

SCHEDULE 1

EUROPEAN PARLIAMENTARY ELECTIONS RULES

PART 3

CONTESTED ELECTIONS

Poll to be taken by ballot

20. The votes at the poll shall be given by ballot in accordance with sub-section (4) of section 2 of the 2002 Act and the seats shall be allocated in accordance with sub-sections (5) to (9) of that section.

The ballot papers

21.—(1) The ballot of every voter shall consist of a ballot paper, and the registered parties, together with their candidates shown in the statement of parties and individual candidates nominated and the individual candidates so shown 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 registered parties shown in the statement of parties and individual candidates nominated, together with the names of the candidates of those parties as so shown, and the names and description, if any, of the individual candidates so shown;
- (b) shall be capable of being folded up;
- (c) shall have a number printed on the back;
- (d) shall have attached a counterfoil with the same number printed on it.

(3) If a request is made by or on behalf of a nominating officer of a registered party, the ballot paper shall contain adjacent to the party's name the party's registered emblem (or, as the case may be, one of the party's registered emblems).

(4) The request must—

- (a) be made in writing to the returning officer, and
- (b) be received by him during the period for delivery of nomination papers set out in the Table in rule 1.

(5) The order of the names of the registered parties, together with their candidates, and of the individual candidates in the ballot paper shall be the same as in the statement of parties and individual candidates nominated.

The official mark

22.—(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 local counting area.

(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

23. 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

24.—(1) The local returning officer may use, free of charge, for the purpose of taking the poll—

- (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—

- (i) in England and Wales, to 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;
- (ii) in Scotland, to a school other than an independent school within the meaning of the Education (Scotland) Act 1980(1);
- (iii) in Gibraltar, to a school the expense of maintaining which is payable wholly or partly out of public funds or out of any rate, or by a body whose expenses are so payable.

(2) The local 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.

Notice of poll

25.—(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) In respect of each local counting area or part of an area contained in the electoral region, the local 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

26. The local 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 prescribed by paragraph 28 of that Schedule, together with such envelopes for their return (whether free of charge or otherwise) as are required for the purposes of paragraph 36 of that Schedule.

Provision of polling stations

27.—(1) The local 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.

(1) 1980 c. 44.

(4) The local 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

28.—(1) The local 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 registered party or individual candidate in or about the election.

(2) The local 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 a local returning officer so presiding with the necessary modifications as to things to be done by the local returning officer to the presiding officer or by the presiding officer to the local 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.

Issue of official poll cards

29.—(1) The local 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 cards shall be in the forms in the Appendix, or forms to the like effect, 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 63(5) 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

30.—(1) The local returning officer shall provide each presiding officer with such number of ballot boxes and ballot papers as in the local 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 local 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;

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- (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 local 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 sub-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 40(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 local 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 “Put only one cross on the ballot paper. Put no other mark on the ballot paper, or your vote may not be counted”.
- (8) Where proof has been given to the returning officer’s satisfaction of the death of a candidate on a registered party’s list or an individual candidate, he shall request each local returning officer to 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 a 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—
 - (i) identify the spaces on the ballot paper on which he may mark his vote;
 - (ii) identify the registered party or individual candidate to which each such space refers; and
 - (iii) mark his vote on the space he has chosen.

Appointment of polling and counting agents

31.—(1) The election agent or sub-agent of a registered party standing nominated or an individual 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) For each count one (but no more than one) counting agent of each registered party or individual candidate may be authorised by the terms of his appointment to require a re-count at that count.
- (3) The local returning officer may limit the number of counting agents, so however that—
- (a) the number shall be the same in the case of each registered party standing nominated or individual candidate; and
 - (b) the number allowed to a registered party standing nominated or individual 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 registered parties standing nominated and the number of individual 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 local returning officer and shall be so given not later than the fifth day (computed like any period of time in the Timetable) before the day of the poll.

(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 local 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 local 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 or of his registered party, if appointed, would have been authorised to do, or may assist any such agent in doing any such act or thing.

(9) An election agent or sub-agent of a registered party standing nominated or the election agent or sub-agent of an individual candidate may do or assist in doing anything which a polling or counting agent of that party or 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 an election agent or sub-agent of a registered party standing nominated or the election agent or sub-agent of an individual candidate instead of that party's or 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

- 32.** The local 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 paragraphs (1), (4) and (7) of regulation 29 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

- 33.—**(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 registered party standing nominated and any individual candidate;
 - (b) the polling agents appointed to attend at the polling station;

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- (c) the clerks appointed to attend at the polling station;
- (d) the constables on duty;
- (e) the companions of voters with disabilities; and
- (f) representatives of the Electoral Commission.

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

(3) A constable or person employed by a local 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 local returning officer, as the case may be.

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

Keeping of order in station

34.—(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 local 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

35. 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

36.—(1) The presiding officer may, and if required by a candidate or the election or polling agent of a registered party standing nominated or of an individual 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 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?”

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

Challenge of voter

37.—(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 registered party standing nominated or of an individual 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

38.—(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 also 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

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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

39.—(1) 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 vote to be marked on a ballot paper in 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").

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

40.—(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 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.

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

- (5) 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.
- (6) No fee or other payment shall be charged in respect of the declaration.

Tendered ballot papers

- 41.**—(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 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.
- (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

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

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(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, if any, 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 local returning officer to be taken charge of by him; but if the packets are not delivered by the presiding officer personally to the local returning officer, the arrangements for their delivery shall require the local 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 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, spoiled and tendered ballot papers.

Attendance at verification of ballot paper accounts

45.—(1) The local returning 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 returning officer and 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 local returning officer and his clerks,
- (b) the candidates and—
 - (i) in England and Wales, their spouses; or
 - (ii) in Scotland, one guest each,
- (c) the election agents,
- (d) the counting agents,
- (e) representatives of the Electoral Commission,

may attend the verification of the ballot paper accounts, unless permitted by the local returning 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 local returning 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 local returning 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 it is returned in the manner prescribed in paragraph 41 of Schedule 2 so as to reach the local returning officer or any polling station in the local counting area in question before the close of the poll and the declaration of identity duly signed and authenticated is also returned in that manner before that time.

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

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

(5) The local returning 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.

(6) The local returning officer shall determine the hours during which the procedure under this rule is proceeded with.

(7) The local returning officer shall take proper precautions for the security of the ballot papers and documents.

(8) On completion of the procedure under this rule, the local returning officer shall—

- (a) place the ballot papers and other documents relating to the election in packets under his own seal and the seals of such counting agents as desire to affix their seals, unless he proceeds immediately to the counting of the votes under rule 48;
- (b) otherwise take proper precautions for the security of the papers and documents; and;
- (c) inform the returning officer of the total number of ballot papers counted.

Attendance at counting of votes

47.—(1) The local 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, before or after the material time and in either case so that the requirements of rule 52(1) are satisfied as soon as practicable after 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 and the returning officer notice in writing of the time and place at which he will begin to count the votes.

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

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- (2) No person other than—
- (a) the returning officer, the local returning officer and his clerks,
 - (b) the candidates and—
 - (i) in England and Wales, their spouses; or
 - (ii) in Scotland, one guest each,
 - (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 local 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 local 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 local 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 registered party or individual candidate for whom the vote is given and then counting the number of ballot papers for each registered party or individual candidate, the counting agents shall be entitled to satisfy themselves that the ballot papers are correctly sorted.

(6) If the amendments made to the Act annexed to Council Decision 76/787 contained in Council Decision 2002/787/ECSC, EEC, Euratom(2) have not entered into force by the close of the poll, paragraph (1)(a) shall have effect as if the words “before or” and “in either case” were omitted.

The count

48.—(1) The local returning officer shall—

- (a) where the ballot papers and other documents have been placed in packets under rule 46(8), open the packets of ballot papers other than unused, spoilt and tendered ballot papers;
- (b) mix together all of the ballot papers other than unused, spoilt and tendered ballot papers.

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

(3) The local returning officer, while 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.

(4) The local 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 an individual candidate or the election agent of a registered party shall be as effective as the agreement of the counting agents of that counting agent or party.

(5) During the time so excluded the local 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

(2) 1980 c. 44.

(b) otherwise take proper precautions for the security of the papers and documents.

(6) In the case of a general election of MEPs, if the counting of the votes has commenced before the material time (within the meaning of rule 47(1)) the local returning officer or his clerks shall not disclose the number of votes given for each registered party and individual candidate to anyone other than the returning officer or his clerks until after that time, and the counting of the votes shall be deemed not to have been completed until after that time.

Re-count

49.—(1) A candidate, the election agent of a registered party or individual candidate or a counting agent authorised under rule 31(2) may, if present when the counting of the votes is completed (or, if later, deemed to be completed under rule 48(6)) or any re-count of the votes is completed, require the local returning officer to have the votes re-counted or again re-counted but the local 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, if later, its deemed completion) or any re-count of votes until any persons referred to in paragraph (1) who are present at its completion (or, if later, its deemed completion) have been given a reasonable opportunity to exercise the right conferred by this rule.

Rejected ballot papers

50.—(1) Any ballot paper—

- (a) which does not bear the official mark, or
- (b) on which votes are given for more than one registered party or individual candidate or for a registered party and an individual candidate, or
- (c) on which anything is written or marked by which the voter can be identified except the printed number on the back, or
- (d) which is unmarked or void for uncertainty,

shall, subject to the provisions of the next following paragraph, be void and not counted.

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

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

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

(3) A ballot paper on which a vote is marked for a particular candidate on a party's list of candidates shall, if otherwise valid, be treated as a vote for that party, whether or not there is also a vote for that party.

(4) The local 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 an objection is made by a counting agent to his decision.

(5) The local 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 registered party or candidate;
- (c) writing or mark by which voter could be identified;

- (d) unmarked or void for uncertainty.

Decisions on ballot papers

51. The decision of the local 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.

Notification of local result

52.—(1) As soon as practicable after the completion of the count (or, if later, its deemed completion under rule 48(6)), the local returning officer shall draw up a statement showing the number of votes given for each registered party and individual candidate, excluding any votes given on ballot papers rejected under rule 50.

(2) The local returning officer shall forthwith inform the returning officer of the contents of that statement.

(3) The local returning officer shall give public notice of the statements prepared under this rule and under rule 50 as soon as practicable after the returning officer has agreed that he should do so.

Attendance at allocation of seats

53.—(1) The returning officer shall make arrangements for making the calculation and allocation required by rule 54.

(2) No person other than—

- (a) the returning officer and his clerks,
- (b) the election agent of each registered party standing at the election or a person acting on his behalf,
- (c) each candidate on the list of such a party and—
 - (i) in England and Wales, the candidate's spouse or;
 - (ii) in Scotland, one guest each,
- (d) the election agent of each individual candidate or a person acting on his behalf,
- (e) each individual candidate and—
 - (i) in England and Wales, his spouse or;
 - (ii) in Scotland, one guest each,
- (f) representatives of the Electoral Commission,

may be present at that calculation and allocation unless permitted by the returning officer to attend.

(3) The returning officer shall give to—

- (a) the election agent of each registered party standing at the election, and
- (b) each individual candidate,

notice in writing of the place at which he will conduct the proceedings under rule 54 and of the time after which he will begin those proceedings.

Allocation of seats

54.—(1) The returning officer, as soon as practicable after he has been informed of the contents of the statements prepared under rule 52(1) by local returning officers in his region shall calculate the total number of votes given to each registered party and individual candidate in all of the local counting areas wholly or partly contained within the electoral region, as shown in those statements.

(2) Subject to paragraph (4) and rule 55, the returning officer shall then allocate the seats in accordance with subsections (5) to (9) of section 2 of the 2002 Act.

(3) The returning officer shall give the persons entitled to be present reasonable facilities for satisfying themselves that the results of the calculation and allocation which he is required to make are accurate; and, in particular, a person entitled to be present may require the returning officer to make a calculation or allocation again but the returning officer may refuse to do so if in his opinion the request is unreasonable.

(4) At a by-election at which there is only one vacancy, subsections (5) to (9) of section 2 of the 2002 Act shall have effect as though they provided that the party or individual candidate to whom the majority of the votes have been given shall be declared to be elected.

Equality of seats

55.—(1) Where in the case of the last seat to be allocated, two or more registered parties or individual candidates have an equal number of votes and that number is greater than the number of votes of any other party or candidate, one vote shall be added to the votes of each party or individual candidate having such an equal number and the rules in subsections (5) to (9) of section 2 of the 2002 Act shall be applied again.

(2) Where, after the application of the procedure set out in paragraph (1), two or more parties or individual candidates still have an equal number of votes and that number is greater than the number of votes of any other party or candidate, the returning officer shall forthwith decide between the parties and individual candidates having such an equal number by lot, and allocate the seat to the party or candidate on whom the lot falls.

(3) Where the lot falls on a party, the returning officer shall comply with section 2(8) of the 2002 Act.