

SCHEDULE 1

EUROPEAN PARLIAMENTARY ELECTIONS RULES

PART III

Contested Elections

Poll to be taken by ballot

18. The votes at the poll shall be given by ballot, and the votes given to each candidate shall be counted and the result of the poll determined in accordance with rules 48 to 59.

The ballot papers

19.—(1) The ballot of every voter shall consist of a ballot paper, and the persons shown in the statement of candidates nominated as standing nominated, and no others, shall be entitled to have their names inserted in the ballot paper.

(2) Every ballot paper shall be in the form in the Appendix, and shall be printed in accordance with the directions in that Appendix, and—

- (a) shall contain the names of the persons shown in the statement of candidates 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) The order of the names of the candidates in the ballot paper shall be the same as in the statement of candidates nominated.

The official mark

20.—(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 seven years shall intervene between the use of the same official mark at elections for the same European Parliamentary electoral region.

(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 of disclosure of vote

21. No person who has voted at the election shall, in any legal proceeding to question the election or return, be required to state the way in which he voted.

Use of schools and public rooms

22.—(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 to which this rule applies;
- (b) a room the expense of maintaining which is payable out of any rate.

This rule applies to a school in receipt of a grant out of moneys appropriated by Measure of the Northern Ireland Assembly.

(2) 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 mentioned above by reason of its being used for the purpose of taking the poll, counting the votes or verifying the ballot paper accounts, as the case may be.

Notice of poll

23.—(1) The returning officer shall in the statement of persons nominated include a notice of the poll, stating the day on which and hours during which the poll will be taken.

(2) The returning officer shall also give public notice of—

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

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

Postal ballot papers

24.—(1) The returning officer shall, in accordance with Schedule 2, issue to those entitled to vote by post a ballot paper and a declaration of identity in the form set out in that Schedule, together with such envelopes for their return (whether free of charge or otherwise) as are specified in that Schedule.

(2) The form mentioned in paragraph (1) shall include provision for the form to be signed and, in the case of an elector, for stating his date of birth.

Provision of polling stations

25.—(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 polling district shall be in the polling place for that district.

(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

26.—(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 these rules 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 these rules to do at a polling station except order the arrest, exclusion or removal of any person from the polling station or refuse to deliver a ballot paper under paragraph (4) of rule 37 (including that paragraph as applied by rule 38, 39 or 40).

Appointment of verifying officers and clerks

27.—(1) The returning officer shall appoint and pay verifying officers to attend at such places as he deems necessary for the purposes of the verification of the ballot paper accounts and such clerks as may be necessary for the purposes of the verification, but he shall not appoint a 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, act as a verifying officer and the provisions of these rules relating to a returning officer shall apply to a returning officer so acting, with the necessary modifications as to things to be done by the returning officer to the verifying officer or by the verifying officer to the returning officer.

(3) A verifying officer may do, by the clerks appointed to assist him, any act which he is required or authorised by these rules to do.

Issue of official poll cards

28.—(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,

and a card shall not be sent to any person registered, or to be registered, in pursuance of an overseas elector's declaration.

(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 form in the appendix and shall set out—

- (a) the name of the electoral region;
- (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.

(4) In this rule, "elector" has the same meaning as in regulation 58(4) of these Regulations; and, pending publication of the register, the elector's number in the register includes his number (if any) in the electors list for that register.

Equipment of polling stations

29.—(1) The returning officer shall provide each presiding officer with such number of ballot boxes and 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 paragraph (9) 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 39(1)).
- (5) A notice in the form in the Appendix, giving directions for the guidance of the voters in voting, shall be printed in conspicuous characters and exhibited inside and outside every polling station.
- (6) The returning officer may also provide such notices in braille or in languages other than English that are an accurate translation of the notice referred to in paragraph (5) as he considers appropriate, which may be exhibited inside and outside every polling station.
- (7) In every compartment of every polling station there shall be exhibited the notice “Remember—use 1,2,3 etc. at this election—this is an election by proportional representation. Number the candidates in order of your preference, putting ‘1’ against the candidate of your first preference and so on. You should not put the same preference against more than one candidate. You may show your preference for as many or as few candidates as you so wish.”.
- (8) Where proof has been given to the returning officer’s satisfaction of the death of a candidate, he shall provide each presiding officer with a sufficient number of notices to this effect for display in every compartment of every polling station.
- (9) The device referred to in paragraph (4)(b) must—
- (a) allow a ballot paper to be inserted into and removed from or attached to and detached from the device, easily and without damage to the paper;
 - (b) keep the ballot paper firmly in place during use;
 - (c) provide suitable means for the voter to identify—
 - (i) the spaces on the ballot paper on which he may mark his vote; and
 - (ii) the candidate to whom each such space refers.

Appointment of polling and counting agents

- 30.**—(1) The election agent or sub-agent of a candidate or any person authorised in writing by such an agent or that 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 verification of the ballot paper accounts and the counting of the votes.
- (2) One (but no more than one) counting agent of each candidate may be authorised by the terms of his appointment to require a re-count at the count.
- (3) The returning officer or, as the case may be, verifying officer may limit the number of counting agents, so however that—
- (a) the number shall be 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 verification of the ballot paper accounts or the counting of the votes by the number obtained by adding the number of candidates.
- (4) Notice in writing of the appointment, stating the names and addresses of the persons appointed, shall be given by the person by whom the appointment was made to the returning officer and shall be so given not later than the second day (computed like any period of time in the Timetable) before the day of the poll.

(5) If an agent dies, or becomes incapable of acting, the person by whom the appointment was made may appoint another agent in his place, and shall forthwith give to the returning officer notice in writing of the name and address of the agent appointed.

(6) In the following provisions of these rules references to polling 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 number.

(7) 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.

(8) 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 any such agent in doing any such act or thing.

(9) The election agent or sub-agent of a candidate may do or assist in doing anything which a polling or counting agent of that candidate is authorised to do; and anything required or authorised by these rules to be done in the presence of the polling or counting agents may be done in the presence of the election agent or sub-agent of a candidate instead of that candidate's polling agent or counting agents.

(10) 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 agents or agent 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

31.—(1) 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 blind voter to vote or as a constable on duty there) has been given a copy in writing of the provisions of paragraphs (1), (4) and (7) of regulation 30 of these Regulations; and
- (b) every person attending at the verification of the ballot paper accounts or 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 paragraphs (2), (3) and (7) of that regulation.

Admission to polling station

32.—(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 the election agents of any candidate;
- (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;
- (e) the companions of voters with disabilities; and
- (f) Electoral Commissioners, members of staff of the Electoral Commission and persons appointed by the Electoral Commission for the purpose of attending at polling stations on behalf of the Commission.

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

(3) A constable or person employed by a returning officer shall not be admitted to vote in person elsewhere than at his own polling station under the relevant provision of these Regulations, except on production and surrender of a certificate as to his employment, which shall be in the form in the Appendix and signed by an officer of 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

33.—(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

34. Immediately before the commencement of the poll, the presiding officer shall show the ballot box empty to such persons, if any, as are present in the polling station, so that they may see that it is empty, and shall then lock it up, if it has a lock, and place his seal on it in such a manner as to prevent its being opened without breaking the seal, and shall place it in his view for the receipt of ballot papers, and keep it so locked, if it has a lock, and sealed.

Questions to be put to voters

35.—(1) The presiding officer may, and if required by a candidate or the election or polling agent of a candidate 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 electors for this election as follows?” (read the whole entry from the register.),

(ii) “Have you already voted, here or elsewhere, at this by-election (general election of MEPs), 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 AB in the list of proxies for this election as entitled to vote as proxy on behalf of CD?”,

(ii) “Have you already voted here or elsewhere at this by-election (general election of MEPs) as proxy on behalf of CD?”.

(2) In the case of a person applying as an elector, the presiding officer may put the following additional question—

“What is your date of birth?”.

(3) In the case of a person applying as proxy, the presiding officer may, and if required as mentioned in paragraph (1) shall, put the following additional question—

“Are you the husband (wife), parent, grandparent, brother (sister), child or grandchild of CD?”
and if that question is not answered in the affirmative the following question—

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

(4) 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.

(5) No inquiry shall be permitted as to the right of any person to vote, except as authorised by this rule.

Challenge of voter

36.—(1) If at the 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 the election or polling agent of a candidate—

- (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

37.—(1) Subject to paragraphs (2) to (7) below, 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 counter-foil;
- (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 also be placed against his name in the list of proxies.

(2) A ballot paper shall not be delivered to a voter unless he has produced a specified document to the presiding officer or a clerk.

(3) Where a voter produces a specified document, the presiding officer or clerk to whom it is produced shall deliver a ballot paper to the voter unless the officer or clerk decides that—

- (a) the document; or
- (b) the apparent age of the voter as compared with his age according to the date supplied as the date of his birth pursuant to section 10(4A)(b), 10A(1A)(b) or 13A(2A)(b) of the 1983 Act,

raises a reasonable doubt as to whether the voter is the elector or proxy he represents himself to be.

(4) Where in such a case it is a presiding officer who so decides, he shall refuse to deliver a ballot paper to the voter.

(5) Where in such a case it is a clerk who so decides, he shall refer the matter and produce the document to the presiding officer, who shall proceed as if it had been to him that the voter had presented himself and produced the document in the first place.

(6) For the purposes of this rule, a specified document is one which for the time being falls within the following list:

- (a) a current licence to drive a motor vehicle if the licence bears the photograph of the person to whom it is issued;
- (b) a current passport issued by a Member State of the European Union;
- (c) a current electoral identity card issued under section 13C of the 1983 Act⁽¹⁾;
- (d) a current translink senior smartpass, issued under the Northern Ireland concessionary fares scheme.

In sub-paragraph (a) a licence to drive a motor vehicle is a licence granted under Part III of the Road Traffic Act 1988⁽²⁾, or under Part II of the Road Traffic (Northern Ireland) Order 1981⁽³⁾ or any corresponding enactment for the time being in force.

(7) References in this rule to producing a document are to producing it for inspection.

(8) The voter, on receiving the ballot paper, shall forthwith proceed into one of the compartments in the polling station and there shall—

- (a) secretly record his vote by placing on the ballot paper “1” opposite the name of the candidate of his first choice and, if he wishes, by placing “2” opposite the name of his second choice, “3” opposite the name of the candidate of his third choice and so on in the order of his preference;
- (b) fold the paper so that his vote is concealed;
- (c) show to the presiding officer the back of the paper so as to disclose the official mark; and
- (d) put the folded paper into the ballot box in the presence of the presiding officer.

(9) 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

38.—(1) Subject to paragraph (2) below, the presiding officer, on the application of a voter—

- (a) who is incapacitated by blindness or other physical cause from voting in 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 ballot paper to be marked in manner directed by the voter, and the ballot paper to be placed in the ballot box.

(2) Paragraphs (2) to (7) of rule 37 shall apply in the case of a voter who applies under paragraph (1) above as they apply in the case of a voter who applies under rule 37(1), but reading references to delivering a ballot paper to a voter as references to causing a voter’s ballot paper to be marked.

(1) Section 13C was inserted by section 4 of the Electoral Fraud (Northern Ireland) Act 2002.

(2) 1988 c. 52.

(3) S.I.1981/154 (N.I. 1).

(3) The name and number on the register of electors of every voter whose ballot paper 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 ballot papers marked by the presiding officer”).

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

39.—(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) Subject to paragraph (3) below, 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) Paragraphs (2) to (7) of rule 37 shall apply in the case of a voter who applies under paragraph (1) above as they apply in the case of a voter who applies under rule 37(1), but reading references to delivering a ballot paper to a voter as references to granting a voter’s application.

(4) For the purposes of these rules, a person is a voter with disabilities if he has made such a declaration as is mentioned in paragraph (1), and a person shall be qualified to assist a voter with disabilities to vote if that person—

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

(5) 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”).

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 form in the Appendix; and
- (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

40.—(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) Paragraphs (2) to (7) of rule 37 shall apply in the case of a person who seeks to mark a tendered ballot paper under paragraph (1) above as they apply in the case of a voter who applies for a ballot paper under rule 37(1).

(3) Paragraph (4) below applies where

- (a) under paragraph (3) of rule 35 a ballot paper is not delivered to a person following his unsatisfactory answer to the question in paragraph (2) of that rule; or
- (b) a presiding officer refuses to deliver a ballot paper to a person under paragraph (4) of rule 37 (including that paragraph as applied by rule 38 or 39 or this rule).

(4) The person shall, on satisfactorily answering the questions permitted by law to be asked at the poll, nevertheless 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.

(5) A tendered ballot paper shall—

- (a) be of a colour differing 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.

(6) 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”).

(7) 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.

(8) A person who marks a tendered ballot paper under paragraph (4) above shall sign the paper, unless it was marked after an application was refused under rule 38 or 39.

(9) A paper which is required to be signed under paragraph (8) above and is not so signed shall be void.

Refusal to deliver ballot paper

41.—(1) This rule applies where a presiding officer refuses to deliver a ballot paper under paragraph (4) of rule 37 (including that paragraph as applied by rule 38, 39 or 40).

(2) The refusal shall be subject to review on an election petition but, subject to that, shall be final and shall not be questioned in any proceedings whatsoever.

Spoilt ballot papers

42. 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

43.—(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 local 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 Regulations to the close of the poll shall be construed accordingly.

Procedure on close of poll

44.—(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 the 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 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 verifying officer to be taken charge of by him; but if the packets are not delivered by the presiding officer personally to the verifying officer, the arrangements for their delivery shall require the verifying 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 statement (in these rules referred to as “the ballot paper account”) made by the presiding officer showing the number of ballot papers entrusted to him, and accounting for them under the heads of ballot papers issued and not otherwise accounted for, unused, spoilt and tendered ballot papers.

Attendance at verification of ballot paper accounts

45.—(1) The verifying officer shall make arrangements for the verification of the ballot paper accounts 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 such verification.

(2) No person other than—

- (a) the returning officer, the verifying officer and his clerks,

- (b) the candidates and their spouses,
- (c) the election agents,
- (d) the counting agents, and
- (e) representatives of the Electoral Commission,

may attend the verification of the ballot paper accounts, unless permitted by the verifying officer to attend; and that officer shall not permit a person to attend unless he is satisfied that the efficient verification of the ballot paper accounts will not be impeded.

(3) The verifying officer shall give the counting agents all such reasonable facilities for observing the proceedings, and all such information with respect to them, as he can give them consistent with the orderly conduct of the proceedings and the discharge of his duties in connection with them.

Procedure at verification of ballot paper accounts

46.—(1) The verifying officer shall in the presence of the counting agents—

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

(2) A postal ballot paper shall not be deemed to be duly returned unless—

- (a) it is returned in the proper envelope so as to reach the returning officer before the close of the poll and is accompanied by the declaration of identity duly signed and authenticated; and
- (b) in the case of an elector, that declaration of identity states the date of birth of the elector and the returning officer is satisfied that the date stated corresponds with the date supplied as the date of the elector's birth pursuant to section 10(4A)(b), 10A(1A)(b) or 13A(2A)(b) of the 1983 Act.

(3) In the case of an elector, unless section 10(4B), 10A(1B) or 13A(2B) of the 1983 Act applies, the declaration of identity referred to in paragraph (3) shall be taken not to be duly signed unless the returning officer is satisfied that the signature on the declaration corresponds with the signature supplied as the elector's signature pursuant to section 10(4A)(a), 10A(1A)(a) or 13A(2A)(a) of the 1983 Act.

(4) The verifying officer shall not count any tendered ballot paper.

(5) The verifying officer, while counting and recording the number of ballot papers, shall keep the ballot papers with their faces downwards.

(6) The verifying officer shall verify each ballot paper account by comparing it with the number of ballot papers recorded by him, 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 counting agent may copy.

(7) The verifying officer shall, subject to the directions of the returning officer, determine the hours during which the procedure under this rule is proceeded with.

(8) The verifying officer shall take proper precautions for the security of the ballot papers and documents.

(9) On completion of the procedure under this rule, the verifying officer shall, subject to the directions of the returning officer, make up into packets the ballot papers counted by him, seal them up in containers endorsing on each a description of the area to which the ballot papers relate, and, subject to paragraph (10) below, deliver or cause to be delivered the containers to the returning officer

together with a list of them and of the contents of each container and a statement of his verification of the ballot paper accounts.

Attendance at counting of votes

47.—(1) The returning officer shall make arrangements for counting the votes in the presence of the counting agents—

(a) in the case of a general election of MEPs, in sufficient time to comply with rule 51(2) before the material time,

(b) in the case of a by-election, 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.

For the purposes of this paragraph “material time” means in relation to a general election of MEPs the close of polling in the Member State whose electors are the last to vote in the election.

(2) No person other than—

(a) the returning officer and his clerks,

(b) the candidates and their spouses,

(c) the election agents,

(d) the counting agents,

(e) representatives of the Electoral Commission,

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

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

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

(b) 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.

Interpretation of rules 49 to 59

48. In rules 49 to 59 below—

“continuing candidate” means any candidate not deemed to be elected and not excluded;

“count” means all the operations involved in the counting of the first preferences recorded for candidates, the transfer of the surpluses of elected candidates, and the transfer of the votes of excluded candidates;

“deemed to be elected” means deemed to be elected for the purposes of the counting of votes but without prejudice to the declaration of the result of the poll;

“mark” means a figure, a word written in the English language or a mark such as “X”;

“non-transferable vote” means a ballot paper—

(a) on which no second or subsequent preference is recorded for a continuing candidate,

or

(b) which is excluded by the returning officer under rule 55(4) below;

“preference” as used in the following contexts has the meaning assigned below—

- (a) “first preference” means the figure “1” or any mark or word which clearly indicates a first (or only) preference;
- (b) “next available preference” means a preference which is the second or, as the case may be, subsequent preference recorded in consecutive order for a continuing candidate (any candidate who is deemed to be elected or is excluded thereby being ignored), and
- (c) in this context, a “second preference” is shown by the figure “2” or any mark or word which clearly indicates a second preference, a third preference by the figure “3” or any mark or word which clearly indicates a third preference, and so on;

“quota” means the number calculated in accordance with rule 52 below;

“surplus” means the number of votes by which the total number of votes for any candidate (whether first preference or transferred votes, or a combination of both) exceeds the quota; but, references in these rules to the transfer of the surplus means the transfer (at a transfer value) of all transferable papers from the candidate who has the surplus;

“stage of the count” means—

- (a) the determination of the first preference vote for each candidate; or
- (b) the transfer of a surplus of a candidate deemed to be elected; or
- (c) the exclusion of one or more candidates at any given time;

“transferable paper” means a ballot paper on which, following a first preference, a second or subsequent preference is recorded in consecutive numerical order for a continuing candidate;

“transferred vote” means a vote derived from a ballot paper on which a second or subsequent preference is recorded for the candidate to whom that paper has been transferred;

“transfer value” means the value of a transferred vote calculated in accordance with paragraph (4) or (7) of rule 53 below.

Preliminary proceedings and conduct of the count

49.—(1) Where the verifying officer has made the ballot papers into packets in accordance with rule 46(9) above, the returning officer shall open all such packets and mix together all the ballot papers received.

(2) The returning officer, 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.

(3) The returning officer 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 7 in the evening and 9 on the following morning.

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.

- (4) 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

50.—(1) Any ballot paper—

- (a) which does not bear the official mark; or

- (b) on which the figure “1” standing alone is not placed so as to indicate a first preference for any candidate; or
- (c) on which the figure “1” standing alone indicating a first preference is set opposite the name of more than one candidate; or
- (d) on which anything (other than the printed number on the back) is written or marked by which the voter can be identified; or
- (e) which is unmarked or void for uncertainty,

shall be void and not counted, but the ballot paper shall not be void by reason only of carrying the words “one”, “two”, “three”, (and so on) or any other mark instead of a figure if, in the opinion of the returning officer, the word or mark clearly indicates a preference or preferences.

(2) The returning officer shall endorse “Rejected” on any ballot paper which under this rule is not to be counted and if an election agent objects to his decision shall add to the endorsement the words “rejection objected to”.

(3) The returning officer shall prepare a statement showing the number of ballot papers rejected by him under each of sub-paragraphs (a), (b), (c), (d) and (e) of paragraph (1) above and shall, on request, allow any candidate or agent to copy that statement.

(4) 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.

First stage

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

(2) The returning officer shall then count the number of first preference votes given on ballot papers for each candidate and shall record those numbers.

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

The quota

52.—(1) The returning officer shall divide the number of valid ballot papers by a number exceeding by one the number of members to be elected.

(2) The result, increased by one, of the division under paragraph (1) above (any fraction being disregarded) shall be the number of votes sufficient to secure the election of a candidate (in these rules referred to as “the quota”).

(3) At any stage of the count a candidate whose total votes equals or exceeds the quota shall be deemed to be elected, except that at any election where there is only one vacancy a candidate shall not be deemed to be elected until the procedure set out in paragraphs (1) to (3) of rule 55 below has been complied with.

Transfer of votes

53.—(1) Where the number of first preference votes for any candidate exceeds the quota, the returning officer shall sort all the ballot papers on which first preference votes are given for that candidate into sub-parcels so that they are grouped—

- (a) according to the next available preference given on those papers for any continuing candidate, or
- (b) where no such preference is given, as the sub-parcel of non-transferable votes.

(2) The returning officer shall count the number of ballot papers in each parcel referred to in paragraph (1) above.

(3) The returning officer shall, in accordance with this rule and rule 54 below, transfer each sub-paragraph of ballot papers referred to in paragraph (1)(a) above to the candidate for whom the next available preference is given on those papers.

(4) The vote on each ballot paper transferred under paragraph (3) above shall be at a value (“the transfer value”) which—

- (a) reduces the value of each vote transferred so that the total value of all such votes does not exceed the surplus; and
- (b) is calculated by dividing the surplus of the candidate from whom the votes are being transferred by the total number of the ballot papers on which those votes are given, the calculation being made to two decimal places (ignoring the remainder if any).

(5) Where at the end of any stage of the count involving the transfer of ballot papers, the number of votes for any candidate exceeds the quota, the returning officer shall sort the ballot papers in the sub-paragraph of transferred votes which was last received by that candidate into separate sub-paragraphs so that they are grouped—

- (a) according to the next available preference given on those papers for any continuing candidate, or
- (b) where no such preference is given, as the sub-paragraph of non-transferable votes.

(6) The returning officer shall, in accordance with this rule and rule 54 below, transfer each sub-paragraph of ballot papers referred to in paragraph (5)(a) above to the candidate for whom the next available preference is given on those papers.

(7) The vote on each ballot paper transferred under paragraph (6) shall be at—

- (a) a transfer value calculated as set out in paragraph (4)(b) above, or
- (b) at the value at which that vote was received by the candidate from whom it is now being transferred, whichever is the less.

(8) Each transfer of a surplus constitutes a stage in the count.

(9) Subject to paragraph (10) below, the returning officer shall proceed to transfer transferable papers until no candidate who is deemed to be elected has a surplus or all the vacancies have been filled.

(10) Transferable papers shall not be liable to be transferred where any surplus or surpluses which, at a particular stage of the count, have not already been transferred, are—

- (a) less than the difference between the total vote then credited to the continuing candidate with the lowest recorded vote and the vote of the candidate with the next lowest recorded vote, or
- (b) less than the difference between the total votes of the two or more continuing candidates, credited at that stage of the count with the lowest recorded total numbers of votes and the candidate next above such candidates.

(11) This rule shall not apply at an election where there is only one vacancy.

Supplementary provisions on transfer

54.—(1) If, at any stage of the count, two or more candidates have surpluses, the transferable papers of the candidate with the highest surplus shall be transferred first, and if—

- (a) the surpluses determined in respect of two or more candidates are equal, the transferable papers of the candidate who had the highest recorded vote at the earliest preceding stage at which they had unequal votes, shall be transferred first, and

- (b) the votes credited to two or more candidates were equal at all stages of the count, the returning officer shall decide between those candidates by lot and the transferable papers of the candidate on whom the lot falls shall be transferred first.
- (2) The returning officer shall, on each transfer of transferable papers under rule 53 above—
- (a) record the total value of the votes transferred to each candidate;
 - (b) add that value to the previous total of votes recorded for each candidate and record the new total;
 - (c) record as non-transferable votes the difference between the surplus and the total transfer value of the transferred votes and add that difference to the previously recorded total of non-transferable votes, and
 - (d) compare—
 - (i) the total number of votes then recorded for all of the candidates, together with the total number of non-transferable votes, with
 - (ii) the recorded total of valid first preference votes.
- (3) All ballot papers transferred under rule 53 above or 55 below shall be clearly marked, either individually or as a sub-parcel, so as to indicate the transfer value recorded at that time to each vote on that paper or, as the case may be, all the papers in that sub-parcel.
- (4) Where a ballot paper is so marked that it is unclear to the returning officer at any stage of the count under rule 51 or 53 above for which candidate the next preference is recorded, the returning officer shall treat any vote on that ballot paper as a non-transferable vote; and votes on a ballot paper shall be so treated where, for example, the names of two or more candidates (whether continuing candidates or not) are so marked that, in the opinion of the returning officer, the same order of preference is indicated or the numerical sequence is broken.

Exclusion of candidates

55.—(1) If—

- (a) all transferable papers which under the provisions of rule 53 above (including that rule as applied by paragraph (11) below) and this rule are required to be transferred, have been transferred, and
- (b) subject to rule 56 below, one or more vacancies remain to be filled,

the returning officer shall exclude from the election at that stage the candidate with the then lowest vote (or, where paragraph (12) below applies, the candidates with the then lowest votes).

(2) The returning officer shall sort all the ballot papers on which first preference votes are given for the candidate or candidates excluded under paragraph (1) above into two sub-parcels so that they are grouped as—

- (a) ballot papers on which a next available preference is given, and
- (b) ballot papers on which no such preference is given (thereby including ballot papers on which preferences are given only for candidates who are deemed to be elected or are excluded).

(3) The returning officer shall, in accordance with this rule and rule 54 above, transfer each sub-parcel of ballot papers referred to in paragraph (2)(a) above to the candidate for whom the next available preference is given on those papers.

(4) The exclusion of a candidate, or of two or more candidates together, constitutes a further stage of the count.

(5) If, subject to rule 56 below, one or more vacancies still remain to be filled, the returning officer shall then sort the transferable papers, if any, which had been transferred to any candidate excluded under paragraph (1) above into sub-parcels according to their transfer value.

(6) The returning officer shall transfer those papers in the sub-parcel of transferable papers with the highest transfer value to the continuing candidates in accordance with the next available preferences given on those papers (thereby passing over candidates who are deemed to be elected or are excluded).

(7) The vote on each transferable paper transferred under paragraph (6) above shall be at the value at which that vote was received by the candidate excluded under paragraph (1) above.

(8) Any papers on which no next available preferences have been expressed shall be set aside as non-transferable votes.

(9) After the returning officer has completed the transfer of the ballot papers in the sub-parcel of ballot papers with the highest transfer value he shall proceed to transfer in the same way the sub-parcel of ballot papers with the next highest value and so on until he has dealt with each sub-parcel of a candidate excluded under paragraph (1) above.

(10) The returning officer shall after each stage of the count completed under this rule—

(a) record—

(i) the total value of votes, or

(ii) the total transfer value of votes,
transferred to each candidate;

(b) add that total to the previous total of votes recorded for each candidate and record the new total;

(c) record the value of non-transferable votes and add that value to the previous non-transferable votes total; and

(d) compare—

(i) the total number of votes then recorded for each candidate together with the total number of non-transferable votes, with

(ii) the recorded total of valid first preference votes.

(11) If after a transfer of votes under any provision of this rule, a candidate has a surplus, that surplus shall be dealt with in accordance with paragraphs (5) to (10) of rule 53 and rule 54.

(12) Where the total of the votes of the two or more lowest candidates, together with any surpluses not transferred, is less than the number of votes credited to the next lowest candidate, the returning officer shall in one operation exclude such two or more candidates.

(13) If, when a candidate has to be excluded under this rule, two or more candidates each have the same number of votes and are lowest—

(a) regard shall be had to the total number of votes credited to those candidates at the earliest stage of the count at which they had an unequal number of votes and the candidate with the lowest number of votes at that stage shall be excluded; and

(b) where the number of votes credited to those candidates was equal at all stages, the returning officer shall decide between the candidates by lot and the candidate on whom the lot falls shall be excluded.

Filling of last vacancies

56.—(1) Where the number of continuing candidates is equal to the number of vacancies remaining unfilled the continuing candidates shall thereupon be deemed to be elected.

(2) Where only one vacancy remains unfilled and the votes of any one continuing candidate are equal to or greater than the total of votes credited to other continuing candidates together with any surplus not transferred, the candidate shall thereupon be deemed to be elected.

(3) Where the last vacancies can be filled under this rule, no further transfer of votes shall be made.

Re-count

57.—(1) The returning officer on completion of each stage of the count shall, before proceeding with the next stage, inform all the candidates and their election agents then present of his intention, subject to a request for a re-count, to proceed to the next stage.

(2) The returning officer shall comply with a request from a candidate or his election agent for a re-count of the last completed stage made before the returning officer proceeds to the next stage, but nothing in this rule shall require the returning officer to re-count the same parcel or sub-parcel more than once.

(3) The returning officer may, if he thinks fit, re-count ballot papers either once or more often.

(4) Where as a result of a re-count an error is discovered, the returning officer shall, where necessary, amend any results previously announced by him.

Order of election of candidates

58.—(1) The order in which candidates whose votes equal or exceed the quota are deemed to be elected shall be the order in which their respective surpluses were transferred, or would have been transferred but for rule 53(10) above.

(2) A candidate credited with a number of votes equal to, and not greater than, the quota shall, for the purposes of this rule, be regarded as having had the smallest surplus at the stage of the count at which he obtained the quota.

(3) Where the surpluses of two or more candidates are equal and are not required to be transferred, regard shall be had to the total number of votes credited to such candidates at the earliest stage of the count at which they had an unequal number of votes and the surplus of the candidate who had the greatest number of votes at that stage shall be deemed to be the largest.

(4) Where the number of votes credited to two or more candidates were equal at all stages of the count, the returning officer shall decide between them by lot and the candidate on whom the lot falls shall be deemed to have been elected first.

Decisions of returning officer

59. The decision of the returning officer, whether expressed or implied, on any question which arises in relation to the exclusion of any candidate under rule 55 or to any ballot paper or transfer of votes shall be final, but may be reviewed on an election petition.