

## SCHEDULE 2

### SCOTTISH PARLIAMENTARY ELECTION RULES

#### PART V

#### DISPOSAL OF DOCUMENTS

##### Sealing up of ballot papers

**68.**—(1) On the completion of the counting at a contested election the constituency returning officer shall—

- (a) where the votes have been counted by electronic means, 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; or
- (b) where the votes have been counted by manual means, seal up in separate packets the counted and rejected ballot papers.

(2) The constituency 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 (including any marked copy notices issued under section 13B(3B) or (3D) of the 1983 Act) and lists of proxies.

(3) Where the votes have been counted electronically, the constituency returning officer shall thereafter arrange for all original electronic data and records relating to the election to be removed from the electronic counting system.

##### Delivery of documents to the sheriff clerk

**69.**—(1) The constituency returning officer shall then forward to—

- (a) the sheriff clerk of the sheriff court district comprising the constituency; or
- (b) if the constituency comprises the whole or part of more sheriff court districts than one, the sheriff clerk of such one of those sheriff court districts as the Secretary of State may by order appoint,

the following documents—

- (c) the packets of ballot papers in his possession;
- (d) the ballot paper accounts and the statements of rejected ballot papers and of the result of the verification of the ballot paper accounts;
- (e) the tendered votes lists, the lists of voters with disabilities assisted by companions, the lists of votes marked by the presiding officer and the related statements, the lists maintained under rule 51, and the declarations made by the companions of voters with disabilities;
- (f) the packets of the completed corresponding number lists;
- (g) the packets of certificates as to employment on duty on the day of the poll;
- (h) the packets containing marked copies of registers (including any marked copy notices issued under section 13B(3B) or (3D) of the 1983 Act) and of lists of proxies; and
- (i) where applicable, the electronic copy of information made pursuant to rule 68(1)(a).

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(2) The constituency returning officer may forward the documents either by delivering them by himself or his agent to the sheriff clerk or by sending them by recorded delivery post.

(3) On forwarding the documents, the constituency returning officer must deliver or send to the sheriff clerk along with the documents a letter specifying the number and descriptions of the documents forwarded, and must endorse on each packet—

- (a) a description of its contents;
- (b) the date of the election to which they relate; and
- (c) the name of the constituency in which the votes were given.

(4) Where the documents are delivered by the constituency returning officer himself or his agent, the sheriff clerk must, on receipt of the documents, provide the person delivering them with a signed receipt showing the date and time of receipt.

### **Orders for production of documents and records**

**70.**—(1) An order—

- (a) for the inspection or production of any rejected ballot papers in the custody of the sheriff clerk;
- (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 his custody; or
- (c) for the presentation of evidence about the content of any electronic copy of information forwarded to the sheriff clerk under rule 69(1)(i),

may be made, if 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, by the Court of Session or the sheriff.

(2) An order—

- (a) for the opening of a sealed packet of the completed corresponding number lists or of certificates;
- (b) for the presentation of evidence about the contents of any electronic copy of information forwarded to the sheriff clerk under rule 69(1)(i); or
- (c) for the inspection of any counted ballot papers in the sheriff clerk’s custody,

may be made by an election court.

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

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

as the court making the order may think expedient; but in making and carrying into effect such an order 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 his vote was given; and
- (ii) that the vote has been declared by a competent court to be invalid.

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

(5) Any power given under this rule to the Court of Session or to the sheriff, may be exercised by any judge of the court otherwise than in open court.

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(6) Where an order is made for the production by the sheriff clerk of any document, record or electronic copy of information in his possession relating to any specified election—

- (a) the production by him or his agent of the document, record or electronic copy ordered in such manner as may be directed by that order shall be conclusive evidence that the document, record or electronic copy 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) at the time of the election contained the same number as the number written as mentioned in sub-paragraph (b).

(8) Save as by this paragraph provided, no person shall be allowed to inspect any rejected or counted ballot papers in the possession of the sheriff clerk, to open any sealed packets of the completed corresponding number lists or of certificates, or to examine any electronic copy of information forwarded to the sheriff clerk under rule 69(1)(i).

#### **Retention and public inspection of documents**

**71.**—(1) The sheriff clerk shall retain for a year all documents and records relating to an election forwarded to him in pursuance of these Rules by a constituency returning officer, and then, unless otherwise directed by order of the Court of Session, shall cause them to be destroyed.

(2) The documents mentioned in paragraph (1) except—

- (a) ballot papers;
- (b) the completed corresponding number lists; and
- (c) certificates as to employment on duty on the day of the poll,

shall be open to public inspection.

(3) Any electronic copy of information forwarded to the sheriff clerk under rule 69(1)(i) shall not be open to public inspection.

(4) The sheriff clerk may, on request, supply copies of or extracts from the documents open to public inspection on payment of such fees and subject to such conditions as may be sanctioned by the Treasury.