

SCHEDULES

SCHEDULE 10

Section 9

THE ALTERNATIVE VOTE SYSTEM: FURTHER AMENDMENTS

PART 1

AMENDMENTS OF THE PARLIAMENTARY ELECTIONS RULES

- 1 Schedule 1 to the 1983 Act (parliamentary elections rules) is amended as follows.
 - 2 For rule 18 (poll to be taken by ballot) there is substituted—
 - “18 The votes at the poll shall be given by ballot in accordance with rule 37A below, the result shall be ascertained in accordance with rule 45A below and the successful candidate shall be declared to have been elected.”
 - 3 In rule 29 (equipment of polling stations), in paragraph (5), for the words after “the notice” there is substituted—

“Remember—use 1, 2, 3 etc at this election—this is an election using the alternative vote system.

Put the number 1 next to the name of the candidate who is your first choice (or your only choice, if you want to vote for only one candidate).

You can also put the number 2 next to your second choice, 3 next to your third choice, and so on.

You can mark as few or as many choices (up to the number of candidates) as you wish.

Do not use the same number more than once.

Put no other mark on the ballot paper, or your vote may not be counted.”
 - 4 In rule 44 (attendance at counting of votes), in paragraph (5), for “the candidate for whom the vote is given” there is substituted “the candidates to whom votes are allocated under rule 45A below”.
 - 5 (1) In rule 46 (re-count), for paragraph (1) there is substituted—
 - “(1) At the time when any stage of the counting or re-counting of the votes is completed, a candidate or candidate’s election agent who is then present may request the returning officer to have the votes re-counted or again re-counted in respect of any or all of the stages so far completed.
 - (1A) The returning officer may refuse to comply with a request under paragraph (1) above if in the officer’s opinion it is unreasonable.”
- (2) In paragraph (2) of that rule, after “on the completion of” there is inserted “any stage of”.

Status: This is the original version (as it was originally enacted).

(3) After that paragraph there is inserted—

“(3) At any time before the declaration of the result, the returning officer may, if the officer thinks fit, have the votes re-counted or again re-counted in respect of any or all of the stages.”

6 (1) In rule 47 (rejected ballot papers), in the heading there is inserted at the end “and invalid markings”.

(2) In paragraph (1) of that rule—

(a) for sub-paragraph (b) there is substituted—

“(aa) on which the number 1 has not been marked against the name of any of the candidates, or

(b) on which the number 1 has been marked against the name of more than one candidate, or”;

(b) in sub-paragraph (d), for “void for uncertainty” there is substituted “is marked in a way that does not indicate a clear choice as to the voter’s first (or only) preference”;

(c) for the words after that sub-paragraph there is substituted “shall, subject to the following provisions, be rejected as void and not counted at any stage.”

(3) For paragraph (2) of that rule there is substituted—

“(2) A ballot paper on which a number is marked elsewhere than in a proper place shall not be deemed to be void for that reason alone.

(2A) If a ballot paper is marked with the same number (other than the number 1) against the name of more than one candidate, that number (each time it appears) and any numbers after the repeated numbers shall be ignored for the purposes of rule 45A above.

(2B) If—

(a) one or more preferences are validly marked on a ballot paper, and

(b) other marks are made on the paper which do not indicate a clear intention as to the voter’s next preference,

those other marks shall be ignored for the purposes of rule 45A above.

(2C) A ballot paper on which the voter makes any mark which—

(a) is clearly intended to indicate a particular preference for a particular candidate, but

(b) is not a number (or is a number written otherwise than as an arabic numeral),

shall be treated in the same way as if the appropriate number (written as an arabic numeral) had been marked instead.

(2D) In paragraph (2C) above a reference to a mark includes a reference to more than one mark.

(2E) Paragraphs (2B) and (2C) above apply only if the way the paper is marked does not itself identify the voter and it is not shown that the voter can be identified by it.”

(4) After paragraph (3) of that rule there is inserted—

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

“(3A) Where—

- (a) any mark on a ballot paper is ignored by reason of paragraph (2A) or (2B) above, and
- (b) the vote in question is not reallocated in accordance with rule 45A above, but would have been if the mark had been treated as indicating a preference for a remaining candidate,

the returning officer shall endorse the ballot paper in question with the words “not reallocated” and an indication of the stage at which the mark was ignored.

(3B) Where the returning officer endorses a ballot paper as mentioned in paragraph (3A), the officer shall add to the endorsement the words “decision objected to” if an objection is made by a counting agent to the decision.”

(5) In paragraph (4) of that rule—

- (a) for sub-paragraph (b) there is substituted—
 - “(aa) not marking the number 1 against the name of any of the candidates;
 - (b) marking the number 1 against the name of more than one candidate;”;
- (b) for sub-paragraph (d) there is substituted—
 - “(d) unmarked or marked in a way that does not indicate a clear choice as to the voter’s first (or only) preference.”

7 For rule 49 (equality of votes), and the heading, there is substituted—

“Equality of votes: which candidate to be eliminated

- 49 (1) This rule applies to determine which candidate is eliminated under rule 45A(3) above in a case where—
- (a) there are two or more candidates with fewer votes than the others but an equal number to each other, or
 - (b) there are three or more candidates, or remaining candidates, and they all have an equal number of votes to each other.

The candidates with an equal number of votes to each other are referred to in this rule as “the tied candidates”.

(2) The candidate to be eliminated where there has been a previous elimination is—

- (a) whichever of the tied candidates was allocated the fewer or fewest votes in accordance with voters’ first preferences, or
- (b) if that fails to resolve the tie, whichever of them had the fewer or fewest votes after the next stage of counting (if any),

and so on.

(3) Where there has been no previous elimination, or where there has been a previous elimination but the tie is not resolved under paragraph (2) above, the returning officer shall forthwith decide by lot which of the tied candidates is to be eliminated.

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

Equality of votes: which candidate to be elected

- 49A (1) This rule applies to determine which candidate is elected under rule 45A above—
- (a) in a case where there are only two remaining candidates and they have an equal number of votes, or
 - (b) in the case of an election with only two candidates who receive an equal number of votes.
- (2) Where paragraph (1)(a) applies, the candidate to be elected is—
- (a) whichever of the remaining candidates was allocated the more votes in accordance with voter’s first preferences, or
 - (b) if that fails to resolve the tie, whichever of them had the more votes after the next stage of counting (if any),
- and so on.
- (3) Where paragraph (1)(a) above applies but the tie is not resolved under paragraph (2) above, or where paragraph (1)(b) above applies, the returning officer shall forthwith decide by lot which of the two candidates is to be elected.”

8 In rule 50 (declaration of result), in paragraph (1), for sub-paragraphs (a) to (c) there is substituted—

- “(a) declare the number of votes obtained by each candidate (including any reallocated in accordance with rule 45A above), starting with the candidate with the fewest and proceeding in order to the candidate with the most;
- (aa) declare which is the candidate who (in accordance with that rule) is elected;
- (ab) declare the stage at which each eliminated candidate was eliminated and the stage at which the elected candidate was elected;
- (b) return the name of the elected candidate to the Clerk of the Crown;
- (c) give public notice of the name of the elected candidate, the number of rejected ballot papers under each head shown in the statement of rejected ballot papers, the number of votes allocated to each candidate in accordance with voters’ first preferences, and for each subsequent stage of counting—
 - (i) the name of the eliminated candidate,
 - (ii) the number of votes reallocated to each of the remaining candidates, and
 - (iii) the number of votes of the candidate eliminated at the previous stage that were not reallocated.”

9 In rule 53 (return or forfeiture of candidate’s deposit), in paragraph (4), for the words after “is completed,” there is substituted “the number of first-preference votes obtained by the candidate is found to be not more than one-twentieth of the total number of first-preference votes obtained by all the candidates.”

10 (1) In rule 61 (deceased independent candidate wins), in paragraph (1), for “the majority of votes is given to the deceased candidate” there is substituted “the deceased candidate would have been elected (in accordance with rule 45A above) had he not died”.

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

- (2) In paragraph (2) of that rule, for sub-paragraph (a) there is substituted—
- “(a) declare the number of votes obtained by each candidate (including any reallocated in accordance with rule 45A above), starting with the candidate with the fewest and proceeding in order to the candidate with the most,
 - (aa) declare that the deceased candidate would have been elected had he not died.”
- (3) For sub-paragraph (c) of that paragraph there is substituted—
- “(c) give public notice of the number of rejected ballot papers under each head shown in the statement of rejected ballot papers, the number of votes allocated to each candidate in accordance with voters’ first preferences, and for each subsequent stage of counting—
 - (i) the name of the candidate eliminated,
 - (ii) the number of votes reallocated to each of the remaining candidates, and
 - (iii) the number of votes of the candidate eliminated at the previous stage that were not reallocated.”
- 11 (1) For rule 62 (deceased independent candidate with equality of votes) there is substituted—
- “62 (1) This rule applies in relation to an election mentioned in rule 60(1) above.
- (2) The reference in rule 45A(3) above to the candidate with the fewest votes, in a case where—
- (a) there are—
 - (i) two or more candidates with fewer votes than the others but an equal number to each other, or
 - (ii) three or more candidates, or remaining candidates, all with the same number of votes,
 - and
 - (b) one of them is a deceased candidate,
- shall be taken as a reference to the deceased candidate.
- (3) The reference in rule 45A(4) or (5) above to the candidate with more votes than the other remaining candidates put together, in a case where—
- (a) there are only two remaining candidates,
 - (b) those two candidates have an equal number of votes, and
 - (c) one of them is a deceased candidate,
- shall be taken as a reference to the candidate other than the deceased candidate.
- (4) Where paragraph (2) or (3) above applies, it applies in place of rule 49 or 49A above.”
- 12 (1) The Appendix of forms is amended as follows.
- (2) In the Form of Front of Ballot Paper—
- (a) for “**VOTE FOR ONE CANDIDATE ONLY**” there is substituted—
- “Put the number 1 next to the name of the candidate who is your first choice (or your only choice, if you want to vote for only one candidate).**”

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

You can also put the number 2 next to your second choice, 3 next to your third choice, and so on.

You can mark as few or as many choices (up to the number of candidates) as you wish.

Do not use the same number more than once.”

- (b) the numbers on the left-hand side are omitted, together with the vertical rule separating them from the particulars of the candidates.

(3) In the directions as to printing the ballot paper—

- (a) in paragraph 2(a), for “the direction to vote for one candidate only” there is substituted “the directions beginning “Put the number 1 next to the name of the candidate who is your first choice” and ending “Do not use the same number more than once.””;
- (b) in paragraph 2(b), for the words “the vertical rules separating those particulars from the numbers on the left-hand side and the spaces on the right” there is substituted “the vertical rule separating those particulars from the spaces on the right”.

(4) In the Guidance for Voters—

- (a) for paragraph 1 there is substituted—

“1 | When you are given a ballot paper go to one of the compartments.

Put the number 1 on the ballot paper in the box to the right of the name of the candidate who is your first choice (or your only choice, if you want to vote for only one candidate).

You can also put the number 2 in the box to the right of the name of the candidate who is your second choice, the number 3 in the box to the right of the name of the candidate who is your third choice, and so on.

You can mark as few or as many choices (up to the number of candidates) as you wish.

Do not use the same number more than once.”

- (b) in paragraph 2, the words “Vote for one candidate only.” are repealed.

PART 2

AMENDMENTS OF OTHER PROVISIONS OF THE 1983 ACT

13 The 1983 Act is amended as follows.

- 14 (1) In section 66 (requirement of secrecy), in subsection (2)(b), for “the candidate for whom any vote is given on any particular ballot paper” there is substituted “how any particular ballot paper has been marked”.
- (2) In subsection (3)(b) and (c) of that section, for “the candidate for whom” there is substituted “how”.
- (3) In subsection (3)(d) of that section, for “the name of the candidate for whom he has or has not” there is substituted “how he has”.

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

- (4) In subsection (4)(d) of that section, for “the candidate for whom any vote is given on any particular ballot paper” there is substituted “how any particular ballot paper has been marked”.
- (5) In subsection (5) of that section, for “the candidate for whom” there is substituted “how”.
- (6) Subsections (7) and (8) of that section are repealed.
- (7) The amendments made by this paragraph do not apply to a local government election (within the meaning given by section 204(1) of the 1983 Act) in Scotland.
- 15 In section 113 (bribery), in subsection (7)—
- (a) for “this section the expression” there is substituted “this section—
“(a) the expression”;
- (b) at the end there is inserted—
- “(b) a reference to voting or refraining from voting, in the case of a parliamentary election, includes a reference to marking or refraining from marking preferences on the ballot paper;
- (c) a reference to the vote of any voter, in the case of a parliamentary election, includes a reference to the marking of a voter’s preferences on the ballot paper.”
- 16 In section 114 (treating), at the end there is inserted—
- “(4) Subsection (7)(b) of section 113 above has effect for the purposes of this section as it has effect for the purposes of that one.”
- 17 In section 115 (undue influence), at the end there is inserted—
- “(3) Subsection (7)(b) of section 113 above has effect for the purposes of this section as it has effect for the purposes of that one.”
- 18 (1) In section 117 (savings as to parliamentary elections), in subsection (2)(b), for “to record his vote for any particular candidate” there is substituted “to vote in any particular way”.
- (2) In subsection (2)(c) of that section, for “recording his vote for any particular candidate” there is substituted “voting in any particular way”.
- 19 (1) In section 139 (trial of election petition), in subsection (6) the words “the parliamentary elections rules or”, in both places, are repealed.
- (2) After that subsection there is inserted—
- “(6A) If the petition relates to an election conducted under the parliamentary elections rules and it appears that there is an equality of votes between any candidates (a “tie”)—
- (a) rule 49, 49A or 62 of those rules (whichever is relevant) shall apply for the purposes of the petition;
- (b) where under rule 49 or 49A the tie falls to be resolved by lot—
- (i) any decision made by lot by the returning officer under that rule shall, in so far as it resolves the tie, be effective also for the purposes of the petition, and

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

- (ii) in so far as the tie is not resolved by such a decision, the court shall resolve it by lot.”
- 20 In section 165 (avoidance of election for employing corrupt agent), after subsection (3) there is inserted—
- “(3A) In the case of a parliamentary election—
- (a) a vote shall be deemed in accordance with subsection (3) above to be thrown away only to the extent that it indicates a preference (whether a first preference or any other) for the person who was under the incapacity, and
- (b) any number on the voter’s ballot paper indicating a subsequent preference shall be treated as reduced by one.”
- 21 In section 166 (votes to be struck off for corrupt or illegal practices), in subsection (1), for the words from “election there shall” to the end there is substituted “election, then on a scrutiny—
- “(a) there shall be disregarded any preference for the candidate (whether a first preference or any other) indicated by a voter who is proved to have been so bribed, treated or unduly influenced, and
- (b) any number on the voter’s ballot paper indicating a subsequent preference shall be treated as reduced by one.”
- 22 In section 199B (translations etc of certain documents), in subsection (6), for the words “in the case of a parliamentary election or” in paragraph (a) there is substituted—
- “in the case of a parliamentary election, must have printed the following words both at the top and immediately below the list of candidates:
- “Put the number 1 next to the name of the candidate who is your first choice (or your only choice, if you want to vote for only one candidate). You can also put the number 2 next to your second choice, 3 next to your third choice, and so on.
- You can mark as few or as many choices (up to the number of candidates) as you wish.
- Do not use the same number more than once.”,
- (aa) in the case of”.

PART 3

AMENDMENTS OF OTHER ENACTMENTS

Parliamentary Constituencies Act 1986

- 23 In Schedule 2A to the Parliamentary Constituencies Act 1986 (public hearings about Boundary Commission proposals), in the definition of “qualifying party” in paragraph 9, for “votes” there is substituted “first-preference votes”.

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

Political Parties, Elections and Referendums Act 2000

- 24 In section 3A of the 2000 Act (four Electoral Commissioners to be persons put forward by parties), in subsection (7), for “votes cast for” there is substituted “first-preference votes obtained by”.