

SCHEDULE 1

THE MAYORAL ELECTIONS RULES

PART IV

CONTESTED ELECTIONS

Poll to be taken by ballot

15. The votes at the poll shall be given by ballot.

The ballot papers

16.—(1) The ballot of every person entitled to a mayoral vote at the election shall consist of a ballot paper.

(2) The persons remaining validly nominated for election to the office of mayor, after any withdrawals, and no others, shall be entitled to have their names inserted in the ballot paper at that election.

(3) Every ballot paper shall be in the appropriate form, printed in accordance with the directions set out in the Appendix to these Rules, 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.

(4) If a candidate who is the subject of a party's authorisation under rule 6(5) 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).

(5) The request must—

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

(6) The names of the candidates shall be 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.

The official mark

17.—(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 an election (of whatever description) for the same county, county borough, district or London borough, as the case may be.

(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.

Prohibition or disclosure of vote

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

Use of schools and public rooms

19.—(1) The returning officer 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 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.

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

Notice of poll, etc.

20.—(1) The returning officer shall publish notice of the poll stating—

- (a) the day and hours fixed for the poll; and
- (b) particulars of each candidate remaining validly nominated,

and paragraph (6) of rule 16 shall apply in relation to the order in which names and particulars appear on the notice of the poll as it applies in relation to ballot papers.

(2) The returning officer 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

21. The returning officer shall, in accordance with regulations made under the 1983 Act, issue to those entitled to vote by post a postal ballot paper and a declaration of identity in the appropriate forms, or forms to the like effect, together with such envelopes for their return (whether free of charge or otherwise) as may be prescribed by such regulations.

Provision of polling stations

22.—(1) The returning officer 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 electoral area shall, in the absence of special circumstances, be in the parliamentary polling place for that district, unless that place is outside the electoral area.

(4) The returning officer 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

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

(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

24.—(1) The returning officer 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 local authority to which the election relates;
- (b) that the election is a mayoral election;
- (c) the elector's name, qualifying address and number on the register; and
- (d) the date and hours of the poll and the situation of the elector's polling station.

Equipment of polling stations

25.—(1) The returning officer shall provide each presiding officer with such number of ballot boxes and such ballot papers as in the returning officer'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 returning officer 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, 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 or the part of it provided under sub-paragraph (c).

(4) The returning officer shall also provide each polling station with—

- (a) at least one large version of the ballot paper which shall be displayed inside the polling station for the assistance of voters who are partially sighted; and
 - (b) a device, of such description as is set out in paragraphs (5) to (10), for enabling voters who are blind or partially sighted to vote without any need for assistance from the presiding officer or any companion (within the meaning of rule 35(1)).
- (5) The device referred to in paragraph (4)(b) must be capable of being attached firmly to a ballot paper and of being removed from it after use without damage to the paper.
- (6) On the right-hand side of the device there shall be tabs of equal size which satisfy the conditions in paragraphs (7) to (10).
- (7) The tabs shall be capable of being positioned on the ballot paper so that each one is above one of the spaces, to the right of the particulars of the candidates, on which the vote is to be marked (“the relevant space”).
- (8) Each tab shall be numbered so that, when the device is positioned over a ballot paper, the number of each tab corresponds to that of the candidate whose particulars are to the left of the relevant space covered by the tab in question.
- (9) Each number on the tab shall be in raised form so that it can be clearly identified by touch.
- (10) Each tab shall be capable of being lifted so as to reveal the relevant space and so that there is sufficient room to allow a voter to mark a cross on that space.
- (11) Notices in the appropriate forms, for the guidance of voters, shall be exhibited—
- (a) inside and outside every polling station, and
 - (b) in every compartment of every polling station.

Appointment of polling and counting agents, etc

26.—(1) Subject to paragraphs (3) to (5), before the commencement of the poll each candidate may appoint polling agents to attend at polling stations for the purpose of detecting personation; and counting agents to attend at the count.

(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 returning officer may by notice allow, shall be permitted to attend at any particular polling station.

(4) If the number of such agents appointed to attend at a particular polling station exceeds that number, the returning officer 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.

(5) The returning officer 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.

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

(7) Notice in writing of the appointment, stating the names and addresses of the persons appointed, shall be given by the candidate, or as the case may be, the election agent, to the returning officer and shall be so given not later than the fifth day (computed like any period of time in the Timetable in rule 3) before the day of the poll.

(8) If an agent dies, or becomes incapable of acting, the candidate, or as the case may be, the election agent, may appoint another person in his place, and shall forthwith give to the returning officer notice in writing of the name and address of that other person.

(9) 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 for a candidate authorised by this rule may be made and the notice of appointment given to the returning officer by the candidate's election agent, instead of by the candidate.

(10) 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.

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

(12) 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.

(13) 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.

(14) 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

27. The returning officer shall make such arrangements as he thinks fit to ensure that—

- (a) every person attending at a polling station (otherwise than for the purpose of voting or assisting a voter with disabilities to vote or as a constable on duty there) has been given a copy in writing of the provisions of subsections (1), (3) and (6) of section 66(1) 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 in writing of the provisions of subsections (2) and (6) of that section.

Admission to polling station

28.—(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 voters with disabilities.

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

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

(3) A constable or person employed by the returning officer 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, or a form to the like effect, and signed by an officer of the police of or above the rank of inspector or by the returning officer, as the case may be.

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

Keeping of order in station

29.—(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 returning officer 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

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

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

(b) lock up the box (if it has a lock);

(c) place his seal—

(i) on the lock; or

(ii) where the ballot box has no lock, on the box,

in such a manner as to prevent its being opened without breaking the seal;

(d) place the box in his view for the receipt of ballot papers; and

(e) keep the box locked and sealed or, as the case may be, sealed.

Questions to be put to voters

31.—(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 selection 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) Save as by this rule authorised, no inquiry shall be permitted as to the right of any person to vote.

Challenge of voter

32.—(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

33.—(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

34.—(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 persons with disabilities

35.—(1) If a voter makes an application to the presiding officer to be allowed, on the ground of—

- (a) blindness or other physical incapacity, or
- (b) inability to read,

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 or in writing, whether he is so incapacitated by his blindness or other incapacity, or by his inability to read, 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 voter with disabilities") that the companion—
 - (i) is a qualified person within the meaning of this rule, and
 - (ii) has not previously assisted more than one voter with disabilities 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 these Rules—

- (a) a person is a voter with disabilities if he has made such a declaration as is mentioned in paragraph (1); and
- (b) a person shall be qualified to assist a voter with disabilities to vote if that person is either—
 - (i) a person who is entitled to vote as an elector at the election; or
 - (ii) the father, mother, brother, sister, husband, wife, son or daughter of the voter and has attained the age of 18 years.

(4) Subject to paragraph 95), 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 voters with disabilities 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
- (c) 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

36.—(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

37. 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 on 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 polling case of riot

38.—(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 give notice to the returning officer.

(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.

Procedure on close of poll

39.—(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 spoiled 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 voters with disabilities 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 voters with disabilities,

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

(2) 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.

(3) The packets shall be accompanied by a 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) spoiled ballot papers, and
- (d) tendered ballot papers.

Attendance at the count

40.—(1) The returning officer shall make arrangements for carrying out, as soon as practicable after the close of the poll, the counting of the votes cast at the election in the presence of the counting agents appointed for the purposes of the election; and he shall give to those agents notice in writing of the time and place—

- (a) at which he will begin to count the votes; and
- (b) at which he will begin any count of the second preference votes.

(2) No person other than—

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

may be present at the count, unless permitted by the returning officer to attend.

(3) A person not entitled to attend the count shall not be permitted to do so by the returning officer unless—

- (a) he is satisfied that the efficient counting of the votes will not be impeded; and

(b) he has either consulted the election agents or thought it impracticable to do so.

(4) The returning officer 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 first count

41.—(1) The returning officer 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.

(2) The returning officer 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.

(3) The returning officer shall then—

- (a) where the election is contested by more than two candidates, count the first preference votes given on them;
- (b) where the election is contested by only two candidates, count the votes given on them.

(4) A postal ballot paper shall not be taken to be duly returned unless—

- (a) it is returned in the manner set out in paragraph (5), and reaches the returning officer or any polling station in the electoral area in question before the close of the poll; and
- (b) the declaration of identity, duly signed and authenticated, is also returned in the manner set out in paragraph (5), and reaches him or such a polling station before that time.

(5) The manner in which any postal ballot paper or declaration of identity may be returned—

- (a) to the returning officer, is by hand or post;
- (b) to a polling station, is by hand.

(6) The returning officer shall not count any tendered ballot paper.

(7) While counting and recording the number of ballot papers and counting the votes, the returning officer 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.

(8) The returning officer 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.

(9) The returning officer shall so far as practicable proceed continuously with counting the votes, allowing only time for refreshment, except that he may exclude the hours between 5 in the afternoon and 10 on the following morning.

(10) During the time so excluded the returning officer 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

42.—(1) Any ballot paper—

- (a) which does not bear the official mark;
- (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 as to the first preference vote,

shall be void and not counted.

(2) A ballot paper on which a 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—

- (i) at an election at which more than two candidates remain validly nominated, an intention that votes shall be given, by way of a first preference vote, for not more than one of the candidates clearly appears;
- (ii) at any other election, an intention that a vote shall be for one only of the candidates clearly appears,

and (in each case) 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) A ballot paper which is not otherwise void and on which not more than one first preference vote is marked (whether or not a second preference vote is marked) shall be valid as respects that vote, and counted accordingly.

(4) The returning officer 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.

(5) The returning officer shall draw up a statement showing the number of ballot papers rejected under the several heads of—

- (a) want of official mark;
- (b) voting for more than one candidate as to the first preference vote;
- (c) writing or mark by which the voter could be identified; and
- (d) unmarked or void for uncertainty as to the first preference vote.

Decisions on ballot papers

43. The decision of the returning officer 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

44.—(1) A candidate or his election agent may, if present when the counting or any re-count of the votes, or as the case may be, the first preference votes, is completed, require the returning officer to have the votes re-counted or again re-counted but the returning officer 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 the votes, or as the case may be, the first preference 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.

Procedure at conclusion of first count

45.—(1) As soon as practicable after the conclusion of the first count (including any re-count), the returning officer shall draw up a statement showing—

- (a) the total number of ballot papers used;
- (b) the total number of rejected ballot papers;
- (c) at an election contested by more than two candidates—
 - (i) the number of first preference votes given to each candidate; and
 - (ii) the total number of first preference votes given; and
- (d) at an election contested by only two candidates, the number of votes given for each candidate.

(2) As soon as practicable after completion of the statement, the returning officer shall—

- (a) inform such of the candidates and their election agents as are then present of the contents of the statements (prepared in accordance with rule 42(5) and paragraph (1) of this rule; and
- (b) give public notice of the contents of those statements.

(3) Where an election is contested by more than two candidates, the returning officer shall—

- (a) if paragraph 2 of Schedule 2 to the 2000 Act applies (candidate with overall majority of first preference votes), make the declaration required by rule 48(1); or
- (b) if paragraph 3 of that Schedule applies, count the second preference votes at the time and place notified in accordance with rule 40(1)(b).

(4) Where—

- (a) an election is contested by only two candidates; and
- (b) the total number of votes given for each of them is unequal,

the person to be returned as the elected mayor is the candidate to whom the majority of the votes is given.

(5) Where—

- (a) an election is contested by only two candidates; and
- (b) the total number of votes given for each of them is equal,

the returning officer shall decide by lot which of them is to be returned as the elected mayor.

(6) In a case to which paragraph (4) or (5) applies, the declaration of the person to be returned as the elected mayor shall be made in accordance with rule 48.