth and the signature contained in the personal identifiers record relating to the person to whom the postal ballot paper was addressed.

(3) Where the CRO establishes that the postal voting statement is not duly completed, the CRO shall mark the statement “rejected”, attach it to the ballot paper envelope, or if there is no such envelope, but there is a ballot paper, that ballot paper, and, subject to sub-paragraph (4), place it in the receptacle for rejected votes (verification procedure).

(4) Before placing a postal voting statement in the receptacle for rejected votes (verification procedure), the CRO must—

- (a) show it to at least one agent for each candidate or registered party represented at the proceedings, or to a candidate instead of the candidate's agent;
- (b) permit them to view the entries in the personal identifiers record which relate to the person to whom the postal ballot paper was addressed; and
- (c) if any of them objects to the CRO's decision, add the words “rejection objected to”.

(5) The CRO shall then examine the number (or numbers) on the postal voting statement against the number (or numbers) on the ballot paper envelope and, where they are the same, the CRO shall place the statement and the ballot paper envelope respectively in the receptacle for postal voting statements (verification procedure) and the receptacle for ballot paper envelopes.

(6) Where—

- (a) the number on a valid postal voting statement is not the same as the number on the ballot paper envelope; or
- (b) that envelope has no number on it (or only one number when the postal voting statement has more than one),

the CRO shall open the envelope.

(7) Sub-paragraph (8) applies where—

- (a) there is a valid postal voting statement but no ballot paper envelope; or
- (b) the ballot paper envelope has been opened under paragraph 20(4) or sub-paragraph (6).

(8) In the circumstances described in sub-paragraph (7), the CRO shall place—

- (a) in the postal ballot box, any ballot paper the number on which is the same as the number (or one of the numbers) on the valid postal voting statement;
- (b) in the receptacle for rejected votes (verification procedure), any other ballot paper, with the valid postal voting statement attached and marked “provisionally rejected”;
- (c) in the receptacle for rejected votes (verification procedure), any valid postal voting statement marked “provisionally rejected” where—
 - (i) there is no ballot paper; or

- (ii) in the case of a statement on which the number of more than one ballot paper appears, there is not a sufficient number of ballot papers and, in such a case, shall mark the statement to indicate which ballot paper is missing;
- (d) in the receptacle for postal voting statements (verification procedure), any valid statement not disposed of under paragraph (b) or (c).

Opening of ballot paper envelopes

23.—(1) The CRO shall open separately each ballot paper envelope placed in the receptacle for ballot paper envelopes.

(2) The CRO shall place—

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

Retrieval of cancelled postal ballot papers

24.—(1) Where it appears to the returning officer that a cancelled postal ballot paper has been placed—

- (a) in a postal voters’ ballot box;
- (b) in the receptacle for ballot paper envelopes; or
- (c) a postal ballot box,

the CRO shall proceed as follows.

(2) The CRO shall, on at least one occasion on which a postal voters’ ballot box is opened in accordance with paragraph 19, also open any postal ballot box and the receptacle for ballot paper envelopes and—

- (a) retrieve the cancelled ballot paper;
- (b) show the ballot paper number on the cancelled ballot paper to the agents;
- (c) retrieve the postal voting statement that relates to a cancelled ballot paper from the receptacle for postal voting statements (verification procedure);
- (d) attach any cancelled postal ballot paper to the postal voting statement to which it relates;
- (e) place the cancelled documents in a separate packet and deal with that packet in the manner provided for by paragraph 13(7); and
- (f) unless the postal ballot box has been opened for the purposes of the counting of votes under rule 55 of the Scottish Parliamentary Election Rules, re-seal the postal ballot box in the presence of the agents.

Lists of rejected postal ballot papers

25.—(1) In respect of any election, the CRO shall keep three separate lists relating to rejected postal ballot papers.

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

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

(4) In the third list, the CRO shall record for every postal voting statement within the receptacle for rejected votes (verification procedure) immediately prior to sealing—

- (a) the elector's name and address (and the name and the address of the proxy if the elector has a proxy);
- (b) the elector's number on the register of electors (and that of the proxy if the elector has a proxy);
- (c) the specified reason or reasons for the rejection of the postal voting statement; and
- (d) any other information relating to the rejection that the CRO considers appropriate, but not the ballot paper number.

(5) The specified reasons that may be given under sub-paragraph (4)(c) for the rejection of a postal voting statement are—

- (a) the signature does not match the example held on the personal identifiers record;
- (b) the date of birth does not match the one held on the personal identifiers record;
- (c) the signature field is blank; or
- (d) the date of birth field is blank.

Checking of lists kept under paragraph 25

26.—(1) Where the CRO receives a valid postal voting statement without the postal ballot paper (or papers or, as the case may be, all of the papers) to which it relates, the CRO shall from time to time prior to the close of the poll, check the list kept under paragraph 25(2) to see whether the number (or numbers) of a postal ballot paper to which the statement relates is (or are) entered in that list.

(2) Where the CRO receives a postal ballot paper without the postal voting statement relating to it, the CRO may, at any time prior to the close of the poll, check the list kept under paragraph 25(3) to see whether the number of that ballot paper is entered in that list.

(3) The CRO shall conduct the checks described in sub-paragraphs (1) and (2) as soon as practicable after the receipt of packets from every polling station in the constituency or, as the case may be, electoral area under rule 53 of the Scottish Parliamentary Election Rules.

(4) Where the ballot paper number in the list matches the number of a valid postal voting statement or, as the case may be, a postal ballot paper, the CRO shall retrieve the relevant statement or paper.

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

Sealing of receptacles

27.—(1) As soon as practicable after the completion of the procedure under paragraph 26(3) and (4), the CRO shall make up into separate packets the contents of—

- (a) the receptacle for rejected votes;
- (b) the receptacle for rejected ballot paper envelopes;
- (c) the lists of spoilt, lost and cancelled postal ballot papers;
- (d) the receptacle for rejected votes (verification procedure); and

(e) the receptacle for postal voting statements (verification procedure),
and shall seal up such packets.

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

Abandoned poll

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

- (a) shall not take any step or further step to open covering envelopes or deal with the contents in accordance with the provisions of this Schedule; and
- (b) shall, notwithstanding paragraphs 20, 22 and 23, treat all unopened covering envelopes and the contents of those that have been opened as if they were counted ballot papers.

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

Retention of documents by CRO

29.—(1) The CRO shall retain together with the documents specified in rule 68(1) of the Scottish Parliamentary Election Rules—

- (a) any packets referred to in paragraphs 12, 13(7), 14(5), 15(2) 20(9) and 27, subject to paragraph 28, endorsing on each packet a description of its contents, the date of the election to which it relates and the name of the constituency or electoral ward for which the election (or elections) was (or were) held;
- (b) a completed statement in form V set out in the Appendix on absent voting at the poll, including the number of postal ballot papers issued and returned; and
- (c) the list compiled under paragraph 25(4).

(2) Where—

- (a) any covering envelopes are received by the CRO after the close of the poll (apart from those delivered in accordance with rule 53(2)(g) of the Scottish Parliamentary Election Rules);
- (b) any envelopes addressed to postal voters are returned as undelivered too late to be readdressed; or
- (c) any spoilt ballot papers are returned too late to enable other postal ballot papers to be issued,

the CRO shall put them unopened in a separate packet, seal up such packet and endorse and retain it in the manner described in sub-paragraph (1).

(3) Rules 67, 68, 69 and 70(1) of the Scottish Parliamentary Election Rules shall apply to any packet or document retained under this paragraph, but in applying rules 69 and 70 to the list compiled under paragraph 25(4), this list and any extracts from it are to be treated as if they were counted ballot papers.

(4) A copy of the statement referred to in sub-paragraph (1)(b) shall be provided by the CRO to the Scottish Ministers and the Electoral Commission in the period which starts 10 days after the day of the poll and ends 15 days after the day of the poll.

Draft Legislation: This is a draft item of legislation and has not yet been made as a Scottish Statutory Instrument. This draft has been replaced by a new draft, The Scottish Parliament (Elections etc.) Order 2015 ISBN 978-0-11-102991-6

Forwarding of a rejected ballot paper list by CRO

30. Before the CRO seals up the counted and rejected ballot papers as provided for by rule 67 of the Scottish Parliamentary Election Rules, the CRO must send a copy of the list compiled under paragraph 25(4) to the ERO.