

# Part G – After the declaration of results

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# 1 Notification of results

**1.1** Following the declaration of the result in a Scottish Parliamentary constituency election, and after notification of the result to the Regional Returning Officer, the Constituency Returning Officer must give public notice of the name of the person who has been elected and, if applicable, the name of the registered political party they represent, along with the total number of votes cast for each candidate with the total number of rejected ballot papers, separated out by each ground for rejecting ballot papers.<sup>1</sup>

**1.2** The Constituency Returning Officer must also notify the Clerk of the Scottish Parliament of the result. This must be done by completing a copy of the certificate in Form S in the Appendix of forms to the Scottish Parliament Order, and deliver it, or cause it to be delivered, to the Clerk of the Parliament.<sup>2</sup>

**1.3** Following the allocation of seats and the declaration of the result at the Scottish Parliamentary regional elections, the Regional Returning Officer must give public notice of the name of any individual candidate elected, the names of any candidates on a registered party's list who were elected together with the name of that party, the total number of votes cast for each individual candidate and registered political party, the total number of rejected ballot papers separated out by each ground for rejecting ballot papers, and whether there are any candidates remaining on a registered political party's list who have not been declared to be elected.<sup>3</sup> A copy of this public notice must be sent to each Constituency Returning Officer in the region.<sup>4</sup>

**1.4** The Regional Returning Officer must also notify the Clerk of the Scottish Parliament of the result. This must be done by completing a copy of the certificate in Form T in the Appendix of forms to the Scottish Parliament Order, and deliver it, or cause it to be delivered, to the Clerk of the Parliament.<sup>5</sup>

**1.5** In both instances, it is advisable to send the certificate(s) to the Clerk of the Scottish Parliament by recorded delivery as soon as practicable following the declaration of the result, and certainly by the last post on the Friday immediately following polling day.

**1.6** Following the declaration of the results at a local government election, the Returning Officer must give public notice of the name of the candidates elected, the number of first and subsequent preference votes for each candidate, the numbers of ballot papers transferred and their transfer values at each stage, the number of votes credited to each candidate at each stage of the count, the number of non-transferable ballot papers at each stage of the count, and the number of rejected ballot papers, separated out by each ground for rejecting ballot papers.<sup>6</sup>

**1.7** The Local Government Returning Officer is also obliged to inform the Proper Officer of the Council, who may be the Chief Executive or some other senior officer of the council, of the names of each candidate elected.<sup>7</sup> It is not a statutory requirement to inform the Proper Officer of the description of the registered political party, if any, that a candidate represents or of the address of each candidate

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1 Rule 62, Scottish Parliament Order.

2 Rule 62(4), Scottish Parliament Order.

3 Rule 66(1), Scottish Parliament Order.

4 Rule 66(1)(e), Scottish Parliament Order.

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5 Rule 66(2), Scottish Parliament Order.

6 Rule 55(c), Local Government Rules.

7 Rule 55(b), Local Government Rules.

as given in the nomination paper, but it would be good practice to do so.

**1.8** In addition to providing these statutory notifications of results, Constituency and Regional Returning Officers are requested to send electronically copies of the results for each Scottish Parliamentary contest as soon as possible following the declaration of the result to the following addresses:

**The Electoral Commission**

infoscotland@electoralcommission.org.uk

**Scottish Parliament**

spice@scottish.parliament.uk

**1.9** Returning Officers sending this information shortly after the declaration of the results will allow both the Commission and the Scottish Parliament to respond to expected public requests for this information in the hours and days immediately following the election.

**1.10** Additionally, Returning Officers are requested to send electronically copies of the results for the local government elections to both the Electoral Commission and the Scottish Parliament at the same addresses as shown above, again as soon as practicable after the declaration of results.

## 2 Storage, disposal and inspection of election documents

### Forwarding documents to the Sheriff Clerk

#### Before the poll

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**2.1** It is good practice for election staff to make early contact with the relevant Sheriff Clerk's office with a view to identifying an individual or individuals within the Sheriff Clerk's office with particular responsibility for receiving and retaining election documents.

**2.2** The name(s) and contact number of the office within the Sheriff Clerk's department should be retained by election staff and all contact in relation to these matters made through that office.

**2.3** Preliminary discussions might include:

- advance indication of the likely number and size of packets to be delivered
- the likely timescale for delivery
- the nature of delivery (i.e. whether by hand or by post)
- a sample of the letter from the Returning Officer to the Sheriff Clerk specifying the number and description of the documents to be sent
- if the documents are to be delivered by hand, a sample of the receipt to be signed by the Sheriff Clerk and retained by the Returning Officer

**2.4** Working from the polling scheme, it is possible to estimate fairly accurately the number and size of the packets of documents required for each constituency. Election staff can, therefore, prepare the containers and labels showing the contents of the various packets in advance of the election.

**2.5** It is advisable to use heavy duty clear plastic sacks with labels showing the contents of each sack and the constituency to which they relate affixed securely inside the sack to minimise the risk of the labels becoming detached in transit. The clear sacks also enable a check of the contents at a later date without breaching the seal of the packets.

**2.6** It is good practice for Returning Officers to include in the information provided to prospective candidates an indication of the items passed to the Sheriff Clerk, their rights of access, the likely date of availability and the period for which they will be held.

#### During the count

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**2.7** Depending on the space and staffing resources available within the count location and the way the count is organised, Returning Officers might consider using the staff who administered the reception of the ballot boxes and parcels from the polling stations for the identification and separation of the items for the Sheriff Clerk from the parcels.

**2.8** After all ballot paper accounts and ballot boxes have been delivered to the count venue and the verification process has been completed, a separate secure area (if available) should be identified and used for separating the contents of the parcels into the elements to be forwarded to the Sheriff Clerk.

**2.9** By laying out the large sacks on the floor and placing the appropriate items on top, a visual check can be made, with reference to the polling scheme or ballot box control sheet, of the contents of each sack to ensure the items are appropriate for that particular sack and that all the appropriate items for that particular constituency are included.

**2.10** At the conclusion of the operation, the checks should reveal any gaps where a particular register, envelope or package is missing and a list should be kept of missing articles.

**2.11** If time permits before the end of the count, a search can be made through the documents laid out on top of the appropriate sacks for the missing articles.

### After the count

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**2.12** In respect of the Scottish Parliamentary elections, the Constituency Returning Officer must forward to the appropriate Sheriff Clerk:<sup>8</sup>

- the packets of ballot papers in his possession (including counted and rejected ballot papers, which need not be separated where the votes have been counted electronically), unused and spoilt ballot papers, and tendered ballot papers
- ballot paper accounts
- statements of rejected ballot papers
- results of the verification of the ballot paper accounts
- tendered votes lists
- list of voters with disabilities assisted by companions
- lists of votes marked by the Presiding Officer and the related statements
- the list of persons to whom any ballot papers were issued in consequence of an alteration made to the register of electors taking effect on the day of the poll
- declarations made by the companions of voters with disabilities
- packets of the completed corresponding number lists
- packets of certificates as to employment on duty on the day of the poll
- packets containing marked copies of the registers, including any marked notices issued under Section 13B (3B) or (3D) of the RPA 1983, and of lists of proxies
- the electronic copy of the information stored in the electronic counting system, held in a device suitable for the purposes of its storage
- packets of the contents of the receptacles for postal voting statements, for rejected votes and for rejected ballot paper envelopes
- spoilt postal ballot papers and the postal voting statements and ballot paper envelopes
- returned lost postal voting documents
- list of spoilt and lost postal ballot papers
- statements as to postal ballot papers
- the marked copy of the postal voters list and the postal proxy voters list
- covering envelopes received after the close of poll
- envelopes addressed to postal voters returned as undelivered and received too late to be re-addressed
- any spoilt postal ballot papers returned too late to enable replacement postal voting papers to be issued

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<sup>8</sup> Rule 69 and Paragraph 28, Schedule 4, Scottish Parliament Order.

**2.13** Each of the above items should be placed in a packet endorsed with a description of its contents and the date of election and the name of the constituency to which they relate.<sup>9</sup> At the conclusion of the exercise, all contents should be in their appropriate sacks with the tops sealed temporarily and the sacks locked securely in the count centre.

**2.14** On the following day, a comprehensive check of the contents of each sack can be made to ensure that all packets that need to be retained are present and, if necessary, the search can resume for any missing articles. On completion, the sacks can be finally sealed and endorsed, and contact made with the Sheriff Clerk's office to agree a mutually acceptable time for delivery of the packets. These should then be locked securely in a controlled storage area until such time as they can be forwarded on to the Sheriff Clerk.

**2.15** The sacks, accompanied by the letter from the Returning Officer and, if being delivered by hand, the receipt for signature by the Sheriff Clerk or their officer, can then be delivered. It is suggested that all election materials be deposited with the Sheriff Clerk within seven days of the date of poll.

## Forwarding documents from the local government election

**2.16** At the completion of the local government election count, the Returning Officer must seal up in packets the ballot papers (counted and rejected ballot papers need not be separated where the votes are counted electronically) 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.<sup>10</sup>

**2.17** At a combined Scottish Parliamentary and local government election, some documents relating to the local government election require to be sent to the Sheriff Clerk and not to the Proper Officer of the Council as would normally be the case following a local government election.

**2.18** The Returning Officer should forward to the Proper Officer of the Council the following documents, 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:<sup>11</sup>

- the packets of ballot papers in the Returning Officer's possession
- the ballot paper accounts
- the statements of rejected ballot papers and of the result of any verification of the ballot paper accounts
- the packets of the corresponding number lists and certificates as to employment on duty on the day of the poll
- the electronic copy of the information stored in the electronic counting system

**2.19** The following should be forwarded to the Sheriff Clerk:

- the tendered votes list, the lists of voters with disabilities assisted by companions, the lists of votes marked by the Presiding Officer and the related statements, and the declarations

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<sup>9</sup> Rule 69(3), Scottish Parliament Order.

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<sup>10</sup> Rule 56, Local Government Rules.

<sup>11</sup> Rule 57, Local Government Rules.

made by the companions of voters with disabilities

- the list of persons to whom any ballot papers were issued in consequence of an alteration made to the electoral register taking effect on the day of the poll
- the packets containing marked copies of registers including any marked notices issued under Section 13B(3B) or (3D) of the RPA 1983 and of the postal voters lists, of lists of proxies and of the proxy postal voters list

## Retention and public inspection of documents

**2.20** Although a copy of the information contained in the electronic counting system is to be retained, as soon as is reasonably practicable after that copy has been sealed up in a packet, all original electronic data or records relating to the election must be removed from the electronic counting system and destroyed in such a manner as to preserve the confidentiality of that data.<sup>12</sup>

**2.21** In respect of the Scottish Parliamentary election, the Sheriff Clerk must retain for a period of one year all the documents relating to the election including the documents relating to the combined poll and then, unless directed by an order of the Court of Session, should arrange for them to be destroyed.<sup>13</sup>

**2.22** In respect of the local government elections, the Proper Officer of the Council must retain for one year all documents relating to the

election other than those that, due to the combination of polls, are required to be transferred to the Sheriff Clerk; after which, and unless directed by order of a Sheriff Principal or an election court, they shall cause them to be destroyed.<sup>14</sup> The one exception to this is the electronic record of count information which needs to be retained for a period of four years; after which, and unless directed by order of a Sheriff Principal or an election court, they shall cause this to be destroyed.

**2.23** Most of the documents relating to the election must be available for inspection. The documents that are not available for inspection after the declaration of the result of the election are:<sup>15</sup>

- ballot papers
- completed corresponding number lists
- certificates as to employment on duty on the day of the poll
- electronic copy of count information

**2.24** In respect of the Scottish Parliamentary election documents and the local government election documents forwarded to the Sheriff Clerk as a consequence of the combination of polls, 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.<sup>16</sup>

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<sup>12</sup> Rule 68(3), Scottish Parliament Order; Rule 56(3), Local Government Rules.

<sup>13</sup> Rule 71(1), Scottish Parliament Order.

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<sup>14</sup> Rule 59, Local Government Rules.

<sup>15</sup> Rule 71, Scottish Parliament Order; Regulation 4(1)(b), RP (Post-election) Regulations.

<sup>16</sup> Rule 71(4), Scottish Parliament Order.

## 3 Return or forfeiture of deposits

**3.1** The deposits made at elections to the Scottish Parliament must either be:

- returned to the person making it or their personal representatives or
- forfeited to Her Majesty<sup>17</sup>

**3.2** A forfeited deposit must be forwarded to the Scotland Office within a fortnight of the declaration of the result. Returning Officers should send the payment to the Scotland Office via BACS. Further information on this process can be obtained from the Scotland Office.

**3.3** The deposits to be returned must be so returned not later than the next working day after that on which the result of the election is declared.<sup>18</sup> The deposit is treated as having been returned if a cheque for the amount of the deposit is posted on that day.

**3.4** The deposit made by or on behalf of a constituency candidate shall be forfeited if, after the counting of the constituency votes (including any re-count) is completed, the candidate is found not to have polled more than one-twentieth of the total number of votes polled by all candidates in the constituency.<sup>19</sup>

**3.5** The deposit of an individual regional candidate or registered political party standing in a region shall be forfeited if, after the total number of regional votes cast in all of the constituencies in the region has been calculated, the candidate or party is found not to have polled more than one-twentieth of the total number of votes polled by all registered

political parties and individual candidates in all of the constituencies included in the region and has not been allocated a regional seat.<sup>20</sup>

**3.6** If in the case of a constituency election, a candidate is not shown as standing nominated in the statement of persons nominated, or if the poll is countermanded or abandoned by reason of their death, their deposit shall be returned as soon as practicable after the publication of the statement or after their death, as the case may be.<sup>21</sup>

**3.7** Furthermore, if in the case of a regional election, an individual candidate or a registered political party is not shown as standing nominated in the statement of parties and other persons nominated, their deposit shall be returned as soon as practicable after publication of the statement.<sup>22</sup> If an individual candidate at a regional election dies, their deposit should be returned as soon as is practicable after the Regional Returning Officer is notified of the candidate's death.

**3.8** There is no requirement for a deposit to be made by candidates standing in the local government election.

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17 Rule 67(1), Scottish Parliament Order.

18 Rule 67(2), Scottish Parliament Order.

19 Rule 67(6), Scottish Parliament Order.

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20 Rule 67(7), Scottish Parliament Order.

21 Rule 67(4), Scottish Parliament Order.

22 Rule 67(5), Scottish Parliament Order.

## 4 Candidates' election expenses

**4.1** The election agent of each constituency candidate and individual regional candidate in the Scottish Parliamentary election and of each local government election candidate is required to complete and return a statement of all expenses to the appropriate Returning Officer.<sup>23</sup> The return must include the original documents, and be accompanied by a declaration made by the election agent.<sup>24</sup> These must be given to the appropriate Returning Officer, together with bills and receipts, within 35 calendar days of the declaration of the result of the election.

**4.2** Each candidate on a registered party's regional list at the Scottish Parliamentary election must submit a declaration as to election expenses to the appropriate Returning Officer within 35 days of the declaration of the result of the election.<sup>25</sup>

**4.3** In respect of candidates at Scottish Parliamentary elections, copies of all returns and declarations must be forwarded to the Electoral Commission and, if the Commission so requests them, Returning Officers should also send a copy of any accompanying documents.<sup>26</sup> For further information, see Section 5, Returns to the Electoral Commission.



A guide for candidates and agents at a Scottish Parliamentary election and a guide for candidates at a local government election are available on the Commission's website and can be ordered from the Commission's distributor free of charge. Candidates and agents can also download guidance on completing expenses forms, the form of return of candidates' election expenses, the declaration by the election agent as to election expenses and the declaration as to candidates' election expenses.

[www.electoralcommission.org.uk/elections2007](http://www.electoralcommission.org.uk/elections2007)

### Inspection arrangements

**4.4** Following elections to the Scottish Parliament, within 10 days after the end of the time allowed for delivering returns as to election expenses, the Constituency Returning Officer shall publish in not less than two newspapers circulating in the constituency and the Regional Returning Officer in not less than three newspapers circulating in the electoral region, a notice of the time and place at which the returns and declarations (including the accompanying documents) can be inspected.<sup>27</sup>

**4.5** In addition, the appropriate Returning Officer must send the same notice:

- in the case of a constituency election, to each of the election agents
- in the case of a regional election, to the election agents and to the nominating officer of each registered political party that submitted a regional list

<sup>23</sup> Article 46, Scottish Parliament Order; Section 81, RPA 1983.

<sup>24</sup> Article 47, Scottish Parliament Order; Section 82, RPA 1983.

<sup>25</sup> Article 48, Scottish Parliament Order.

<sup>26</sup> Article 54, Scottish Parliament Order.

<sup>27</sup> Article 55(1), Scottish Parliament Order.

**4.6** The notice must also state if any return or declaration has not been received.<sup>28</sup> If subsequently any missing return or declaration is received, another notice must be published within 10 days of its receipt and a copy of this sent to each of the election agents and nominating officers.

**4.7** There is no equivalent provision in respect of local government elections.

**4.8** The declaration and returns of expenses for each candidate at Scottish Parliamentary and local government elections require to be retained and made available for inspection for a period of two years.<sup>29</sup> To inspect declarations, returns and any accompanying documents related to local government candidates, a fee of £5 must be paid.<sup>30</sup> There is no equivalent fee to inspect returns relating to candidates at a Scottish Parliamentary election.

**4.9** On request, copies of returns, declarations and accompanying documents for any candidate at Scottish Parliamentary or local government elections can be supplied to any person on the payment of a fee of 20p for each side of each page.<sup>31</sup>

**4.10** After the inspection period has expired, the declarations and returns of expenses should be offered to the relevant candidate or their election agent. If the candidate or agent does not require them, they can be destroyed.

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28 Article 55(2), Scottish Parliament Order.

29 Article 56(1), Scottish Parliament Order; Section 89, RPA 1983.

30 Regulation 10(2), RPR 2001.

31 Article 56(1)(b) and (3), Scottish Parliament Order; Section 89(1)(b), RPA 1983; Regulation 10(3), RPR 2001.

## 5 Returns to the Electoral Commission

**5.1** After the close of nominations at the Scottish Parliamentary election, each Constituency Returning Officer is required to send to the Commission a copy of the statement of persons nominated as constituency candidates and, for each candidate standing on behalf of a registered political party, a copy of the certificate issued by or on behalf of the nominating officer of that party.<sup>32</sup> The Regional Returning Officer is required to submit to the Commission a copy of the statement of persons and parties nominated for return as regional members.<sup>33</sup>



The above documents should be sent to the Commission's Scotland office. Full address details for the office can be found in Part B – Preparing for the Scottish Parliamentary and local government elections, Section 9, Resources.

**5.2** There is no equivalent requirement in respect of the local government elections.

### Candidates' expenditure

**5.3** The Scottish Parliament Order imposes limits on candidates' expenditure, and, under the provisions of PPERA, the Commission is required to monitor compliance of candidates and agents with the rules on candidates' election expenses and donations to candidates.<sup>34</sup>

**5.4** Returning Officers will be required to send copies of the returns, retaining the originals, to the Commission's Scotland office, and will be given a minimum of four weeks to provide these to the Commission. The Commission requests

that the copies sent should include all accompanying documentation, including declarations.

**5.5** The following information is also necessary for us to conduct a compliance review:

- electorate figures for each constituency used to calculate the candidate's expenses limit
- the candidate's expenses limit provided to candidates, if any
- a list of all candidates who stood for election, including their party affiliations and whether they were successful
- confirmation of who has not submitted a return, submitted an incomplete return or submitted a late return
- addresses of election agents for candidates who failed to submit returns



The Commission will issue a circular giving contact details and further information on this in advance of the election.

### Statement as to postal ballot papers

**5.6** In terms of the Scottish Parliament Order, the Constituency Returning Officer is required to send to the Commission, in addition to the Secretary of State, in the period beginning 10 days after polling day and ending 15 days after polling day, a copy of the completed statement as to postal ballot papers.<sup>35</sup>

<sup>35</sup> Paragraph 28(4), Schedule 4, Scottish Parliament Order. In respect of the local government elections, the equivalent statement has to be forwarded to the Proper Officer of the Council and a copy sent to Scottish Ministers (Regulation 31(1)(b) and (4), RP (PV) Regulations).

<sup>32</sup> Rule 19(6), Scottish Parliament Order.

<sup>33</sup> Rule 20(8), Scottish Parliament Order.

<sup>34</sup> Section 145(1)(b), PPERA.

## Other returns

**5.7** The Commission is required by PPERA to keep electoral law and practice under review, and is also required to prepare and publish a report on the administration of the elections to the Scottish Parliament.

**5.8** In order to inform our report, we will be asking Returning Officers and Electoral Registration Officers questions about the election. The questions will involve both factual data gathering (e.g. 'how many...') and seeking responses on qualitative issues (i.e. views on how the various new legislative provisions worked in practice). The responses will form an important part of our analysis of the election.

**5.9** We will be evaluating the impact of some of the key measures of the EAA and the LEARS Act, as provided for in the Scottish Parliament Order, Local Government Rules, and other related pieces of secondary legislation, and considering whether they achieved their aims.

**5.10** Your cooperation and help is much appreciated – such data is vital to us, and others, as we work to make evidence-based policy recommendations.

## 6 Election petitions

**6.1** Election petitions are used to challenge the result of elections. The procedure for issuing an election petition is considered below.

### Scottish Parliamentary election

**6.2** An election petition can be issued by:<sup>36</sup>

- a person who voted as elector at the election or had a right so to vote
- a person claiming to have had a right to be elected or returned at the election, or
- a person alleging himself to have been a candidate at the election

**6.3** The allowable grounds for a petition are:<sup>37</sup>

- undue election, or
- undue return

**6.4** The person whose election is questioned by the petition, and any Returning Officer of whose conduct the petition complains, may be made a respondent to the petition.<sup>38</sup> If the petition complains about the conduct of the Returning Officer or their staff during the election, the Returning Officer is deemed to be a respondent.



Returning Officers are advised to ensure that they have appropriate insurance to cover the costs of legal representation, and other costs that can be incurred as a result of an election petition.

**6.5** The time limit for presenting petitions relating to a Scottish Parliamentary election is the same as for UK Parliamentary elections and

the same procedures for challenging an election, subject to minor modifications set out in Schedule 6 of the Scottish Parliament Order, apply for Scottish Parliamentary elections as for UK Parliamentary elections.

**6.6** The petition should usually be presented within 21 days. However, if the petition complains of corrupt or illegal practices involving the payment of money or other reward that have taken place since the election, or an illegal practice relating to election expenses, further time may be allowed.<sup>39</sup> If the petition complains of illegal practice in relation to election expenses, it may be presented at any time within 14 days of the Returning Officer receiving both the return and the declarations of the candidate and their agent.<sup>40</sup>

**6.7** The petition should include the following information:

- name and address of the petitioner (or each petitioner) and the capacity in which they are acting
- name and address of each respondent, and the capacity in which they are complained of in the petition (i.e. as candidate, Constituency Returning Officer or Regional Returning Officer)
- date and result of the election in question
- the date from which the time for lodging the petition is calculated, if not within 21 days
- the grounds on which relief is sought
- the relief claimed

<sup>36</sup> Section 121(1), RPA 1983.

<sup>37</sup> Section 120(1), RPA 1983.

<sup>38</sup> Section 121(2), RPA 1983.

<sup>39</sup> Section 122(3), RPA 1983.

<sup>40</sup> Section 122(4) and (5), RPA 1983.

**6.8** Each petitioner must sign the petition personally, and three copies must be lodged at the Petitions Office of the Court of Session. If the office is closed, the petition can be left in the letter box provided, but petitioners must swear an affidavit the next working day confirming the date and time when the petition was deposited.

**6.9** A fee is payable on issue of the election petition. In addition, an application to fix the amount of security for costs must be issued. The amount of security for costs will be fixed by the Prescribed Officer (the Principal Clerk of Session) but will not exceed £5,000. This must be deposited with the court in the form of cash or sureties or a combination of both.

**6.10** It is important to note that while the security for costs will not be more than £5,000, the total costs to be paid by the petitioner will almost certainly exceed £5,000 if the petition is unsuccessful.

**6.11** A person seeking to make an election petition or any person who is a respondent to such a petition would be well advised to take legal advice at the earliest possible time.

**6.12** For more detailed information on the processes to be followed in issuing an election petition, contact:

Petitions Department  
Court of Session  
Parliament House  
Parliament Square  
Edinburgh EH1 1RQ

Tel: 0131 240 6747  
Fax: 0131 240 6755

## Local government election

**6.13** A local government election petition can be presented by:<sup>41</sup>

- any person alleging that they were a candidate at the election, or
- four or more people who voted or were entitled to vote at the election

**6.14** The allowable grounds for a petition are that:<sup>42</sup>

- the successful candidate was disqualified at the time of the election
- the successful candidate was not duly elected
- the election was invalidated by corrupt or illegal practices, or
- the election was invalidated due to general corruption or the employment of a corrupt agent

**6.15** The person whose election is questioned by the petition, and any Returning Officer of whose conduct the petition complains, may be made a respondent to the petition.<sup>43</sup> If the petition complains about the conduct of the Returning Officer or their staff during the election, the Returning Officer is deemed to be a respondent.

**6.16** The petition must be presented within 21 days. However, if the petition complains of corrupt or illegal practices involving the payment of money or other reward that have taken place since the election, further time may be allowed.<sup>44</sup> If the petition complains of illegal practice in relation to election expenses, it may

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41 Section 128(1), RPA 1983.

42 Section 127, RPA 1983.

43 Section 128(2), RPA 1983.

44 Section 129(3), RPA 1983.

be presented at any time within 14 days of the Returning Officer receiving both the return and the declarations of the candidate and their agent.<sup>45</sup>

**6.17** The petition should include the following information:

- name, designation and address of each petitioner, and the capacity in which they are acting
- name, designation and address of each respondent, and the capacity in which they are acting
- date and result of the election in question
- the date from which the time for lodging the petition is calculated, if not within 21 days
- the grounds on which relief is sought
- the relief claimed

**6.18** Each petitioner must sign the petition personally, and three copies must be lodged with the Sheriff Principal at the Office of the Sheriff Court for the local government area concerned. If the office is closed, the petition can be left in the letter box provided, but petitioners must swear an affidavit the next working day confirming the date and time when the petition was deposited.

**6.19** At the time of presenting a local government election petition, or within three days afterwards, the petitioner will be required to give security for all costs that may become payable by them to any witness summoned on their behalf or to any respondent.

**6.20** The election court, or the Sheriff, determines the sum required as security, but at a local government election this will not be more than £2,500.<sup>46</sup> It is important to note that while the security for costs will not be more than £2,500, the total costs to be paid by the petitioner will almost certainly exceed £2,500 if the petition is unsuccessful.

**6.21** A person seeking to make an election petition or any person who is a respondent to such a petition would be well advised to take legal advice at the earliest possible time.

**6.22** The contact details for the relevant Sheriff Court for each local authority area can be found on the Scottish Court Service website at [www.scotcourts.gov.uk/locations/index.asp](http://www.scotcourts.gov.uk/locations/index.asp)

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<sup>45</sup> Section 129(4) and (5), RPA 1983.

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<sup>46</sup> Section 136, RPA 1983.

# 7 Review of election procedures

## Evaluation

**7.1** Following completion of the statutory post-election procedures, it is good practice to carry out an evaluation of the conduct of the election. On this occasion, it will be particularly valuable to assess how effectively the various legislative changes were managed, and what lessons can be learnt for future elections.

**7.2** The evaluation should ideally be completed within four weeks from the close of poll when all the issues will still be clear in the minds of the members of staff involved in the conduct of the election.

**7.3** The scope of the review should cover all aspects of the election but areas deserving particular scrutiny are likely to be polling places, the quality of the register, performance of contractors and suppliers, staffing, equipment and supplies, finance, security and integrity of the election, count arrangements, communications (both internal and external) and postal voting processes.

**7.4** It may be pertinent to invite some of the more experienced polling station staff to a discussion along with 'first timers' in order to address all aspects of the polling station process, from training and briefing sessions through to dealing with difficult situations during polling day. It would also be beneficial to involve candidates and agents in the review process to gather their feedback on the various aspects of the election from nominations through to the count.

**7.5** The information collected through this review can be used to inform the project plan and risk log for the next major election event.



The important part that the post-election evaluation has to play in informing the planning process for future elections is fully discussed in Part B – Preparing for the Scottish Parliamentary and local government elections.