

SCHEDULE 2

SCOTTISH LOCAL GOVERNMENT ELECTIONS RULES RULES FOR CONDUCT OF A SCOTTISH LOCAL GOVERNMENT ELECTION WHERE THE POLL IS NOT TAKEN TOGETHER WITH THE POLL AT ANOTHER ELECTION

PART III

CONTESTED ELECTIONS

General Provisions

Poll to be taken by ballot

12. The votes at the poll shall be given by ballot, the result shall be ascertained by counting the votes given to each candidate and the candidate to whom the majority of votes has been given shall be declared to have been elected.

The ballot papers

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

(2) Every ballot paper shall be in the form in the Appendix to this Schedule, and shall be printed in accordance with the directions in that Appendix, and—

- (a) shall contain the names, addresses and descriptions (if any) of the candidates as shown in their respective nomination papers and arranged alphabetically in the order of their surnames and, if there are two or more candidates with the same surname, of their other names; and (where a candidate is qualified as a registered local government elector and any of such candidate's names or such candidate's address has been changed between the qualifying date for the register and the last day for the submission of nomination papers) shall also, if so required by the candidate, give such candidate's present names and current address;
- (b) shall be capable of being folded up;
- (c) shall have a letter or letters, number or numbers or combination of letter and number or letters and numbers printed on the back; and
- (d) shall have attached a counterfoil with the same letter or letters, number or numbers or combination printed on it either on the back or front of the counterfoil.

(3) If a candidate who is the subject of a party's authorisation under rule 4(4) above so requests, the ballot paper shall 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 request referred to in paragraph (3) above must—

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

(5) For the purposes of the last foregoing paragraph, the first valid nomination paper delivered at the place appointed for the delivery of nomination papers in respect of a candidate shall be deemed to be the nomination paper of that candidate.

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The official mark

14.—(1) Every ballot paper shall be marked with an official mark, which shall perforate the ballot paper.

(2) The official mark shall be kept secret, and an interval of not less than five years shall intervene between the use of the same official mark at elections for the same local authority.

(3) The official mark used for ballot papers issued for the purpose of voting by post shall not be used at the same election for ballot papers issued for the purpose of voting in person.

Prohibition of disclosure of vote

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

Use of schools and public rooms

16.—(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 other than an independent school within the meaning of section 135 of the Education (Scotland) Act 1980⁽¹⁾; and

(b) a room the expense of maintaining which is payable out of any rate:

Provided that nothing in this paragraph shall authorise the use of a room used as part of a private dwellinghouse.

(2) The returning officer shall make good any damage done to, and defray any expense incurred by the persons having control over, any such room as mentioned above by reason of its being used for the purpose of taking the poll or counting the votes.

(3) The use of a room in an unoccupied house for that purpose or those purposes does not render a person liable to be rated or to pay any rate for the house.

Action to be taken before the poll

Notice of poll

17.—(1) Notice of the poll in the form in the Appendix to this Schedule, or a form to the like effect shall be published by the returning officer and the said notice, which may apply to one or more electoral wards, shall, except where in the circumstances it is not appropriate, be combined with the notice of an uncontested election to be given under rule 11 above.

(2) The names of the candidates in the notice of poll shall be arranged alphabetically in the order of their surnames and, if there are two or more candidates with the same surname, of their other names; and the names and other particulars of the candidates in the said notice (including where appropriate their present names and current address) shall be the same as in the ballot paper under the provisions of rule 13 above.

(3) The returning officer shall, 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,

(1) 1980 c. 44.

and shall as soon as practicable after giving such a notice give a copy of it to each of the election agents.

Postal ballot papers

18. The returning officer shall as soon as practicable issue to those entitled to vote by post, a ballot paper and a declaration of identity in the form set out in the Appendix to this Schedule, or a form to the like effect, together with envelopes for their return.

Provision of polling stations

19.—(1) The returning officer shall provide a sufficient number of polling stations and, subject to the following provisions of this rule, shall allot the electors to the polling stations in such manner as the returning officer thinks most convenient, but it shall not be necessary that a polling station for an electoral ward or a polling district be within the electoral ward or polling district, as the case may be.

(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 ward shall, in the absence of special circumstances, be in the parliamentary polling place for that district, unless that place is outside the electoral ward.

(4) The returning officer shall provide each polling station with such number of compartments as may be necessary in which the voters can mark their votes screened from observation.

Appointment of presiding officers and clerks

20.—(1) The returning officer shall appoint and pay a presiding officer to attend at each polling station and such clerks as may be necessary for the purposes of the election, but shall 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 the returning officer 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 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 such presiding officer, any act (including the asking of questions) which such presiding officer is required or authorised by these Rules to do at a polling station except order the arrest, exclusion or removal of any person from the polling station.

Issue of official poll cards and notifications

21.—(1) The returning officer shall as soon as practicable send to electors and proxies an official poll card or notification, but a card or notification need not be sent to any person—

- (a) as an elector if the person is placed on the absent voters' list for the election; or
- (b) as a proxy if the person is entitled to vote by post as proxy at the election.

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

(3) The official poll card or notification shall be in the form in the Appendix to this Schedule, or a form to the like effect, and shall include—

- (a) the name of the council and of the electoral ward to which a councillor is to be elected;
- (b) the elector's name, qualifying address and number in the register; and

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- (c) the date and hours of the poll and the situation of the elector's polling station.

Equipment of polling stations

22.—(1) The returning officer shall provide each presiding officer with such number of ballot boxes and ballot papers as the returning officer considers necessary.

(2) Every ballot box shall be so constructed that the ballot papers can be put in it, but cannot be withdrawn from it, without the box being opened.

(3) The returning officer shall provide each polling station with—

- (a) materials to enable voters to mark the ballot papers;
- (b) instruments for stamping on them the official mark;
- (c) copies of the register of electors for the electoral ward or such part of it as contains the names of the electors allotted to the station;
- (d) the parts of any special lists prepared for the election corresponding to the register of electors for the electoral ward or the part of it provided under sub paragraph (c) above; and
- (e) copies of forms of declarations and other documents required for the purpose of the poll.

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

(5) In every compartment of every polling station there shall be exhibited the notice—

“Vote for one candidate only. Put no other mark on each ballot paper, or your vote may not be counted.”.

(6) The returning officer shall also provide each polling station with—

- (a) at least one large version of the ballot paper which shall be displayed inside the polling station for the assistance of voters who are partially-sighted; and
- (b) a device of the description set out in paragraphs (7) to (12) below 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 32(1) below); and
- (c) at least one notice—

“Make sure that the ballot paper is stamped with the official mark.”.

(7) The device referred to in sub-paragraph 6(b) above shall be such that—

- (a) it satisfies the conditions in paragraphs (8) to (12) below;
- (b) a ballot paper can—
 - (i) be inserted into, and removed from, it; or
 - (ii) be attached to, and detached from, it; and
- (c) the ballot paper will remain firmly in place once inserted into, or attached to, the device.

(8) There shall be sufficient space to allow the particulars of each candidate named on the ballot paper to be shown clearly.

(9) There shall be a separate hole on the device for the name of each candidate named on the ballot paper.

(10) Each hole in the device shall be of equal size.

(11) Each hole shall be positioned to frame the space to the right of the particulars of the candidate on which the vote may be marked (“the relevant space”).

(12) Each hole shall be sufficiently large to allow a voter to mark a cross in the relevant space on the ballot paper.

Appointment of polling and counting agents

23.—(1) 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 returning officer may limit the number of counting agents, but—

- (a) the number shall be the same in the case of each candidate; and
- (b) the number allowed to a candidate shall 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.

(3) 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 and shall be so given not later than the Thursday before the day of election.

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

(5) The foregoing provisions of this rule shall be without prejudice to the requirements of section 72(1) of the Representation of the People Act 1983⁽²⁾ as to the appointment of paid polling agents, and any appointment authorised by this rule may be made and the notice of appointment given to the returning officer by the candidate's election agent, instead of by the candidate.

(6) 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 number.

(7) 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 and, where a candidate has no counting agent, any such notice shall be given to the candidate.

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

(9) A candidate's election agent may do or assist in doing anything which a polling or counting agent of such candidate is authorised to do; and anything required or authorised by these Rules to be done in the presence of the polling or counting agents may be done in the presence of a candidate's election agent instead of such candidate's polling agent or counting agents.

(10) Where by these Rules any act or thing is required or authorised to be done in the presence of the polling or counting agents, the non-attendance of any 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

24. The returning officer shall make such arrangements as the returning officer thinks fit to ensure that—

(2) 1983 c. 2.

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- (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) (5) and (6) of section 66(3) of the Representation of the People Act 1983(4); 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.

The poll

Admission to polling station

25.—(1) The presiding officer shall regulate the number of voters to be admitted to the polling station at the same time, and shall exclude all other persons except—

- (a) the candidates and their election agents;
- (b) the polling agents appointed to attend at the polling station;
- (c) the clerks appointed to attend at the polling station;
- (d) the constables on duty;
- (e) the companions of voters with disabilities; and
- (f) the returning officer and the returning officer’s staff.

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

(3) A constable or person employed by a returning officer shall not be admitted to vote in person elsewhere than at the polling station allotted under these Rules, except on production and surrender of a certificate as to such employment which shall be in the form in the Appendix to this Schedule, 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.

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

Keeping of order in station

26.—(1) It is the presiding officer’s duty to keep order at the polling station.

(2) If a person commits a misconduct in a polling station, or fails to obey the presiding officer’s lawful orders, such person 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 or her,

and the person so removed shall not, without the presiding officer’s permission, again enter the polling station during the day.

(3) Any person so removed may, if charged with the commission in the polling station of an offence, be dealt with as a person taken into custody by a constable for an offence without a warrant.

(4) The powers conferred by this rule shall not be exercised so as to prevent a voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

(3) Section 66(6) was amended by paragraph 3 of Schedule 3 to the Representation of the People Act 1985 (c. 50).

(4) 1983 c. 2.

Sealing of ballot boxes

- 27.** Immediately before the commencement of the poll, the presiding officer shall—
- (a) show each ballot box proposed to be used for the purposes of the poll empty to such persons, if any, as are present in the polling station, so that they may see that each box is empty;
 - (b) place the presiding officer’s seal on it in such a manner as to prevent it being opened without breaking the seal;
 - (c) place each box in the presiding officer’s view for the receipt of ballot papers; and
 - (d) keep it so sealed.

Questions to be put to voters

28.—(1) The presiding officer may, and if required by a candidate or such candidate’s election or polling agent shall, put to any person applying for a ballot paper at the time of such person’s application, but not afterwards, the following questions or either of them:—

- (a) in the case of a person applying as an elector—
 - (i) “Are you the person registered in the register of local government electors for this election as follows?” (*read the whole entry from the register.*);
 - (ii) “Have you already voted at this election [*adding, in the case of an election for more than one electoral ward, in this or any other electoral ward*] otherwise than as proxy for some other person?”;
- (b) in the case of a person applying as proxy—
 - (i) “Are you the person whose name appears as A.B. in the list of proxies for this election as entitled to vote as proxy on behalf of C.D.?”;
 - (ii) “Have you already voted at this election [*adding, in the case of an election for more than one electoral ward, in this or any other electoral ward*] as proxy on behalf of C.D.?”.

(2) In the case of a person applying as proxy, the presiding officer may, and if required as mentioned above shall, put the following additional question:—

“Are you the husband [wife], parent, grandparent, brother [sister], child or grandchild of C.D.?”,

and if that question is not answered in the affirmative the following question:—

“Have you already voted at this election [*adding, in the case of an election for more than one electoral ward, in this or any other electoral ward*] on behalf of two persons of whom you are not the husband [wife], parent, grandparent, brother [sister], child or grandchild?”.

(3) a ballot paper shall not be delivered to any person required to answer the above questions or any of them unless such person has answered the questions or question satisfactorily.

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

Challenge of voter

29.—(1) If at the time a person applies for a ballot paper for the purpose of voting in person, or after such person has applied for a ballot paper for that purpose and before such person has left the polling station, a candidate or such candidate’s election or polling agent—

- (a) declares to the presiding officer that such candidate has reasonable cause to believe that the applicant has committed an offence of personation; and

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(b) undertakes to substantiate the charge in a court of law,
the presiding officer may order a constable to arrest the applicant, and the order of the presiding officer shall be sufficient authority for the constable so to do.

(2) A person against whom a declaration is made under this rule shall not by reason of it be prevented from voting.

(3) A person arrested under the provisions of this rule shall be dealt with as a person taken into custody by a constable for an offence without a warrant.

Voting procedure

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

- (a) the ballot paper shall be stamped with the official mark;
- (b) the number, name and address of the elector as stated in the copy of the register of electors shall be called out;
- (c) the number of the elector shall be marked on the counterfoil;
- (d) a mark shall be placed in the register of electors against the number of the elector to denote that a ballot paper has been received but without showing the particular ballot paper which has been received; and
- (e) in the case of a person applying for a ballot paper as proxy, a mark shall be placed against such person's name in the list of proxies.

(2) The voter, on receiving the ballot paper, shall forthwith proceed into one of the compartments in the polling station and there secretly mark such paper and fold it up so as to conceal the vote, and shall then show to the presiding officer the back of the paper, so as to disclose the official mark, and put the ballot paper so folded up into the ballot box in the presiding officer's presence.

(3) The voter shall vote without undue delay, and shall leave the polling station as soon as the voter has put the ballot paper into the ballot box.

Votes marked by presiding officer

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

- (a) who is incapacitated by blindness or other physical cause from voting in manner directed by these Rules; or
- (b) who declares orally an ability to read,

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

(2) The name and number on the register of electors of every voter whose vote is marked in pursuance of this rule, and the reason why it is so marked, shall be entered on a list (in these Rules called "the list of votes marked by the presiding officer") and in the case of a person voting as proxy for an elector, the number to be entered together with the voter's name shall be the elector's number.

Voting by persons with disabilities

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

- (a) blindness or other physical incapacity; or
- (b) inability to read,

to vote with the assistance of another person by whom such voter is accompanied (in these Rules referred to as "the companion"), the presiding officer shall require the voter to declare, orally or in

writing, whether such voter is so incapacitated by blindness or other incapacity, or by inability to read, as to be unable to vote without assistance.

- (2) If the presiding officer—
 - (a) is satisfied that the voter is so incapacitated, and
 - (b) is also satisfied by a written declaration made by the companion (in these Rules referred to as “the declaration made by the companion of a voter with disabilities”) that the companion—
 - (i) is a qualified person within the meaning of this rule, and
 - (ii) has not previously assisted more than one voter with disabilities to vote at the election,

the presiding officer shall grant the application, and then anything which is by these Rules required to be done to or by that voter in connection with the giving of that voter’s 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 such person has made such a declaration as is mentioned in paragraph (1) above, and a person shall be qualified to assist a voter with disabilities to vote if that person—

- (a) is a person who is entitled to vote as an elector at the election; or
- (b) is the father, mother, brother, sister, husband, wife, son or daughter of the voter and has attained the age of 18 years.

(4) The name and number in the register of electors of every voter whose vote is given in accordance with this rule and the name and address of the companion shall be entered on a list (in these Rules referred to as “the list of voters with disabilities assisted by companions”) and in the case of a person voting as proxy for an elector, the number to be entered together with the voter’s name shall be the elector’s number.

- (5) The declaration made by the companion—
 - (a) shall be in the form in the Appendix; and
 - (b) shall be made before the presiding officer at the time when the voter applies to vote with the assistance of a companion and shall forthwith be given to the presiding officer who shall attest and retain it.
- (6) No fee or other payment shall be charged in respect of the declaration.

Tendered ballot papers

- 33.**—(1) If a person, representing 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 the elector’s proxy, the applicant shall, on satisfactorily answering the questions permitted by law to be asked at the poll, be entitled, subject to the following provisions of this rule, to mark a ballot paper (in these Rules referred to as a “tendered ballot paper”) in the same manner as any other voter.

- (2) A tendered ballot paper shall—
 - (a) be of a colour differing from the other ballot papers;
 - (b) instead of being put into the ballot box, be given to the presiding officer and endorsed by the presiding officer with the name of the voter and the voter’s number in the register of electors, and set aside in a separate packet.

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

(4) In the case of a person voting as proxy for an elector, the number to be endorsed or entered together with the voter’s name shall be the number of that elector.

Spoilt ballot papers

34. A voter who has inadvertently dealt with a 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 the presiding officer’s satisfaction the fact of the inadvertence, obtain another ballot paper in the place of the ballot paper so delivered (in these Rules referred to as a “spoilt ballot paper”), and the spoilt ballot paper shall be immediately cancelled.

Adjournment of poll in case of riot

35.—(1) Where the proceedings at any polling station are interrupted or obstructed by riot or open violence, the presiding officer shall adjourn the proceedings until the following day and shall 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 shall be the same as for the original day; and
- (b) references in these Rules to the close of the poll shall be construed accordingly.

Procedure on close of poll

36.—(1) As soon as practicable after the close of the poll the presiding officer shall, in the presence of the polling agents, using the presiding officer’s own seal and the seals of such polling agents as desire to affix their seals, seal each ballot box in use at the station so as to prevent the introduction of additional ballot papers and thereafter separate and make up into separate packets, sealed with the presiding officer’s own seal and the seals of such polling agents as desire to affix their seals:—

- (a) the unused and spoilt ballot papers placed together;
- (b) the tendered ballot papers;
- (c) the marked copies of the register of electors and of the list of proxies;
- (d) the counterfoils of the used ballot papers and the certificates as to employment on duty on the day of the poll;
- (e) the tendered votes list, the list of voters with disabilities assisted by companions, the list of votes marked by the presiding officer, a statement of the number of voters whose votes are so marked by the presiding officer under the heads “physical incapacity” and “unable to read”, and the declarations made by the companions of voters with disabilities;
- (f) any postal ballot paper or declaration of identity returned to the station in terms of rule 38(3) below,

and shall deliver the sealed ballot boxes or packets or cause them to be delivered to the returning officer to be taken charge of by the returning officer; but if the sealed ballot boxes or 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 shall be in one packet but shall not be in the same packet as the counterfoils of the used ballot papers and the certificates as to employment on duty on the day of the poll.

(3) The packets shall be accompanied by a statement (in these Rules referred to as “the ballot paper account”) made by the presiding officer, showing the number of ballot papers entrusted to the presiding officer and accounting of them under the heads of ballot papers issued and not otherwise accounted for, unused, spoiled and tendered ballot papers.

Counting of votes

Attendance at counting of votes

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

(2) No person other than—

- (a) the returning officer and the returning officer’s staff;
- (b) the candidates and one guest each;
- (c) the election agents; and
- (d) the counting agents,

may be present at the counting of the votes, unless permitted by the returning officer to attend.

(3) A person may only be permitted by the returning officer to attend at the counting of the votes if the returning officer—

- (a) is satisfied that the efficient counting of the votes will not be impeded; and
- (b) has either consulted the election agents or thought it impracticable to do so.

(4) The returning officer shall give the counting agents all such reasonable facilities for overseeing the proceedings, and all such information with respect to them, as the returning officer can give them consistently with the orderly conduct of the proceedings and the discharge of the returning officer’s 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

38.—(1) The returning officer shall—

- (a) in the presence of the counting agents open each ballot box and count and record the number of ballot papers in it, checking the number against the ballot paper account;
- (b) if required to do so by a candidate or an election agent, in the presence of the election 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 shall 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 shall not be deemed to be duly returned unless it is returned—

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- (a) by hand to a polling station in the same electoral ward;
- (b) by hand or post to the returning officer,

before the close of the poll and is accompanied by the declaration of identity duly signed and authenticated.

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

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

(6) Where under paragraph (1)(b) above the returning officer is required to verify each ballot paper account, the returning officer shall do so by comparing it with the number of ballot papers recorded, the unused and spoilt ballot papers in the returning officer's possession and the tendered votes list (opening and resealing the packets containing the unused and spoilt ballot papers and the tendered votes list) and shall draw up a statement as to the result of the verification, which any election agent may copy.

(7) The returning officer shall so far as practicable proceed continuously with counting the votes, allowing only time for refreshment, except that the returning officer may, insofar as the returning officer and the agents agree, exclude any hours between 7 in the evening and 9 on the following morning and for the purposes of this exception the agreement of a candidate or such candidate's election agent shall be as effective as the agreement of such candidate's counting agents.

(8) During the time so excluded the returning officer shall—

- (a) place the ballot papers and other documents relating to the election under the returning officer's 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

39.—(1) A candidate or such candidate's election agent 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 the returning officer's 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 and election agents present at its completion have been given a reasonable opportunity to exercise the right conferred by this rule.

Rejected ballot papers

40.—(1) Any ballot paper—

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

shall, subject to paragraph (2) below, be null and void and not counted.

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

- (a) elsewhere than in the proper place;
- (b) otherwise than by means of a cross;

(c) by more than one mark,

shall not for such reason be deemed to be null and void 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 such voter can be identified by it.

(3) The returning officer shall endorse the word “rejected” on any ballot paper which under this rule is not to be counted, and shall add to the endorsement the words “rejection objected to” if any objection is made by a counting agent to such decision.

(4) The returning officer shall draw up a statement showing the number of ballot papers rejected, under the several heads of—

- (a) want of official mark;
- (b) voting for more than one candidate;
- (c) writing or mark by which voter could be identified;
- (d) unmarked or null and void for uncertainty.

Decisions on ballot papers

41. 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

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

Declaration of result

43. In a contested election, when the result of the poll has been ascertained, the returning officer shall forthwith—

- (a) declare to be elected the candidate to whom the majority of votes has been given;
- (b) give notice of the name of the candidate elected to the proper officer of the council for which the election was held; and
- (c) give public notice of the name of the candidate elected and of the total number of votes given for each candidate (whether elected or not) together with the number of rejected ballot papers under each head shown in the statement of rejected ballot papers.