

SCHEDULE 1

SCOTTISH LOCAL GOVERNMENT ELECTIONS RULES

PART III

CONTESTED ELECTIONS

The poll

Admission to polling station

28.—(1) The presiding officer shall exclude all persons from the polling station except—

- (a) voters;
- (b) persons under the age of 18 who accompany voters to the polling station;
- (c) the candidates and their election agents;
- (d) the polling agents appointed to attend at the polling station;
- (e) the clerks appointed to attend at the polling station;
- (f) the constables on duty;
- (g) the companions of voters with disabilities;
- (h) the returning officer and the returning officer's staff; and
- (i) persons entitled to attend in accordance with sections 6A to 6D of the Political Parties, Elections and Referendums Act 2000.

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

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

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

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

Keeping of order in station

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

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

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

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

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

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

Sealing of ballot boxes

- 30.** Immediately before the commencement of the poll, the presiding officer shall—
- (a) show each ballot box proposed to be used for the purposes of the poll empty to such persons, if any, as are present in the polling station, so that they may see that each box is empty;
 - (b) place the presiding officer’s seal on it in such a manner as to prevent it being opened without breaking the seal;
 - (c) place each box in the presiding officer’s view for the receipt of ballot papers; and
 - (d) keep it so sealed.

Questions to be put to voters

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

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

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

<i>Person applying for ballot paper</i>	<i>Questions</i>
1. A person applying as an elector	(a) “Are you the person registered in the register of local government electors for this election as follows?” (read the whole entry from the register).
	(b) “Have you already voted at this election [adding, in the case of an election for more than one electoral ward, in this or any other electoral ward] otherwise than as proxy for some other person?”
2. A person applying as proxy	(a) “Are you the person whose name appears as A.B. in the list of proxies for this election as entitled to vote as proxy on behalf of C.D.?”
	(b) “Have you already voted at this election [adding, in the case of an election for more than one electoral ward, in this or any other electoral ward] as proxy on behalf of C.D.?”
	(c) “Are you the spouse, civil partner, parent, grandparent, brother/sister, child or grandchild of C.D.?”
3. A person applying as proxy for an elector with an anonymous entry (instead of the questions at entry 2 above)	(a) “Are you the person entitled to vote as proxy on behalf of the elector whose number on the register of local government electors is (read out the number from the register)?”

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<i>Person applying for ballot paper</i>	<i>Questions</i>
	(b) “Have you already voted here or elsewhere as proxy on behalf of the elector whose number on the register of local government electors is (read out the number from the register)?”
	(c) “Are you the spouse, civil partner, parent, grandparent, brother/sister, child or grandchild of the person whose number on the register of local government electors is (read out the number from the register)?”
4. Person applying as proxy if the question at entry 2(c) or 3(c) is not answered in the affirmative	“Have you already voted at this election [adding, in the case of an election for more than one electoral ward, in this or any other electoral ward] on behalf of two persons of whom you are not the spouse, civil partner, parent, grandparent, brother/sister, child or grandchild?”

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

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

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

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

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

Challenge of voter

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

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

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Voting procedure

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

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

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

(3) In the case of an elector who is added to the register in pursuance of a notice issued under section 13B(3B) or (3D) of the 1983 Act, paragraph (1) is modified as follows—

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

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

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

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

Votes marked by presiding officer

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

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

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

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

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

Voting by persons with disabilities

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

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

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

(2) If the presiding officer—

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

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

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

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

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

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

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

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

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

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

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Tendered ballot papers

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

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

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

(2) Paragraph (5) also applies if—

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

(3) Paragraph (5) also applies if—

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

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

- (a) a particular elector named in the register of electors and who is also named in the postal voters list; or
- (b) a particular person named as a proxy in the list of proxies and who is also named in the proxy postal voters list,

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

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

(6) A tendered ballot paper shall—

- (a) be a different colour from the other ballot papers;
- (b) instead of being put into the ballot box, be given to the presiding officer and endorsed by the presiding officer with the name of the voter and the voter’s number in the register of electors, and set aside in a separate packet.

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

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

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

- (a) in paragraphs (6)(b) and (7) the references to the name of the voter must be ignored;
- (b) otherwise, a reference to a person named in the register of electors or a list must be construed as a reference to a person whose number appears on the register of electors or list (as the case may be).

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

- (a) in paragraphs (1), (2)(a) and (4)(a) for “named on the register” there were substituted “in respect of whom a notice under section 13B(3B) or (3D) of the 1983 Act has been issued”;
- (b) in paragraph (7) for “the voter’s number in the copy of the register of electors” there were substituted “the number relating to that person on a notice issued under section 13B(3B) or (3D) of the 1983 Act”.

Spoilt ballot papers

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

Correction of errors on day of poll

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

Adjournment of poll in case of riot

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

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

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

Procedure on close of poll

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

- (a) the unused and spoilt ballot papers placed together;
- (b) the tendered ballot papers;
- (c) the marked copies of the register of electors and any notices setting out an alteration to the register of electors referred to in rule 19(b), the marked copies of the postal voters list, the list of proxies and the proxy postal voters list;
- (d) the certificates as to employment on duty on the day of the poll surrendered under rule 28(4);
- (e) part two of the corresponding number list completed in accordance with rule 33(1)(b) (referred to in these rules as “the completed corresponding number list”);

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- (f) any postal ballot paper or postal voting statement returned to the station in terms of rule 43(2);
- (g) as a single packet—
 - (i) the list of votes marked by the presiding officer maintained under rule 34(2) together with a statement of the number of voters whose votes are marked under the heads ‘disability’ and ‘unable to read’;
 - (ii) the declarations made by the companions of voters with disabilities under rule 35(2)(b);
 - (iii) the list of voters with disabilities assisted by companions maintained under rule 35(4);
 - (iv) the tendered votes list maintained under rule 36(7); and
 - (v) the list maintained under rule 38,

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

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

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