

SCHEDULE 2

Rules for Conduct of an Election of Councillors of a Parish or Community where Poll is not taken together with Poll at another Election

PART 3

Contested Elections

CHAPTER 1

General Provisions

Poll to be taken by ballot

15. The votes at the poll must be given by ballot, the result must be ascertained by counting the votes given to each candidate and the candidate or candidates to whom more votes have been given than to the other candidates, up to the number of councillors to be elected, must be declared to have been elected.

The ballot papers

16.—(1) The ballot of every voter must consist of a ballot paper, and the persons remaining validly nominated for the electoral area after any withdrawals under these Rules, and no others, shall be entitled to have their names inserted in the ballot paper.

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

- (a) must contain the names and other particulars of the candidates as shown in the statement of persons nominated;
- (b) must be capable of being folded up; and
- (c) must have a number and other unique identifying mark printed on the back.

(3) If a candidate who is the subject of a party's authorisation under rule 5(1) so requests, the ballot paper must contain, against the candidate's particulars, the party's registered emblem (or, as the case may be, one of the party's registered emblems).

(4) The candidate's request under paragraph (3) must—

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

(5) The order of the names in the ballot paper must be the same as in the statement of persons nominated.

The corresponding number list

17.—(1) The returning officer must prepare a list containing the numbers and other unique identifying marks of all of the ballot papers to be issued by him in pursuance of rule 22(1) or provided by him in pursuance of rule 26(1).

(2) The list must be in the appropriate form in the Appendix or a form to like effect.

Status: This is the original version (as it was originally made).

The official mark

- 18.**—(1) Every ballot paper must contain an appropriate security marking (the official mark).
- (2) The official mark must be kept secret, and an interval of not less than five years shall intervene between the use of the same official mark at elections for the same parish or community.
- (3) The returning officer may use a different official mark for different purposes at the same election.

Prohibition of disclosure of vote

- 19.** No person who has voted at the election shall, in any legal proceeding to question the election, be required to state for whom he has voted.

Use of schools and public rooms

- 20.**—(1) The returning officer may use, free of charge, for the purpose of taking the poll or counting the votes—
- (a) a room in a school maintained or assisted by a local education authority or a school in respect of which grants are made out of moneys provided by Parliament to the person or body of persons responsible for the management of the school;
 - (b) a room the expense of maintaining which is payable out of any rate.
- (2) The returning officer must 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 or counting the votes.

CHAPTER 2

Action to be Taken Before the Poll

Notice of poll

- 21.**—(1) The returning officer must publish notice of the poll stating—
- (a) the day and hours fixed for the poll;
 - (b) the number of councillors to be elected;
 - (c) the particulars of each candidate remaining validly nominated (the names and other particulars of the candidates, and the order of the candidates' names being the same as in the statement of persons nominated); and
 - (d) the names of the proposer and seconder signing a candidate's nomination paper.
- (2) Where a candidate is nominated by more than one nomination paper, the nomination paper referred to in paragraph (1)(d) must be that from which the names and other particulars of the candidate shown in the statement of persons nominated are taken.
- (3) The returning officer must, not later than the time of the publication of the notice of the poll, also give public notice of—
- (a) the situation of each polling station; and
 - (b) the description of voters entitled to vote there,
- and he must as soon as practicable after giving such a notice give a copy of it to each of the election agents (if appointed).

Postal ballot papers

22.—(1) The returning officer must, in accordance with regulations made under the 1983 Act⁽¹⁾, issue to those entitled to vote by post a ballot paper and a postal voting statement in the appropriate form in the Appendix, or a form to like effect together with such envelopes for their return as may be prescribed by such regulations.

(2) The returning officer must also issue to those entitled to vote by post such information as he thinks appropriate about how to obtain—

- (a) translations into languages other than English of any directions to or guidance for voters sent with the ballot paper;
- (b) a translation into Braille of such directions or guidance;
- (c) graphical representations of such directions or guidance;
- (d) the directions or guidance in any other form (including any audible form).

(3) The postal voting statement must include provision for the form to be signed and for stating the date of birth of the elector or proxy (as the case may be).

(4) In the case of a ballot paper issued to a person at an address in the United Kingdom, the returning officer must ensure that the return of the ballot paper and postal voting statement is free of charge to the voter.

Provision of polling stations

23.—(1) The returning officer must provide a sufficient number of polling stations and, subject to the following provisions of this rule, must allot the electors to the polling stations in such manner as he thinks most convenient.

(2) One or more polling stations may be provided in the same room.

(3) The polling station allotted to electors from any parliamentary polling district wholly or partly within the electoral area must, in the absence of special circumstances, be in the parliamentary polling place for that district, unless that place is outside the electoral area.

(4) The returning officer must 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 polling clerks

24.—(1) The returning officer must 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 must 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 a 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.

(1) See the Representation of the People (England and Wales) Regulations 2001 (S.I. 2001/341) as amended by S.I. 2002/1871, 2006/752 and 2006/2910.

Issue of official poll cards

25.—(1) Where the poll at a parish or community election is not to be taken together with the poll at some other election, the council of the parish or community may, not later than noon on the nineteenth day before the day of election, request the returning officer to issue official poll cards for that election.

(2) Where the returning officer receives a request under paragraph (1) he must as soon as practicable send to electors and their proxies an official poll card.

(3) An elector's official poll card must be sent or delivered to his qualifying address, and a proxy's to his address as shown in the list of proxies.

(4) The official poll card must be in the appropriate form in the Appendix, or a form to the like effect, and must set out—

- (a) the name of the council and, where appropriate, of the ward to which councillors are to be elected;
- (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;
- (d) such other information as the returning officer thinks appropriate,

and different information may be provided in pursuance of sub-paragraph (d) to different electors or descriptions of elector.

(5) In the case of an elector with an anonymous entry—

- (a) the returning officer must issue an official poll card in the appropriate form in the Appendix to every such elector or to his proxy (if appointed) whether or not the local council of the parish or community make the request mentioned in paragraph (1);
- (b) instead of containing the elector's name and qualifying address, the polling card must contain the elector's number on the register and such other matter as is specified in the appropriate form in the Appendix; and
- (c) the official poll card must be sent in an envelope or other form of covering so as not to disclose that the elector has an anonymous entry in the register.

(6) Paragraph (7) of rule 6 shall apply for the interpretation of this rule.

Equipment of polling stations

26.—(1) The returning officer must 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 must 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 must provide each polling station with—

- (a) materials to enable voters to mark the ballot papers;
- (b) copies of the register of electors for the electoral area or such part of it as contains the names of the electors allotted to the station;
- (c) the parts of any special lists prepared for the election corresponding to the register of electors for the electoral area or the part of it provided under sub-paragraph (b);
- (d) a list consisting of that part of the list prepared under rule 17 which contains the numbers (but not the other unique identifying marks) corresponding to those on the ballot papers provided to the presiding officer of the polling station.

(4) The reference in paragraph (3)(b) to the copies of the register of electors includes a reference to copies of any notices issued under section 13B(3B) or (3D) of the 1983 Act⁽²⁾ in respect of alterations to the register.

(5) The returning officer must also provide each polling station with—

- (a) at least one large version of the ballot paper which must be displayed inside the polling station for the assistance of voters who are partially sighted; and
- (b) and 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 37(1)).

(6) A notice in the form in the Appendix, giving directions for the guidance of voters in voting, must be printed in conspicuous characters and exhibited inside and outside every polling station.

(7) The returning officer may also provide copies of the notice mentioned in paragraph (6) in Braille or translated into languages other than English as he considers appropriate, provided that these notices are accurate reproductions in Braille or that other language of that notice.

(8) In every compartment of every polling station there must be exhibited the notice “[Vote for no more than ... candidates] [Vote for ONE candidate only]. Put no other mark on the ballot paper, or your vote may not be counted.”

(9) The device referred to in paragraph (5)(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) hold the ballot paper firmly in place during use; and
- (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 candidate to which each such space refers; and
 - (iii) mark his vote on the space he has chosen.

Appointment of polling agents and counting agents

27.—(1) Subject to paragraphs (3) and (4), each 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 counting of the votes.

(2) The same person may be appointed as a polling agent or counting agent by more than one candidate.

(3) Not more than four polling agents, or such greater number as the returning officer may by notice allow, shall be permitted to attend at any particular polling station and if the number of such agents appointed to attend at a particular polling station exceeds that number, the returning officer must determine which agents are permitted to attend by lot and only the agents on whom the lot falls shall be deemed to have been duly appointed.

(4) The returning officer may limit the number of counting agents, so however that—

- (a) the number must be the same in the case of each candidate; and

(2) Section 13B of the 1983 Act was inserted by paragraph 3 of Schedule 2 to the Representation of the People Act 2000 (c.2) and amended by section 11(3) of the Electoral Administration Act 2006 (c.22). Subsections (3B) and (3D) of section 13B were inserted by section 11(4) of the Electoral Administration Act 2006 (c.22).

Status: This is the original version (as it was originally made).

- (b) the number allowed to a candidate must not (except in special circumstances) be less than the number obtained by dividing the number of clerks employed on the counting by the number of candidates.

For the purposes of the calculations required by this paragraph, a counting agent who has been appointed for more than one candidate is a separate agent for each of the candidates by whom he has been appointed.

(5) Notice in writing of the appointment, stating the names and addresses of the persons appointed, must be given by the candidate to the returning officer and must be so given not later than the fifth day (disregarding any day referred to in rule 2(1)) before the day of the poll.

(6) If an agent dies, or becomes incapable of acting, the candidate may appoint another agent in his place, and must forthwith give to the returning officer notice in writing of the name and address of the agent appointed.

(7) In the following provisions of these Rules references to polling agents and counting agents shall be taken as references to agents—

- (a) whose appointments have been duly made and notified; and
- (b) where the number of agents is restricted, who are within the permitted numbers.

(8) 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.

(9) A candidate may himself do any act or thing which his polling or counting or election agent, if appointed, would have been authorised to do, or may assist his agent in doing any such act or thing.

(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 agent or agents at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

Notification of requirement of secrecy

28. The returning officer must make such arrangements as he thinks fit to ensure that—

- (a) every person attending at a polling station (otherwise than for the purpose of voting or assisting a voter with disabilities to vote or as a constable on duty there) has been given a copy in writing of the provisions of subsections (1), (3) and (6) of section 66 of the 1983 Act⁽³⁾; and
- (b) every person attending at the counting of the votes (other than any constable on duty at the counting) has been given a copy in writing of the provisions of subsections (2) and (6) of that section.

Return of postal ballot papers

29.—(1) Where—

- (a) a postal vote has been returned in respect of a person who is entered on the postal voters list, or
- (b) a proxy postal vote has been returned in respect of a proxy who is entered on the proxy postal voters list,

(3) Subsections (1), (2) and (3) of section 66 of the 1983 Act were amended by paragraphs 69, 82, 86(b) and 96 of Schedule 1 to the Electoral Administration Act 2006 (c.22); subsection (6) was amended by paragraph 3 of Schedule 3 to the Representation of the People Act 1985 (c.50).

the returning officer must mark the list in the manner prescribed by regulations made under the 1983 Act(4).

(2) Rule 45(3) does not apply for the purpose of determining whether, for the purposes of this rule, a postal vote or a proxy postal vote is returned.

CHAPTER 3

The Poll

Admission to the polling station

30.—(1) The presiding officer must exclude all persons from the polling station except—

- (a) voters;
- (b) persons under the age of 18 who accompany voters to the polling station;
- (c) the candidates and their election agents (if appointed);
- (d) the polling agents appointed to attend at the polling station;
- (e) the clerks appointed to attend at the polling station;
- (f) persons who are entitled to attend by virtue of any of sections 6A to 6D of the Political Parties, Elections and Referendums Act 2000(5);
- (g) the constables on duty; and
- (h) the companions of voters with disabilities.

(2) The presiding officer must regulate the total number of voters and persons under the age of 18 who accompany them to be admitted to the polling station at the same time.

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

(4) A constable or person employed by a returning officer must not be admitted to vote in person elsewhere than at his own polling station allotted to him under these Rules, except on production and surrender of a certificate as to his employment which must be in the form in the Appendix or a form to the like effect, and signed by an officer of police of or above the rank of inspector or by the returning officer, as the case may be.

(5) Any certificate surrendered under this rule must forthwith be cancelled.

Keeping of order in station

31.—(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) See regulation 84A of the Representation of the People (England and Wales) Regulations 2001 (S.I. 2001/341) as inserted by S.I. 2006/2910.

(5) Sections 6A to 6F of the Political Parties, Elections and Referendums Act 2000 (c.41) were inserted by section 29 of the Electoral Administration Act 2006 (c.22).

Status: This is the original version (as it was originally made).

(4) The powers conferred by this rule must 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

32. Immediately before the commencement of the poll, the presiding officer must 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 must then lock it up if it has a lock and (in any case) place his seal on it in such a manner as to prevent its being opened without breaking the seal and must place it in his view for the receipt of ballot papers, and keep it so locked and sealed or sealed (as the case may be).

Questions to be put to voters

33.—(1) At the time of the application (but not afterwards), the questions specified in the second column of the following Table—

- (a) may be put by the presiding officer to a person applying for a ballot paper who is mentioned in the first column, and
- (b) must be put if the letter “R” appears after the question and the candidate or his election or polling agent requires the question to be put:

<i>Q. No.</i>	<i>Person applying for ballot paper</i>	<i>Question</i>
1	A person applying as an elector	<p>(a) —Are you the person registered in the register of local government electors for this election as follows?</p> <p style="text-align: right;"><i>read the whole entry from the register [R]</i></p> <p>(b) —Have you already voted at this election for *(this parish) *(this community),</p> <p style="text-align: right;"><i>*delete whichever is inapplicable</i></p> <p style="text-align: right;"><i>(adding, in the case of an election for several wards, in this or any other ward)</i></p> <p>otherwise than as proxy for some other person? [R]</p>
2	A person applying as proxy	<p>(a) —Are you the person whose name appears as A.B. in the list of proxies for this election as entitled to vote as proxy on behalf of C.D.? [R]</p> <p>(b) —Have you already voted at this election for *(this parish) *(this community),</p> <p style="text-align: right;"><i>*delete whichever is inapplicable</i></p> <p style="text-align: right;"><i>(adding in the case of an election for several wards, in this or any other ward)</i></p> <p>as proxy on behalf of C.D.? [R]</p>

<i>Q. No.</i>	<i>Person applying for ballot paper</i>	<i>Question</i>
		(c) —Are you the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild of C.D.? [R]
3	A person applying as proxy for an elector with an anonymous entry (instead of the questions at entry 2)	(a) —Are you the person entitled to vote as proxy on behalf of the elector whose number on the register of electors is (<i>read out the number</i>)? [R] (b) —Have you already voted as proxy on behalf of the elector whose number on the register of electors is (<i>read out the number</i>)? [R] (c) —Are you the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild of the person whose number on the register of electors is (<i>read out the number</i>)? [R]
4	A person applying as proxy if the question at entry 2(c) or 3(c) is not answered in the affirmative	Have you already voted at this election in *(this parish) *(this community) <i>*delete whichever is inapplicable</i> <i>(adding in the case of an election for several wards, in this or any other ward)</i> on behalf of two persons of whom you are not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild? [R]
5	A person applying as an elector in relation to whom there is an entry in the postal voters list	(a) —Did you apply to vote by post? (b) —Why have you not voted by post?
6	A person applying as proxy who is named in the proxy postal voters list	(a) —Did you apply to vote by post as proxy? (b) —Why have you not voted by post as proxy?

(2) In the case of an elector in respect of whom a notice has been issued under section 13B(3B) or (3D) of the 1983 Act, the references in the questions at entries 1(a) and 3(a), (b) and (c) to reading from the register shall be taken as references to reading from the notice issued under section 13B(3B) or (3D) of the 1983 Act.

(3) A ballot paper must not be delivered to any person required to answer any of the above questions unless he has answered each question satisfactorily.

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

Challenge of voter

34. A person must not be prevented from voting by reason only that—

Status: This is the original version (as it was originally made).

- (a) a candidate or his polling agent declares that he has reasonable cause to believe that the person has committed an offence of personation, or
- (b) the person is arrested on the grounds that he is suspected of committing or of being about to commit such an offence.

Voting procedure

35.—(1) A ballot paper must be delivered to a voter who applies for one, and immediately before delivery—

- (a) the number and (unless paragraph (2) applies) name of the elector as stated in the copy of the register of electors must be called out;
- (b) the number of the elector must be marked on the list mentioned in rule 26(3)(d) beside the number of the ballot paper to be issued to him;
- (c) a mark must be placed in the register of electors against the number of the elector to note that a ballot paper has been received but without showing the particular ballot paper which has been received;
- (d) in the case of a person applying for a ballot paper as proxy, a mark must also be placed against his name in the list of proxies.

(2) In the case of an elector who has an anonymous entry, he must show the presiding officer his official poll card and only his number shall be called out in pursuance of paragraph (1)(a).

(3) In the case of an elector who is added to the register in pursuance of a notice issued under section 13B(3B) or (3D) of the 1983 Act⁽⁶⁾, paragraph (1) is modified as follows—

- (a) in sub-paragraph (a), for “copy of the register of electors” substitute “copy of the notice issued under section 13B(3B) or (3D) of the 1983 Act”;
- (b) in sub-paragraph (c), for “in the register of electors” substitute “on the copy of the notice issued under section 13B(3B) or (3D) of the 1983 Act”.

(4) The voter, on receiving the ballot paper, must 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 must then show to the presiding officer the back of the paper, so as to disclose the number and other unique identifying mark, and put the ballot paper so folded up into the ballot box in the presiding officer’s presence.

(5) The voter must vote without undue delay, and must leave the polling station as soon as he has put his ballot paper into the ballot box.

Votes marked by presiding officer

36.—(1) The presiding officer, on the application of a voter—

- (a) who is incapacitated by blindness or other disability from voting in the manner directed by these Rules, or
- (b) who declares orally that he is unable to read,

must, in the presence of the polling agents, cause the voter’s vote to be marked on a ballot paper in the manner directed by the voter, and the ballot paper to be placed in the ballot box.

(2) The name and number on the register of electors of every voter whose vote is marked in pursuance of this rule, and the reason why it is so marked, must be entered on a list (in these Rules called “the list of votes marked by the presiding officer”).

(6) Section 13B of the 1983 Act was inserted by paragraph 3 of Schedule 2 to the Representation of the People Act 2000 (c.2) and amended by section 11(3) of the Electoral Administration Act 2006 (c.22). Subsections (3B) and (3D) of section 13B were inserted by section 11(4) of the Electoral Administration Act 2006 (c.22).

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.

(3) In the case of a person in respect of whom a notice has been issued under section 13B(3B) or (3D) of the 1983 Act, paragraph (2) applies as if for "on the register of electors of every voter" there were substituted "relating to every voter in respect of whom a notice has been issued under section 13B(3B) or (3D) of the 1983 Act".

Voting by persons with disabilities

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

- (a) blindness or other disability, 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 must require the voter to declare, orally or in writing, whether he is so incapacitated by his blindness or other disability, 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 must 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, spouse, civil partner, 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 must 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) In the case of a person in respect of whom a notice has been issued under section 13B(3B) or (3D) of the 1983 Act, paragraph (4) applies as if for "in the register of electors of every voter" there were substituted "relating to every voter in respect of whom a notice has been issued under section 13B(3B) or (3D) of the 1983 Act".

(6) The declaration made by the companion—

- (a) must be in the form in the Appendix;
- (b) must be made before the presiding officer at the time when the voter applies to vote with the assistance of a companion; and

Status: This is the original version (as it was originally made).

- (c) must forthwith be given to the presiding officer who must attest and retain it.
- (7) No fee or other payment shall be charged in respect of the declaration.

Tendered ballot papers: circumstances where available

- 38.**—(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 and rule 39, to mark a ballot paper (in these Rules referred to as “a tendered ballot paper”) in the same manner as any other voter.

- (2) Paragraph (4) applies if—
- (a) a person applies for a ballot paper representing himself to be a particular elector named on the register,
 - (b) he is also named in the postal voters list, and
 - (c) he claims that he did not make an application to vote by post at the election.

- (3) Paragraph (4) also applies if—
- (a) a person applies for a ballot paper representing himself to be a particular person named as a proxy in the list of proxies,
 - (b) he is also named in the proxy postal voters list, and
 - (c) he claims that he did not make an application to vote by post as proxy.

(4) The person 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 and rule 39, to mark a ballot paper (in these Rules referred to as a “tendered ballot paper”) in the same manner as any other voter.

- (5) Paragraph (6) applies if before the close of the poll but after the last time at which a person may apply for a replacement postal ballot paper, a person represents himself to be—
- (a) a particular elector named on the register who is also named in the postal voters list, or
 - (b) a particular person named as a proxy in the list of proxies and who is also named in the proxy postal voters list,

and claims that he has lost or has not received his postal ballot paper.

(6) The person shall, on satisfactorily answering the questions permitted by law to be asked at the poll, be entitled, subject to the provisions of this rule and rule 39, to mark a ballot paper (in these Rules referred to as a “tendered ballot paper”) in the same manner as any other voter.

Tendered ballot papers: general provisions

- 39.**—(1) A tendered ballot paper must—
- (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.

(2) The name of the voter and his number in the register of electors must be entered on a list (in these Rules referred to as the “tendered votes list”).

(3) 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.

(4) In the case of an elector who has an anonymous entry, this rule and rule 38 apply subject to the following modifications—

(a) in paragraphs (1)(b) and (2) of this rule, the references to the name of the voter shall be ignored;

(b) otherwise, a reference to a person named on a register or list shall be construed as a reference to a person whose number appears on the register or list (as the case may be).

(5) In the case of a person in respect of whom a notice has been issued under section 13B(3B) or (3D) of the 1983 Act⁽⁷⁾, this rule and rule 38 shall apply as if—

(a) in rule 38(1)(a), (2)(a) and (5)(a), for “named on the register” there were substituted “in respect of whom a notice under section 13B(3B) or (3D) of the 1983 Act has been issued”;

(b) in paragraph (1)(b) of this rule, for “his number in the register of electors” there were substituted “the number relating to him on a notice issued under section 13B(3B) or (3D) of the 1983 Act”;

(c) in paragraph (2) of this rule, for “his number in the register of electors” there were substituted “the number relating to him on a notice issued under section 13B(3B) or (3D) of the 1983 Act”.

Spoilt ballot papers

40. 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 must be immediately cancelled.

Correction of errors on day of poll

41. The presiding officer must keep a list of persons to whom ballot papers are delivered in consequence of an alteration to the register made by virtue of section 13B(3B) or (3D) of the 1983 Act which takes effect on the day of the poll.

Adjournment of poll in case of riot

42.—(1) Where the proceedings at any polling station are interrupted or obstructed by riot or open violence, the presiding officer must adjourn the proceedings till the following day and must forthwith give notice to the returning officer.

(2) Where the poll is adjourned at any polling station—

(a) the hours of polling on the day to which it is adjourned must be the same as for the original day; and

(b) references in these Rules to the close of the poll shall be construed accordingly.

(7) Section 13B of the 1983 Act was inserted by paragraph 3 of Schedule 2 to the Representation of the People Act 2000 (c.2) and amended by section 11(3) of the Electoral Administration Act 2006 (c.22). Subsections (3B) and (3D) of section 13B were inserted by section 11(4) of the Electoral Administration Act 2006 (c.22).

Procedure on close of poll

43.—(1) As soon as practicable after the close of the poll, the presiding officer must, 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 (including any marked copy notices issued under section 13B(3B) or (3D) of the 1983 Act) and of the list of proxies,
- (e) the lists prepared under rule 17 including the parts which were completed in accordance with rule 35(1)(b) (together referred to in these Rules as “the completed corresponding number lists”),
- (f) the certificates as to employment on duty on the day of the poll,
- (g) 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 “disability” and “unable to read”, the list maintained under rule 41 (correction of errors on day of poll), and the declarations made by the companions of voters with disabilities,

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

(2) The marked copies of the register of electors and of the list of proxies must be in one packet but must not be in the same packet as the completed corresponding number lists or the certificates as to employment on duty on the day of the poll.

(3) The packets must 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.

CHAPTER 4

Counting of Votes

Attendance at counting of votes

44.—(1) The returning officer must make arrangements for counting the votes in the presence of the counting agents as soon as practicable after the close of the poll, and must give to the counting agents notice in writing of the time and place at which he will begin to count the votes.

(2) No person other than—

- (a) the returning officer and his clerks,
- (b) the candidates and one other person chosen by each of them,
- (c) the election agents (if appointed),
- (d) the counting agents,

(e) persons who are entitled to attend by virtue of any of sections 6A to 6D of the Political Parties, Elections and Referendums Act 2000(8),

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 candidates or thought it impracticable to do so.

(4) The returning officer must give the counting agents all such reasonable facilities for overseeing the proceedings, and all such information with respect to them, as he can give them consistently with the orderly conduct of the proceedings and the discharge of his duties in connection with them.

(5) In particular, where the votes are counted by sorting the ballot papers according to the candidate for whom the vote is given and then counting the number of ballot papers for each candidate, the counting agents shall be entitled to satisfy themselves that the ballot papers are correctly sorted.

The count

45.—(1) The returning officer must—

(a) in the presence of the counting agents open each ballot box and count and record the number of ballot papers in it;

(b) in the presence of the counting agents verify each ballot paper account; and

(c) count such of the postal ballot papers as have been duly returned and record the number counted.

(2) The returning officer must not count the votes given on any ballot papers until—

(a) in the case of postal ballot papers, they have been mixed with the ballot papers from at least one ballot box, and

(b) in the case of ballot papers from a ballot box, they have been mixed with the ballot papers from at least one other ballot box.

(3) A postal ballot paper must not be taken to be duly returned unless—

(a) it is returned in the manner set out in paragraph (4) and reaches the returning officer or any polling station in the electoral area in question before the close of the poll;

(b) the postal voting statement, duly signed, is also returned in the manner set out in paragraph (4) and reaches him or such a polling station before that time;

(c) the postal voting statement also states the date of birth of the elector or proxy (as the case may be), and

(d) in a case where steps for verifying the date of birth and signature of the elector or proxy have been prescribed by regulations made under the 1983 Act(9), the returning officer (having taken such steps) verifies the date of birth and signature of the elector or proxy (as the case may be).

(4) The manner in which any postal ballot paper or postal voting statement may be returned—

(a) to the returning officer, is by hand or by post;

(8) Sections 6A to 6F of the Political Parties, Elections and Referendums Act 2000 (c.41) were inserted by section 29 of the Electoral Administration Act 2006 (c.22).

(9) See regulations 85 and 85A of the Representation of the People (England and Wales) Regulations 2001 (S.I. 2001/341), which were inserted by S.I. 2006/2910.

Status: This is the original version (as it was originally made).

(b) to a polling station, is by hand.

(5) The returning officer must not count any tendered ballot paper.

(6) The returning officer, while counting and recording the number of ballot papers and counting the votes, must keep the ballot papers with their faces upwards and take all proper precautions for preventing any person from seeing the numbers or other unique identifying marks printed on the back of the papers.

(7) The returning officer must verify each ballot paper account by comparing it with the number of ballot papers recorded by him, and the unused and spoiled ballot papers in his possession and the tendered votes list (opening and resealing the packets containing the unused and spoiled ballot papers and the tendered votes list) and must draw up a statement as to the result of the verification, which any counting agent may copy.

(8) The returning officer must so far as practicable proceed continuously with counting the votes, allowing only time for refreshment, except that he may exclude the hours between 7 in the evening and 9 on the following morning.

(9) During the time so excluded the returning officer must—

- (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.

Re-count

46.—(1) A candidate may, if present when the counting or any re-count of the votes is completed, require the returning officer to have the votes re-counted or again re-counted but the returning officer may refuse to do so if in his opinion the request is unreasonable.

(2) No step shall be taken on the completion of the counting or any re-count of votes until the candidates present at its completion have been given a reasonable opportunity to exercise the right conferred by this rule.

Rejected ballot papers

47.—(1) Any ballot paper—

- (a) which does not bear the official mark, or
- (b) on which votes are given for more candidates than the voter is entitled to vote for, or
- (c) on which anything is written or marked by which the voter can be identified except the printed number and other unique identifying mark on the back, or
- (d) which is unmarked or void for uncertainty,

shall, subject to paragraphs (2) and (3), be void and not counted.

(2) Where the voter is entitled to vote for more than one candidate, a ballot paper shall not be deemed to be void for uncertainty as respects any vote as to which no uncertainty arises and that vote must be counted.

(3) 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 (either wholly or as respects that vote) if an intention that the vote shall be for one or other of the 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.

(4) The returning officer must—

- (a) endorse the word “rejected” on any ballot paper which under this rule is not to be counted; and
- (b) in the case of a ballot paper on which any vote is counted under paragraph (2), endorse the words “rejected in part” on the ballot paper and indicate which vote or votes have been counted;

and must add to the endorsement the words “rejection objected to” if any objection is made by a counting agent to his decision.

(5) The returning officer must draw up a statement showing the number of ballot papers rejected, including those rejected in part, under the several heads of—

- (a) want of official mark;
- (b) voting for more candidates than the voter is entitled to;
- (c) writing or mark by which the voter could be identified;
- (d) unmarked or void for uncertainty;

and the statement must record the number of ballot papers rejected in part.

Decisions on ballot papers

48. 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.

Equality of votes

49. Where after the counting of the votes (including any re-count) is completed, an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the returning officer must forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.