
STATUTORY INSTRUMENTS

2007 No. 937

The Scottish Parliament (Elections etc.) Order 2007

PART II

THE FRANCHISE AND ITS EXERCISE

Requirement of secrecy

32.—(1) The following persons attending at a polling station, namely—

- (a) a returning officer or a member of his staff;
- (b) a presiding officer or clerk;
- (c) a candidate (including a candidate on a party's regional list);
- (d) a nominating officer of a registered party which has submitted a regional list;
- (e) an election agent;
- (f) a polling agent,
- (g) a person attending by virtue of sections 6A to 6D of the 2000 Political Parties Act⁽¹⁾,

shall maintain and aid in maintaining the secrecy of voting and shall not, except for some purpose authorised by law, communicate to any person before the poll is closed the information described in paragraph (2).

(2) The information referred to in paragraph (1) is any information as to—

- (a) the name of any elector or proxy for an elector who has or has not applied for a ballot paper or voted at a polling station;
- (b) the number on the register of electors of any elector who, or whose proxy, has or has not applied for a ballot paper or voted at a polling station; or
- (c) the official mark being used in accordance with rule 30 of Schedule 2.

(3) Every person attending at the counting of the votes shall maintain and aid in maintaining the secrecy of voting and shall not—

- (a) ascertain or attempt to ascertain at the counting of the votes the number or other unique identifying mark on the back of any ballot paper;
- (b) communicate any information obtained at the counting of the votes as to the candidate for whom or, as the case may be, registered political party for which, any vote is given on any particular ballot paper.

(4) No person shall—

- (a) interfere with or attempt to interfere with a voter when recording his vote;
- (b) otherwise obtain or attempt to obtain in a polling station information as to the candidate for whom or, as the case may be, the registered political party for which, a voter in that station is about to vote or has voted;

⁽¹⁾ Sections 6A to 6D of the 2000 Political Parties Act were inserted by section 29 of the 2006 Act.

- (c) communicate at any time to any person any information obtained in a polling station as to the candidate for whom or, as the case may be, the registered political party for which a voter in that station is about to vote or has voted, or as to the number or other unique identifying mark on the back of a ballot paper given to a voter at that station; or
 - (d) directly or indirectly induce a voter to display a ballot paper after he has marked it so as to make known to any person the name of the candidate for whom or, as the case may be, the registered political party for which, he has or has not voted.
- (5) Every person attending the proceedings in connection with the issue or the receipt of ballot papers for persons voting by post shall maintain and aid in maintaining the secrecy of the voting and shall not—
- (a) except for some purpose authorised by law, communicate, before the poll is closed, to any person any information obtained at those proceedings as to the official mark;
 - (b) except for some purpose authorised by law, communicate to any person at any time any information obtained at those proceedings as to the number or other unique identifying mark on the back of any ballot paper sent to any person;
 - (c) except for some purpose authorised by law, attempt to ascertain at the proceedings in connection with the receipt of ballot papers the number or other unique identifying mark on the back of any ballot paper; or
 - (d) attempt to ascertain at the proceedings in connection with the receipt of the ballot papers the name of the candidate for whom or, as the case may be, the registered political party for which, any vote is given in any particular ballot paper or communicate any information with respect thereto obtained at those proceedings.
- (6) No person having undertaken to assist a voter with disabilities to vote shall communicate at any time to any person any information as to the name of the candidate for whom or, as the case may be, the registered political party for which, that voter intends to vote or has voted, or as to the number or other unique identifying mark on the back of a ballot paper given for the use of that voter.
- (7) If a person acts in contravention of this article he shall be liable on summary conviction to a fine not exceeding the amount specified as level 5 on the standard scale or to imprisonment for a term not exceeding three months.
- (8) In this article a voter with disabilities is a voter who has made a declaration under the Scottish Parliamentary Election Rules that he is so incapacitated by his blindness or other disability or by his inability to read, as to be unable to vote without assistance.