

Scottish Parliamentary Elections - 5 May 2016

DEATH OF A CANDIDATE

[Scottish Parliamentary Election Rules (SPER) 71 to 76]

Guidance Notes from the EMB

CONSTITUENCY ELECTION -

1. Independent candidate dies – SPER 71 –

- if proof of death given to CRO before result is declared, two scenarios may arise –
- **FIRSTLY** - if 3 or more candidates originally stood nominated -
 - election/poll continues with deceased's name on ballot paper
 - contest not affected by death, i.e. death of independent candidate does not stop election
 - deceased candidate's agents lose rights, e.g. to attend polling places, count, etc.
 - if deceased independent candidate wins – see para.2.
- **SECONDLY** - if only 2 candidates originally stood nominated, poll countermanded (if not begun) or poll abandoned (if begun), and election treated as uncontested

2. Deceased Independent candidate wins – SPER 72 –

- where deceased independent candidate receives majority of votes
- CRO to make declaration of result (because poll has not been abandoned), but altered from normal declaration -
 - ◇ declare deceased received majority of votes
 - ◇ declare no member returned
 - ◇ give public notice of breakdown of votes cast and rejected papers
 - ◇ notify RRO that majority of votes given to deceased candidate and that no member is returned for that constituency.
- CRO commences fresh election, subject to rules below

- new timetable starts with a new notice of election published on first working day after end of seven days starting with original polling day.
- no fresh nominations are necessary for those already standing, and no new ones possible
- any candidate can withdraw from nomination
- no requirement for fresh deposits
- polling day fixed by CRO between 21 and 28 working days after date on which new notice of election is published.
- deceased independent candidate ignored if they and another candidate poll equally the biggest number of votes – other candidate wins [SPER 73]

3. Party candidate dies – SPER 74 –

- candidate of a registered political party
- if proof of death given to RO before result declared
- CRO must countermand poll (if poll not begun) or abandon poll (if begun), and, at a SP general election, notify RRO forthwith that no member is returned for the constituency.
- fresh election proceedings to be commenced

new timetable starts with a new notice of election published on the first working day after end of seven days starting with the day on which proof of death given to CRO.

- no fresh nominations needed from those already standing
- no new nominations allowed, except from the deceased's registered political party
- any candidate can withdraw
- polling day fixed by CRO between 21 and 28 working days after day on which new notice of election is published.

4. Abandoned poll – SPER 76 –

- where independent candidate dies, and
- where registered party candidate dies
- PO's to return boxes, ballot papers and other documents, similar to close of poll

- CRO to dispose of documents, similar to completion of counting of votes
- no ballot paper account to be prepared or verified
- no further steps to be taken for counting ballot papers or votes
- CRO to seal up papers and retain them as normal
- normal inspection rules [Sch. 8, SPEO] apply, except –
 - ◊ ballot papers neither counted nor rejected treated as counted ballot papers
 - ◊ no court order for inspection can be made except for a prosecution.

REGIONAL ELECTION

1. Election becomes uncontested – SPER 75 (1) & (2)

- if proof of death given to RRO before result declared
- whether deceased on registered party's regional list or individual candidate
- and election becomes uncontested
- RRO must countermand or abandon poll
- and notify each CRO in region
- seats allocated in accordance with sections 7 and 8 of Scotland Act 1998

2. Election remains contested – SPER 75 (3) & (4)

- if proof of death given to RRO before result declared
- whether deceased on registered party's regional list or individual candidate
- notice of poll not countermanded or poll abandoned
- death has no effect on validity of election and return of any regional member
- RRO must publicise details of deceased candidate

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