

SCHEDULE 2

SCOTTISH PARLIAMENTARY ELECTION RULES

PART 3

CONTESTED ELECTIONS

General Provisions

Action to be taken before the poll

Notice of poll

33.—(1) The statement of persons nominated as candidates for return as a constituency member required by rule 18 and the statement of persons and parties nominated for return as regional members required by rule 19 shall each include a notice of the poll, stating the day on which and the hours during which the poll will be taken and, in the case of a Scottish parliamentary general election, each such notice may contain such further information about that election as the returning officer who publishes that notice thinks fit.

(2) The CRO shall also give public notice (which may be combined with the statement required by rule 18) of—

- (a) the situation of each polling station;
- (b) the description of voters entitled to vote there,

and the CRO shall as soon as practicable after giving such notice give a copy of it to each of the election agents.

Commencement Information

II Sch. 2 para. 33 in force at 16.12.2015 in accordance with art. 1(1)

Postal ballot papers

34.—(1) The CRO shall as soon as practicable send to those entitled to vote by post a ballot paper and a postal voting statement in the appropriate form as specified in paragraph 3 of Schedule 4 together with an envelope for their return.

(2) In the case of a person who is entitled to a postal constituency vote and a postal regional vote, the reference in paragraph (1) to “a ballot paper” shall be construed as a reference to a constituency ballot paper and a regional ballot paper.

(3) The CRO shall send along with any regional ballot paper a list showing the names of the candidates who appear on the regional list of each party, followed by the names of the individual candidates, as given in the statement prepared under rule 19 (statement of persons nominated as candidates for return as regional members) and arranged in the order in which their names appear on that list.

(4) The CRO must also issue to those entitled to vote by post such information as the CRO thinks appropriate about how to obtain—

- (a) translations into languages other than English of any directions to or guidance for voters sent with a ballot paper;

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- (b) a translation into Braille of such directions or guidance;
- (c) graphical representations of such directions or guidance;
- (d) the directions or guidance in any other form (including any audible form).

(5) In the case of a ballot paper issued to a person resident in the United Kingdom, the CRO must ensure that the return of the ballot paper and postal voting statement is free of charge to the voter.

Commencement Information

I2 Sch. 2 para. 34 in force at 16.12.2015 in accordance with art. 1(1)

Provision of polling stations

35.—(1) The CRO shall provide a sufficient number of polling stations and, subject to the following provisions of this rule, shall allot the electors to the polling stations in such manner as the CRO thinks most convenient.

(2) One or more polling stations may be provided in the same room.

(3) The polling station allotted to electors from any polling district shall be in the polling place for that district.

(4) The CRO shall provide each polling station with such number of compartments as may be necessary in which the voters can mark their votes screened from observation.

Commencement Information

I3 Sch. 2 para. 35 in force at 16.12.2015 in accordance with art. 1(1)

Appointment of presiding officers and clerks

36.—(1) The CRO shall appoint and pay a presiding officer to attend at each polling station and such clerks as may be necessary, but the CRO shall not knowingly appoint any person who has been employed by or on behalf of a candidate or a registered party in or about the election.

(2) The CRO may preside at a polling station and the provisions of these Rules relating to a presiding officer shall apply to a CRO so presiding with the necessary modifications as to things to be done by the CRO to the presiding officer or by the presiding officer to the CRO.

(3) A presiding officer may do, by the clerks appointed to assist that presiding officer, any act (including the asking of questions) which the presiding officer is required or authorised by these Rules to do at a polling station except order the arrest, exclusion or removal of any person from the polling station.

Commencement Information

I4 Sch. 2 para. 36 in force at 16.12.2015 in accordance with art. 1(1)

Issue of official poll cards

37.—(1) The CRO shall as soon as practicable after the publication of notice of the election send to each elector and proxy an official poll card.

(2) An elector’s official poll card shall be sent or be delivered to the elector’s qualifying address (within the meaning of article 8(11)), and a proxy’s to the proxy’s address as shown in the list of proxies.

[^{F1}(2A) Paragraph (2) does not apply to an elector to whom section 3(1A) of the 1983 Act (exception to disenfranchisement for offenders sentenced to term not exceeding 12 months) applies and the CRO may send such an elector’s official poll card to the place where the elector is detained in legal custody.]

(3) The official poll card shall be in the form set out in the Appendix, and—

- (a) except where sub-paragraph (e) applies, the official poll card issued to an elector shall be in form L1;
- (b) the official postal poll card issued to an elector shall be in form L2;
- (c) the official poll card issued to the proxy of an elector shall be in form M1;
- (d) the official postal poll card issued to the proxy of an elector shall be in form M2;
- (e) the official poll card issued to an elector who has appointed a proxy shall be in form M3.

(4) The official poll card may, in addition to the matters in the form, set out such other information, not relating to any candidate or registered party, as the CRO considers appropriate, and different additional information may be provided to different electors or descriptions of elector.

(5) In this rule, “elector”—

- (a) means a person who is registered in the register of electors for the constituency and the region on the last day for publication of notice of the election; and
- (b) includes a person then shown in that register or in the record of anonymous entries as below voting age if (but only if) it appears from the register or record that the person will be of voting age on the day fixed for the poll.

Textual Amendments

F1 Sch. 2 rule 37(2A) inserted (11.12.2020) by The Scottish Parliament (Elections etc.) (Miscellaneous Amendments) Order 2020 (S.S.I. 2020/426), arts. 1(1), **15(3)** (with art. 1(2))

Commencement Information

I5 Sch. 2 para. 37 in force at 16.12.2015 in accordance with art. 1(1)

Equipment of polling stations

38.—(1) The CRO shall provide each presiding officer with such number of ballot boxes and ballot papers as in the CRO’s opinion may be necessary and at a Scottish parliamentary general election separate ballot boxes shall be provided for the constituency ballot papers and for the regional ballot papers.

(2) Every ballot box shall be so constructed that the ballot papers can be put in it, but cannot be withdrawn from it, without the box being opened.

(3) The CRO shall provide each polling station with—

- (a) materials to enable voters to mark the ballot papers;
- (b) copies of the polling register or such part of it as contains the entries relating to electors allotted to the station;
- (c) the parts of any list of proxies prepared for the election corresponding to the polling register or the part of it provided under sub-paragraph (b);

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- (d) a list containing that part of the list prepared under rule 29 which contains the numbers corresponding to those on the ballot papers provided to the presiding officer of the polling station (“corresponding number list”);
 - (e) copies of forms and declarations and other documents required for the purpose of the poll; and
 - (f) at least one list showing the names of the candidates who appear on the regional list of each party shown on any regional ballot paper, followed by the names of the individual candidates, as given in the statement prepared under rule 19 and arranged in the order in which their names appear on that list.
- (4) The CRO shall also provide each polling station with—
- (a) at least one enlarged sample copy of a constituency ballot paper and any regional ballot paper for display at the station and at least one enlarged hand-held sample copy of that or those ballot papers for the assistance of voters who are partially sighted (in each case marked as required by article 86); and
 - (b) a device of the description set out in paragraphs (5) to (10), for enabling voters who are blind or partially-sighted to vote without any need for assistance from the presiding officer or any companion (within the meaning of rule 48(1)).
- (5) The device referred to in paragraph (4)(b) shall be such that—
- (a) it satisfies the conditions in paragraphs (6) to (10);
 - (b) a ballot paper can—
 - (i) be inserted into, and removed from, it; or
 - (ii) be attached to, and detached from, it; and
 - (c) the ballot paper will remain firmly in place once inserted into, or attached to, the device.
- (6) There shall be sufficient space to allow the particulars of each candidate and, where appropriate, registered party named on the ballot paper to be clearly shown.
- (7) There shall be a separate hole in the device for each candidate and, where appropriate, registered party, named on the ballot paper.
- (8) Each hole in the device shall be of equal size.
- (9) Each hole shall be positioned to frame the space to the right of the particulars of the candidate or registered party (as the case may be) on which the vote may be marked (“the relevant space”).
- (10) Each hole shall be sufficiently large to allow a voter to mark a cross in the relevant space on the ballot paper.
- (11) A notice in the form N1 set out in the Appendix, giving directions for the guidance of the voters in voting, shall be printed in conspicuous characters and exhibited inside and outside every polling station.
- (12) At a Scottish parliamentary general election a notice in the form O set out in the Appendix, giving information for voters, shall be exhibited in every compartment of every polling station.
- (13) The statements required by rule 18 (statement of persons nominated as candidates for return as a constituency member) and (except in the case of a poll to fill a vacancy in the seat of a constituency member) rule 19 (statement of persons and parties nominated for return as regional members) shall be printed in conspicuous characters and exhibited inside or outside every polling station and may be exhibited both inside and outside any polling station.

Commencement Information

16 Sch. 2 para. 38 in force at 16.12.2015 in accordance with art. 1(1)

Appointment of polling and counting agents

39.—(1) Each candidate for return as a constituency member, each individual candidate for return as a regional member, and the election agent of each registered party standing nominated may, before the commencement of the poll, appoint—

- (a) polling agents to attend at polling stations for the purpose of detecting personation; and
- (b) counting agents to attend at the counting of the votes.

(2) The CRO may limit the number of counting agents for candidates for return as a constituency member, but the limit set shall be the same for each candidate.

[^{F2}(2A) The CRO must not limit the number of counting agents under paragraph (2) so that the number allowed to a candidate for return as a constituency member is (except in special circumstances) less than the number obtained by dividing the number of clerks employed on the counting by the number of candidates.]

(3) The CRO may limit the number of counting agents for individual candidates for return as regional members and for registered parties standing nominated, but the limit set shall be the same for each individual candidate and registered party.

[^{F3}(3A) The CRO must not limit the number of counting agents under paragraph (3) so that the number allowed to an individual candidate for return as regional member or registered party standing nominated is (except in special circumstances) less than the number obtained by dividing the number of clerks employed on the counting by the total number of individual candidates for return as regional members and registered parties standing nominated.]

(4) Notice in writing of an appointment, stating the names and addresses of the persons appointed, shall be given by the person making the appointment to the CRO and shall be so given not later than the fifth day (computed like any period of time in the Table in rule 1(1)) before the day of the poll.

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

(6) Any appointment authorised by this rule may be made, and the notice of appointment given, to the CRO by the election agent instead of by the candidate.

(7) In the following provisions of these Rules references to polling and counting agents shall be taken as references to agents—

- (a) whose appointments have been duly made and notified; and
- (b) where the number of agents is restricted, who are within the permitted number.

(8) Any notice required to be given to a counting agent by the CRO may be delivered at or sent by post to the address stated in the notice of appointment.

(9) Any candidate (or, in the case of a registered party standing nominated, the election agent of that party) may do any act or thing which any polling or counting agent, if appointed by, or on behalf of, the candidate would have been authorised to do, or may assist such agent in doing any such act or thing.

(10) An election agent for a candidate or registered party standing nominated may do or assist in doing anything which a polling or counting agent of that candidate or party is authorised to do; and anything required or authorised by these Rules to be done in the presence of the polling or counting agents may be done in the presence of such an election agent instead of such polling or counting agents.

(11) Where by these Rules any act or thing is required or authorised to be done in the presence of the polling or counting agents, the non-attendance of any agents or agent 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.

Changes to legislation: There are currently no known outstanding effects for the The Scottish Parliament (Elections etc.) Order 2015, Cross Heading: Action to be taken before the poll. (See end of Document for details)

Textual Amendments

- F2** Sch. 2 rule 39(2A) inserted (11.12.2020) by The Scottish Parliament (Elections etc.) (Miscellaneous Amendments) Order 2020 (S.S.I. 2020/426), arts. 1(1), **15(4)** (with art. 1(2))
- F3** Sch. 2 rule 39(3A) inserted (11.12.2020) by The Scottish Parliament (Elections etc.) (Miscellaneous Amendments) Order 2020 (S.S.I. 2020/426), arts. 1(1), **15(5)** (with art. 1(2))
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Commencement Information

- I7** Sch. 2 para. 39 in force at 16.12.2015 in accordance with art. 1(1)

Notification of requirement of secrecy

40.—(1) The CRO shall make such arrangements as the CRO thinks fit to ensure that every person attending at a polling station and every person attending at the counting of the votes has been given a copy in writing of the provisions of article 31 (requirement of secrecy).

(2) But these arrangements shall not apply to—

- (a) persons attending a polling station for the purpose of voting;
- (b) persons under 16 years of age accompanying a voter;
- (c) the companions of voters with disabilities; or
- (d) constables on duty at a polling station or at the count.

Commencement Information

- I8** Sch. 2 para. 40 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, Cross Heading: Action to be taken before the poll.