

## SCHEDULE 1

Rule 3(1)

### THE CONSTITUENCY MEMBERS ELECTION RULES

## ARRANGEMENT OF RULES

### PART I

#### *General Provisions*

1. Citation
2. Interpretation

### PART II

#### *Provisions As To Time*

3. Timetable
4. Computation of time

### PART III

#### *Stages Common To Contested And Uncontested Elections*

5. Notice of election
6. Nomination of candidates and nomination papers
7. Consent to nomination
8. Deposits
9. Decisions as to validity of nomination papers
10. Publication of statement of persons nominated
11. Inspection of nomination papers and consent to nomination
12. Withdrawal of candidates
13. Method of election

### PART IV

#### *Contested Elections—General*

14. Poll to be taken by ballot
15. The ballot papers
16. The official mark
17. Prohibition of disclosure of vote
18. Use of schools and public rooms
19. Notice of poll
20. Postal ballot papers
21. Provision of polling stations
22. Appointment of presiding officers and clerks
23. Issue of official poll cards
24. Equipment of polling stations
25. Appointment of polling and counting agents
26. Notification of requirement of secrecy
27. Admission to polling station
28. Keeping of order in station

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29. Sealing of ballot boxes
30. Questions to be put to voters
31. Challenge of voter
32. Voting procedure
33. Votes marked by presiding officer
34. Voting by blind persons
35. Tendered ballot papers
36. Spoilt ballot papers
37. Adjournment of poll in case of riot
38. Procedure on close of poll
39. Attendance at counting of votes
40. The count
41. Rejected ballot papers
42. Decisions on ballot papers
43. Re-count
44. Equality of votes

#### PART V

##### *Final Proceedings In Contested And Uncontested Elections*

45. Declaration of result
46. Return or forfeiture of candidate's deposit

#### PART VI

##### *Disposal Of Documents*

47. Sealing up of ballot papers
48. Delivery and retention of documents
49. Orders for production of documents
50. Retention, public inspection and destruction of documents

#### PART VII

##### *Death of Candidate*

51. Countermand or abandonment of poll on death of candidate  
Signature  
Explanatory Note

### PART I

#### *General Provisions*

#### **Citation**

1. These Rules may be cited as the Constituency Members Election Rules.

#### **Interpretation**

- 2.—(1) In these Rules, unless the context indicates otherwise—  
“the 1983 Act” means the Representation of the People Act 1983(1);

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(1) 1983 c. 2. Relevant amendments are made by Schedule 3 to the Greater London Authority Act 1999 (c. 29).

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“the 1999 Act” means the Greater London Authority Act 1999;

“the appropriate form”, in relation to a particular rule, means the form set out in the Forms Schedule and indicated as applicable to that rule or, where more than one form is so set out, the form indicated as relevant to the particular case;

“constituency” means an Assembly constituency<sup>(2)</sup>;

“constituency member” means a member for a constituency;

“CRO” (constituency returning officer), in relation to a constituency and an election means the person, or a person of the description, for the time being designated by order under section 35(2B) of the 1983 Act as the returning officer at the election of a constituency member for that constituency<sup>(3)</sup>;

“election” means an election of a constituency member of the London Assembly;

“the Forms Schedule” means Schedule 5 to the Greater London Authority Elections Rules 2000;

“GLRO” (Greater London returning officer)—

- (a) in relation to the first ordinary election, means the person, or a person of the description, designated by order under section 3(4) of the 1999 Act as the returning officer at the elections of the Mayor and of the London members;
- (b) in relation to any other election, means the proper officer of the Greater London Authority<sup>(4)</sup>.

(2) References in these Rules—

- (a) to the CRO include references to any person appointed by him under subsection (4) of section 35 (returning officers: local elections in England and Wales) of the 1983 Act<sup>(5)</sup>; and
- (b) to the GLRO include references to any person appointed by him under that subsection.

## PART II

### *Provisions As To Time*

#### **Timetable**

**3.—**(1) Subject to paragraph (2), the proceedings at the election shall be conducted in accordance with the following Timetable:

<i>Proceeding</i>	<i>Time</i>
Publication of notice of election	Not later than the twenty-fifth day before the day of election
Delivery of nomination papers	Not later than noon on the nineteenth day before the day of election
Publication of statement as to persons nominated	Not later than noon on the seventeenth day before the day of election

(2) See S.I.1999/3380.

(3) Section 35(2B) was inserted by the Greater London Authority Act 1999, Schedule 3, paragraph 3.

(4) See the definitions of “proper officer” in section 202 of the Representation of the People Act 1983, as substituted by the Greater London Authority Act 1999, Schedule 3, paragraph 38, and in section 412(1) of the latter Act. See also the definition of “Greater London returning officer” in section 29 of the latter Act.

(5) Relevant amendments are made by the Greater London Authority Act 1999, Schedule 3, paragraph 3.

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<i>Proceeding</i>	<i>Time</i>
Delivery of notices of withdrawal of candidature	Not later than noon on the sixteenth day before the day of election
Notice of poll	Not later than the sixth day before the day of election
Polling	Between the hours of 8 in the morning and 9 at night on the day of election.

(2) At the first ordinary election, the time for polling shall be between the hours of 7 in the morning and 9 at night on the day of the election.

### **Computation of time**

4.—(1) In computing any period of time for the purposes of the Timetable—

- (a) a Saturday or Sunday,
- (b) Christmas Eve, Christmas Day, Maundy Thursday, Good Friday or a bank holiday, or
- (c) a day appointed for public thanksgiving or mourning,

shall be disregarded, and any such day shall not be treated as a day for the purpose of any proceedings up to the completion of the poll nor shall the returning officer be obliged to proceed with the counting of the votes on such a day.

(2) In this rule, “bank holiday” means a day which is a bank holiday under the Banking and Financial Dealings Act 1971<sup>(6)</sup> in England and Wales.

## **PART III**

### *Stages Common To Contested And Uncontested elections*

#### **Notice of election**

5.—(1) The CRO shall publish notice of the election stating—

- (a) the place and times at which nomination papers are to be delivered, and
- (b) the date of the poll in the event of a contest,

and the notice shall state that forms of nomination papers may be obtained at that place and those times.

(2) The notice of election shall state the date by which—

- (a) applications to vote by post or by proxy, and
- (b) other applications and notices about postal or proxy voting,

must reach the electoral registration officer in order that they may be effective for the election.

#### **Nomination of candidates and nomination papers**

6.—(1) Each candidate shall be nominated by a separate nomination paper, in the appropriate form, delivered at the place fixed for the purpose by the CRO, which shall be at the offices of a local authority within the constituency.

(2) The nomination paper shall state the candidate's—

<sup>(6)</sup> 1971 c. 80.

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

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

(3) The description, if any, shall not exceed six words in length, and need not refer to his rank, profession or calling so long as, with the candidate's other particulars, it is sufficient to identify him.

(4) A nomination paper may not include a description of a candidate which is likely to lead voters to associate the candidate with a registered political party unless the description is authorised by a certificate—

- (a) issued by or on behalf of the registered nominating officer of the party, and
- (b) received by the CRO before the last time for the delivery of nomination papers.

(5) A person shall be guilty of a corrupt practice if he fraudulently purports to be authorised to issue a certificate under paragraph (4) on behalf of a registered political party's nominating officer.

(6) In the application of this rule in relation to an election "registered political party" means a party which was registered under the Registration of Political Parties Act 1998(7) at the time by which the notice of election is required to be published.

### **Consent to nomination**

7. A person shall not be validly nominated unless his consent to nomination—

- (a) is given in writing in the appropriate form, or a form to the like effect, on or within one month before the last day for the delivery of nomination papers,
- (b) is attested by one witness, whose full names and address are given; and
- (c) is delivered at the place and within the time for delivery of nomination papers.

### **Deposits**

8.—(1) A person shall not be validly nominated unless the sum of £1,000 is deposited by him or on his behalf with the CRO at the place and within the time for delivery of nomination papers.

(2) The deposit may be made either—

- (a) by the deposit of any legal tender, or
- (b) by means of a banker's draft, or
- (c) with the CRO's consent, in any other manner,

but the CRO 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.

(3) Where the deposit is made on behalf of the candidate, the person making the deposit shall at the time he makes it give his name and address to the CRO (unless they have previously been given to him under section 67 (appointment of election agent) of the 1983 Act).

### **Decisions as to validity of nomination papers**

9.—(1) Where a nomination paper and the candidate's consent to it are delivered in accordance with this Part of these Rules, the candidate shall be deemed to stand nominated unless and until—

- (a) the CRO decides that the nomination paper is invalid, or
- (b) proof is given to the CRO's satisfaction of the candidate's death, or

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(7) 1998 c. 48.

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- (c) the candidate withdraws.
- (2) The CRO is entitled to hold a nomination paper invalid only on the grounds either—
  - (a) that the particulars of the candidate or the persons subscribing the paper are not as required by law; or
  - (b) that the paper is not subscribed as so required.
- (3) As soon as practicable after each nomination paper has been delivered, the CRO shall examine it and decide whether the candidate has been validly nominated.
- (4) Where the CRO decides that a nomination paper is invalid, he shall endorse and sign on the paper the fact and the reasons for his decision.
- (5) The CRO shall, as soon as practicable after making such a decision as is mentioned in paragraph (4), send notice of it to the candidate at his home address as given in his nomination paper.
- (6) The CRO's decision that a 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.

#### **Publication of statement of persons nominated**

- 10.**—(1) The CRO shall prepare and publish a statement showing the persons who have been and stand nominated and any other persons who have been nominated, with the reason why they no longer stand nominated.
- (2) The statement shall show the names, addresses and descriptions of the persons nominated as given in their 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) In the case of a person nominated by more than one nomination paper, the CRO shall take the particulars required by the foregoing provisions of this rule from such one of the papers as the candidate (or the CRO in default of the candidate) may select.

#### **Inspection of nomination papers and consent to nomination**

- 11.** During ordinary office hours on any day, other than a day specified in rule 4(1), after the latest time for delivery of nomination papers and before the date of the poll, any person may inspect and take copies of, or extracts from, nomination papers and consents to nomination.

#### **Withdrawal of candidates**

- 12.**—(1) A candidate may withdraw his candidature by notice of withdrawal—
  - (a) signed by him and attested by one witness, whose name and address shall be given; and
  - (b) delivered to the CRO at the place for delivery of nomination papers.
- (2) Where a candidate is outside the United Kingdom, a notice of withdrawal signed by his election agent and accompanied by a written declaration also so signed of the candidate's absence from the United Kingdom shall be of the same effect as a notice of withdrawal signed by the candidate; but where the candidate stands nominated by more than one nomination paper a notice of withdrawal under this paragraph shall be effective if, and only if, it is accompanied, in addition to that declaration, by a written statement signed by the candidate that the person giving the notice is authorised to do so on the candidate's behalf during his absence from the United Kingdom.

### **Method of election**

13.—(1) If the number of persons remaining validly nominated for the constituency after any withdrawals under this Part exceeds one, a poll shall be taken in accordance with Part IV of these Rules.

(2) If, after any withdrawals under this Part, only one person remains validly nominated for the constituency, that person shall be declared to be elected in accordance with Part V.

## **PART IV**

### *Contested Elections—General*

#### **Poll to be taken by ballot**

14. The votes at the poll shall be given by ballot, the result shall be ascertained by counting the votes given to each candidate, and the candidate to whom more votes have been given than to the other candidates shall be declared to have been elected.

#### **The ballot papers**

15.—(1) The ballot of every voter shall consist of a ballot paper and the persons remaining validly nominated for the constituency after any withdrawals under Part III, and no others, shall be entitled to have their names inserted in the ballot paper.

(2) Every ballot paper shall be in the appropriate form, and shall be printed in accordance with the directions in the Forms Schedule, and—

- (a) shall contain the names and other particulars of the candidates as shown in the statement of persons nominated;
- (b) shall be capable of being folded up;
- (c) shall have a number printed on the back;
- (d) shall have attached a counterfoil with the same number printed on it.

(3) If a candidate who is the subject of a party's authorisation under rule 6(4) so requests, the ballot paper shall contain, against the candidate's particulars, the party's registered emblem (or, as the case may be, one of the party's registered emblems).

(4) The request must—

- (a) be made in writing to the CRO, and
- (b) be received by him within the period for delivery of nomination papers set out in the Timetable in rule 3.

(5) The order of the names in the ballot paper shall be the same as in the statement of persons nominated.

#### **The official mark**

16.—(1) Every ballot paper shall be marked with an official mark, which shall perforate the ballot paper.

(2) The official mark shall be kept secret, and an interval of not less than five years shall intervene between the use of the same official mark at any Authority election.

(3) The official mark used for ballot papers issued for the purpose of voting by post shall not be used at the same election for ballot papers issued for the purpose of voting in person.

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### **Prohibition of disclosure of vote**

17. No person who has voted at the election shall, in any legal proceeding to question the election, be required to state for whom he has voted.

### **Use of schools and public rooms**

18.—(1) The CRO may use, free of charge, for the purpose of taking the poll or counting the votes—

- (a) a room in a school maintained or assisted by a local education authority or a school in respect of which grants are made out of moneys provided by Parliament to the person or body of persons responsible for the management of the school;
- (b) a room the expense of maintaining which is met by any local authority.

(2) The CRO shall make good any damage done to, and defray any expense incurred by the persons having control over, any such room as mentioned in paragraph (1) by reason of its being used for the purpose of taking the poll or counting the votes.

(3) The use of a room in an unoccupied hereditament for that purpose or those purposes does not render a person liable to any payment by way of council tax or non-domestic rate in respect of that hereditament and any day on which it is so used.

### **Notice of poll**

19.—(1) The CRO shall publish notice of the poll stating—

- (a) the day and hours fixed for the poll; and
- (b) the particulars of each candidate remaining validly nominated (the names and other particulars of the candidates, and the order of the candidates' names being the same as in the statement of persons nominated).

(2) The CRO shall, not later than the time of the publication of the notice of the poll, also give public notice of—

- (a) the situation of each polling station; and
- (b) the description of voters entitled to vote there;

and he shall as soon as practicable after giving such a notice give a copy of it to each of the election agents.

### **Postal ballot papers**

20. The CRO shall as soon as practicable send to those entitled to vote by post, at the addresses shown in the absent voters list, a ballot paper and a declaration of identity in the appropriate form, or a form to the like effect, together with an envelope for their return.

### **Provision of polling stations**

21.—(1) The CRO shall provide a sufficient number of polling stations and, subject to the following provisions of this rule, shall allot the electors to the polling stations in such manner as he thinks most convenient.

(2) One or more polling stations may be provided in the same room.

(3) The polling station allotted to electors from any parliamentary polling district wholly or partly within the constituency shall, in the absence of special circumstances, be in the parliamentary polling place for that district, unless that place is outside the constituency.



(4) The CRO shall provide each polling station with such number of compartments as may be necessary in which the voters can mark their votes screened from observation.

### **Appointment of presiding officers and clerks**

**22.**—(1) The CRO shall appoint and pay a presiding officer to attend at each polling station and such clerks as may be necessary for the purposes of the election, but he shall not appoint any person who has been employed by or on behalf of a candidate in or about the election.

(2) The CRO may, if he thinks fit, preside at a polling station and the provisions of this Part relating to a presiding officer shall apply to a CRO so presiding with the necessary modifications as to things to be done by the CRO to the presiding officer or by the presiding officer to the CRO.

(3) A presiding officer may do, by the clerks appointed to assist him, any act (including the asking of questions) which he is required or authorised by this Part to do at a polling station except order the arrest, exclusion or removal of any person from the polling station.

### **Issue of official poll cards**

**23.**—(1) The CRO shall as soon as practicable send to electors and their proxies an official poll card, but a card need not be sent to any person—

- (a) as an elector if he is placed on the absent voters list for the election; or
- (b) as a proxy if he is entitled to vote by post as proxy at the election.

(2) An elector's official poll card shall be sent or delivered to his qualifying address, and a proxy's to his address as shown in the list of proxies.

(3) The official poll card shall be in the appropriate form, or a form to the like effect, and shall set out—

- (a) the name of the Assembly constituency for which a constituency member is to be elected;
- (b) the elector's name, qualifying address and number on the register;
- (c) the date and hours of the poll and the situation of the elector's polling station.

### **Equipment of polling stations**

**24.**—(1) The CRO shall provide each presiding officer with such ballot boxes and ballot papers as in the CRO's opinion may be necessary.

(2) Every ballot box shall be so constructed that the ballot papers can be put in it, but cannot be withdrawn from it, without the box being unlocked or, where the box has no lock, the seal being broken.

(3) The CRO shall provide each polling station with—

- (a) materials to enable voters to mark the ballot papers;
- (b) instruments for stamping on them the official mark;
- (c) copies of the register of electors for the constituency or such part of it as contains the names of the electors allotted to the station;
- (d) the parts of any special lists prepared for the election corresponding to the register of electors for the constituency or the part of it provided under sub-paragraph (c).

(4) Notices in the appropriate forms, for the guidance of voters, shall be exhibited—

- (a) inside and outside every polling station,
- (b) in every polling station, and
- (c) in every compartment of every polling station.

### **Appointment of polling and counting agents**

**25.**—(1) Subject to paragraphs (3) and (4), each candidate may, before the commencement of the poll, appoint—

- (a) polling agents to attend at polling stations for the purpose of detecting personation; and
- (b) counting agents to attend at the counting of the votes.

(2) The same person may be appointed as a polling agent or counting agent by more than one candidate.

(3) Not more than four polling agents, or such greater number as the CRO may by notice allow, shall be permitted to attend at any particular polling station and if the number of such agents appointed to attend at a particular polling station exceeds that number, the CRO shall determine by lot which agents are permitted to attend, and only the agents on whom the lot falls shall be deemed to have been duly appointed.

(4) The CRO may limit the number of counting agents, but in doing so shall ensure that—

- (a) the number is the same in the case of each candidate; and
- (b) the number allowed to a candidate shall not (except in special circumstances) be less than the number obtained by dividing the number of clerks employed on the counting by the number of candidates.

(5) For the purposes of the calculations required by paragraph (4), a counting agent who has been appointed by more than one candidate is a separate agent for each of the candidates by whom he has been appointed.

(6) Notice in writing of the appointment, stating the names and addresses of the persons appointed, shall be given by the candidate to the CRO and shall be so given not later than the fifth day (computed like any period of time in the Timetable) before the day of the poll.

(7) If an agent dies, or becomes incapable of acting, the candidate may appoint another agent in his place, and shall forthwith give to the CRO notice in writing of the name and address of the agent appointed.

(8) The foregoing provisions of this rule shall be without prejudice to the requirements of section 72(1) of the 1983 Act as to the appointment of paid polling agents, and any appointment authorised by this rule may be made and the notice of appointment given to the CRO by the candidate's election agent, instead of by the candidate.

(9) In the following provisions of this Part references to polling agents and counting agents shall be taken as references to agents—

- (a) whose appointments have been duly made and notified; and
- (b) where the number of agents is restricted, who are within the permitted numbers.

(10) Any notice required to be given to a counting agent by the CRO may be delivered at, or sent by post to, the address stated in the notice of appointment.

(11) A candidate may himself do any act or thing which any polling or counting agent of his, if appointed, would have been authorised to do, or may assist his agent in doing any such act or thing.

(12) A candidate's election agent may do or assist in doing anything which a polling or counting agent of his is authorised to do; and anything required or authorised by these Rules to be done in the presence of the polling or counting agent may be done in the presence of a candidate's election agent instead of his polling agent or counting agent.

(13) Where by these Rules any act or thing is required or authorised to be done in the presence of the polling or counting agents, the non-attendance of any agent or agents at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

### **Notification of requirement of secrecy**

26. The CRO shall make such arrangements as he thinks fit to ensure that—
- (a) every person attending a polling station (otherwise than for the purpose of voting or assisting a blind voter to vote or as a constable on duty there) has been given a copy of the provisions of subsections (1), (3) and (6) of section 66(8) of the 1983 Act; and
  - (b) every person attending at the counting of the votes (other than any constable on duty at the counting) has been given a copy of the provisions of subsections (2) and (6) of that section.

### **Admission to polling station**

27.—(1) The presiding officer shall regulate the number of voters to be admitted to the polling station at the same time, and shall exclude all other persons except—

- (a) the candidates and their election agents;
- (b) the polling agents appointed to attend at the polling station;
- (c) the clerks appointed to attend at the polling station;
- (d) the constables on duty; and
- (e) the companions of blind voters.

(2) Not more than one polling agent shall be admitted at the same time to a polling station on behalf of the same candidate.

(3) A constable or person employed by the CRO shall not be admitted to vote in person elsewhere than at his own polling station allotted to him under these Rules, except on production and surrender of a certificate as to his employment which shall be in the appropriate form and signed by an officer of the police of or above the rank of inspector or by the CRO, as the case may be.

(4) Any certificate surrendered under this rule shall forthwith be cancelled.

### **Keeping of order in station**

28.—(1) It is the presiding officer's duty to keep order at his polling station.

(2) If a person misconducts himself in a polling station, or fails to obey the presiding officer's lawful orders, he may immediately, by the presiding officer's order, be removed from the polling station—

- (a) by a constable in or near that station, or
- (b) by any other person authorised in writing by the CRO to remove him,

and the person so removed shall not, without the presiding officer's permission, again enter the polling station during the day.

(3) Any person so removed may, if charged with the commission in the polling station of an offence, be dealt with as a person taken into custody by a constable for an offence without a warrant.

(4) The powers conferred by this rule shall not be exercised so as to prevent a voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

### **Sealing of ballot boxes**

29. Immediately before the commencement of the poll, the presiding officer shall—

- (a) show each ballot box, empty, to such persons, if any, as are present in the polling station, so that they may see that the boxes are empty;

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(8) Section 66(6) was amended by paragraph 3 of Schedule 3 to the Representation of the People Act 1985 (c. 50).

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- (b) lock up such of the boxes as have locks;
- (c) place his seal—
  - (i) on each lock; and
  - (ii) on each ballot box which has no lock,in such a manner as to prevent its being opened without breaking the seal;
- (d) place each box in his view for the receipt of ballot papers; and
- (e) keep each box locked and sealed or, as the case may be, sealed.

### Questions to be put to voters

**30.**—(1) The presiding officer may, and if required by a candidate or his election or polling agent shall, put to any person applying for a ballot paper at the time of his application, but not afterwards, the following questions or either of them—

- (a) in the case of a person applying as an elector—
  - (i) “Are you the person registered in the register of local government electors for this election as follows?” *(read the whole entry from the register)*
  - (ii) “Have you already voted at this election otherwise than as proxy for some other person?”
- (b) in the case of a person applying as proxy—
  - (i) “Are you the person whose name appears as A.B. in the list of proxies for this election as entitled to vote as proxy on behalf of C.D.?”
  - (ii) “Have you already voted at this election as proxy on behalf of C.D.?”

(2) In the case of a person applying as proxy, the presiding officer may, and if required as mentioned above shall, put the following additional question—

“Are you the husband [wife], parent, grandparent, brother [sister], child or grandchild of C.D.?”  
and if that question is not answered in the affirmative the following question—

“Have you already voted at this election on behalf of two persons of whom you are not the husband [wife], parent, grandparent, brother [sister], child or grandchild?”

(3) A ballot paper shall not be delivered to any person required to answer the above questions or any of them unless he has answered the questions or question satisfactorily.

(4) Unless authorised by paragraph (1) or (2), no inquiry shall be permitted as to the right of any person to vote.

### Challenge of voter

**31.**—(1) If at any time a person applies for a ballot paper for the purpose of voting in person, or after he has applied for a ballot paper for that purpose and before he has left the polling station, a candidate or his election or polling agent—

- (a) declares to the presiding officer that he has reasonable cause to believe that the applicant has committed an offence of personation, and
- (b) undertakes to substantiate the charge in a court of law,

the presiding officer may order a constable to arrest the applicant, and the order of the presiding officer shall be sufficient authority for the constable so to do.

(2) A person against whom a declaration is made under this rule shall not by reason of it be prevented from voting.

(3) A person arrested under the provisions of this rule shall be dealt with as a person taken into custody by a constable for an offence without a warrant.

### **Voting procedure**

**32.**—(1) A ballot paper shall be delivered to a voter who applies for one, and immediately before delivery—

- (a) the ballot paper shall be stamped with the official mark;
- (b) the number and name of the elector as stated in the copy of the register of electors shall be called out;
- (c) the number of the elector shall be marked on the counterfoil;
- (d) a mark shall be placed in the register of electors against the number of the elector to denote that a ballot paper has been received but without showing the particular ballot paper which has been received; and
- (e) in the case of a person applying for a ballot paper as proxy, a mark shall be placed against his name in the list of proxies.

(2) The voter, on receiving the ballot paper, shall forthwith proceed into one of the compartments in the polling station and there secretly mark his paper and fold it up so as to conceal his vote, and shall then show to the presiding officer the back of the paper, so as to disclose the official mark, and put the ballot paper so folded up into the ballot box in the presiding officer's presence.

(3) The voter shall vote without undue delay, and shall leave the polling station as soon as he has put his ballot paper into the ballot box.

### **Votes marked by presiding officer**

**33.**—(1) The presiding officer, on the application of a voter—

- (a) who is incapacitated by blindness or other physical cause from voting in the manner directed by these Rules, or
- (b) who declares orally that he is unable to read,

shall, in the presence of the polling agents, cause the voter's vote to be marked on a ballot paper in the manner directed by the voter, and the ballot paper to be placed in the ballot box.

(2) The name and number on the register of electors of every voter whose vote is marked in pursuance of this rule, and the reason why it is so marked, shall be entered on a list (in these Rules called "the list of votes marked by the presiding officer").

(3) In the case of a person voting as proxy for an elector, the number to be entered together with the voter's name shall be the elector's number.

### **Voting by blind persons**

**34.**—(1) If a voter makes an application to the presiding officer to be allowed on the ground of blindness to vote with the assistance of another person by whom he is accompanied (in these Rules referred to as "the companion"), the presiding officer shall require the voter to declare orally whether he is so incapacitated by his blindness as to be unable to vote without assistance.

(2) If the presiding officer—

- (a) is satisfied that the voter is so incapacitated, and
- (b) is also satisfied by a written declaration made by the companion (in these Rules referred to as "the declaration made by the companion of a blind voter") that the companion—
  - (i) is a qualified person within the meaning of this rule, and

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(ii) has not previously assisted more than one blind person to vote at the election, the presiding officer shall grant the application, and then anything which is by these Rules required to be done to or by that voter in connection with the giving of his vote may be done to, or with the assistance of, the companion.

(3) For the purposes of this rule, a person shall be qualified to assist a blind voter to vote, if that person is either—

- (a) a person who is entitled to vote as an elector at the election; or
- (b) the father, mother, brother, sister, husband, wife, son or daughter of the blind voter and has attained the age of 18 years.

(4) The name and number in the register of electors of every voter whose vote is given in accordance with this rule and the name and address of the companion shall be entered on a list (in these Rules referred to as “the list of blind voters assisted by companions”).

(5) In the case of a person voting as proxy for an elector, the number to be entered together with the voter’s name shall be the elector’s number.

(6) The declaration made by the companion—

- (a) shall be in the appropriate form;
- (b) shall be made before the presiding officer at the time when the voter applies to vote with the assistance of a companion and shall forthwith be given to the presiding officer who shall attest and retain it.

(7) No fee or other payment shall be charged in respect of the declaration.

### **Tendered ballot papers**

**35.**—(1) If a person, representing himself to be—

- (a) a particular elector named on the register and not named in the absent voters list, or
- (b) a particular person named in the list of proxies as proxy for an elector and not entitled to vote by post as proxy,

applies for a ballot paper after another person has voted in person either as the elector or his proxy, the applicant shall, on satisfactorily answering the questions permitted by law to be asked at the poll, be entitled, subject to the following provisions of this rule, to mark a ballot paper (in these Rules referred to as “a tendered ballot paper”) in the same manner as any other voter.

(2) A tendered ballot paper shall—

- (a) be of a colour different from the other ballot papers;
- (b) instead of being put into the ballot box, be given to the presiding officer and endorsed by him with the name of the voter and his number in the register of electors, and set aside in a separate packet.

(3) The name of the voter and his number on the register of electors shall be entered on a list (in these Rules referred to as the “tendered votes list”).

(4) In the case of a person voting as proxy for an elector, the number to be endorsed or entered together with the voter’s name shall be the number of that elector.

### **Spoilt ballot papers**

**36.** A voter who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper may, on delivering it to the presiding officer and proving to his satisfaction the fact of the inadvertence, obtain another ballot paper in the place of the ballot paper

so delivered (in these Rules referred to as “a spoilt ballot paper”), and the spoilt ballot paper shall be immediately cancelled.

### **Adjournment of poll in case of riot**

**37.**—(1) Where the proceedings at any polling station are interrupted or obstructed by riot or open violence, the presiding officer shall adjourn the proceedings till the following day and shall forthwith inform the CRO.

(2) Where the poll is adjourned at any polling station—

- (a) the hours of polling on the day to which it is adjourned shall be the same as for the original day; and
- (b) references in these Rules to the close of the poll shall be construed accordingly.

(3) As soon as practicable after being informed of the adjournment of a poll, the CRO shall inform the GLRO of that fact and of the cause of its adjournment.

### **Procedure on close of poll**

**38.**—(1) As soon as practicable after the close of the poll, the presiding officer shall, in the presence of the polling agents, make up into separate packets, sealed with his own seal and the seals of such polling agents as desire to affix their seals—

- (a) each ballot box in use at the station, sealed so as to prevent the introduction of additional ballot papers and unopened, but with any key attached,
- (b) the unused and spoilt ballot papers placed together,
- (c) the tendered ballot papers,
- (d) the marked copies of the register of electors and of the list of proxies,
- (e) the counterfoils of the used ballot papers and the certificates as to employment on duty on the day of the poll,
- (f) the tendered votes list, the list of blind voters assisted by companions, the list of votes marked by the presiding officer, a statement of the number of voters whose votes are so marked by the presiding officer under the heads “physical incapacity” and “unable to read”, and the declarations made by the companions of blind voters,

and shall deliver the packets or cause them to be delivered to the CRO to be taken charge of by him; but if the packets are not delivered by the presiding officer personally to the CRO, the arrangements for their delivery shall require the CRO’s approval.

(2) The contents of the packets referred to in paragraph (1)(b), (c) and (e) shall not be combined with the contents of the packets made under the corresponding rule that applies at other Assembly elections, nor shall the statement under paragraph (4) be so combined.

(3) The marked copies of the register of electors and of the list of proxies shall be in one packet but shall not be in the same packet as the counterfoils of the used ballot papers and the certificates as to employment on duty on the day of the poll.

(4) The packets shall be accompanied by a statement (“the ballot paper account”) showing the number of ballot papers entrusted to the presiding officer, and accounting for them under the heads—

- (a) ballot papers issued and not otherwise accounted for,
- (b) unused ballot papers,
- (c) spoilt ballot papers, and
- (d) tendered ballot papers.

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### **Attendance at counting of votes**

**39.**—(1) The CRO shall make arrangements for counting the votes in the presence of the counting agents as soon as practicable after the close of the poll, and shall give to the counting agents notice in writing of the time and place at which he will begin to count the votes.

(2) No person other than—

- (a) the CRO and his clerks,
- (b) the candidates and their husbands or wives,
- (c) the election agents,
- (d) the counting agents,

may be present at the counting of the votes, unless permitted by the CRO to attend.

(3) A person not entitled to attend at the counting of the votes shall not be permitted to do so by the CRO unless the CRO—

- (a) is satisfied that the efficient counting of the votes will not be impeded, and
- (b) has either consulted the candidates or thought it impracticable to do so.

(4) The CRO shall give the counting agents all such reasonable facilities for overseeing the proceedings, and all such information with respect to them, as he can give them consistently with the orderly conduct of the proceedings and the discharge of his duties in connection with them.

(5) In particular, where the votes are counted by sorting the ballot papers according to the candidate for whom the vote is given and then counting the number of ballot papers for each candidate, the counting agents shall be entitled to satisfy themselves that the ballot papers are correctly sorted.

### **The count**

**40.**—(1) Where the election is at an ordinary election, the CRO shall—

- (a) in the presence of the counting agents appointed for the purposes of the constituency members election, the London members election and the Mayoral election, open each ballot box and record separately the number of ballot papers used in each election;
- (b) in the presence of the election agents appointed for the purposes of those elections, verify each ballot paper account;
- (c) count such of the postal ballot papers as have been duly returned and record separately the number counted at each election;
- (d) separate the ballot papers relating to the constituency members election from those relating to the London members election and the Mayoral election.

(2) Where the election is not at an ordinary election, the CRO shall—

- (a) in the presence of the counting agents open each ballot box and count and record the number of ballot papers in it;
- (b) in the presence of the election agents verify each ballot paper account; and
- (c) count such of the postal ballot papers as have been duly returned and record the number counted.

(3) The CRO shall not count the votes given on any ballot papers until—

- (a) in the case of postal ballot papers, they have been mixed with the ballot papers from at least one ballot box, and
- (b) in the case of ballot papers from a ballot box, they have been mixed with the ballot papers from at least one other ballot box.



(4) A postal ballot paper is not duly returned unless it is returned in the proper envelope so as to reach the CRO before the close of the poll and is accompanied by the declaration of identity duly signed and authenticated.

(5) The CRO shall not count any tendered ballot paper.

(6) The CRO, while counting and recording the number of ballot papers and counting the votes, shall keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers printed on the back of the papers.

(7) The CRO shall verify each ballot paper account by comparing it with the number of ballot papers recorded by him, and the unused and spoilt ballot papers in his possession and the tendered votes list (opening and resealing the packets containing the unused and spoilt ballot papers and the tendered votes list) and shall draw up a statement as to the result of the verification, which any election agent may copy.

(8) The CRO shall so far as practicable proceed continuously with counting the votes, allowing only time for refreshment, except that he may, in so far as he and the agents agree, exclude the hours between 5 in the afternoon and 10 on the following morning; and for the purposes of this exception the agreement of a candidate or his election agent shall be as effective as the agreement of his counting agents.

(9) During the time so excluded the CRO shall—

- (a) place the ballot papers and other documents relating to the election under his own seal and the seals of such of the counting agents as desire to affix their seals; and
- (b) otherwise take proper precautions for the security of the papers and documents.

### **Rejected ballot papers**

**41.—**(1) Any ballot paper—

- (a) on which votes are given for more than one candidate, or
- (b) on which anything is written or marked by which the voter can be identified except the printed number on the back, or
- (c) which is unmarked or void for uncertainty,

shall, subject to paragraph (2), be void and not counted.

(2) A ballot paper on which the vote is marked—

- (a) elsewhere than in the proper place, or
- (b) otherwise than by means of a cross, or
- (c) by more than one mark,

shall not for such reason be void if an intention that the vote shall be for one only of the candidates clearly appears, and the way the paper is marked does not itself identify the voter and it is not shown that he can be identified by it.

(3) The CRO shall endorse the word “rejected” on any ballot paper which under this rule is not to be counted, and shall add to the endorsement the words “rejection objected to” if any objection to his decision is made by a counting agent.

(4) The CRO shall draw up a statement showing the number of ballot papers rejected under the several heads of—

- (a) voting for more than one candidate;
- (b) writing or mark by which the voter could be identified;
- (c) unmarked or void for uncertainty.

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### **Decisions on ballot papers**

42. The decision of the CRO on any question arising in respect of a ballot paper shall be final, but shall be subject to review on an election petition.

### **Re-count**

43.—(1) A candidate or his election agent may, if present when the counting or any re-count of the votes is completed, require the CRO to have the votes re-counted or again re-counted but the CRO may refuse to do so if in his opinion the request is unreasonable.

(2) No step shall be taken on the completion of the counting or any re-count of votes until the candidates and election agents present at its completion have been given a reasonable opportunity to exercise the right conferred by this rule.

### **Equality of votes**

44. Where, after the counting of the votes (including any re-count) is completed, an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the CRO shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

## **PART V**

### *Final Proceedings In Contested And Uncontested Elections*

### **Declaration of result**

45.—(1) In a contested election, when the result of the poll has been ascertained, the CRO shall forthwith—

- (a) declare to be elected the candidate to whom the majority of votes has been given;
- (b) return his name and, if he was the candidate of a party, the name of that party, to the GLRO; and
- (c) give public notice of the name of the successful candidate and 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 of rejected ballot papers.

(2) In an uncontested election, the CRO shall as soon as practicable after the latest time for the delivery of notices of withdrawals of candidature—

- (a) declare to be elected the person remaining validly nominated;
- (b) give notice to the GLRO—
  - (i) of the name of that person; and
  - (ii) if he was a candidate of a party, of the name of the party;
- (c) give public notice of the name of the person declared to be elected.

(3) The CRO shall inform the proper officer of the Authority of the result of the election.

(4) In this rule, “candidate of a party” means a person—

- (a) who was the subject of an authorisation under rule 6(4); and
- (b) whose particulars on the ballot paper included the party’s registered emblem (if any).

### **Return or forfeiture of candidate's deposit**

**46.**—(1) Unless forfeited in accordance with paragraph (5), the deposit made under rule 8 shall be returned to the person making it or his personal representative.

(2) Subject to paragraph (4), the deposit shall be returned not later than the next day after that on which the result of the election is declared.

(3) For the purposes of paragraph (2)—

- (a) a day shall be disregarded if it would be disregarded under rule 3 in computing any period of time for the purposes of the timetable for an election of the kind in question; and
- (b) the deposit shall be treated as being returned on a day if a cheque for the amount of the deposit is posted on that day.

(4) If the candidate is not shown as standing nominated in the statement of persons nominated, or if the poll is countermanded or abandoned by reason of his death, the deposit shall be returned as soon as practicable after the publication of the statement or after his death, as the case may be.

(5) Where a poll is taken, if, after the counting of the votes by the CRO (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 the candidates, the deposit shall be forfeited to the Greater London Authority.

## **PART VI**

### *Disposal of Documents*

#### **Sealing up of ballot papers**

**47.**—(1) On the completion of the counting at a contested election the CRO shall seal up in separate packets the counted and rejected ballot papers.

(2) The CRO shall not open the sealed packets of tendered ballot papers or of counterfoils and certificates as to employment on duty on the day of the poll, or of marked copies of the register of electors and lists of proxies.

#### **Delivery and retention of documents**

**48.**—(1) The CRO shall then forward to the GLRO the following documents—

- (a) the packets of ballot papers in his possession,
- (b) the ballot paper accounts and the statements of rejected ballot papers and of the result of the verification of the ballot paper accounts, and
- (c) the packets of counterfoils and certificates as to employment on duty on the day of the poll,

endorsing on each packet a description of its contents, the date of the election to which they relate and the name of the constituency for which the election was held.

(2) The packets containing—

- (a) the marked copies of registers and of lists of proxies, and
- (b) the tendered votes lists, the lists of blind voters assisted by companions, the lists of votes marked by the presiding officer and the related statements, and the declarations made by the companions of blind voters,

shall be retained by the CRO.

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### **Orders for production of documents**

49.—(1) An order—

- (a) for the inspection or production of any rejected ballot papers in the custody of the proper officer; or
- (b) for the opening of a sealed packet of counterfoils and certificates as to employment on duty on the day of the poll or the inspection of any counted ballot papers in his custody,

may be made by a county court, if the court is 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.

(2) An order for the opening of a sealed packet of counterfoils and certificates or for the inspection of any counted ballot papers in the custody of the GLRO may be made by an election court.

(3) An order under this rule 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 think expedient; but in making and carrying into effect an order for the opening of a packet of counterfoils and certificates or for the inspection of counted ballot papers, 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 High Court from any order of a county court under this rule.

(5) Any power given under this rule to a county court may be exercised by any judge of the court otherwise than in open court.

(6) Where an order is made for the production by the GLRO of any document in his possession relating to any specified election—

- (a) the production by him or his agent of the document ordered in such manner as may be directed by that order shall be conclusive evidence that the document 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 ballot paper purporting to have been used at any election, and of a counterfoil marked with the same printed number and having a number marked on it in writing, shall be *prima facie* evidence that the elector whose vote was given by that ballot paper was the person who at the time of the election had affixed to his name in the register of electors the same number as the number written on the counterfoil.

(8) Unless authorised by this rule, no person shall be allowed to inspect any rejected or counted ballot papers in the possession of the GLRO or open any sealed packets of counterfoils and certificates.

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

50.—(1) The GLRO shall retain for six months amongst the records of the Authority all documents relating to an election forwarded to him in pursuance of these Rules by a CRO, and then,

unless otherwise directed by an order of a county court or an election court, shall cause them to be destroyed.

(2) Those documents, except ballot papers, counterfoils and certificates as to employment on duty on the day of the poll, shall, until destroyed, be open to public inspection at such time and in such manner as the Authority may determine.

(3) The CRO shall keep for six months the documents retained by him in accordance with rule 48(2) and then, unless otherwise directed by an order of a county court or an election court, shall cause them to be destroyed.

(4) Those documents shall, until destroyed, be open to public inspection at all reasonable hours.

(5) The GLRO and the CRO shall, on request, supply copies of or extracts from such of the documents in their possession as are open to public inspection on payment of such fees and subject to such conditions as may be determined by the Authority.

## PART VII

### *Death Of Candidate*

#### **Countermand or abandonment of poll on death of candidate**

**51.**—(1) If at a contested election proof is given to the CRO's satisfaction before the result of the election is declared that one of the persons named or to be named as candidate in the ballot papers has died, the CRO—

- (a) shall countermand notice of the poll or, if polling has begun, direct that the poll be abandoned;
- (b) shall inform the GLRO of the countermand or abandonment of the poll and of the name of the candidate who has died.

(2) Subsection (1) of section 39 (local elections void etc. in England and Wales) of the 1983 Act<sup>(9)</sup> shall apply in respect of any vacancy which remains unfilled as if for the reference to the returning officer there were substituted a reference to the CRO.

(3) Where the poll is abandoned the proceedings at or consequent on that poll shall be interrupted, and the presiding officer at any polling station shall take the like steps (so far as not already taken) for the delivery to the CRO of the ballot box and of ballot papers and other documents in his possession as he is required to do on the completion in due course of the counting of the votes, but—

- (a) it shall not be necessary for any ballot paper account to be prepared or verified; and
- (b) the CRO, without taking any step or further step for the counting of the ballot papers or of the votes, shall seal up all the ballot papers, whether the votes on them have been counted or not, and it shall not be necessary to seal up counted and rejected ballot papers in separate packets.

(4) 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 to any such documents relating to a poll abandoned by reason of a candidate's death, with the following modifications—

- (a) ballot papers on which the votes were neither counted nor rejected shall be treated as counted ballot papers; and

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(9) Subsection (1) of section 39 is amended by the Local Government Act 1985 (c. 51), Schedule 17, the Representation of the People Act 1985 (c. 50), section 19(2), and the Greater London Authority Act 1999, Schedule 3, paragraph 6. See also the definition of "local government area" in subsection (1) of section 203 of the Representation of the People Act 1983 (c. 2), amended by the Greater London Authority Act 1999, Schedule 3, paragraph 39(4), and subsection (2) of that section, as substituted by paragraph 39(6) of that Schedule.

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- (b) no order shall be made for the production or inspection of any ballot papers or for the opening of a sealed packet of counterfoils or certificates as to employment on duty on the day of the poll unless the order is made by a court with reference to a prosecution.