

SCHEDULE 5

Assembly election rules

PART 6

Death of candidate

Constituency election: death of independent candidate

70.—(1) This rule applies if at a contested constituency election proof is given to the constituency returning officer's satisfaction before the result of the election is declared that one of the persons named or to be named in the ballot paper as an independent candidate has died.

(2) Subject to this rule and rules 71 and 72, these rules apply to the election as if the candidate had not died.

(3) The following provisions of these rules do not apply in relation to the deceased candidate—

- (a) rule 41(1)(c) and (d) (admission to polling station);
- (b) rule 54(5)(b) to (d) (attendance at count); and
- (c) rule 65(6) (forfeiture of deposit).

(4) If only two persons are shown as standing nominated in the statement of persons nominated the returning officer must—

- (a) if polling has not begun, countermand the notice of poll;
- (b) if polling has begun, direct that the poll is abandoned; and
- (c) subject to rule 76, treat the election as an uncontested election.

(5) For the purposes of this rule a person is named or to be named in the ballot paper as an independent candidate if the description (if any) on his nomination paper is not authorised as mentioned in rule 5(1) or (3).

Constituency election: deceased independent candidate wins

71.—(1) This rule applies if at an election mentioned in rule 70(1) the majority of votes is given to the deceased candidate.

(2) Rule 62(1) (declaration of result) does not apply and the constituency returning officer must not complete a certificate under rule 62(4) but must—

- (a) declare that the majority of votes has been given to the deceased candidate;
- (b) declare that no member is returned;
- (c) give public notice of the total number of votes given for each candidate together with the number of rejected ballot papers under each head shown in the statement under rule 58(5); and
- (d) at an Assembly general election, forthwith notify the regional returning officer for the region containing that constituency that the majority of votes has been given to the deceased candidate and that no member is returned for that constituency.

(3) Rule 65 (return or forfeiture of deposit) does not apply in relation to the remaining candidates.

(4) The proceedings with reference to the election must be commenced afresh subject to the following provisions of this rule.

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(5) A new notice of the election (“the new notice”) must be published on the first working day after the end of the period of seven days starting on the day of the poll of the election mentioned in rule 70(1).

(6) No fresh nomination is necessary in the case of a person shown in the previous statement of persons nominated, and no other nomination may be made.

(7) The last day on which a notice of withdrawal of candidature by a person who stands nominated by virtue of paragraph (6) may be delivered is the seventh working day after the day on which the new notice is published.

(8) Rule 10 (deposit) does not apply.

(9) Subject to paragraphs (10) and (11), the poll must be held on a day in the period (“the first period”) which starts 15 working days after the day on which the new notice is published and ends 19 working days after that day.

(10) If any of the days within the first period is Maundy Thursday, then—

(a) the poll must not be held on Maundy Thursday; but

(b) the constituency returning officer may fix the day of the poll to be held in the period which starts 20 working days after the day on which the new notice is published and ends 24 working days after that day.

(11) If any of the days within the first period is a day in the period which starts with 22nd December and ends with 2nd January following, the constituency returning officer may fix the day of the poll to be held in the period which starts 20 working days after the day on which the new notice is published and ends 24 working days after that day.

(12) For the purposes of this rule—

(a) a working day is a day which is not a day mentioned in rule 2; and

(b) “previous statement of persons nominated” means the statement of persons nominated in operation at the time of the death of the deceased candidate.

Constituency election: deceased independent candidate with equality of votes

72. In an election mentioned in rule 70(1), if—

(a) rule 60 (equality of votes) applies; and

(b) any of the candidates to whom that paragraph applies is a deceased candidate,

the deceased candidate must be ignored.

Constituency election: death of party candidate

73.—(1) This rule applies if—

(a) at a contested constituency election proof is given to the constituency returning officer’s satisfaction before the result of the election is declared that one of the persons named or to be named in the ballot paper has died; and

(b) that person is standing in the name of a registered political party.

(2) The returning officer must—

(a) countermand notice of the poll; or

(b) if polling has begun, direct that the poll be abandoned.

(3) At an Assembly general election, the constituency returning officer must forthwith notify the regional returning officer for the region containing that constituency that notice of the poll at

that constituency election has been countermanded or, as the case may be, that the poll has been abandoned and that no member is returned for that constituency.

(4) The proceedings with reference to the election must be commenced afresh subject to the following provisions of this rule.

(5) A new notice of the election (“the new notice”) must be published on the first working day after the end of the period of seven days starting on the day the proof of death is given to the constituency returning officer.

(6) No fresh nomination is necessary in the case of a person shown in the previous statement of persons nominated as standing nominated.

(7) No other nomination may be made except for a person standing in the name of the same registered political party in whose name the deceased candidate was standing.

(8) The last day on which a nomination mentioned in paragraph (7) may be delivered is the seventh working day after the day on which the new notice of the election is published.

(9) The last day on which a notice of withdrawal of candidature by a person who stands nominated by virtue of paragraph (6) or in pursuance of paragraph (7) may be delivered is the seventh working day after the day on which the new notice of the election is published.

(10) Subject to paragraphs (11) and (12) the poll must be held on a day in the period (“the first period”) which starts 15 working days after the day on which the new notice is published and ends 19 working days after that day.

(11) If any of the days within the first period is Maundy Thursday, then—

- (a) the poll must not be held on Maundy Thursday; but
- (b) the constituency returning officer may fix the day of the poll to be held in the period which starts 20 working days after the day on which the new notice is published and ends 24 working days after that day.

(12) If any of the days within the first period is a day in the period which starts with 22nd December and ends with 2nd January following, the constituency returning officer may fix the day of the poll to be held in the period which starts 20 working days after the day on which the new notice is published and ends 24 working days after that day.

(13) For the purposes of this rule—

- (a) a person stands in the name of a registered political party if his nomination paper contains a description which is authorised as mentioned in rule 5(1) or (3) and where the description is authorised under rule 5(3), references to “party” shall be construed as referring to each party by whom use of that description is authorised;
- (b) a working day is a day which is not specified in rule 2(a) to (d); and
- (c) “previous statement of person nominated” means the statement of persons nominated in operation at the time of the death of the person standing in the name of the registered political party.

Regional election: effect of countermand or abandonment of constituency poll

74.—(1) Where at an Assembly general election, there is a contested regional election and the poll or declaration of result at a constituency election for an Assembly constituency in the Assembly electoral region is postponed in accordance with rule 71 or 73, rule 63(1)(b) shall be satisfied when the regional returning officer has received the notification required by rule 62(3) in respect of each of the other Assembly constituencies in the Assembly electoral region (other than in respect of an Assembly constituency to which this sub-paragraph also applies).

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(2) Where paragraph (1) applies, the subsequent election of a candidate for the Assembly constituency shall have no effect upon the validity of the election and return of any member at the regional election.

Regional election: death of candidate

75.—(1) If at a contested regional election proof is given to the regional returning officer's satisfaction before the results of the election are declared that one of the persons named or to be named as a candidate on the ballot paper (whether as an individual or party list candidate) has died and as a result of that death the election becomes uncontested, then the regional returning officer shall—

- (a) countermand notice of the poll; or
- (b) if polling has begun, direct that the poll be abandoned; and
- (c) in either case, forthwith notify each constituency returning officer in the Assembly electoral region of the action that he has taken.

(2) If at a contested regional election proof is given to the regional returning officer's satisfaction before the results of the election are declared that one of the persons named or to be named as a candidate on the ballot paper (whether as an individual or party list candidate) has died, but notwithstanding that death the election continues to be contested, the notice of poll shall not be countermanded nor shall the poll be abandoned; and in the event of such a death it shall have no effect upon the validity of the election and return of any other candidate at the regional election.

(3) But where paragraph (2) applies, the regional returning officer shall take such steps as he considers reasonable to publicise in the Assembly electoral region for which the election is held—

- (a) the name of that candidate and the fact of his death;
- (b) whether that candidate was an individual or party list candidate; and
- (c) if he was a party list candidate, the name of the registered political party for which he was such a candidate,

and the regional returning officer shall, in particular, consider whether he should publicise as required by this paragraph by causing notices to be placed outside polling stations.

(4) In respect of an election to which paragraph (1) or (2) applies, rules 41(1)(c) and (d) (admission to polling station) and 54(5)(b) to (d) (attendance at count) do not apply in relation to the deceased candidate; and where the deceased candidate is an individual candidate, rule 65(6) (forfeiture of deposit) also does not apply in relation to that deceased candidate.

Abandoned poll

76.—(1) This rule applies to—

- (a) a poll which is abandoned in pursuance of rule 70(4)(b) or 75(1)(b) as if it were a poll at a contested election; and
- (b) a poll which is abandoned in pursuance of rule 73(2)(b).

(2) Subject to paragraph (10) the presiding officer at a polling station must take the like steps (so far as not already taken) for the delivery to the constituency returning officer of ballot boxes and of ballot papers and other documents as he is required to take on the close of the poll.

(3) The constituency returning officer must dispose of ballot papers and other documents in his possession as he is required to do on the completion of the counting of the votes.

- (4) It is not necessary for a ballot paper account to be prepared or verified.
- (5) No step or further step is to be taken for the counting of the ballot papers or of the votes.

(6) The constituency returning officer must seal up all the ballot papers (whether the votes on them have been counted or not) and it is not necessary to seal up counted and rejected ballot papers in separate packets.

(7) The provisions of these rules as to the inspection, production, retention and destruction of ballot papers and other documents relating to a poll at an election apply subject to paragraphs (8) and (9).

(8) Ballot papers on which the votes were neither counted nor rejected must be treated as counted ballot papers.

(9) No order is to be made for—

- (a) the production or inspection of any ballot papers; or
- (b) the opening of a sealed packet of the completed corresponding number lists or of certificates as to employment on the day of the poll,

unless the order is made by a court with reference to a prosecution.

(10) Where the polls at a regional election and at a constituency election for a constituency within that region are held on the same day but the poll at one election is abandoned in any of the circumstances mentioned in paragraph (1)—

- (a) the steps which the presiding officer is required to take at such a polling station by sub-paragraph (2) shall take place at the close of the poll at the other election; and
- (b) sub-paragraph (3) shall have effect as if after “the constituency returning officer”, there was inserted “having separated the ballot papers relating to the other Assembly election,”, and

paragraphs (4) to (9) shall apply only to the election at which the poll has been abandoned.