

## SCHEDULE 1

### SCOTTISH LOCAL GOVERNMENT ELECTIONS RULES

#### PART IV

#### DISPOSAL OF DOCUMENTS

##### Sealing up of ballot papers

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

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

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

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

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

##### Delivery of documents

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

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

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

### **Orders for production of documents**

**59.**—(1) An order—

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

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

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

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

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

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

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

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

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

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

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

(7) The production from proper custody of—

- (a) a ballot paper purporting to have been used at any election; and

- (b) a completed corresponding number list with a number marked in writing beside the number of the ballot paper,

shall be *prima facie* evidence that the elector whose vote was given by that ballot paper was the person whose entry in the register of electors or on a notice issued under section 13B(3B) or (3D) of the 1983 Act (notice of alteration in the register) at the time of the election contained the same number as the number written as mentioned in sub-paragraph (b).

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

### **Retention of documents**

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

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