
STATUTORY INSTRUMENTS

2008 No. 1741

The Representation of the People
(Northern Ireland) Regulations 2008

PART 5

ISSUE AND RECEIPT OF POSTAL BALLOT PAPERS

Interpretation of Part 5

- 70.** For the purposes of this Part of these Regulations, unless the context otherwise requires—
- “absent voters list” means the list kept under section 7(4) of the 1985 Act;
 - “agent” includes the election agent and a person appointed to attend in the election agent’s place;
 - “ballot paper envelope” and “covering envelope” means the envelopes referred to in regulation 78;
 - “list of postal proxies” means the list kept under section 9(9) of the 1985 Act;
 - “postal ballot paper” means a ballot paper issued to a postal voter;
 - “postal voter” means an elector or proxy who is entitled to vote by post;
 - “postal voters’ ballot box” means the ballot box referred to in regulation 83(1)(a);
 - “receptacle for ballot paper envelopes”, and other references to specified receptacles, means the receptacles referred to in regulation 83(5);
 - “spoilt postal ballot paper” means a ballot paper referred to in regulation 81(1);
 - “universal postal service provider” has the meaning given in the Postal Services Act 2000(1) to a “universal service provider”; and
 - “valid declaration of identity” means one falling within regulation 87(1).

Issue of Postal Ballot Papers

Form of declaration of identity

71. The form of the declaration of identity for the purposes of rule 24 of the elections rules(2) shall be in—

- (a) Form L at a parliamentary election where the poll is taken alone;
- (b) Form M at a parliamentary election where the poll is taken together with the poll at a local election.

(1) 2000 c.26.

(2) Rule 24 was substituted by paragraph 10(3) of Schedule 6 to the 2000 Act and then by section 37 of the 2006 Act (c.22).

Persons entitled to be present at proceedings on issue and receipt of postal ballot papers

72.—(1) Without prejudice to the provisions of section 6A, 6B, 6C, 6D or 6E of the Political Parties, Elections and Referendums Act 2000⁽³⁾ no person may be present at the proceedings on the issue or receipt of postal ballot papers at a parliamentary election other than—

- (a) the returning officer;
- (b) a candidate;
- (c) an election agent or any person appointed by a candidate to attend in his election agent's place; and
- (d) any agents appointed under regulation 73.

Agents of candidates who may attend proceedings on issue or receipt of postal ballot papers

73.—(1) Each candidate may appoint one or more agents to attend the proceedings on the issue or receipt of the postal ballot papers.

(2) The returning officer shall specify the number of agents allowed to attend proceedings under paragraph (1).

(3) The number of agents specified under paragraph (2) shall be the same for each candidate.

(4) Notice in writing of the appointment stating the names and addresses of the persons appointed shall be given by the candidate to the returning officer before the time fixed for the issue of the postal ballot papers or the opening of the postal voters' ballot box, as the case may be.

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

(6) Agents may be appointed and notice of appointment given to the returning officer by the candidate's election agent instead of by the candidate.

(7) In this Part of these Regulations references to agents shall be taken as references to agents whose appointments have been duly made and notified and, in the case of agents appointed under paragraph (1), who are within the number authorised by the returning officer.

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

(9) Where in this Part of these Regulations any act or thing is required or authorised to be done in the presence of the candidates or their agents, the non-attendance of any such persons or person 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

74. The returning officer shall make such arrangements as he thinks fit to ensure that every person attending the proceedings in connection with the issue or receipt of postal ballot papers has been given a copy in writing of the provisions of subsections (4) and (6) of section 66 of the 1983 Act⁽⁴⁾.

⁽³⁾ 2000 c.41; sections 6A, 6B, 6C, 6D and 6E were inserted by section 29 of the 2006 Act.

⁽⁴⁾ 1983 c.2; section 66(4) was amended by paragraph 86(c) of Schedule 1 to the 2006 Act, section 66(5) was amended by paragraph 86(d) of Schedule 1 to the 2006 Act and section 66(6) was amended by Schedule 3 to the 1985 Act.

Notice of issue of postal ballot papers

75.—(1) The returning officer shall give each candidate not less than 48 hours' notice in writing of the time and place at which he will issue postal ballot papers and of the number of agents which each candidate may appoint under regulation 73 to attend that issue.

(2) Where any subsequent issue of postal ballot papers is made, the returning officer shall notify each candidate as soon as practicable of the time and place at which he will make such subsequent issue and of the number of agents the candidate may appoint under regulation 73 to attend such issue.

Procedure on issue of postal ballot paper

76.—(1) The number of the elector as stated in the register shall be marked on the corresponding number list, next to the number and unique identifying mark of the ballot paper issued to the elector.

(2) A mark shall be placed in the absent voters list or the list of postal proxies against the number of the elector to denote that a ballot paper has been issued to the elector or his proxy, but without showing the particular ballot paper issued.

(3) The number of a postal ballot paper shall be marked on the declaration of identity sent with that paper.

(4) Where the poll at one election is taken with the poll at another election, the colour of the postal ballot paper must also be marked on the declaration of identity sent with that paper.

(5) The address to which the postal ballot paper, declaration of identity and the envelopes referred to in regulation 78 are to be sent is—

- (a) in the case of an elector, the address shown in the absent voters list;
- (b) in the case of a proxy, the address shown in the special list kept under section 9(9) of the 1985 Act.

Refusal to issue postal ballot paper

77. Where a returning officer is satisfied that two or more entries in the absent voters list, or the list of postal proxies or in each of those lists relate to the same elector, he shall not issue more than one ballot paper in respect of that elector.

Envelopes

78.—(1) Paragraphs (2) and (3) prescribe the envelopes which are to be issued to a postal voter in addition to the ballot paper and declaration of identity (which are issued under rule 24 of the elections rules⁽⁵⁾).

(2) There shall be issued an envelope for the return of the postal ballot paper and the declaration of identity (referred to as a "covering envelope") which shall be marked with the letter "B".

(3) There shall also be issued a smaller envelope (referred to as a "ballot paper envelope") which shall be marked with—

- (a) the letter "A";
 - (b) the words "ballot paper envelope"; and
 - (c) the number of the ballot paper, unless the envelope has a window through which the number on the ballot paper (or ballot papers) can be displayed.
- (4) Where the polls are taken together—

(5) Rule 24 was substituted by paragraph 10(3) of Schedule 6 to the 2000 Act and then by section 37 of the 2006 Act (c22).

- (a) the envelope referred to in paragraph (2) must also be marked “Covering envelope for the [insert the colour of the ballot paper] coloured ballot paper”; and
- (b) on the envelope referred to in paragraph (3) after the words “Ballot paper envelope” there must be added “for the [insert colour of the ballot paper] coloured ballot paper”.

Sealing up of completed corresponding number lists and security of special lists

79.—(1) As soon as practicable after the issue of each batch of postal ballot papers, the returning officer shall make up into a packet the completed corresponding number lists of those ballot papers which have been issued and shall seal such a packet.

(2) As soon as practicable after the last batch of postal ballot papers have been issued, the returning officer shall make up into a packet the marked copy of the absent voters list and the list of postal proxies and shall seal such a packet.

(3) Until the time referred to in paragraph (2), the returning officer shall take precautions for the security of the lists referred to in that paragraph.

Delivery of postal ballot papers

80.—(1) For the purpose of delivering postal ballot papers, the returning officer may use—

- (a) a universal postal service provider;
- (b) a commercial delivery firm; or
- (c) clerks appointed under rule 26(1) of the elections rules.

(2) Where the services of a universal postal service provider or commercial delivery firm are to be used, envelopes addressed to postal voters shall be counted and delivered by the returning officer with such form of receipt to be endorsed by that provider or firm as may be arranged.

(3) Postage shall be prepaid on envelopes addressed to the postal voters and on the covering envelopes.

Spoilt postal ballot papers

81.—(1) If a postal voter has inadvertently dealt with his postal ballot paper in such manner that it cannot be conveniently used as a ballot paper (referred to as “a spoilt postal ballot paper”) he may return (either by hand or by post) to the returning officer the spoilt ballot paper and the declaration of identity.

(2) On receipt of the documents referred to in paragraph (1), the returning officer shall issue another postal ballot paper except where those documents are received after 5p.m. on the day before the day of the poll.

(3) Regulations 76 (except paragraph (3)), 78, 79, and, subject to paragraph (6), 80 shall apply to the issue of a replacement postal ballot paper under paragraph (2).

(4) The spoilt postal ballot paper and the declaration of identity shall be immediately cancelled.

(5) The returning officer, as soon as practicable after cancelling those documents, shall make up those documents in a separate packet and shall seal the packet; and if on any subsequent occasion documents are cancelled as mentioned, the sealed packet shall be opened and the additional cancelled documents included in it and the packet shall be again made up and sealed.

(6) Where a postal voter applies in person, the returning officer may hand a replacement postal ballot paper to him instead of delivering it in accordance with regulation 80.

(7) The returning officer shall enter in a list kept for the purpose (“the list of spoilt ballot papers”) —

- (a) the name and address of the elector as stated in the register;
- (b) the number of the postal ballot paper issued under this regulation; and
- (c) where the postal voter whose ballot paper is spoilt is a proxy, his name and address.

Receipt of Postal Ballot Papers

Notice of opening of postal ballot paper envelopes

82.—(1) The returning officer shall give to each candidate not less than 48 hours' notice in writing of each occasion on which a postal voters' ballot box and the envelopes contained in it are to be opened.

(2) Such a notice shall specify—

- (a) the time and place at which such an opening is to take place; and
- (b) the number of agents a candidate may appoint under regulation 73(1) to attend each opening.

Postal ballot boxes and receptacles

83.—(1) The returning officer shall provide a separate ballot box for the reception of—

- (a) the covering envelopes when returned by the postal voters ("postal voters' ballot box"), and
- (b) postal ballot papers ("postal ballot box").

(2) Each such ballot box shall be marked "postal voters' ballot box" or "postal ballot box", as the case may be, and with the name of the constituency for which the election is held.

(3) The postal ballot box shall be shown to the agents present on the occasion of opening the first postal voters' ballot box as being empty.

(4) The returning officer shall then lock the postal ballot box and apply his seal in such manner as to prevent its being opened without breaking the seal; any of the agents present who wish to add their seals may then do likewise.

(5) The returning officer shall provide the following receptacles—

- (a) the receptacle for rejected votes;
- (b) the receptacle for declarations of identity; and
- (c) the receptacle for ballot paper envelopes.

(6) The returning officer shall take proper precautions for the safe custody of every ballot box and receptacle referred to in this regulation.

Receipt of covering envelope

84. The returning officer shall, immediately on receipt (whether by hand or by post) of a covering envelope before the close of the poll, place it unopened in a postal voters' ballot box.

Opening of postal voters' ballot box

85.—(1) Each postal voters' ballot box shall be opened by the returning officer in the presence of the agents.

(2) So long as the returning officer ensures that there is at least one sealed postal voters' ballot box for the reception of covering envelopes up to the time of the close of the poll, the other postal voters' ballot boxes may previously be opened by him.

(3) The last postal voters' ballot box and the postal ballot box shall be opened at the counting of the votes under rule 45(6) of the elections rules.

Opening of covering envelopes

86.—(1) When a postal voters' ballot box is opened, the returning officer shall count and record the number of covering envelopes, and shall then open each covering envelope separately.

(2) The procedure in regulation 87 applies where a covering envelope contains both—

- (a) a declaration of identity; and
- (b) a ballot paper envelope, or if there is no ballot paper envelope, a ballot paper.

(3) Where the covering envelope does not contain the declaration of identity separately, the returning officer shall open the ballot paper envelope to ascertain whether the declaration of identity is inside.

(4) Where a covering envelope does not contain both—

- (a) a declaration of identity (whether separately or not); and
- (b) a ballot paper envelope or, if there is no ballot paper envelope, a ballot paper,

the returning officer shall mark the covering envelope “rejected”, attach its contents (if any) and place it in the receptacle for rejected votes.

Procedure in relation to declarations of identity

87.—(1) A declaration of identity is a valid declaration of identity for the purposes of this Part of these Regulations if—

- (a) it is duly signed by the voter and authenticated by a witness who has signed the declaration and given his name and address; and
- (b) in the case of an elector, the requirements of rule 45(2)(b) and (2A)(7) of the elections rules are satisfied.

(2) The returning officer must satisfy himself that the declaration of identity is a valid declaration of identity.

(3) Where the returning officer is not so satisfied, he shall mark the declaration “rejected”, attach to it the ballot paper envelope, or if there is no such envelope, the ballot paper and, subject to paragraph (4), place it in the receptacle for rejected votes.

(4) Before placing the declaration in the receptacle for rejected votes, the returning officer shall show it to the agents and, if any of them object to his decision, he shall add the words “rejection objected to”.

(5) The returning officer shall then examine the number on the declaration of identity against the number on the ballot paper envelope and, where they are the same, he shall place the declaration and the ballot paper envelope respectively in the receptacle for declarations of identity and the receptacle for ballot paper envelopes.

(6) Where—

- (a) the number on a valid declaration of identity is not the same as the number on the ballot paper envelope; or
- (b) that envelope has no number on it,

(6) Rule 45 was amended by Schedule 4 to the 1985 Act (c.50), Schedule 6 to the 2000 Act (c.2), section 3(4)(c) of the 2002 Act (c.13) and Schedule 1 to the 2006 Act (c.22).

(7) Rule 45(2)(b) was amended by, and paragraph (2A) was inserted by, section 3(4)(c) of the 2002 Act.

the returning officer shall open the envelope.

(7) Paragraph (8) applies where—

- (a) there is a valid declaration of identity but no ballot paper envelope; or
- (b) the ballot paper envelope has been opened under regulation 86(3) or paragraph (6).

(8) In the circumstances described in paragraph (7), the returning officer shall place—

- (a) in the postal ballot box, any ballot paper the number on which is the same as the number on the valid declaration of identity;
- (b) in the receptacle for rejected votes, any other ballot paper, with the valid declaration of identity attached and marked “rejected”;
- (c) in the receptacle for rejected votes, any valid declaration of identity marked “rejected” where there is no ballot paper;
- (d) in the receptacle for declarations of identity, any valid declaration not disposed of under sub-paragraph (b) or (c).

Opening of ballot paper envelopes

88.—(1) The returning officer shall open separately each ballot paper envelope placed in the receptacle for ballot paper envelopes.

(2) He shall place—

- (a) in the postal ballot box, any ballot paper the number on which is the same as the number on the ballot paper envelope;
- (b) in the receptacle for rejected votes, any other ballot paper which shall be marked “rejected” and to which shall be attached the ballot paper envelope; and
- (c) in the receptacle for rejected votes any ballot paper envelope which shall be marked “rejected” because it does not contain a ballot paper.

Sealing of receptacles

89. As soon as practicable after the completion of the procedure under regulation 88, the returning officer shall make up into separate packets the contents of—

- (a) the receptacle of rejected votes; and
- (b) the receptacle of declarations of identity,

and shall seal up such packets.

Abandoned poll

90. Where a poll is abandoned or countermanded after postal ballot papers have been issued, by reason of the death of a candidate, the returning officer—

- (a) shall not take any step or further step to open covering envelopes or deal with the contents in accordance with the provisions of this Part of these Regulations; and
- (b) shall, notwithstanding regulations 86 to 88, treat all unopened covering envelopes and the contents of those that have been opened as if they were counted ballot papers.

Forwarding of documents

91.—(1) The returning officer shall forward to the Clerk of the Crown for Northern Ireland at the same time as he forwards the documents mentioned in rule 55(8) of the elections rules—

(a) any packets referred to in regulations 79, 81(5) and 89, subject to regulation 90, endorsing on each packet a description of its contents, the date of the election to which it relates and the name of the constituency for which the election was held; and

(b) a completed statement in Form N.

(2) Where—

(a) any covering envelopes are received by the returning officer after the close of the poll;

(b) any envelopes addressed to postal voters are returned as undelivered too late to be readdressed; or

(c) any spoilt postal ballot papers are returned too late to enable other postal ballot papers to be issued,

the returning officer shall put them unopened in a separate packet, seal up that packet and endorse and forward it at a subsequent date in the manner described in paragraph (1).

(3) Rules 56(9) and 57(10) of the elections rules shall apply to any packet or document forwarded under this regulation.

(4) A copy of the statement referred to in paragraph (1)(b) shall be provided by the returning officer to the Electoral Commission.

(8) Rule 55 has been amended by S.I.2001/1149, section 13(1) and (4) of the 2000 Act (c.2), sections 31, 41 and 45 of, and Schedule 1 to, the 2006 Act (c.22).

(9) Rule 56 has been amended by sections 31 and 41 of the 2006 Act.

(10) Paragraph (1) of rule 57 was amended by, paragraph (3) was substituted by, and paragraphs (4) to (9), of rule 57 were inserted by section 41 of the 2006 Act (c.22); paragraph (1A) was inserted by section 47 of, paragraph 95(3) of Schedule 1 to, the 2006 Act and paragraph (2) was substituted by section 31 of that Act. The amendments made to rule 57 by section 70 of the 2006 Act do not extend to Northern Ireland (see section 78(3)).