

## SCHEDULE 5

### COMBINATION OF POLLS

#### 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.

##### **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.”

##### **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.”

##### **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.”

##### **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”.

**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.”.

**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”.

**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.”.

**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.”.

**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.”.

**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.”.

### **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”.

### **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.”.

### **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,”.

## **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.”.

#### **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(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;
- (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.”.