

SCHEDULE 2

SCOTTISH PARLIAMENTARY ELECTION RULES

PART II

STAGES COMMON TO CONTESTED AND UNCONTESTED ELECTIONS

Nomination

Nomination of candidate for return as a constituency member

5.—(1) Each candidate for return as a constituency member shall be nominated by a separate nomination paper (referred to in these Rules as a “constituency nomination paper”), in the form F set out in the Appendix, delivered to the constituency returning officer at the place fixed for the purpose.

(2) The constituency nomination paper shall be signed by the candidate and by a witness to the candidate’s signature.

(3) The constituency nomination paper shall state the candidate’s—

- (a) name in full;
- (b) home address in full; and
- (c) if desired, description,

and the surname shall be placed first in the list of his names.

(4) If a candidate commonly uses—

- (a) a surname which is different from any other surname he has, or
- (b) a forename which is different from any other forename he has,

the nomination paper may state the commonly used surname or forename in addition to the other name.

(5) The description, if any, must consist of either—

- (a) the name of the party registered under section 28 of the 2000 Political Parties Act;
- (b) a description registered for use by a political party or parties under section 28A or 28B of the 2000 Political Parties Act⁽¹⁾ and which is authorised as mentioned in rule 8; or
- (c) the word “Independent”.

(6) The constituency nomination paper shall also state the name and address of the witness to the candidate’s signature.

Nomination of individual candidate for return as a regional member

6.—(1) Each individual candidate for return as a regional member shall be nominated by a separate nomination paper (referred to in these rules as an “individual nomination paper”), in the form G set out in the Appendix, delivered to the regional returning officer at the place or a place fixed for the purpose.

(2) The individual nomination paper shall be signed by the candidate and by a witness to the candidate’s signature.

(3) The individual nomination paper shall state the candidate’s—

(1) Sections 28A and 28B were inserted by the 2006 Act, section 49.

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- (a) name in full;
 - (b) home address in full; and
 - (c) if desired, description, consisting of the word “Independent”,
- and the surname shall be placed first in the list of his names.
- (4) If a candidate commonly uses—
 - (a) a surname which is different from any other surname he has; or
 - (b) a forename which is different from any other forename he has,the nomination paper may state the commonly used surname or forename in addition to the other name.
 - (5) The individual nomination paper shall also state the name and address of the witness to the candidate’s signature.

Nomination of candidates on a regional list

- 7.—(1) A registered party’s regional list of candidates to be regional members for a particular region shall be in the form H set out in the Appendix and that party shall be nominated by the submission of that list by the party’s nominating officer or a person authorised in writing by him to the regional returning officer at the place or a place fixed for the purpose.
- (2) Each regional list shall include the name of the registered party, or a description of that party which has been registered under section 28A of the 2000 Political Parties Act, and the use of that name or description shall be authorised by a certificate issued by or on behalf of the registered nominating officer of the party in the form I set out in the Appendix.
 - (3) Each regional list shall set out the names and home addresses, in full, of each candidate included in that list and shall be accompanied by a statement of the names by which each such candidate is to be known for the purposes of the election, which may include a different forename or surname if the candidate commonly uses that name.
 - (4) Each regional list shall include a statement that it is issued by the nominating officer of the registered party in question or by a person authorised in writing by him.
 - (5) Each regional list may be accompanied by a request made by or on behalf of the nominating officer of the party in question that the regional ballot paper shall contain against the party’s name the party’s registered emblem (or, as the case may be, one of the party’s registered emblems).
 - (6) In the application of this rule and rule 8, in relation to an election—
 - (a) “registered party” and “qualifying party” means a party which was registered under Part II of the 2000 Political Parties Act on the day (“the relevant day”) which is two days before the last day for the delivery of nomination papers at the election; and
 - (b) a registered political party is a qualifying party in relation to a constituency if the constituency is in Scotland and the party was at on the relevant day registered in respect of Scotland in the Great Britain register maintained under that Part of that Act.

Constituency nomination papers: name of registered party

- 8.—(1) A constituency nomination paper may not include a description of a candidate which is likely to lead voters to associate the candidate with a registered party or parties unless the party (or each party) is a qualifying party in relation to the constituency and the description is authorised by a certificate in the form I set out in the Appendix—
- (a) issued by or on behalf of the nominating officer of that party (or each party); and

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(b) received by the constituency returning officer at some time during the period for the delivery of nomination papers set out in the Table in rule 1(1).

(2) A person shall be guilty of a corrupt practice if he fraudulently purports to be authorised to issue a certificate under paragraph (1) on behalf of a registered party's nominating officer.

Nomination papers and regional lists: miscellaneous

9.—(1) The constituency returning officer—

(a) shall supply any person with a form of constituency nomination paper at the place or a place, and during the time, for delivery of nomination papers; and

(b) shall at any person's request prepare such a nomination paper for signature,

but it is not necessary for a nomination to be on a form supplied by the constituency returning officer.

(2) The regional returning officer—

(a) shall supply any person with a form of individual nomination paper at the place and during the time for delivery of nomination papers; and

(b) shall at any person's request, prepare such a nomination paper for signature,

but it is not necessary for a nomination to be on a form supplied by the regional returning officer.

(3) The regional returning officer shall, on request, supply any person with a form of regional list; but it is not necessary for a regional list to be submitted in the form supplied by the regional returning officer.

Consent to nomination

10.—(1) Subject to paragraph (3) a person shall not be validly nominated as a candidate for return as a constituency member unless his consent to nomination—

(a) is given and dated in writing on, or within one month before, the day fixed as the last day for the delivery of constituency nomination papers;

(b) is attested by one witness; and

(c) is delivered at the place, and within the time, for the delivery of constituency nomination papers.

(2) Subject to paragraph (3), a person shall not be validly nominated as an individual candidate for return as a regional member or as a candidate on a registered party's regional list unless his consent to nomination—

(a) is given and dated in writing on, or within one month before, the day fixed as the last day for the delivery of individual nomination papers and regional lists;

(b) is attested by one witness; and

(c) is delivered at the place or a place, and within the time, for the delivery of individual nomination papers and regional lists.

(3) If the appropriate returning officer is satisfied that, owing to the absence of a person from the United Kingdom it has not been reasonably practicable for his consent in writing to be given as mentioned above, a facsimile communication (or any similar means of communication) consenting to his nomination and purporting to have been sent by him shall be deemed for the purposes of this paragraph to be consent in writing given by him on the day on which it purports to have been sent, and attestation of his consent shall not be required.

(4) A candidate's consent given under this rule—

(a) shall state the day, month and year of his birth; and

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- (b) shall state—
- (i) that he is aware of the provisions of sections 15 to 18 of the 1998 Act and of any Order in Council made under section 15 of that Act;
 - (ii) that to the best of his knowledge and belief he is not disqualified from being a member of the Scottish Parliament;
 - (iii) in the case of a candidate for return as a constituency member, that he is aware of the provisions of sections 5(2) and 9(6) of the 1998 Act and that, to the best of his knowledge and belief, he may stand as a candidate to be a member for that constituency;
 - (iv) in the case of a candidate on a registered party's regional list, that he is aware of the provisions of section 5(7) of the 1998 Act and that, to the best of his knowledge and belief, he may be included in that list;
 - (v) in the case of an individual candidate for return as a regional member, that he is aware of the terms of section 5(8) of the 1998 Act and, to the best of his knowledge and belief, he may stand as an individual candidate to be a regional member for that region.

Deposit

11.—(1) A person shall not be validly nominated as a candidate for return as a constituency member unless the sum of £500 is deposited by him, or on his behalf, with the constituency returning officer at the place and during the time for delivery of nomination papers.

(2) An individual candidate for return as a regional member shall not be validly nominated unless the sum of £500 is deposited by him, or on his behalf, with the regional returning officer at the place or a place, and during the time, for delivery of individual nomination papers.

(3) A registered party shall not be validly nominated in relation to a regional list of that party for a particular region unless the sum of £500 is deposited by or on behalf of the party's nominating officer with the regional returning officer at the place or a place, and during the time, for delivery of regional lists.

(4) The deposit may be made—

- (a) by the deposit of any legal tender; or
- (b) by means of a banker's draft; or
- (c) with the appropriate returning officer's consent, in any other manner (including by means of a debit or credit card or the electronic transfer of funds),

but the appropriate returning officer may refuse to accept a deposit sought to be made by means of a banker's draft if he does not know that the drawer carries on business as a banker in the United Kingdom.

(5) Where the deposit is made on behalf of a candidate for return as a constituency member or an individual candidate for return as a regional member, the person making the deposit shall at the time he makes it give his name and address to the appropriate returning officer unless that information has previously been given to him under article 33 or rule 5 or 6.

(6) Where the deposit is made on behalf of a party's nominating officer the person making the deposit shall at the time he makes it give his name and address to the regional returning officer unless that information has previously been given to him under article 33 or rule 7.

Place for delivery of constituency nomination papers

12.—(1) The constituency returning officer shall fix the place at which constituency nomination papers are to be delivered to him, and shall attend there during the time for their delivery and for making of objections to them.

(2) The place shall be in—

- (a) the constituency; or
- (b) the local government area or (if more than one) any of the local government areas in which the constituency is situated; or
- (c) any local government area adjoining the local government area or areas (as the case may be) in which the constituency is situated.

Place for delivery of individual nomination papers and regional lists

13.—(1) The regional returning officer shall fix the place or places at which individual nomination papers and regional lists are to be delivered to him, and he shall attend there during the time for their delivery and for making objections to them.

(2) The place or places shall be in the region.

Right to attend nomination

14.—(1) Except for the purpose of delivering a constituency nomination paper or of assisting the constituency returning officer no person is entitled to attend the proceedings during the time for delivery of constituency nomination papers or for making objections to them unless he is—

- (a) a person standing nominated as a candidate for return as a constituency member;
- (b) the election agent of such a person;
- (c) a person who has issued a certificate under rule 8(1)(a) in relation to such a candidate; or,
- (d) a person who is entitled to attend by virtue of section 6A or 6B of the 2000 Political Parties Act⁽²⁾,

but where a candidate acts as his own election agent he may name one other person who shall be entitled to attend in place of his election agent.

(2) The right to attend conferred by paragraph (1) includes the right to inspect and to object to the validity of any constituency nomination paper.

(3) Paragraph (2) does not apply to a person mentioned in paragraph (1)(d).

(4) Except for the purpose of delivering an individual nomination paper or regional list or of assisting the regional returning officer no person is entitled to attend the proceedings during the time for delivery of individual nomination papers or regional lists or for making objections to them unless he is—

- (a) a person standing nominated as an individual candidate for return as a regional member;
- (b) the election agent of such a person;
- (c) a candidate included on a party's regional list;
- (d) the election agent or nominating officer of a party which has submitted a regional list; or
- (e) a person who is entitled to attend by virtue of section 6A or 6B of the 2000 Political Parties Act,

(2) Sections 6A and 6B were inserted by the 2006 Act, section 29.

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but where an individual candidate acts as his own election agent, or a candidate on a party's regional list acts as election agent of that party in relation to that list, he may name one other person who shall be entitled to attend in place of the election agent for that individual candidate or, as the case may be, party.

(5) The right conferred by paragraph (4) includes the right to inspect and to object to the validity of any individual nomination paper or any regional list (including the nomination of any candidate on such a list).

(6) Paragraph (5) does not apply to a person mentioned in paragraph (4)(e).

Decisions as to validity of constituency nomination papers

15.—(1) Where a constituency nomination paper and the candidate's consent to it are delivered and a deposit is made in accordance with these Rules, the candidate shall be deemed to stand nominated unless and until—

- (a) the constituency returning officer decides that the constituency nomination paper is invalid;
- (b) proof is given to the constituency returning officer's satisfaction of the candidate's death; or
- (c) the candidate withdraws.

(2) The constituency returning officer is entitled to hold a constituency nomination paper invalid only on one of the following grounds:—

- (a) that the particulars of the candidate or the witness signing the paper are not as required by law;
- (b) that the paper is not witnessed as so required;
- (c) that the candidate is disqualified by virtue of the Representation of the People Act 1981(3).

(3) Subject to paragraph (4) the constituency returning officer shall give his decision on any objection to a constituency nomination paper—

- (a) as soon as practicable after it is made, and
- (b) in any event, before the end of the period of 24 hours starting with the close of the period for delivery of nomination papers set out in the Table in rule 1.

(4) If in the constituency returning officer's opinion a constituency nomination paper breaches rule 8, he shall give a decision to that effect—

- (a) as soon as practicable after delivery of the nomination paper, and
- (b) in any event, before the end of the period of 24 hours starting with the close of the period for delivery of nomination papers set out in the Table in rule 1.

(5) Where the constituency returning officer decides that a constituency nomination paper is invalid, he shall endorse and sign on the paper the fact and the reasons for his decision.

(6) The constituency returning officer's decision that a constituency nomination paper is valid shall be final and shall not be questioned in any proceeding whatsoever.

(7) Subject to paragraph (6), nothing in this rule prevents the validity of a nomination being questioned on an election petition.

(3) 1981 c. 34.

Decisions as to validity of individual nomination papers

16.—(1) Where an individual nomination paper and the candidate's consent to it are delivered and a deposit is made in accordance with these Rules, the candidate shall be deemed to stand nominated unless and until—

- (a) the regional returning officer decides that the individual nomination paper is invalid;
- (b) proof is given to the regional returning officer's satisfaction of the candidate's death; or
- (c) the candidate withdraws.

(2) The regional returning officer is entitled to hold an individual nomination paper invalid only on one of the following grounds:—

- (a) that the particulars of the candidate or the witness signing the paper are not as required by law;
- (b) that the paper is not witnessed as so required;
- (c) that the candidate is disqualified by virtue of the Representation of the People Act 1981.

(3) The regional returning officer shall give his decision on any objection to an individual nomination paper—

- (a) as soon as practicable after it is made, and
- (b) in any event, before the end of the period of 24 hours starting with the close of the period for delivery of nomination papers set out in the Table in rule 1.

(4) Where a regional returning officer decides that an individual nomination paper is invalid, he shall endorse and sign on the paper the fact and the reasons for his decision.

(5) The regional returning officer's decision that an individual nomination paper is valid shall be final and shall not be questioned in any proceeding whatsoever.

(6) Subject to paragraph (5), nothing in this rule prevents the validity of a nomination being questioned on an election petition.

Decisions as to validity of regional lists and as to the validity of nominations included on such a list

17.—(1) Where a registered party's regional list and the consent of each candidate included in that list are delivered and a deposit is made in accordance with these Rules, the party and (subject to paragraphs (3) and (4)) each candidate on its list shall be deemed to stand nominated unless and until the regional returning officer decides that the regional list is invalid.

(2) The regional returning officer is entitled to hold a regional list invalid only on one of the following grounds:—

- (a) that the name stated under paragraph (2) of rule 7 breaches that rule;
- (b) that the number of candidates on the list is greater than 12;
- (c) that the list does not contain the statement referred to in rule 7(4).

(3) Where, in respect of a candidate included in a registered party's regional list—

- (a) proof is given to the regional returning officer's satisfaction of his death; or
- (b) he withdraws or his candidature is withdrawn in accordance with rule 18,

the regional returning officer shall delete the name and address of that candidate from the list.

(4) Where, in respect of a candidate included on a registered party's regional list—

- (a) his particulars in that list are not as required by law;
- (b) he is disqualified by virtue of the Representation of the People Act 1981; or

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(c) the consent to nomination of that candidate is not delivered in accordance with these Rules, the regional returning officer shall delete the name and address of that candidate from the list.

(5) The regional returning officer shall give his decision on any objection in respect of a regional list—

- (a) as soon as practicable after it is made; and
- (b) in any event, before the end of the period of 24 hours starting with the close of the period for delivery of nomination papers set out in the Table in rule 1.

(6) Where the regional returning officer decides that—

- (a) a regional list is invalid; or
- (b) the name and address of a candidate shall be deleted from a regional list,

he shall endorse and sign on the list that fact and the reasons for his decision.

(7) The regional returning officer's decision that—

- (a) a regional list is valid; or
- (b) the name and address of a candidate should not be removed from a party list,

shall not be questioned in any proceeding whatsoever.

(8) Subject to paragraph (7), nothing in this paragraph prevents the validity of a nomination being questioned on an election petition.

Withdrawal of candidates

18.—(1) A candidate for return as a constituency member may withdraw his candidature by notice of withdrawal—

- (a) signed by him and attested by one witness; and
- (b) delivered to the constituency returning officer at the place for delivery of constituency nomination papers.

(2) A candidate for return as a regional member may withdraw his candidature by notice of withdrawal—

- (a) signed by him and attested by one witness; and
- (b) delivered to the regional returning officer at the place or a place for delivery of individual nomination papers and regional lists.

(3) A registered political party may withdraw the candidature of any or all of the candidates included in a regional list of that party by notice of withdrawal—

- (a) signed by the party's nominating officer and attested by one witness; and
- (b) delivered to the regional returning officer at the place or places for the delivery of regional lists.

(4) Where a candidate in a regional list has been withdrawn in accordance with this rule the regional returning officer shall delete the name and address of that candidate from the list.

Publication of statement of persons nominated as candidates for return as a constituency member

19.—(1) The constituency returning officer shall prepare and publish a statement showing the persons who have been and stand nominated as candidates for return as a constituency member and any other persons who have been nominated as such candidates, with the reason why they no longer stand nominated.

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(2) The statement shall show the names, addresses and descriptions of the persons nominated as given in their constituency nomination papers.

(3) The statement shall show the persons standing nominated arranged alphabetically in the order of their surnames, and, if there are two or more of them with the same surname, of their other names.

(4) If a person's nomination paper gives a commonly used surname or forename in addition to another name—

- (a) the statement shall show the person's commonly used surname or forename (as the case may be) instead of any other name;
- (b) but sub-paragraph (a) does not apply if the constituency returning officer thinks—
 - (i) that the use of the person's commonly used name may be likely to mislead or confuse electors, or
 - (ii) that the commonly used name is obscene or offensive;
- (c) if sub-paragraph (b) applies, the constituency returning officer must give notice in writing to the candidate for his reasons for refusing to allow the use of a commonly used name.

(5) In the case of a person nominated by more than one constituency nomination paper, the constituency returning officer shall take the particulars required by the foregoing provisions of this paragraph from such one of the papers as the candidate (or the returning officer in default of the candidate) may select.

(6) The constituency returning officer shall send to the Electoral Commission—

- (a) a copy of the statement; and
- (b) in the case of each candidate standing nominated in respect of whom a certificate has been received by the returning officer in accordance with rule 8, a copy of that certificate.

(7) The constituency returning officer may, if he thinks fit, at any time before the publication under this rule of the statement of persons and parties nominated, correct minor errors in a nomination paper, including—

- (a) errors as to a person's electoral number,
- (b) obvious errors of spelling in relation to the details of a candidate.

(8) Anything done by a constituency returning officer in pursuance of paragraph (7) must not be questioned in any proceedings other than proceedings on an election petition.

Publication of statement of persons and parties nominated for return as regional members

20.—(1) The regional returning officer shall prepare and publish a statement showing—

- (a) each registered party which has been and stands nominated together with that party's regional list;
- (b) the persons who have been and stand nominated as individual candidates for return as a regional member;
- (c) any other persons or parties who have been nominated together with the reason why they no longer stand nominated.

(2) The statement shall show the registered parties which have been and stand nominated in alphabetical order with the name or description of the party as given in that list and the names and home addresses of the candidates who appear on the regional list of each party as given in that list and arranged in the order in which their names appear on that list.

(3) The statement shall also show the names, and addresses of the persons nominated as individual candidates as given in their individual nomination papers, with the description as "Independent" if that is requested in those papers.

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(4) If a regional list or an individual candidate's nomination paper gives a person's commonly used surname or forename in addition to another name—

(a) the statement shall show the person's commonly used surname or forename (as the case may be) instead of any other name;

(b) but sub-paragraph (a) does not apply if the regional returning officer thinks—

(i) that the use of the person's commonly used name may be likely to mislead or confuse electors, or

(ii) that the commonly used name is obscene or offensive;

(c) if sub-paragraph (b) applies, the regional returning officer must give notice in writing to the candidate for his reasons for refusing to allow the use of a commonly used name.

(5) The statement shall show the names, addresses and descriptions of the persons standing nominated as individual candidates after the names or descriptions of the registered parties standing nominated and the names of those individual candidates shall be arranged alphabetically in the order of their surnames and, if there are two or more of them with the same surname, of their other names.

(6) In the case of a person nominated by more than one individual nomination paper, the regional returning officer shall take the particulars required by the foregoing provisions of this paragraph from such one of the papers as the candidate (or the regional returning officer in default of the candidate) may select.

(7) In the case of a registered political party which has delivered more than one regional list for a particular region (and which stands nominated by more than one of those lists), the regional returning officer shall take the particulars required by the foregoing provisions of this rule from such one of the lists as the nominating officer of that party (or the regional returning officer in default of that officer) may select; and if any candidate is shown standing nominated by a list not so selected but is not so shown in the selected list, he shall no longer stand nominated.

(8) The regional returning officer shall send a copy of the statement to the Electoral Commission.

(9) The regional returning officer may, if he thinks fit, at any time before the publication under this rule of the statement of persons and parties nominated, correct minor errors in a nomination paper, including—

(a) errors as to a person's electoral number;

(b) obvious errors of spelling in relation to the details of a candidate or party.

(10) Anything done by a regional returning officer in pursuance of paragraph (9) must not be questioned in any proceedings other than proceedings on an election petition.

Disqualification by Representation of the People Act 1981: candidates for return as constituency members

21.—(1) If it appears to the constituency returning officer that any of the persons nominated as candidates for return as a constituency member might be disqualified by virtue of the Representation of the People Act 1981 he shall, as soon as practicable after the expiry of the time allowed for the delivery of constituency nomination papers, prepare and publish a draft of the statement required by rule 19.

(2) The draft shall be headed "Draft statement of persons nominated for return as a constituency member" and shall contain a notice stating that any person who wishes to object to the nomination of any candidate on the ground that he is disqualified for nomination under the Representation of the People Act 1981 may do so between the hours of 10 am and 4 pm on the day and at the place specified in the notice; and the day so specified shall be the day next after the last day for the delivery of constituency nomination papers.

Disqualification by Representation of the People Act 1981: candidates for return as regional members

22.—(1) If it appears to the regional returning officer that any of the persons nominated as candidates for return as a regional member might be disqualified by the Representation of the People Act 1981 he shall, as soon as practicable after the expiry of the time allowed for the delivery of individual nomination papers and regional lists, prepare and publish a draft of the statement required by rule 20.

(2) The draft shall be headed “Draft statement of persons nominated for return as regional members” and shall contain a notice stating that any person who wishes to object to the nomination of any candidate on the ground that he is disqualified for nomination under the Representation of the People Act 1981 may do so between the hours of 10 am and 4 pm on the day and at the place specified in the notice; and the day so specified shall be the day next after the last day for the delivery of individual nomination papers and regional lists.

Adjournment of nomination proceedings in the case of riot

23.—(1) Where the proceedings for, or in connection with, nomination are on any day interrupted or obstructed by riot or open violence—

(a) the proceedings shall be abandoned for that day; and

(b) if that day is the last day for the delivery of—

(i) constituency nomination papers; or

(ii) individual nomination papers and regional lists,

the proceedings shall be continued on the next day as if that were the last day for such delivery, and that day shall be treated for the purposes of these Rules as being the last day for such delivery (subject to any further application of this paragraph in the event of interruption or obstruction on that day).

(2) Where proceedings are abandoned by virtue of this rule nothing—

(a) may be done after they are continued if the time for doing it had passed at the time of the abandonment;

(b) done before the abandonment shall be invalidated by reason of the abandonment.

Method of election: candidates for return as constituency members

24.—(1) If the statement required by rule 19 shows more than one person standing nominated, a poll shall be taken in accordance with Part III of these Rules.

(2) If that statement shows only one person standing nominated, that person shall be declared to be elected in accordance with Part IV of these Rules.

Method of election: candidates for return as regional members

25.—(1) Subject to paragraph (2)(b), if the statement of persons required by rule 20 shows more candidates (whether on a registered party’s regional list or individual candidates) than the number of seats for that region a poll shall be taken in accordance with Part III of these Rules.

(2) If that statement shows—

(a) a number of candidates (whether on a registered party’s regional list or individual candidates) which is the same as, or less than, the number of seats for that region; or

(b) all of the candidates shown on that statement are on the regional list of the same registered party,

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the regional returning officer shall, following receipt of the notification under rule 62(3), allocate the seats in accordance with sections 7 and 8 of the 1998 Act.