

SCHEDULE

HEALTH BOARD ELECTION RULES

PART 8

THE COUNT

Ballot boxes

31.—(1) The returning officer must provide one or more ballot boxes for the receipt of ballot papers.

(2) Every ballot box must be marked with—

(a) the words “ballot papers”; and

(b) the name of the Health Board for which the Health Board election is held.

(3) Every covering envelope received by the returning officer before the poll closes is to be placed in a ballot box (other than those returned under rule 30).

(4) The returning officer must make provision for the safe custody of every ballot box.

(5) Every ballot box must be opened at the count.

The count

32.—(1) The returning officer must—

(a) make arrangements for the counting of votes (known as “the count”) as soon as practicable after the poll closes; and

(b) give written notice to the counting agents of the time and place at which the count will occur.

(2) The returning officer must so far as practicable proceed continuously with the count allowing only time for refreshment.

(3) But the returning officer may, with the agreement of the counting agents, exclude any hours between 7 p.m. in the evening and 9 a.m. on the following morning.

Electronic counting

33.—(1) In these rules “electronic counting system” means such computer hardware and software, other equipment, data and services as is necessary in order to—

(a) read electronically the votes marked and the unique number printed on each ballot paper;

(b) calculate the number of votes cast for each candidate at the Health Board election; and

(c) ensure the retention of a record of the votes cast for each candidate, without identifying the voters who cast those votes.

(2) The returning officer must conduct the count by means of an electronic counting system (and may do anything in connection with the count by electronic means in order to enable the count to be so conducted).

But if it is impossible or impracticable to conduct the count, or any part of it, using the electronic counting system, the returning officer may make arrangements for the count, or any part of it, to be conducted by other means.

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(3) References in rules 38 to 43 to ballot papers and parcels of ballot papers include references to ballot papers and parcels in electronic form.

Attendance at the count

34.—(1) Nobody may attend the count other than—

- (a) the returning officer and the officer’s staff;
- (b) the candidates and their partners; and
- (c) the counting agents,

but the returning officer may permit other persons to attend the count if the officer is satisfied that doing so would not impede the efficient counting of the votes.

(2) The returning officer must give the counting agents such reasonable facilities for overseeing the count, and such information about the count, as the officer can give consistently with the orderly conduct of the proceedings and the performance of the officer’s duties.

Opening of ballot boxes and covering envelopes

35.—(1) The count is begun by the returning officer opening each ballot box.

(2) The returning officer must then—

- (a) count and note the number of covering envelopes; and
- (b) open each covering envelope separately.

(3) If a covering envelope does not contain a ballot paper the returning officer must—

- (a) mark the covering envelope with the word “rejected”;
- (b) attach to it the contents (if any) of the envelope; and
- (c) place the envelope in a separate receptacle (the “rejected votes box”).

(4) If a covering envelope does contain a ballot paper, the returning officer must place it in a different receptacle from the rejected votes box.

Counting of ballot papers

36. The returning officer must count all the ballot papers which have been removed from the covering envelopes and record the number counted.

Rejected ballot papers

37.—(1) A ballot paper is void and not to be counted if—

- (a) it does not bear a unique number in a form capable of being read by electronic means;
- (b) the figure “1” is not placed on it in a manner which indicates a first preference for a candidate;
- (c) the figure “1” is placed on it in that manner in respect of more than one candidate;
- (d) anything is written or marked on it by which the voter can be identified (except for the unique number printed on the back); or
- (e) it is unmarked or void for uncertainty.

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

- (a) elsewhere than in the proper place;
- (b) otherwise than by means of a figure indicating a first or subsequent preference; or

(c) by more than one mark,

is not void and must be counted if, in the opinion of the returning officer, the word or mark clearly indicates a preference or preferences and the way the paper is marked does not itself identify the voter or allow the voter to be identified.

(3) The returning officer must mark the word “rejected” on any ballot paper which is not to be counted and place the paper in the rejected votes box.

(4) A counting agent may object to the returning officer’s decision not to count a ballot paper.

(5) If such an objection is made, the returning officer must mark the words “rejection objected to” on the ballot paper to which the objection relates.

(6) The returning officer must prepare a statement showing—

(a) the number of ballot papers which are not to be counted by virtue of each of sub-paragraphs (a) to (e) of paragraph (1); and

(b) the number of covering envelopes placed in the rejected votes box by virtue of rule 35(3).

First stage

38.—(1) The returning officer must sort the valid ballot papers into parcels according to the candidates for whom first preference votes are given.

(2) The returning officer must then—

(a) count the number of ballot papers in each parcel;

(b) credit the candidate receiving the first preference vote with one vote for each ballot paper in that candidate’s parcel; and

(c) record those numbers.

(3) The returning officer must also ascertain and record the total number of valid ballot papers.

The quota

39.—(1) The returning officer must divide the total number of valid ballot papers by a number exceeding by one the number of elected members to be elected in the Health Board election.

(2) The result of that division (rounding down any decimal places), increased by one, is the number of votes needed to secure the return of a candidate as an elected member (the “quota”).

Return of elected members

40.—(1) If, at any stage of the count, the number of votes for a candidate equals or exceeds the quota, the candidate is deemed to be elected.

(2) A candidate is returned as an elected member when the candidate is declared to be elected in accordance with rule 49.

Transfer of ballot papers

41.—(1) If, at the end of any stage of the count, the number of votes credited to a candidate exceeds the quota and one or more vacancies remain to be filled, the returning officer must (unless rule 45 applies) sort the ballot papers received by that candidate into further parcels so that they are grouped—

(a) according to the next available preference given on those papers; and

(b) if no such preference is given, as a parcel of non-transferable papers.

(2) The returning officer must—

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- (a) transfer each parcel of ballot papers referred to in paragraph (1)(a) to the continuing candidate for whom the next available preference is given on those papers; and
 - (b) credit the candidate with an additional number of votes calculated in accordance with paragraph (3).
- (3) The vote on a ballot paper transferred under paragraph (2) has a value (the “transfer value”) calculated as follows—

A divided by B

Where—

- A = the value which is calculated by multiplying the surplus of the transferring candidate by the value of the ballot paper when received by that candidate, and
- B = the total number of votes credited to the transferring candidate.

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

“transferring candidate” means the candidate from whom the ballot paper is being transferred; and

“the value of the ballot paper” means—

- (i) for a ballot paper on which a first preference vote is given for the transferring candidate, one; and
- (ii) for any other ballot paper, the transfer value of the ballot paper when received by the transferring candidate.

Transfer of ballot papers – supplementary provisions

42.—(1) If, at the end of any stage of the count, the number of votes credited to two or more candidates exceeds the quota, the returning officer must—

- (a) first sort the ballot papers of the candidate with the highest surplus; and
- (b) then transfer the transferable papers of that candidate.

(2) If the surpluses in respect of two or more candidates are equal, the transferable ballot papers of the candidate who had the highest number of votes at the end of the most recent preceding stage at which they had unequal numbers must be transferred first.

(3) If the number of votes credited to two or more candidates were equal at all stages, the returning officer must decide, by lot, which candidate’s transferable papers are to be transferred first.

Exclusion of candidates

43.—(1) If one or more vacancies remain to be filled and—

- (a) the returning officer has transferred all ballot papers which are required by rule 41 or this rule to be transferred; or
- (b) there are no ballot papers to be transferred under rule 41 or this rule, the returning officer must (unless rule 45 applies) exclude from the election at that stage the candidate with the lowest number of votes.

(2) The returning officer must sort the ballot papers for the excluded candidate into parcels so that they are grouped—

- (a) according to the next available preference given on those papers; and
- (b) if no such preference is given, as a parcel of non-transferable papers.

(3) The returning officer must—

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- (a) transfer each parcel of ballot papers referred to in paragraph (2)(a) to the continuing candidate for whom the next available preference is given on those papers; and
- (b) credit the candidate with an additional number of votes calculated in accordance with paragraph (4).

(4) The vote on a ballot paper transferred under paragraph (3) has a transfer value of one (unless the vote was transferred to the excluded candidate under rule 41 or this rule in which case it has the same transfer value as when transferred to the excluded candidate).

Exclusion of candidates – supplementary provisions

44.—(1) If, when a candidate is to be excluded under rule 43—

- (a) two or more candidates have the same number of votes; and
- (b) no other candidate has fewer votes,

the returning officer must exclude the candidate who had the lowest number of votes at the end of the most recent preceding stage at which they had unequal numbers.

(2) If the number of votes credited to those candidates was equal at all stages, the returning officer must decide, by lot, which of those candidates to exclude.

Filling of last vacancies

45. If, at any stage of the count, the number of continuing candidates is equal to the number of vacancies remaining—

- (a) the continuing candidates are deemed to be elected; and
- (b) no further transfer is to be made.

Recount

46.—(1) A candidate or a counting agent may require the returning officer to conduct a recount or further recount but only if the candidate or counting agent was present at the completion of the count or the previous recount.

(2) The returning officer may refuse to conduct a recount or further recount if the officer considers the request to conduct it is unreasonable.

(3) The candidates and counting agents present at the completion of the count or a recount must be given a reasonable opportunity to exercise the right to require a recount or further recount before any further steps are taken by the returning officer.

Decisions during the count

47. The returning officer's decision (express or implied) on any question arising in respect of—

- (a) a ballot paper;
- (b) the exclusion of a candidate; or
- (c) the transfer of votes.

is final except to the extent that it may be reviewed on an election petition.

Counting of votes by means other than electronic counting

48.—(1) If the returning officer makes arrangements in accordance with rule 33(2) for the count (or any part of it) to be conducted other than by means of an electronic counting system, these rules apply with the following modifications.

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(2) For rule 37(1)(a) substitute—

“(a) it does not bear the official mark.”.

(3) In rule 45, the existing text is treated as paragraph (1) and the following new paragraph is inserted—

“(2) If only one vacancy remains unfilled and the number of votes then credited to any one continuing candidate (the “highest continuing candidate”) is equal to or greater than the total number of votes then credited to all the other continuing candidates—

(a) the highest continuing candidate is deemed to be elected; and

(b) no further transfer is to be made.”.