

SCHEDULE 3

Rules for Conduct of an Election of Councillors of a Principal Area where the Poll is taken together with the Poll at a Relevant Election or Referendum

PART 2

Stages Common to Contested and Uncontested Elections

Notice of election

3.—(1) The returning officer must publish notice of the election stating—

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

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

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

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

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

Nomination of candidates

4.—(1) Each candidate must be nominated by a separate nomination paper, in the form in the Appendix, delivered at the place fixed for the purpose by the returning officer, which shall be at the offices of the council of the district or London borough in which the electoral area wholly or mainly lies.

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

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

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

(3) If a candidate commonly uses—

- (a) a surname which is different from any other surname he has, or
- (b) a forename which is different from any other forename he has,

the nomination paper may state the commonly used surname or forename in addition to the other name.

(4) The description (if any) can only be—

- (a) one authorised as mentioned in rule 5(1) or (3); or
- (b) the word “Independent”.

Nomination papers: name of registered political party

5.—(1) A nomination paper may not include a description of a candidate which is likely to lead electors to associate the candidate with a registered political party unless the party is a qualifying party in relation to the electoral area and the description is authorised by a certificate—

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- (a) issued by or on behalf of the registered nominating officer of the party, and
 - (b) received by the returning officer before the last time for the delivery of nomination papers set out in the Table in rule 1.
- (2) In paragraph (1) an authorised description may be either—
- (a) the name of the party registered under section 28 of the Political Parties, Elections and Referendums Act 2000(1), or
 - (b) a description of the party registered under section 28A of that Act(2).
- (3) A nomination paper may not include a description of a candidate which is likely to lead electors to associate the candidate with two or more registered political parties unless the parties are each qualifying parties in relation to the electoral area and the description is a registered description authorised by a certificate—
- (a) issued by or on behalf of the registered nominating officer of each of the parties, and
 - (b) received by the returning officer before the last time for the delivery of nomination papers set out in the Table in rule 1.
- (4) For the purposes of paragraph (3), a description is a registered description if it is a description registered for use by the parties under section 28B of the Political Parties, Elections and Referendums Act 2000(3).
- (5) A person shall be guilty of a corrupt practice if he fraudulently purports to be authorised to issue a certificate under paragraph (1) or (3) on behalf of a registered political party’s nominating officer.
- (6) For the purposes of the application of this rule in relation to an election—
- (a) “registered political party” means a party which was registered under Part 2 of the Political Parties, Elections and Referendums Act 2000 on the day (“the relevant day”) which is two days before the last day for the delivery of nomination papers at that election;
 - (b) a registered political party is a qualifying party in relation to an electoral area if the electoral area is in England or Wales and the party was on the relevant day registered in respect of that part of Great Britain in the Great Britain register maintained under that Part of that Act.
- (7) For the purposes of paragraph (6)(a), any day falling within rule 2(1) shall be disregarded.

Subscription of nomination paper

- 6.—(1) The nomination paper must be subscribed by two electors as proposer and seconder, and by eight other electors as assenting to the nomination.
- (2) Where a nomination paper has the signatures of more than the required number of persons as proposing, seconding or assenting to the nomination of a candidate, the signature or signatures (up to the required number) appearing first on the paper in each category must be taken into account to the exclusion of any others in that category.
- (3) The nomination paper must give the electoral number of each person subscribing it.
- (4) The returning officer—
- (a) must supply any elector with as many forms of nomination paper and forms of consent to nomination as may be required at the place and during the time for delivery of nomination papers, and

(1) Section 28 of the Political Parties, Elections and Referendums Act 2000 (c.41) was amended by S.I. 2004/366 and by section 48 of the Electoral Administration Act 2006 (c.22).

(2) Section 28A of the Political Parties, Elections and Referendums Act 2000 (c.41) was inserted by section 49(1) of the Electoral Administration Act 2006 (c.22).

(3) Section 28B of the Political Parties, Elections and Referendums Act 2000 (c.41) was inserted by section 49(1) of the Electoral Administration Act 2006 (c.22).

(b) must at any elector's request prepare a nomination paper for signature, but it is not necessary for a nomination or consent to nomination to be on a form supplied by the returning officer.

(5) A person must not subscribe more nomination papers than there are vacancies to be filled in the electoral area; nor subscribe any nomination paper in respect of an election in any other electoral area of the same local government area whilst the election in the first-mentioned electoral area is taking place:

Provided that a person shall not be prevented from subscribing a nomination paper by reason only of his having subscribed that of a candidate who has died or withdrawn before delivery of the first mentioned paper.

(6) If a person subscribes any nomination paper in contravention of paragraph (5), his signature shall be inoperative on all but those papers (up to the permitted number) which are first delivered.

(7) In this rule "elector"—

- (a) means a person who is registered in the register of local government electors for the electoral area in question on the last day for the publication of notice of the election; and
- (b) includes a person then shown in the register as below voting age if (but only if) it appears from the register that he will be of voting age on the day fixed for the poll.

(8) But, in this rule, "elector" does not include a person who has an anonymous entry in the register.

Consent to nomination

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

- (a) is given in writing on or within one month before the last day for the delivery of nomination papers,
- (b) is in the form in the Appendix, or a form to the like effect, and includes a copy of sections 80 and 81 of the Local Government Act 1972(4) and section 79 of the Local Government Act 2000(5),
- (c) is attested by one witness, and
- (d) is delivered at the place and within the time for the delivery of nomination papers.

Decisions as to validity of nomination papers

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

- (a) the returning officer decides that the nomination paper is invalid; or
- (b) proof is given to the returning officer's satisfaction of the candidate's death; or
- (c) the candidate withdraws.

(4) 1972 c.70. Section 80 has been amended by the Local Government Act 2000 (c.22) Schedule 3 paragraph 8, Schedule 5 paragraph 8 and Schedule 6; the Local Government and Housing Act 1989 (c.42) Schedule 11 paragraph 21, Schedule 12 Part 2 and Schedule 14 paragraph 3; the Enterprise Act 2002 (c.40) section 267(1); the Local Government Finance Act 1982 (c.32), Schedule 6 Part 4; the Representation of the People Act 1983 (c.2) Schedule 8 paragraph 12; the Audit Commission Act 1998 (c.18) Schedule 3 paragraph 3(1); the Greater London Authority Act 1999 (c. 29) section 69; the Environment Act 1995 (c. 25) Schedule 10 paragraph 10(1); the Transport Act 1985 (c.67) Schedule 8. It has also been amended by S.I. 1999/2267, 2001/2237 and 2002/808. Section 81 has been amended by the Local Government Act 1985 (c.51) Schedule 17 and the Education Reform Act 1988 (c.40) Schedule 13 Part 2.

(5) 2000 c.22. Section 79 has been amended by the Public Services Ombudsman (Wales) Act 2005 (c.10) Schedule 4 paragraphs 1 and 20.

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(2) The returning officer is entitled to hold a nomination paper invalid only on one of the following grounds—

- (a) that the particulars of the candidate or the persons subscribing the paper are not as required by law; and
- (b) that the paper is not subscribed as so required.

(3) Subject to paragraph (4), the returning officer must, as soon as practicable after each nomination paper has been delivered, examine it and decide whether the candidate has been validly nominated.

(4) If in the returning officer's opinion a nomination paper breaks rule 5(1) or (3), he must give a decision to that effect—

- (a) as soon as practicable after the delivery of the nomination paper, and
- (b) in any event, before the end of the period of 24 hours starting with the close of the period for delivery of nomination papers set out in the Table in rule 1.

(5) Where the returning officer decides that a nomination paper is invalid, he must endorse and sign on the paper the fact and the reasons for his decision.

(6) The returning officer must send notice of his decision that a nomination paper is valid or invalid to each candidate at his home address as given in his nomination paper.

(7) The returning officer's decision that a nomination paper is valid shall be final and shall not be questioned in any proceeding whatsoever.

(8) Subject to paragraph (7), nothing in this rule prevents the validity of a nomination being questioned on an election petition.

Publication of statement of persons nominated

9.—(1) The returning officer must prepare and publish a statement showing the persons who have been and stand nominated and any other persons who have been nominated, with the reason why they no longer stand nominated.

(2) The statement must show the names, addresses and descriptions of the persons nominated as given in their nomination papers.

(3) If a person's nomination paper gives a commonly used surname or forename in addition to another name, the statement must show the person's commonly used surname or forename (as the case may be) instead of any other name.

(4) Paragraph (3) does not apply if the returning officer thinks—

- (a) that the use of the person's commonly used name may be likely to mislead or confuse electors, or
- (b) that the commonly used name is obscene or offensive.

(5) If paragraph (4) applies, the returning officer must give notice in writing to the candidate of his reasons for refusing to allow the use of a commonly used name.

(6) The statement must show the persons standing nominated arranged alphabetically in the order of their surnames, and if there are two or more of them with the same surname, of their other names.

(7) In the case of a person nominated by more than one nomination paper, the returning officer must take the particulars required by the foregoing provisions of this rule from such one of the papers as the candidate (or the returning officer in default of the candidate) may select.

Correction of minor errors

10.—(1) A returning officer may, if he thinks fit, at any time before the publication under rule 9 of the statement of persons nominated, correct minor errors in a nomination paper.

(2) Errors which may be corrected include—

- (a) errors as to a person’s electoral number;
- (b) obvious errors of spelling in relation to the details of a candidate.

(3) Anything done by a returning officer in pursuance of this rule shall not be questioned in any proceedings other than proceedings on an election petition.

(4) A returning officer must have regard to any guidance issued by the Electoral Commission for the purposes of this rule.

Inspection of nomination papers and consents to nomination

11. During ordinary office hours on any day, other than a day specified in rule 2(1), after the latest time for delivery of nomination papers and before the date of the poll, any person may inspect and take copies of, or extracts from, nomination papers and consents to nomination.

Nomination in more than one electoral area

12. A candidate who is validly nominated for more than one electoral area of the same local government area, must withdraw from his candidature in all those electoral areas except one, and if he does not so withdraw, he shall be deemed to have withdrawn from his candidature in all those electoral areas.

Withdrawal of candidates

13.—(1) A candidate may withdraw his candidature by notice of withdrawal—

- (a) signed by him and attested by one witness, and
- (b) delivered to the returning officer at the place for delivery of nomination papers.

(2) Where a candidate is outside the United Kingdom, a notice of withdrawal signed by his proposer and accompanied by a written declaration also so signed of the candidate’s absence from the United Kingdom shall be of the same effect as a notice of withdrawal signed by the candidate; but where the candidate stands nominated by more than one nomination paper a notice of withdrawal under this paragraph shall be effective if, and only if—

- (a) it and the accompanying declaration are signed by all the proposers except any who is, and is stated in that declaration to be, outside the United Kingdom; or
- (b) it is accompanied, in addition to that declaration, by a written statement signed by the candidate that the proposer giving the notice is authorised to do so on the candidate’s behalf during his absence from the United Kingdom.

Method of election

14.—(1) If the number of persons remaining validly nominated for the electoral area after any withdrawals under these Rules exceeds the number of councillors to be elected, a poll must be taken in accordance with Part 3 of these Rules.

(2) If the number of persons remaining validly nominated for the electoral area after any withdrawals under these Rules does not exceed the number of councillors to be elected, such person or persons must be declared to be elected in accordance with Part 4 of these Rules.

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